

WRITTEN DELEGATION TO PUBLIC WORKS COMMITTEE CITY OF HAMILTON ONTARIO

We ask the Public Works Committee to review this statement of facts regarding built traffic infrastructure on the east side of Binkley Road and south side of Sanders Boulevard, Hamilton Ontario (Ward 1). The City Public Works Committee made a motion to construct infrastructure at this location.

While the City of Hamilton (the City) contends it is free to build what it likes by order of council, the Supreme Court of Canada outlines that core policy immunity does not apply simply because a City states it does. In addition, the City was in noncompliance with many of its own obligations as well as engineering standards, failure of public consultation, failure to use engineering reports and information contained within, and sending out a Notice of Construction that did not meet what was built.

We ask the committee to consider this Statement of Facts and act per our request.

Statement of Facts

1. The City undertook several traffic management studies in the Ainslie Woods Ward 1 neighbourhood between 2018 and 2019.
2. These studies were initiated under the Ontario Environmental Assessment Act.
3. The study undertaken was as an Ainslie Wood Traffic Management Study, addressing Phases 1 and 2 of a Municipal Class Environmental Assessment (MCEA) Master Plan process.
4. Wood provided an Existing Conditions Final Report to the City on or about October 23, 2018. Data in the report concluded that there were no significant issues within the area of the subject property. Wood noted in their report that the City provided incorrect information on speed limits.
5. On or about June 3, 2019, Wood provided a report titled Ainslie Wood Neighbourhood Traffic Management Review – Identification of Alternatives Memo to the City. The Evaluation had a carried forward recommendation for a curb bump out at Sanders Boulevard/Cottrill Street/Binkley **Crescent**.
6. On or about December 2019, Wood provided a final report titled Municipal Class Environmental Assessment – Master Plan Process Schedule B Environment Assessment Study. Table 5-9 in the final report was modified between the June 2019 and December 2019 reports to include a curb bump out at Sanders Boulevard/Binkley **Road**. There was no documented consideration of the new location and no objective evidence to support the siting.
7. Because the report was modified between June and December of 2019, the Sanders Boulevard/Binkley **Road** location was not included in the two Public Information Centres undertaken as part of the Municipal Class Environmental Assessment. This did not allow all stakeholders to have their interests considered and is in contravention of the Environmental Assessment Act (the Act).
8. By the City's own admission in a letter provided by the City of Hamilton, it chose to supersede the completed Environmental Assessment, without following the regulatory process of amending a Class Environmental Assessment as required under the Act.
9. On June 13, 2022, there was a meeting of the City's Public Works Committee. Per minute item 18, a motion was brought forward to install two curb bump out parkettes on Sanders Boulevard (Ward 1). At the conclusion of this meeting, a Notice of Motion was issued stating that two parkettes be installed on Sanders Boulevard (Ward 1), with no exact location specified. There were no design details presented.

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10. Per the Motion, the City contends that these were being installed under City principles including but not limited to Complete Streets. Under these Principles, there is to be Public Consultation (see Kirkendall Ward 1 Complete Streets consultation held December 11, 2023). By the City's own admission in a meeting with concerned residents in August of 2024, public consultation was not undertaken before or when the motion was being considered. There was no legal reason the City could not hold public consultation.
11. The City did not undertake a Complete Streets audit as required by the City of Hamilton Complete Streets Design Manual.
12. The City contends that the Ward 1 councillor directed Traffic Operations to install the curb bump out parkettes at their current location. Documented evidence in an email from the Ainslie Woods Community group indicates that the City Councillor was not involved in the final placement decision and that this decision was made by Traffic Engineering.
13. On November 7, 2022, the City issued a Request for Tender C15-42-22 for Traffic Control and Transportation Infrastructure. Drawing DT: 1937A01, dated May 2022 was provided as part of this tender, and is stated to be an Issued for Construction drawing per revision notes. The drawing is missing the subject property, two vehicle approaches on Sanders Boulevard, infrastructure (fire hydrants, wastewater lines), elevations, flow, stormwater drains and drainage. The parking regulation is stated as no regulation and the speed limit is noted as 50 km/hour. The speed limit at time of drawing issuance was incorrect, as was stated in the Wood report. The parking regulation was incorrect at the time of drawing issuance.
14. Per the City's admission, no design brief, design analysis or predesign report was completed.
15. Stamped drawing DT 1937A01, dated May 2022 was issued for construction. The issued for construction drawing contained the same incorrect and noncompliant information as the drawing released in the Request for Tender C15-42-22. The drawing was not in compliance with Ministry of Transportation Standard Drawings and Technical Documents and the City of Hamilton Standard Road Drawing Index.
16. On April 5, 2023, the City issued a Notice of Construction. The Notice of Construction stated that the "construction of a new bump out" was being constructed at Sanders Boulevard and Binkley Road, but it did not state the exact location. There are two possible locations at Sanders Boulevard and Binkley Road.
17. In the issued Notice of Construction, the work defined was "a curb bump out is used to extend the sidewalk, creating a larger space between pedestrians and road users. It is also utilized to decrease the crossing distances at intersections, thus decreasing the time a pedestrian is within that intersection." The Notice of Construction made no mention of the construction of parkettes or installation of street furniture.
18. On April 17th, 2023, the Owner and adjacent residents arrived home to find a large excavation on Sanders Boulevard (not at the corner). This excavation represented a significant deviation from the Notice of Construction.
19. The excavation remained open between April 17th and June 26, 2023, with no work being completed.

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20. The constructed curb bump out with street furniture is less than 0.5 metres from the front lot line on a corner lot, in contravention of City policy.
21. The constructed curb bump out with street furniture was not constructed in compliance with the City of Hamilton Co-ordinated Street Furniture Guidelines, including but not limited to, buffer zones, setbacks from frontage lot line, and typical configurations.
22. The Owner informed the City on May 29, 2023, that the curb bump out parkette was being constructed over the sewer lateral coming from the Subject Property. This is known as the sewer lateral broke on the subject property side in 2017, and the City came to review and approve the attachment to the City side. Building directly over infrastructure does not comply with good engineering practices, City of Hamilton requirements and the City of Hamilton Complete Streets Design Manual.
23. Between July 2023 and present the Owner and adjacent residents have been subject to property damage, trespassing, illegal smoking and drug use which enters the residence, noise violations, privacy violations and mental health damages. In addition, the City has put an increased financial burden through the non-renewal and higher premium home insurance as a direct result of its installation and increased personal liability.
24. On August 14, 2024, the Owner made the City aware of these issues in through a meeting with concerned residents and the City Councillor. The residents hoped to reach a compromise with the City to mitigate any issues. During that meeting, the City Councillor and her staff admitted that public consultation was not conducted, and that current location was not the best choice according to Public Works. The City was also notified of flooding and a sinkhole and stated that Engineering would come visit the site. This did not occur. A written summary of the meeting was provided to the City Councillors office by email transmission.
25. In response to the illegal activity brought forward by residents, the City and the City Councillors office directed the residents to contact by-law. In a written response, the City stated Municipal Law enforcement is “unable to enforce our by-laws”.
26. The City states that these curb bump outs are to maintain traffic calming; however the initial Wood study stated there were no issues. A Complete Streets Audit was not conducted once the Environmental Assessment was superseded by the City and therefore there is no evidence available to support building the curb bump out parkettes based on the reasoning of traffic calming, nor any policies cited by the City.
27. Residents made and paid for Freedom of Information requests to the City of Hamilton in July and September 2024. Of the five requests made, three have been acknowledged as of March 10, 2025. A decision for the July 2024 FOI request was provided on February 10, 2025. Two have still not be acknowledged. All of these are well outside the regulatory requirements as stated in the Ontario Freedom of Information Act.
28. On June 23, 2025, a City contractor confirmed that the sewer lateral was broken under the built garden and that it had most likely been broken at or close to the time of construction. As a result, the garden was dug up to do the repair. They also noted the sinkhole that was brought to the City’s attention in 2023 and 2024.

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29. Locates done during the sewer lateral repair show that the built infrastructure is also over the water line that goes into the property at 36 Binkley Road, in noncompliance with good engineering practices, City of Hamilton requirements and the City of Hamilton Complete Streets Design Manual.

For each of the points above, documented evidence is available to support each point. Much of the documented evidence is from the City of Hamilton itself.

Given the:

1. City of Hamilton's noncompliance with its own policies and procedures,
2. Failure in siting requirements,
3. Noncompliant stamped drawing requirements as per the Professional Engineers of Ontario (PEO) and the Ministry of Transportation (MTO) Standard drawings and failure to locate City infrastructure,
4. Incorrect Notice of Construction,
5. Negative impact to residents,
6. Failure to provide Freedom of Information requests with regulatory timeframes, and
7. Failure of infrastructure to meet its intended requirements as engineering reports show there was no issue.

we ask that the City of Hamilton remove the existing infrastructure (as it is already partially torn up), and if it wishes to put in infrastructure, to ensure it complies with Provincial and City requirements.

I am happy to provide the committee with photographic and documented evidence at their request. Current state photographic evidence is included on the last page. In addition, we can arrange a site visit to show the locates and issues.

Karen Hoy

Hamilton, Ontario

Ward 1



