

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 3
COMMITTEE DATE: April 19, 2011	
SUBJECT/REPORT NO: Application for a Draft Plan of Condominium (Common Elements Condominium) for the Lands Located at 19 Niagara Street (Hamilton) (PED11065) (Ward 3)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Joe Muto (905) 546-2424, Ext 7859
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Condominium Application 25CDM-201015, by Habitat Humanity, c/o Bob McConkey (Owner)**, to establish a draft plan of condominium (Common Elements Condominium), "Habitat for Humanity", comprised of 14 visitor parking spaces for 8 townhouse units located at 19 Niagara Street (Hamilton), known legally as Part 5, Reference Plan 62R-18910, as shown on the attached location map marked as Appendix "A", subject to the following conditions:

- (a) That this approval shall apply to the plan prepared by A.T. McLaren Ltd., and certified by S.D. McLaren, O.L.S., dated December 14, 2010, showing the following condominium element of 14 visitor parking spaces and associated manoeuvring area, attached as Appendix "B" to Report PED11065.
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 05-200.

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- (c) That the owner shall enter into a Condominium Agreement to ensure that the tenure of each of the proposed 8 freehold units and shared parking area has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.
- (d) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-10-019) and Site Plan Amendment (SPA-10-154), including the completion of all conditions of Site Plan Approval, to the satisfaction of the Director of Planning.
- (e) That the owner shall include the following warning clause in the Condominium Agreement and all Purchase and Sale Agreements, and any Rental or Lease Agreements required for occupancy:

“Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium parking lot.”
- (f) That the owner shall satisfy any conditions, financial or otherwise, of the City of Hamilton.
- (g) That the owner shall enter into, and register on title, the Condominium Agreement incorporating the approved plan of condominium and related conditions, to the satisfaction of the City Solicitor.

EXECUTIVE SUMMARY

The purpose of the application is to establish a draft plan of condominium (Common Elements Condominium) comprised of 14 shared parking spaces relating to 8 parcels of tied land for street townhouse units currently under construction (see Appendix “B”). The proposed draft plan of condominium has merit and can be supported since it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan, complies with Zoning By-law No. 05-200, and implements the approved Site Plan Control Applications DA-10-019 and SPA-10-154 (see Appendices “C” and “D”).

Alternatives for Consideration - See Page 9.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: N/A.

Staffing: N/A.

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Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of a Draft Plan of Condominium (Common Elements Condominium).

HISTORICAL BACKGROUND (Chronology of events)

Chronology:

December 24, 2007: Submission of Zoning By-law Amendment Application ZAC-07-100 for the purpose of the inclusion of additional uses in the (I3) Zone, including 11 street townhouse units.

January 17, 2008: Application ZAC-07-100 is deemed complete.

January 30, 2008: Circulation of Notice of Complete Application for ZAC-07-100.

July 10, 2008: By-law No. 08-173 approved by Council, which re-zoned the property Major Institutional (I3, H3, 12) Zone. A Holding provision was implemented on the subject lands so as to appropriately address archaeological, site contamination, and noise concerns.

November 6, 2008: Consent Application HM/B-08:138 approved by the Committee of Adjustment to sever a parcel of land for street townhouse purposes and retain a parcel of land containing the existing Robert Land Community Centre.

November 19, 2009: Consent Application HM/B-08:139 lapsed and applicant re-submits Application HM/B-09:88, which is approved by the Committee of Adjustment.

February 17, 2010: Submission of Site Plan Application DA-10-019.

February 24, 2010: Application DA-10-019 deemed complete and circulated to applicable departments and agencies.

April 8, 2010: Application DA-10-019 conditionally approved by the Manager of Development Planning and Letter of Conditional Approval mailed to owner.

April 23, 2010: Submission of Application ZAH-10-020 for the purpose of lifting the "H" Holding Zone on lands zoned (I3, H3, 12).

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April 28, 2010: Application ZAH-10-020 is deemed complete.

May 26, 2010: By-law No.10-119 approved by Council to remove Holding provision.

July 29, 2010: Application DA-10-019 receives final clearance and Final Approval Clearance letter mailed to owner.

October 21, 2010: Consent Application HM/B-10:139-142 for street townhouse lots approved by the Committee of Adjustment.

October 21, 2010: Minor Variance Application HM/A-10:248 approved by the Committee of Adjustment for relief from side yard setbacks, minimum setback from the parking area to the street line, landscape strip reduction, parking spaces within the rear/flankage yard, parking area separation from the street line for on site manoeuvring, a barrier free parking space, separation of parking on a separate lot from the proposed development, to permit the parking for the proposed development to be contained on a separate lot as the common element parking lot.

December 21, 2010: Submission of Site Plan Amendment Application SPA-10-154. Application SPA-10-154 deemed complete on December 23, 2010, and circulated to relevant departments and agencies. Application approved on March 2, 2011.

Details of Submitted Application

Location: 19 Niagara Street (formerly 460 Wentworth Street North)
Part 5, Reference Plan 62R-18651

Applicant/Owner(s): Habitat for Humanity
(c/o Bob McConkey)

Agent: IBI Group Inc.
(c/o John Ariens)

Property Description:

<u>Lot Area:</u>	1896.54m ²
<u>Lot Frontage:</u>	Approx. 78.182 metres
<u>Lot Depth:</u>	Approx. 22.143 metres

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Street Townhouses (Under Construction)	Major Institutional (I3,12) Zone (By-law No. 05-200)
<u>Surrounding Lands:</u>		
North	Residential Single-Detached Dwellings	Urban Protected Residential (One and Two Family Dwellings, etc.) "D/S-647b" Zone
South	Industrial Warehouse	"K" (Heavy Industry Etc) District Light Industrial (M6) Zone (under appeal)
East	Residential Single-Detached Dwellings	Urban Protected Residential (One and Two Family Dwellings etc.) "D/S-647b" Zone
West	Robert Land School Community Centre	Major Institutional (I3, 12) Zone (By-law No. 05-200)

POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with policies that direct new growth to the built up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan. The proposal maintains the intent to develop and create complete communities which provide for housing opportunities. Therefore, the application conforms with the Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies of 1.1.3.1 that states that Settlement Areas shall be the focus of growth, and their vitality and regeneration shall be promoted; and implements Policies 1.1.1, 1.1.3.2, and 1.4.1, which speak to the provision of densities that make an efficient use of land and provide

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a mix of housing types. The proposal is consistent with the policies of the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. As the nature of the application is for the establishment of a common element parking lot to facilitate a street townhouse development approved under Site Plan Applications DA-10-019 and SPA-10-154, where full municipal services will be available, the proposal conforms to the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The lands are designated as “Major Institutional” on Schedule “A” - General Land Use Plan in the Hamilton Official Plan. However, “Major Institutional” policies state in Section 2.6.5 that “Residential uses may be permitted in this designation provided that they are compatible with the surrounding area and are in keeping with the Residential policies set out in Subsections A.2.1 of this Plan.” Based on the foregoing, staff notes the proposal meets the intent and conforms to the “Residential” policies in the Hamilton Official Plan.

Furthermore, Subsection C.7 of the Hamilton Official Plan includes policies for “Residential and Environment and Housing”. Specifically this Section states that the development of new residential and infill is practical, and that Council may require items such as maintaining off-street parking as well as street landscaping. The Hamilton Official Plan’s policies on “Housing” intend to encourage housing stock for a variety of clients in all areas of the City, and to recognize the need for all development to enhance the scale and character of the existing, surrounding residential areas. Staff notes the proposal is sympathetic to the aforementioned development concerns. The surrounding area is characterized by medium and low density residential development. Therefore, the proposed plan of condominium to establish a common parking area conforms to the City of Hamilton Official Plan.

New Urban Hamilton Official Plan (Council Adopted)

The new Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Minister issued his decision on the Plan on March 16, 2011. The decision is currently in the 20-day appeal period until April 5, 2011. The subject lands are identified with the “Neighbourhoods” designation on Schedule E, Urban Structure Plan and Schedule E-1,

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Urban Land Use Designations. Accordingly, the 14 visitor parking spaces located in a shared parking area would conform to the new Urban Hamilton Official Plan.

By-law No. 05-200

The lands are zoned Major Institutional (I3,12) Zone in By-law No. 05-200, as amended by By-law No. 08-173 and By-law No. 10-119. The application complies with the applicable provisions of Zoning By-law No. 05-200.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Traffic Engineering Section, Public Works Department.
- Operations and Waste Management Division, Public Works Department.
- Capital Budgets Section, Corporate Services Department.
- Taxation Division, Corporate Services Department.
- Capital Budgets Section, Corporate Services Department.
- Recreation Division, Community Services Department.
- Parking Services, Hamilton Municipal Parking System.
- Development Engineering.
- Hamilton Police Services.
- Hydro One.
- Hydro One Union Gas.
- Canada Post.
- Canadian National Railway Properties.
- Canadian Pacific Railway Properties.

Forestry and Horticulture Section, Public Works Department, has advised that visibility triangles must be denoted on the plan in the soft surface areas, and the planting of one calliper tree per area is required.

Traffic Planning Engineering Section, Public Works Department

Traffic Engineering and Operations require that an Access Permit be obtained from the Department, which will include the assessment of the removal of the redundant access approaches and re-establishment of a municipal sidewalk. A copy of the approved site plan and appropriate payment must be submitted for this permit.

According to comments from Traffic staff on related Site Plan Application SPA-10-154, the applicant is advised that the City has received neighbourhood complaints regarding grading/road concerns as a result of construction. Traffic staff indicates the applicant should pursue actions to restore the road to its former state. The applicant's consultant

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has been apprised of the current state of the road, and has advised that the applicant is committed to fully bringing the road back to its former state.

Public Consultation

In accordance with the new provisions of the Planning Act and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on January 26, 2011, requesting comments or support for the application.

To date, no letters have been received from members of the public. Additionally, the agent has confirmed a Public Notice Sign was posted on the property as of February 10, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan.
 - (ii) It conforms with and implements the "Urban" designation of the Hamilton-Wentworth Regional Official Plan.
 - (iii) It conforms to the "Major Institutional" policies of the City of Hamilton Official Plan.
 - (iv) The proposal implements the "Civic and Institutional" designation of the Industrial Sector B and Keith Neighbourhood Plan, which was approved by Council Approved on October 10, 1978.
 - (v) The proposal is consistent with the new Urban Hamilton Official Plan.
 - (vi) The proposal complies with By-law No. 05-200.
 - (vii) The proposal is consistent with approved Site Plan Control Applications DA-10-109 and SPA-10-154 (see Appendices "C" and "D").
 - (viii) The proposal is compatible with existing residential uses in the surrounding area.

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2. The purpose of the Draft Plan of Condominium (Common Element) is to establish a common elements condominium for a shared visitor parking lot that will facilitate the tenure of the proposed freehold 8 townhouse units.

As the proposal conforms with the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow), is consistent with the Provincial Policy Statement, is in conformity with the Hamilton-Wentworth Official Plan and City of Hamilton Official Plan, as amended, and as the proposed draft plan condominium complies with the City of Hamilton Zoning By-law No. 05-200, the proposed Draft Plan of Condominium can be supported.

3. Through the processing of the various planning applications mentioned in the Historical Background section of this Report, it was identified that noise mitigation for the proposed residential development was required due to the proximity of the site to active Canadian National Railway lines. As a result, a Noise Study was prepared identifying the required noise mitigation measures, which included noise barriers, building components, restrictions for the placement of windows on the building flankage closest to the railway, and warning clauses. These measures were reflected through both applications for Site Plan Approval (DA-10-019 and SPA-10-154).

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the Plan of Condominium (Common Elements Condominium) not be approved, the project could only proceed as a standard form of condominium development or as rental units with frontage onto a public road.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.
- ◆ Generate assessment growth/non-tax revenues.

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.
- ◆ The proposal for street townhouses is one of the various housing types that will be available within the registered Plan of Subdivision.

Healthy Community

- ◆ Plan and manage the built environment.

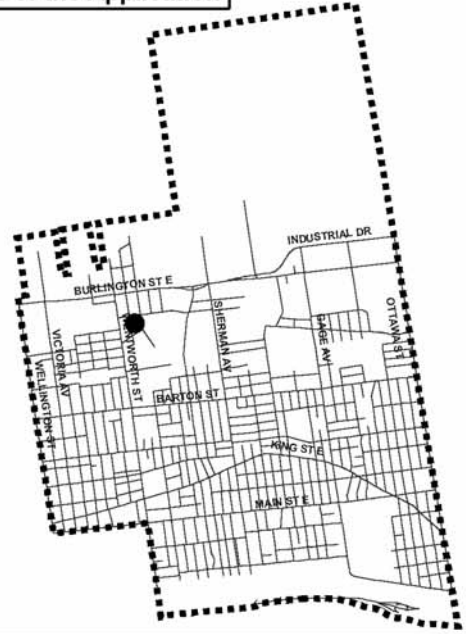
APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Proposed Draft Plan of Condominium
- Appendix "C": Site Plan Application
- Appendix "D": Proposed Site Plan Amendment Application

:LWO/JM
Attachs. (4)



● Site of the Application



Ward 3 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
25CDM201015

Date:
January 5, 2011

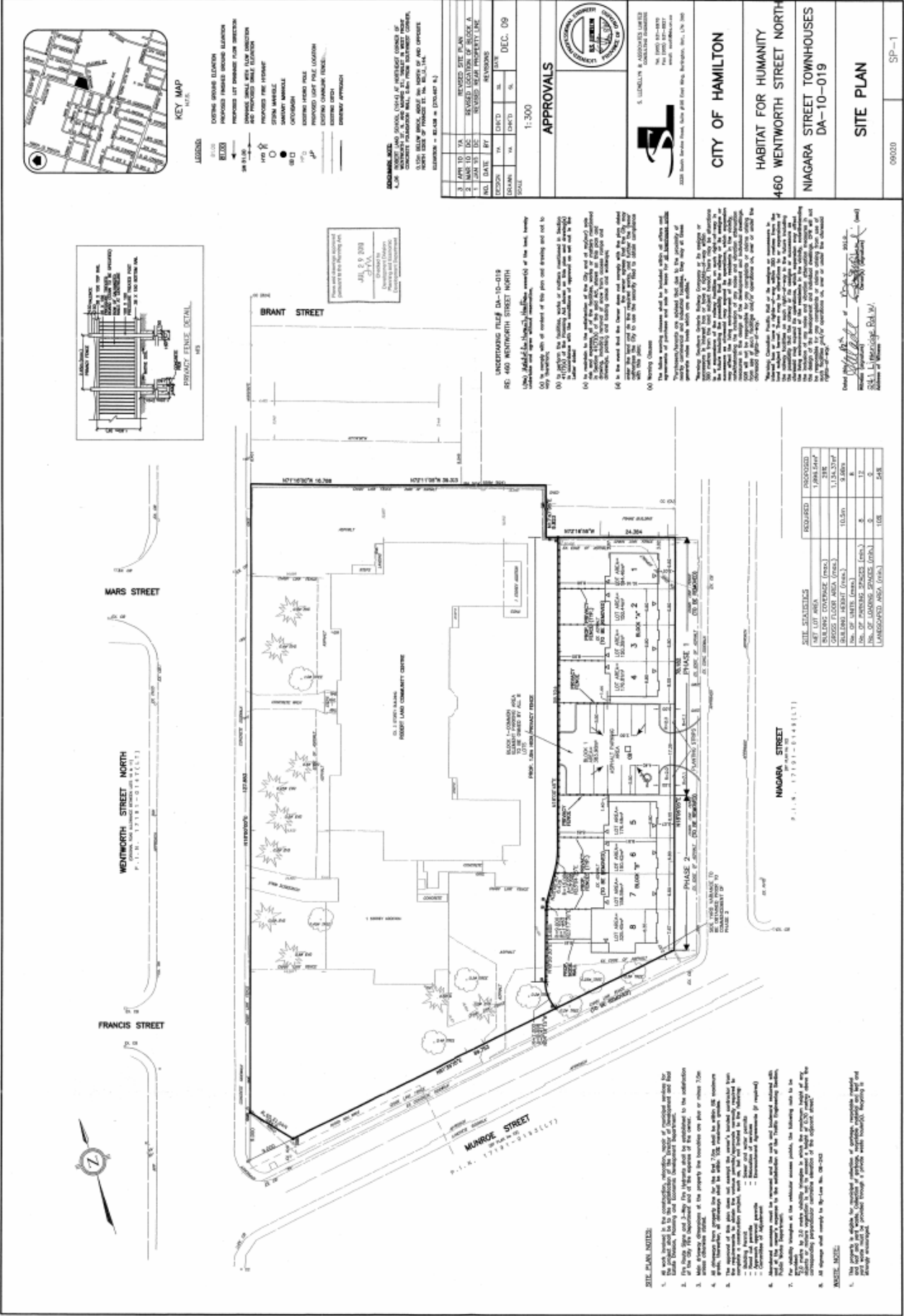
Appendix "A"

Scale:
N.T.S.

Planner/Technician:
JM/MB

Subject Property

 19 Niagara Street



SITE PLAN NOTES:

- All work shown on this site plan is to be completed, except as noted in the notes.
- The building shall be constructed in accordance with the Building Code of the City of Hamilton.
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REVISIONS:

NO.	DATE	BY	REVISIONS
1	JAN 10 2010	[Signature]	ISSUED SITE PLAN
2	JAN 10 2010	[Signature]	REVISIONS NEAR PROPERTY LINE
3	JAN 10 2010	[Signature]	REVISIONS NEAR PROPERTY LINE
4	JAN 10 2010	[Signature]	REVISIONS NEAR PROPERTY LINE

APPROVALS:

SCALE: 1:300

CITY OF HAMILTON

HABITAT FOR HUMANITY
 460 WENTWORTH STREET NORTH
 NIAGARA STREET TOWNHOUSES
 DA-10-019

SITE PLAN

09020 SP-1

KEY MAP

LEGEND:

- EXISTING GRADE ELEVATION
- PROPOSED FINISHED GRADE ELEVATION
- PROPOSED LOT DIMENSIONS AND DIRECTIONS
- PROPOSED LOT AREA
- PROPOSED DRIVE
- PROPOSED FENCE
- PROPOSED SIDEWALK
- PROPOSED DRIVE
- PROPOSED DRIVE
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APPROVALS:

SCALE: 1:300

CITY OF HAMILTON

HABITAT FOR HUMANITY
 460 WENTWORTH STREET NORTH
 NIAGARA STREET TOWNHOUSES
 DA-10-019

SITE PLAN

09020 SP-1

UNDERWRITING FILE# DA-10-019

RE 460 WENTWORTH STREET NORTH

(See attached to this file for details)

REVISIONS:

NO.	DATE	BY	REVISIONS
1	JAN 10 2010	[Signature]	ISSUED SITE PLAN
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KEY MAP

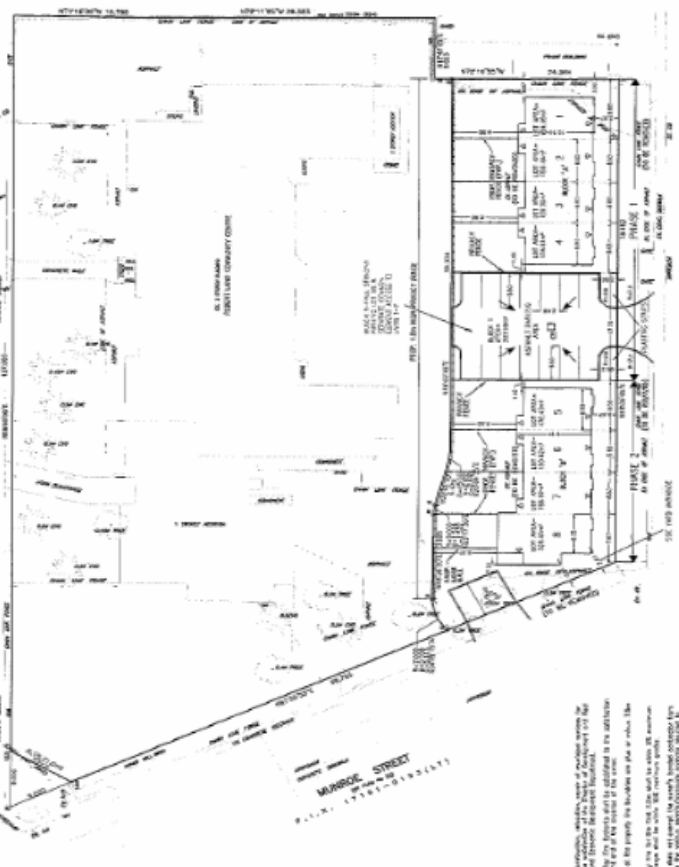
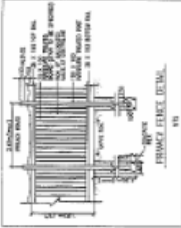
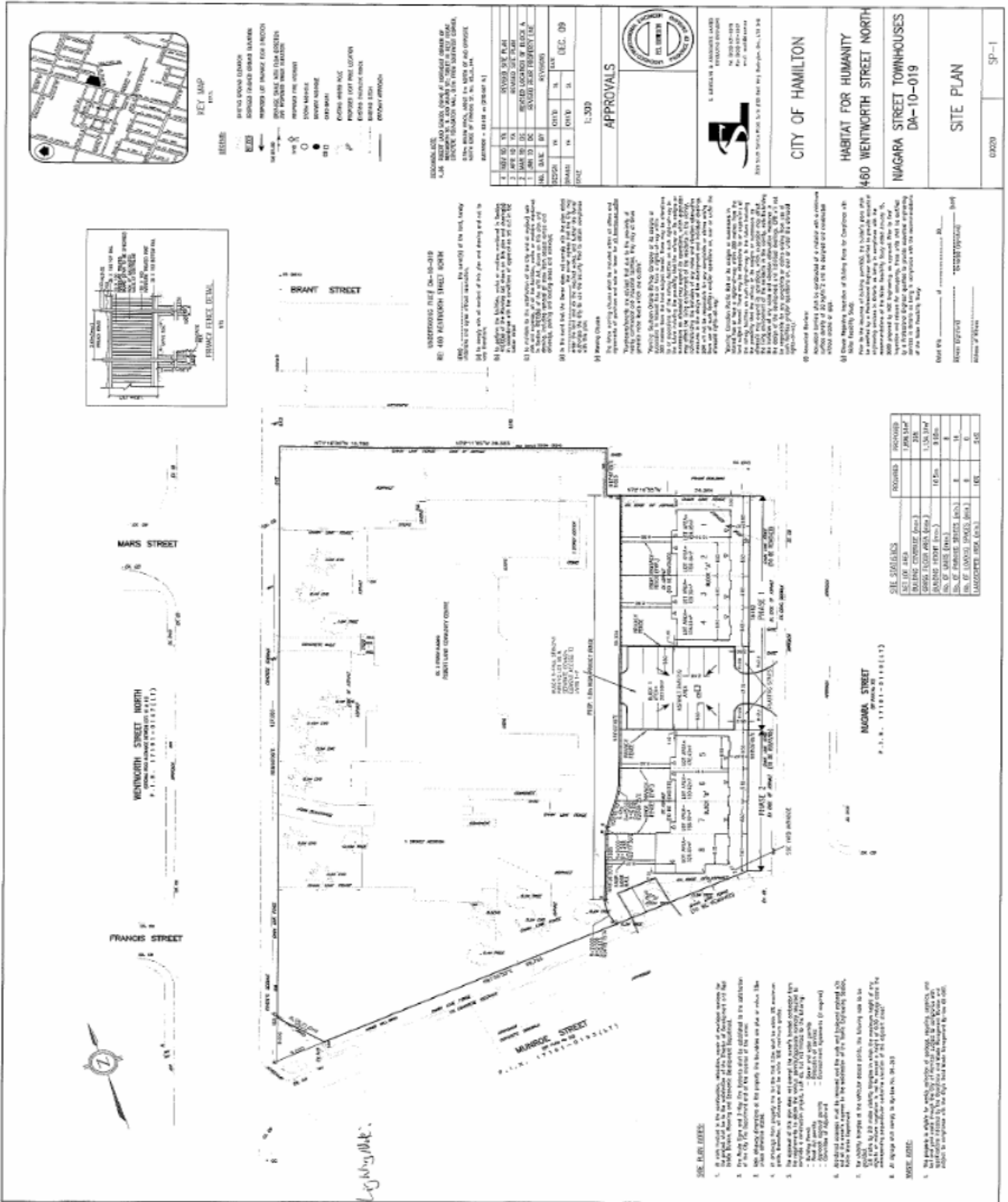
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KEY MAP

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SCHEDULE

NO.	DESCRIPTION	QUANTITY	UNIT	REMARKS
1	CONCRETE	1.00	CU YD	FOR FOUNDATION
2	BRICK	10000	SQ YD	FOR EXTERIOR WALLS
3	CEMENT MORTAR	1000	CU YD	FOR EXTERIOR WALLS
4	CEMENT MORTAR	1000	CU YD	FOR INTERIOR WALLS
5	CEMENT MORTAR	1000	CU YD	FOR FLOOR
6	CEMENT MORTAR	1000	CU YD	FOR ROOF
7	CEMENT MORTAR	1000	CU YD	FOR CURB
8	CEMENT MORTAR	1000	CU YD	FOR DRIVEWAY
9	CEMENT MORTAR	1000	CU YD	FOR SIDEWALK
10	CEMENT MORTAR	1000	CU YD	FOR STAIRS
11	CEMENT MORTAR	1000	CU YD	FOR BENCHES
12	CEMENT MORTAR	1000	CU YD	FOR CURBS
13	CEMENT MORTAR	1000	CU YD	FOR DRIVEWAYS
14	CEMENT MORTAR	1000	CU YD	FOR SIDEWALKS
15	CEMENT MORTAR	1000	CU YD	FOR STAIRS
16	CEMENT MORTAR	1000	CU YD	FOR BENCHES
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19	CEMENT MORTAR	1000	CU YD	FOR SIDEWALKS
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23	CEMENT MORTAR	1000	CU YD	FOR DRIVEWAYS
24	CEMENT MORTAR	1000	CU YD	FOR SIDEWALKS
25	CEMENT MORTAR	1000	CU YD	FOR STAIRS
26	CEMENT MORTAR	1000	CU YD	FOR BENCHES
27	CEMENT MORTAR	1000	CU YD	FOR CURBS
28	CEMENT MORTAR	1000	CU YD	FOR DRIVEWAYS
29	CEMENT MORTAR	1000	CU YD	FOR SIDEWALKS
30	CEMENT MORTAR	1000	CU YD	FOR STAIRS

REVISIONS

NO.	DATE	DESCRIPTION
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NOTICE TO ORDER

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25	11/18/11	ISSUED FOR PERMITS
26	11/18/11	ISSUED FOR PERMITS
27	11/18/11	ISSUED FOR PERMITS
28	11/18/11	ISSUED FOR PERMITS
29	11/18/11	ISSUED FOR PERMITS
30	11/18/11	ISSUED FOR PERMITS

REVISIONS

NO.	DATE	DESCRIPTION
1	11/18/11	ISSUED FOR PERMITS
2	11/18/11	ISSUED FOR PERMITS
3	11/18/11	ISSUED FOR PERMITS
4	11/18/11	ISSUED FOR PERMITS
5	11/18/11	ISSUED FOR PERMITS
6	11/18/11	ISSUED FOR PERMITS
7	11/18/11	ISSUED FOR PERMITS
8	11/18/11	ISSUED FOR PERMITS
9	11/18/11	ISSUED FOR PERMITS
10	11/18/11	ISSUED FOR PERMITS
11	11/18/11	ISSUED FOR PERMITS
12	11/18/11	ISSUED FOR PERMITS
13	11/18/11	ISSUED FOR PERMITS
14	11/18/11	ISSUED FOR PERMITS
15	11/18/11	ISSUED FOR PERMITS
16	11/18/11	ISSUED FOR PERMITS
17	11/18/11	ISSUED FOR PERMITS
18	11/18/11	ISSUED FOR PERMITS
19	11/18/11	ISSUED FOR PERMITS
20	11/18/11	ISSUED FOR PERMITS
21	11/18/11	ISSUED FOR PERMITS
22	11/18/11	ISSUED FOR PERMITS
23	11/18/11	ISSUED FOR PERMITS
24	11/18/11	ISSUED FOR PERMITS
25	11/18/11	ISSUED FOR PERMITS
26	11/18/11	ISSUED FOR PERMITS
27	11/18/11	ISSUED FOR PERMITS
28	11/18/11	ISSUED FOR PERMITS
29	11/18/11	ISSUED FOR PERMITS
30	11/18/11	ISSUED FOR PERMITS

NOTICE TO ORDER

1. The purpose of this notice is to inform the contractor of the location of the existing utility lines and to require the contractor to locate and mark these lines prior to construction.

2. The contractor shall be responsible for the accuracy of the utility line locations and shall be liable for any damage to these lines.

3. The contractor shall be responsible for the safety of the construction site and shall be liable for any accidents or injuries.

4. The contractor shall be responsible for the removal of all construction materials and debris from the site.

5. The contractor shall be responsible for the maintenance of the site during construction.

6. The contractor shall be responsible for the completion of the project within the specified time frame.

7. The contractor shall be responsible for the payment of all taxes and fees.

8. The contractor shall be responsible for the insurance of the construction site.

9. The contractor shall be responsible for the safety of the construction site.

10. The contractor shall be responsible for the completion of the project within the specified time frame.