

June 16, 2025

By E-Mail to *clerk@hamilton.ca*

City Council, City of Hamilton
Hamilton City Hall
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Attention: City Clerk

Dear Members of Council:

**Re: Request for Demolition Permit for 85 Catharine Street North, Hamilton
Demolition Permit Application Number 23-316328
Agenda Item 7.2 for City Council Meeting on June 18, 2025
Agenda Item 9.8 for Planning Committee Meeting on June 10, 2025**

Introduction

We are counsel to 1926 Acquisitions Corp. and Kaneff Properties Limited (collectively, “Kaneff”), the owners of the adjacent properties at 85 Catharine Street North (“85 Catharine”) and 80 John Street North (“80 John”) in the City of Hamilton, respectively.

For the reasons stated below, we request that City Council defer its consideration of the above matter until Kaneff advises that it wishes to bring the matter forward for a final decision.

By way of background, in a letter addressed to the City’s Building Division dated April 10, 2025, we advised of Kaneff’s objection to the conditions imposed on the approval of a demolition permit application for the existing detached dwelling at 85 Catharine and requested that City Council direct the removal of these conditions.

More specifically, we noted Kaneff’s objection to the following conditions to be imposed on the issuance of a demolition permit: That prior to the issuance of a demolition permit, a building permit is required to be issued in conjunction with this permit and that the new building to be erected must be substantially completed within 2 years of the date of the demolition or \$20,000 shall be added to the tax rolls, with these conditions to be registered on title.

As noted in our April 10, 2025 letter, Kaneff objects to the condition that would require that a new building on the property be substantially completed within 2 years of the date of demolition, given the status of a current redevelopment proposal to construct two 30-storey towers with a shared podium on the combined properties, the outstanding Site Plan Approval application that was originally submitted in July 2021 for 80 John and is intended to be revised to incorporate 85 Catharine, the current state of the real estate market, and the realistic timeframe for constructing a building of the scale being proposed.

Further, given the physical condition of the existing building, which we understand is not currently suitable for residential occupation, and safety concerns regarding potential trespassing in or around the vacant structure, we advised that Kaneff wishes to proceed with demolition of the building as soon as possible, rather than waiting an indefinite period of time to obtain outstanding approvals and a building permit for its redevelopment project.

The Staff Report and Planning Committee Meeting

In response to our April 10, 2025 letter, City staff prepared Report No. PED25155 (the “Staff Report”), which was considered by the Planning Committee at its meeting on June 10, 2025. The Staff Report recommended that the request for a demolition permit without the conditions be denied. At the same time, the Staff Report identified an alternative recommendation as follows: “That the Chief Building Official BE AUTHORIZED to issue a demolition permit for 85 Catharine Street North in accordance with By-law 22-101, pursuant to Section 33 of the *Planning Act* as amended, without having to comply with Section 6 of the Demolition Control Area By-law 22-101” (the “Alternative Recommendation”).

In response to the Staff Report, we made a written submission to the Planning Committee by letter dated June 9, 2025, a copy of which is attached, in which we requested that the Planning Committee adopt the Alternative Recommendation. I also attended at the Planning Committee meeting, together with Kevin Freeman, Kaneff’s Director of Planning and Development, at which time we made an oral submission and answered several questions from members of the Committee.

Following comments from Committee members, a motion to adopt the Alternative Recommendation was tabled. Unfortunately, that motion failed on a tied vote of 5-5. A subsequent motion to adopt the primary recommendation in the Staff Report to deny Kaneff’s request for issuance of the demolition permit carried by a vote of 6-4.

Request for Deferral

In order to provide Kaneff with time to consider the comments made by members of the Planning Committee who were not prepared to vote in favour of the Alternative Recommendation, and potentially take steps to address those concerns, we request that

City Council defer its consideration until such time as Kaneff advises that it wishes to bring the matter forward for a final decision.

If City Council is not prepared to defer its consideration of this matter, we request that Council adopt the Alternative Recommendation in the Staff Report, for the reasons stated in the attached letter.

Kindly ensure that we receive notice of any decision made by City Council in respect of this matter.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client

June 9, 2025

By E-Mail to *clerk@hamilton.ca*

City of Hamilton Planning Committee
Hamilton City Hall
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Attention: City Clerk

Dear Members of the Planning Committee:

**Re: Request for Demolition Permit for 85 Catharine Street North, Hamilton
Demolition Permit Application Number 23-316328
Report No. PED25155
Agenda Item 9.8 for Planning Committee Meeting on June 10, 2025**

Introduction

We are counsel to 1926 Acquisitions Corp. and Kaneff Properties Limited (collectively, “Kaneff”), the owners of the adjacent properties at 85 Catharine Street North (“85 Catharine”) and 80 John Street North (“80 John”) in the City of Hamilton, respectively.

For the reasons stated below, we request that the Planning Committee adopt the “alternative recommendation” in Report No. PED25155 (the “Staff Report”); namely, “That the Chief Building Official BE AUTHORIZED to issue a demolition permit for 85 Catharine Street North in accordance with By-law 22-101, pursuant to Section 33 of the *Planning Act* as amended, without having to comply with Section 6 of the Demolition Control Area By-law 22-101”.

Objection to Conditions of Demolition Permit

By letter addressed to staff of the City’s Building Division dated April 10, 2025, a copy of which is attached, we advised of Kaneff’s objection to the conditions imposed on the approval of a demolition permit application for the existing detached dwelling at 85 Catharine and requested that City Council direct the removal of these conditions.

More specifically, we noted that by letter dated January 2, 2025, the City’s Chief Building Official approved Demolition Permit Application Number 23-316328 as a “routine application” under the provisions of the City’s Demolition Control Bylaw No. 22-101 (the

“By-law”) but that, in approving the demolition permit application, the following conditions (the “Conditions”) were imposed on the issuance of the demolition permit:

Prior to the issuance of a demolition permit, a building permit is required to be issued in conjunction with this permit and that the new building to be erected must be substantially completed within 2 years of the date of the demolition or \$20,000 shall be added to the tax rolls. These conditions are required to be properly registered on title.

As noted in our April 10, 2025 letter, Kaneff objects to the condition that would require that a new building on the property be substantially completed within 2 years of the date of demolition, given the status of a current redevelopment proposal to construct two 30-storey towers with a shared podium on the combined properties, the outstanding Site Plan Approval application that was originally submitted in July 2021 for 80 John, the current state of the real estate market, and the realistic timeframe for constructing a building of the scale being proposed.

Further, given the physical condition of the existing building, which we understand is not currently suitable for residential occupation, and safety concerns regarding potential trespassing in or around the vacant structure, we advised that Kaneff wishes to proceed with demolition of the building as soon as possible, rather than waiting an indefinite period of time to obtain outstanding approvals and a building permit for its redevelopment project. Consequently, as noted in our April 10, 2025 letter, Kaneff also objects to the condition requiring that a building permit be issued in conjunction with the demolition permit and, likewise, the requirement to register these conditions on title.

Staff Report No. PED25155

In response to our letter to the City’s Building Division, City staff prepared the Staff Report, which is to be considered by the Planning Committee at its meeting on June 10, 2025.

The Staff Report recommends that the request to issue a demolition permit for 85 Catharine be denied, based on the following rationale: “compliance with Section 6 of the Demolition Control By-law 22-101, pursuant to Section 33 [of] the *Planning Act*, has not been demonstrated and staff consider the application to be premature”.

With respect, failure to demonstrate compliance with Section 6 of the City’s Demolition Control By-law 22-101 is not a proper basis upon which to deny Kaneff’s request. More specifically, Section 6 of By-law 22-101 sets out the circumstances in which City Council delegates to the Chief Building Official its authority to issue Demolition Control Approval pursuant to subsections 33(3) and 33(6) of the *Planning Act*. Consequently, if Section 6 of the By-law applied, Planning Committee and Council would not even be considering this request.

Moreover, with respect to staff's comment that it considers the application to be "premature", the only apparent reasons provided in the Staff Report relate to the status of Kaneff's active Site Plan Approval application and the physical condition of the existing building.

With respect to the former, the Staff Report notes that the Site Plan Approval application has not yet received conditional approval. Although this statement is correct, again this is not a proper basis upon which to deny Kaneff's request. In accordance with Section 6(b) of By-law 22-101, if Site Plan Approval had already been granted for redevelopment of the properties then Planning Committee and Council would not be required to consider this request as the Chief Building Official would have delegated authority to issue the demolition permit.

With respect to the latter, the Staff Report makes a number of comments regarding the physical condition of the building, including the following: "The building is in a well maintained condition"; "The house appears to be well maintained and in a good condition with no exterior evidence to support a recommendation to demolish"; and "From a visual inspection of the exterior of the building, the building appeared to be occupied and well maintained with utilities still connected".

Although the existing building may, from an exterior visual inspection, appear to be in good condition, Kaneff notes that the interior of the building has suffered considerable damage, including water damage from flooding. As a result, the building is not currently in a suitable condition for residential occupation and, contrary to staff's assumption, the building is not currently occupied. Further, we understand that significant expenditures would be required in order to undertake the necessary repairs to make it suitable for residential occupancy, which Kaneff does not intend to do, particularly in view of the future redevelopment of the properties for a high-density mixed-use development.

Accordingly, we request that the Planning Committee not adopt the recommendation on page 1 of the Staff Report and, instead, that it adopt the alternative recommendation on page 3 of the Staff Report, as follows:

That the Chief Building Official BE AUTHORIZED to issue a demolition permit for 85 Catharine Street North in accordance with By-law 22-101, pursuant to Section 33 of the Planning Act as amended, without having to comply with Section 6 of the Demolition Control Area By-law 22-101.

We thank the members of the Planning Committee in advance for their consideration of this request.

Please note that I will be attending the Planning Committee meeting on June 10, 2025, together with Kevin Freeman, Kaneff's Director of Planning and Development, to address this submission and the Staff Report, and to respond to any questions that the Committee may have.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client

April 10, 2025

By Email to *ryan.allison@hamilton.ca*

Ryan Allison, Plans Examiner
City of Hamilton
Building Division
71 Main Street West, 3rd Floor
Hamilton, Ontario
L8P 4Y5

Dear Mr. Allison:

**Re: Objection to Conditions of Approval of Demolition Permit Application
85 Catharine Street North, Hamilton
Demolition Permit Application Number 23-316328**

Introduction

We are counsel to 1926 Acquisitions Corp. and Kaneff Properties Limited (collectively, “Kaneff”), the owners of the adjacent properties at 85 Catharine Street North (“85 Catharine”) and 80 John Street North (“80 John”) in the City of Hamilton, respectively.

As set out below, we are writing to advise of Kaneff’s objection to the conditions imposed on the approval of a demolition permit application for the existing detached dwelling at 85 Catharine and to request that City Council direct the removal of these conditions.

Background

By way of background, in July 2021, Kaneff filed an application for Site Plan Approval under City File Number DA-21-137 for 80 John. The application proposes to redevelop an existing surface parking lot to construct two 30-storey towers with a shared podium. In 2023, Kaneff acquired 85 Catharine with the intention to expand the limits of the proposed development and facilitate the comprehensive mixed-use redevelopment of underutilized lands within this block of Downtown Hamilton.

Both 80 John and 85 Catharine are designated “Downtown Urban Growth Centre” according to Schedule E of the Urban Hamilton Official Plan and “Downtown Mixed-Use Area” according to Schedule E-1 - Urban Land Use Designations. Similarly, both properties are designated “Downtown Mixed Use” according to the Downtown Hamilton Secondary Plan and are zoned “Downtown Central Business District (D1) – Holding Provision (H17, H19, H20)” in accordance with Zoning By-law No. 05-200. Thus, the

existing policy framework and zoning supports the mixed-use redevelopment and intensification of these properties in Downtown Hamilton.

In support of its plans for the mixed-use redevelopment of the properties, Kaneff provided the City with notice of intention to demolish the existing detached dwelling at 85 Catharine and to remove the property from the City's Heritage Register (the "Register") by letter dated August 28, 2024 as, at that time, 85 Catharine was listed on the Register under subsection 27(3) of the *Ontario Heritage Act* (the "OHA"), although not designated under Part IV of the OHA. In response to Kaneff's request, at its meeting on November 13, 2024, City Council directed staff to remove 85 Catharine from the Municipal Heritage Register, which was confirmed in a letter to Kaneff from the City's Cultural Heritage staff dated November 18, 2024.

Subsequently, by letter dated January 2, 2025, the City's Chief Building Official approved Demolition Permit Application Number 23-316328 to permit the demolition of the existing detached dwelling at 85 Catharine as a "routine application" under the provisions of the City's Demolition Control Bylaw No. 22-101 (the "By-law"). A copy of the January 2, 2025 letter, which was signed by you, is attached for ease of reference. In approving the demolition permit application, the following conditions (the "Conditions") were imposed on the issuance of the demolition permit:

Prior to the issuance of a demolition permit, a building permit is required to be issued in conjunction with this permit and that the new building to be erected must be substantially completed within 2 years of the date of the demolition or \$20,000 shall be added to the tax rolls. These conditions are required to be properly registered on title.

Request for Removal of Conditions of Approval of Demolition Permit Application

Given the status of the redevelopment proposal and the outstanding Site Plan Approval application, the current state of the real estate market, and the realistic timeframe for constructing a building of the scale being proposed, Kaneff objects to the condition that would require that a new building on the property be substantially completed within 2 years of the date of demolition.

Further, given the physical condition of the existing building, which we understand is not currently suitable for residential occupation, and safety concerns regarding potential trespassing in or around the vacant structure, Kaneff wishes to proceed with demolition of the building as soon as possible, rather than waiting an indefinite period of time to obtain outstanding approvals and a building permit for its redevelopment proposal. Consequently, Kaneff also objects to the condition requiring that a building permit be issued in conjunction with the demolition permit and, likewise, the requirement to register these conditions on title.

As a result, Kaneff hereby requests that the City remove the Conditions from the approval of the demolition permit application.

We understand that, in accordance with section 7.(b) of the By-law, the delegation of authority set out in the By-law does not include the authority to: “attach conditions to Demolition Control Approval with which an owner of Residential Property is not in agreement and where this is the case, the Chief Building Official shall so advise Council which retains all power with respect to issuing or refusing to issue Demolition Control Approval”.

Given that Kaneff is not agreement with the Conditions, we request that the Chief Building Official advise City Council accordingly and, further, we request that City Council direct the issuance of the demolition permit without the Conditions.

We thank you and City Council for your consideration of this request in advance. In the meantime, please do not hesitate to contact us if you have any questions concerning this matter.

Kindly acknowledge receipt of this correspondence at your earliest opportunity and please advise us as to when this matter will be reported to City Council for a decision.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division
71 Main Street West – 3rd Floor
Hamilton, Ontario, Canada, L8P 4Y5
Phone: 905.546.2720 Fax: 905.546.2764
www.hamilton.ca

APPLICATION NO.:
ATTENTION:

23-316328
Ryan Allison

Date January 2nd 2025

Mailing info

1621 Claybar Rd

Jerseyville, L0R 1R0

RE: 85 Catharine St N (Single Family Dwelling - Demolition Control)

This Division is in receipt of a demolition permit application for the above noted property. Please be advised of the following information pertaining to the demolition of this property.

1. This demolition permit application has been considered and approved by the Chief Building Official as a “routine application” under the provisions of Demolition Control By-law 22-101 and is being processed in the normal manner.
2. There are conditions imposed on this demolition permit application in accordance with the Planning Act. The conditions will be that, prior to the issuance of a demolition permit, a building permit is required to be issued in conjunction with this permit and that the new building to be erected must be substantially completed within 2 years of the date of the demolition or \$20,000 shall be added to the tax rolls. These conditions are required to be properly registered on title. Attached to this correspondence, you will find an electronic copy of the necessary documents for registration.
3. There may be additional information required to be submitted as part of the issuance of the demolition permit including but not limited to the disconnection of services forms. For any information pertaining to the issuance of the demolition permit, please contact Ryan Allison, Plans Examiner at ryan.allison@hamilton.ca

Yours very truly,

Ryan Allison
On behalf of Lori McGilvery
Supervisor Plan Examination

SCHEDULE "A"

Notice of Conditions

The City of Hamilton hereby gives Notice:

1. That the land described in the Properties Section of the Notice under S. 71 of the Land Titles Act is within an area of Demolition Control designated by City By-law No. 22-101 pursuant to section 33 of *The Planning Act*, R.S.O., Ch. P.13; the said land is occupied as of the date of registration of this Notice, by a building containing one "dwelling units" that is a "residential property" as those phrases are defined in the said provisions of *The Planning Act*.
2. That the registered Owner (named in the Applicant's Section) of the said Properties Section of the Notice has applied to the City for a Demolition Permit to demolish the said "residential property", situate on the said land, which land is also known municipally (as of the date herein), as _____, Hamilton, Ontario.
3. That the said Owner having also applied for and received a Building Permit for construction of a single-family dwelling on the said land, namely, _____, Hamilton, Ontario. City Council has authorized the Demolition Permit for the said residential property to be issued to the said Owner, pursuant to the said section 33(7) of *The Planning Act*, subject to and upon the following conditions being fulfilled by the Owner:
 - (a) on the condition that the Owner shall have constructed and substantially completed the said new building to be erected on the said lands by that date (the "completion date") which is within two years of the date of the said demolition of the existing residential building, such completion date being the completion date required by the City which shall be specified in the Demolition Permit;
 - (b) on the condition that on failure to complete construction of the said new buildings within the said time limit specified by the City in the Permit, the Clerk of the City of Hamilton, shall be entitled to add to the collector's roll for the said property, to be collected in like manner as municipal taxes, the sum of \$20,000.00. And such sum shall, until payment thereof, be a lien or charge upon the said lands on this Notice in respect of which the Permit to demolish the residential property is issued; *and*
 - (c) on the condition that this Notice of these conditions be registered on title to the land described in the Properties Section of the Notice Under S.71 of the Land Titles Act in accordance with *The Planning Act*, Section 33(8), which states as follows:

"33(8) Registration of Notice - Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies."
4. That *The Building Code Act*, S.O. 1992, c. 23, section 8(10) states (in part) as follows:

"... the chief building official may revoke a permit issued under this Act,

 - (b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;
 - (c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year."

GUIDELINES

E - Reg Notice of Demolition Conditions

Prepare the E-Reg. form titled “Notice”.

1. Properties Section:

Enter legal description of the Owner's property that includes the land identified in Schedule "A" of the Agreement;

2. Consideration Section: Enter \$2.00

3. Owner(s) Section:

Enter the registered owner's name as the Owner (the City is not the Owner)

Under subtitle "Other Statements":

- place “X” beside box 2909 - "This document is not authorized under Power of Attorney by this party." (usually appropriate)

Under subtitle "Address for Service":

- enter owner's mailing address

4. Party To(s) - Section:

Enter “City of Hamilton” (do not use the word “The” in front of City’s name);

Under subtitle "Other Statements"

- enter “X” and complete box 3743, to state as follows
This document is being authorized by a municipal corporation, “I, Alan Shaw, Director, Building Division, Chief Building Official”
- enter “X” beside box 2906 - "This document is not authorized under Power of Attorney by this party".

Under subtitle "Address for Service" enter City's address as follows:

City Clerk
City Hall, 71 Main Street
West Hamilton, Ontario L8P
4Y5”

5. Statements Section:

Box 3550 – “This notice is pursuant to Section 71 of the Land Titles Act”. Box 3547 enter: “X” beside statement: “This notice is for an indeterminate period”
Box 61 Schedule: enter “X” and upload the Schedule

6. Tax Section: Do not complete this section at all, leave this section blank.

7. Schedules:

Import the schedule into statement 61 of the electronic Notice.

8. Document Name: Name the document using the municipal property address to which it pertains

****Prior to registration, please message the draft electronic Notice in Teraview to the attention of “Karin Michele Negrea” for review and approval. Please be sure to notify Karin via email at karin.negrea@hamilton.ca once the draft electronic Notice has been messaged for review/approval****