

Ontario Land Tribunal

Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: August 26, 2022

CASE NO(S): OLT-22-003028
(Formerly PL180302)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: Knightstone Capital Management II Inc.
Subject: Application to amend the Zoning By-law – Refusal or Neglect to make a decision
Reference Number: ZAC-17-065
Property Address: 1190 Main Street W. (1190 Main St. W. et. al.)
Municipality/UT: Hamilton/Hamilton
OLT Case No.: OLT-22-003028
Legacy Case No.: PL180302
OLT Lead Case No.: OLT-22-003028
Legacy Lead Case No.: PL180302
OLT Case Name: Knightstone Capital Management II Inc. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: Knightstone Capital Management II Inc.
Subject: Site Plan
Reference Number: DA-20-074
Property Address: 1190 Main Street W. (1190 Main St. W. et. al.)
Municipality/UT: Hamilton/Hamilton
OLT Case No.: OLT-22-003030
Legacy Case No.: PL200489
OLT Lead Case No.: OLT-22-003028
Legacy Lead Case No.: PL180302

Heard: August 3, 2022 by Video Hearing

APPEARANCES:**Parties**

Knightstone Capital
Management II Inc.

City of Hamilton

Counsel

Joe Hoffman
David Bronskill (*in absentia*)

Patrick McDonald

MEMORANDUM OF ORAL DECISION DELIVERED BY BITA M. RAJAEI AND K.R. ANDREWS ON AUGUST 3, 2022 AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The matter before the Tribunal was an application for Site Plan Approval. Knightstone Capital Management II Inc. (the “Applicant/Appellant”) had submitted the appeal to the Tribunal under s. 41(12) of the *Planning Act* (the “Act”), with respect to a Site Plan pertaining to lands municipally known as 1190 Main Street West; 43, 47, 51 and 55 Forsyth Avenue South; 75, 77, 81, 83, 99, 103, 107, 111, and 115 Traymore Avenue; and 50 Dalewood Avenue, in the City of Hamilton (the “Subject Site”).

[2] Prior to the hearing, the Applicant/Appellant and the City of Hamilton (the “City”) confirmed that a settlement had been reached between the Parties and the agreement would be presented to the Tribunal for approval.

[3] For reasons detailed below, the Tribunal approves the Site Plan prepared by Diamond Schmitt Architects dated April 29, 2022 (revision number 12), and set out in Appendix 1 to this Order, subject to the conditions set out in Appendix 2 to this Order.

BACKGROUND

[4] On August 15, 2017, applications for the Urban Hamilton Official Plan Amendment No. 17-028 (“OPA-17-028”) and Zoning By-law Amendment No. 17-065 (“ZBA-17-065”) were filed with the City in order to re-designate and rezone the Subject Site to facilitate the

development of a student residence with accessory, educational, retail and service commercial uses.

[5] On October 10, 2017, applications OPA-17-028 and ZBA-17-065 were deemed complete by the City.

[6] On March 29, 2018, application ZBA-17-065 was appealed to the Local Planning Appeal Tribunal (the "LPAT", now the Ontario Land Tribunal ("OLT")) under s. 34(11) of the *Act*, for Council's failure to make a decision within the prescribed time.

[7] On May 28, 2018, application OPA-17-028 was appealed to the LPAT under s. 34 (11.0.0.0.1) of the *Act*, for Council's failure to make a decision within the prescribed time.

[8] On November 19, 2019, OPA-17-028 was approved and City Council adopted Official Plan Amendment No. 127 ("OPA 127") to the Urban Hamilton Official Plan and on December 14, 2018, the appeal of OPA-17-028 was withdrawn. However, it was appealed by the Concerned Residents of Westdale ("CROW").

[9] On June 8, 2020, an application for Site Plan Control (DA-20-074) was filed with the City.

[10] On June 22, 2020, a mediation session was held to discuss issues with all Parties related to the subject appeal of applications OPA-17-028 and ZBA-17-065.

[11] On July 10, 2020, the City denied the Site Plan Control Application (DA-20-074) stating that the application was premature given the ongoing appeals of OPA-17-028 and ZBA-17-065.

[12] On July 16, 2020, the third-party appeal of OPA-17-028 was withdrawn and resolved, which brought OPA 127 into effect.

[13] On July 29, 2020, application DA-20-074 was appealed to the LPAT under s. 41(12) of the *Act*.

[14] On August 21, 2020, City Council endorsed the settlement related to the subject rezoning application ZBA-17-065 for the Subject Site.

[15] The Tribunal conducted a hearing on the Zoning By-law Amendment file no. ZBA-17-065 (the “Rezoning Application”) on December 15, 2021, and issued decisions dated January 10, 2022 and March 9, 2022 (the “Rezoning Decision”), which allowed the appeals and approved the Application.

[16] At the December 15, 2021 hearing, David Falletta was qualified as an expert in land use planning. In his Witness Statement and oral testimony at the hearing, Mr. Falletta opined that:

- the proposed Zoning By-law Amendment conforms to the policies of the Urban Hamilton Official Plan, as amended, and Ainslie Wood Westdale Secondary Plan and will implement the land use and built form policies of OPA 127, which is now in effect;
- the proposed development is compatible with the existing and planned built form context;
- the applicable policy framework at the Provincial, Regional and City levels support mixed-use intensification on the site;
- from a land use perspective, the proposed development will contribute to the achievement of numerous policy directions promoting intensification on underutilized sites within the built-up urban area, particularly in locations that are well served by municipal infrastructure, including public transit;
- furthermore, the Subject Site is located within the “Major Activity Area” centered around McMaster University and also located within a convenient

walking distance of the McMaster Bus terminal, providing local and regional GO bus service, as well as the planned B-Line Light Rail Transit (“LRT”), which provide regional and local transit accessibility;

- the introduction of a wider range of uses on the Subject Site, including student residences, institutional and commercial uses, together with an enhanced streetscape will contribute to the ongoing revitalization of the Main Street West corridor and will further animate Main Street West with active uses;
- from an urban design perspective, the proposal will complement and reinforce the urban structure of mid-rise and tall buildings along the City’s Primary Corridors;
- the buildings will establish a new landmark within the neighbourhood that will urbanize this vacant length of Main Street West; and,
- in summary, the proposed development will result in a number of significant public benefits, including:
 - The creation of new purpose-built student housing in the Westdale Neighbourhood;
 - Intensification along a Primary Corridor and within an Activity Centre/Strategic Growth Area;
 - Provision of additional ridership to support the GO bus and Hamilton Street Railway (“HSR”) transit lines and planned LRT line;
 - Urbanization of a vacant length of Main Street West;
 - Improvements to grade level conditions and pedestrian amenities along Main Street West; and,
 - The creation of an attractive new development within the Westdale Neighbourhood.

[17] The Applicant/Appellant entered into a Settlement Agreement (dated December 3, 2021) with the City of Hamilton and CROW. The Minutes of Settlement (the “MOS”) state:

- 4.2 The Applicant and McMaster agree that, with the engagement of CROW throughout the Site Plan process, the following matters will be implemented through the site plan application for the Lands in association with the Implementing ZBA:
- (a) The Main Street entrance will be designed as the primary entrance with visual prominence, and will contain at least four doorways across the exterior façade, in accordance with the Revised Plans;
 - (b) Short term bicycle spaces would be removed from the west courtyard (facing Traymore Avenue);
 - (c) Secure a pedestrian linkage with a minimum width of 2.5 metres from the main entrance on Main Street to the campus across Forsyth Avenue South;
 - (d) The building will achieve a minimum LEED Silver certification;
 - (e) Outdoor amenity areas would be directed away from the residential areas and toward Main Street;
 - (f) The Applicant and McMaster agree that there shall be no smoking permitted on the Lands and that signs will be posted at appropriate locations advising of this prohibition;
 - (g) A minimum of two (2) lay-by spaces would be provided on Traymore Avenue for pick-up/drop-off, to be determined through the site plan process, in consultation with CROW; and,
 - (h) Require a bike share station with ten (10) bike share spaces on the Forsyth Avenue South frontage.

HEARING REGARDING THE SITE PLAN APPROVAL

[18] As evidence in the Hearing, the Tribunal received the Affidavit of Ashley Paton dated July 22, 2022, which was identified as Exhibit 1, and was the sole Exhibit at the Hearing.

[19] The Tribunal enquired regarding any additional Parties, specifically CROW, or Participants to this Hearing. Of note, apart from the Applicant/Appellant and the City, no additional Parties have standing to appear before the Tribunal in accordance with s. 41 of the *Act*. The Parties explained, however, that the concerns of CROW, listed at paragraph 4.2 of the MOS and detailed at paragraph 17 of this Decision, had been taken into consideration in developing the Site Plan, despite the fact that CROW did not have standing as a Party with respect to the Site Plan Approval Hearing. A number of individuals had been granted Participant Status in the other hearing related to this matter, described

above. None of those individuals sought Participant Status in this Site Plan Approval Hearing. As such, the Hearing proceeded with solely the Applicant/Appellant and the City's involvement.

[20] In support of the settlement agreement reached between the Parties, the Applicant/Appellant called one witness and provided the Curriculum Vitae and Acknowledgement of Expert Duty forms for Ms. Paton, Land Use Planner, which are found in Exhibit 1. Ms. Paton was qualified, on consent, to provide expert opinion evidence in the field of Land Use Planning.

[21] Ms. Paton first adopted the opinions expressed by Mr. Falletta regarding the Applications, as summarized above in this Decision at paragraph 16.

[22] She then described that the Applicant/Appellant and the City prepared the Site Plan, and accompanying Conditions, presented for approval at the Hearing in accordance with the Council-adopted OPA 127 and Zoning By-law Amendment approved by the OLT via the Rezoning Decision.

[23] The Site Plan, attached at Appendix 1 to this Decision, prepared by Diamond Schmitt Architects, includes the following drawings:

- Site Plan (Drawing A012) dated April 29, 2022 (revision number 12); and,
- Building Elevations (Drawings A301, A302, A303) dated June 4, 2020 (revision number 1).

[24] Ms. Paton described that the Site Plan drawings reflect the following features:

- The development of a McMaster University student residence facility within two buildings of 15- and 10-storeys that are tiered to the surrounding uses and include large courtyard spaces;

- A total of 1,366 student residence beds, 568 lodging units (including 17 grade-related dwelling units fronting Traymore Avenue);
- A total of 205 square metres of accessory commercial uses on the ground floor along Main Street West;
- A total of 1,252 square metres of institutional uses within the ground floor (and second floor) along Forsyth Avenue South;
- The total gross floor area (“GFA”) of the proposed development is 53,094 square metres, inclusive of:
 - 1,252 square metres of institutional GFA;
 - 205 square metres of retail/commercial GFA;
 - 7,086 square metres of indoor and outdoor amenity GFA; and,
 - 44,551 square metres of Student Residence GFA.
- A total of 42 vehicular parking spaces on-site, including:
 - five Carshare spaces;
 - 15 spaces for the grade-related dwelling units;
 - two spaces for staff of the student residence; and,
 - 20 visitor parking spaces.
- Three Type B loading spaces.
- A total of 472 bicycle parking spaces, including:
 - 370 long -term spaces; and,
 - 102 short-term spaces.

[25] In accordance with the MOS, the Site Plan Approval, drawing set, and proposed Conditions of Site Plan Approval all satisfy the following elements:

- Consultation with CROW was completed;
- The Main Street entrance has been designed as the primary entrance with visual prominence and contains four (4) doorways across the exterior façade;
- No short-term bicycle parking is provided in the west courtyard facing Traymore Avenue;
- A pedestrian linkage with a minimum width of 2.5 m has been provided on the Subject Site from the Main entrance on Main Street West to the northwest corner of the subject site, providing a link to the campus;
- The common outdoor amenity areas and courtyards have been directed away from the residential areas as they are located internal to the Subject Site with pedestrian access to the west and central courtyards from Traymore Avenue;
- Four (4) parking spaces on Traymore Avenue are dedicated for pick-up/drop-off; and,
- 10 Bike Share spaces are provided on Forsyth Avenue South.

[26] Ms. Paton then discussed the Conditions of Site Plan Approval, attached as Appendix 2 to this Decision. A total of 63 conditions are imposed, including standard City conditions, conditions to address the requirements of outside agencies, and specific conditions relating to the particular elements of the Site Plan.

[27] She opined that the Site Plan and the Conditions of Site Plan Approval appropriately implement the development and satisfy all the applicable legislative tests,

including s. 41(4) and s. 41(7) of the *Act* and have had regard for matters of provincial interest in accordance with s. 2 of the *Act*.

[28] Ms. Paton testified that the proposed Site Plan addresses the matters in s. 41(4) of the *Act*, since:

- The Site Plan shows the location of both buildings and facilities;
- The Site Plan and building elevations show the building and cross-section views, the massing and conceptual design of the proposed building, its relationship to adjacent buildings, streets and exterior public areas;
- The Site Plan illustrates that interior walkways are connected to exterior walkways and ultimately, connects to streets;
- The Site Plan and building elevations illustrates the exterior appearance of the proposed building;
- The landscape plan illustrates the landscaping, paving materials, street furniture, bicycle parking facilities, and curb ramps; and,
- The Site Plan has regard for accessibility for persons with disabilities.

[29] She further stated that the proposed Conditions of Site Plan Approval appropriately address the matters in s. 41(7) of the *Act* since the Site Plan:

- Provides a road widening of between 0.46 metres and 5.0 metres along Main Street West in order to achieve an ultimate right-of-way width of 45.72 m (representing a 22.860 m offset from the centreline of Main Street West);
- Provides road dedications for the purpose of providing daylight triangles as follows:

- A 3.45 metre by 3.45 metre daylight triangle at the intersection of Dalewood Avenue and Traymore Avenue, subject to obtaining approval from Alectra Utilities to relocate and/or modify the clearance requirements for the electrical equipment to be located at the corner; and,
 - A 4.5 metre by 2.0 metre daylight triangle at the intersection of Main Street West and Dalewood Avenue.
- Includes access ramps, curbings and traffic direction signs;
 - Locates all vehicular loading and parking facilities on the ground floor and below grade;
 - Includes a comprehensive walkway system connecting the building, including the elevator lobby, to the abutting municipal sidewalks;
 - Includes facilities designed to have regard for accessibility for persons with disabilities;
 - Will provide adequate lighting as required by the conditions of Site Plan Approval;
 - Has been designed to adequately mitigate any unacceptable built form impacts.
 - Includes storage and waste collection areas;
 - Includes stormwater management and servicing facilities to address storm, surface and wastewater;
 - Conditions will ensure that the building is maintained to the satisfaction of the City; and,
 - Approval requires the Applicant/Appellant to enter into an agreement in the form of a signed Letter of Undertaking on the Site Plan drawing.

[30] Ms. Paton emphasized that the Site Plan, list of related drawings, and Conditions of Site Plan Approval are consistent with the Provincial Policy Statement, 2020 (“PPS”), conform with the Growth Plan for the Greater Golden Horseshoe, conform with the Urban Hamilton Official Plan, as amended by OPA 127, and comply with Zoning By-law No. 05-200, as amended by By-law No. 22-010-OLT-01.

[31] Furthermore, she testified that the Site Plan, list of related drawings, and Conditions of Site Plan Approval are appropriate, have regard for matters of provincial interest in accordance with s. 2 of the *Act*, address s. 41(4) of the *Act*, and achieve the criteria in s. 41(7) of the *Act*.

FINDINGS AND DISPOSITION

[32] The Tribunal accepts the uncontradicted planning evidence and opinions of Ms. Paton and finds the Site Plan as proposed aligns with good land use planning, satisfies all legislative tests as detailed above and warrants approval.

ORDER

[33] **THE TRIBUNAL ORDERS** that:

1. The Site Plan prepared by Diamond Schmitt Architects dated April 29, 2022, (revision number 12), and set out in Appendix 1 to this Order, is approved in principle subject to the Conditions set out in Appendix 2 to this Order.
2. Pursuant to s. 9(1) of the *Ontario Land Tribunal Act*, the City of Hamilton shall have the authority to administer final approval.

3. The Members are seized and may be spoken to should any matters arise respecting the implementation of this Order.

"Bita M. Rajae"

BITA M. RAJAE
MEMBER

"K.R. Andrews"

K.R. ANDREWS
MEMBER

Ontario Land Tribunal

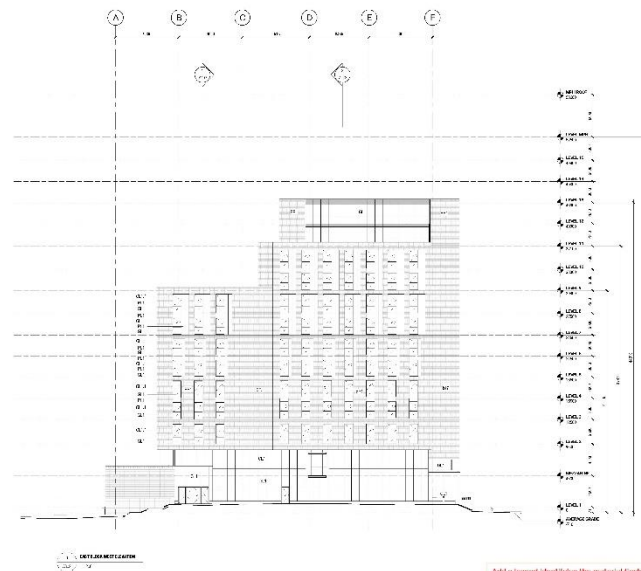
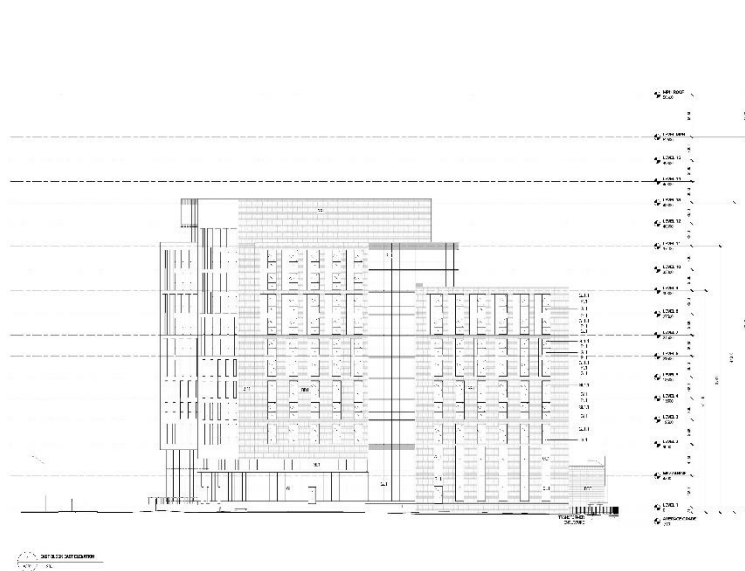
Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

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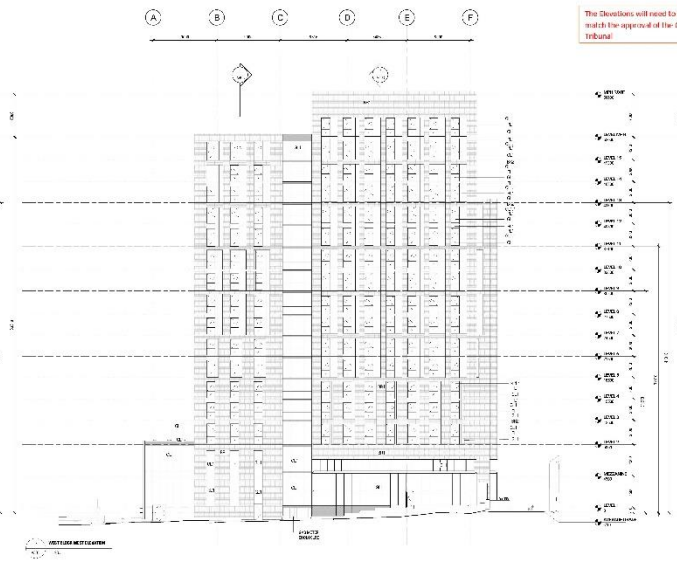
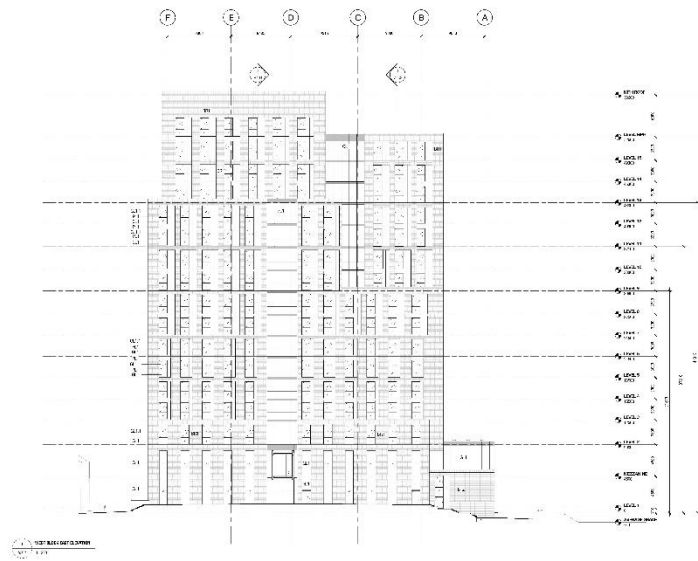


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The elevations will need to be updated to match the approval of the Dublin Landfill

McMaster Residences

McMaster Residences

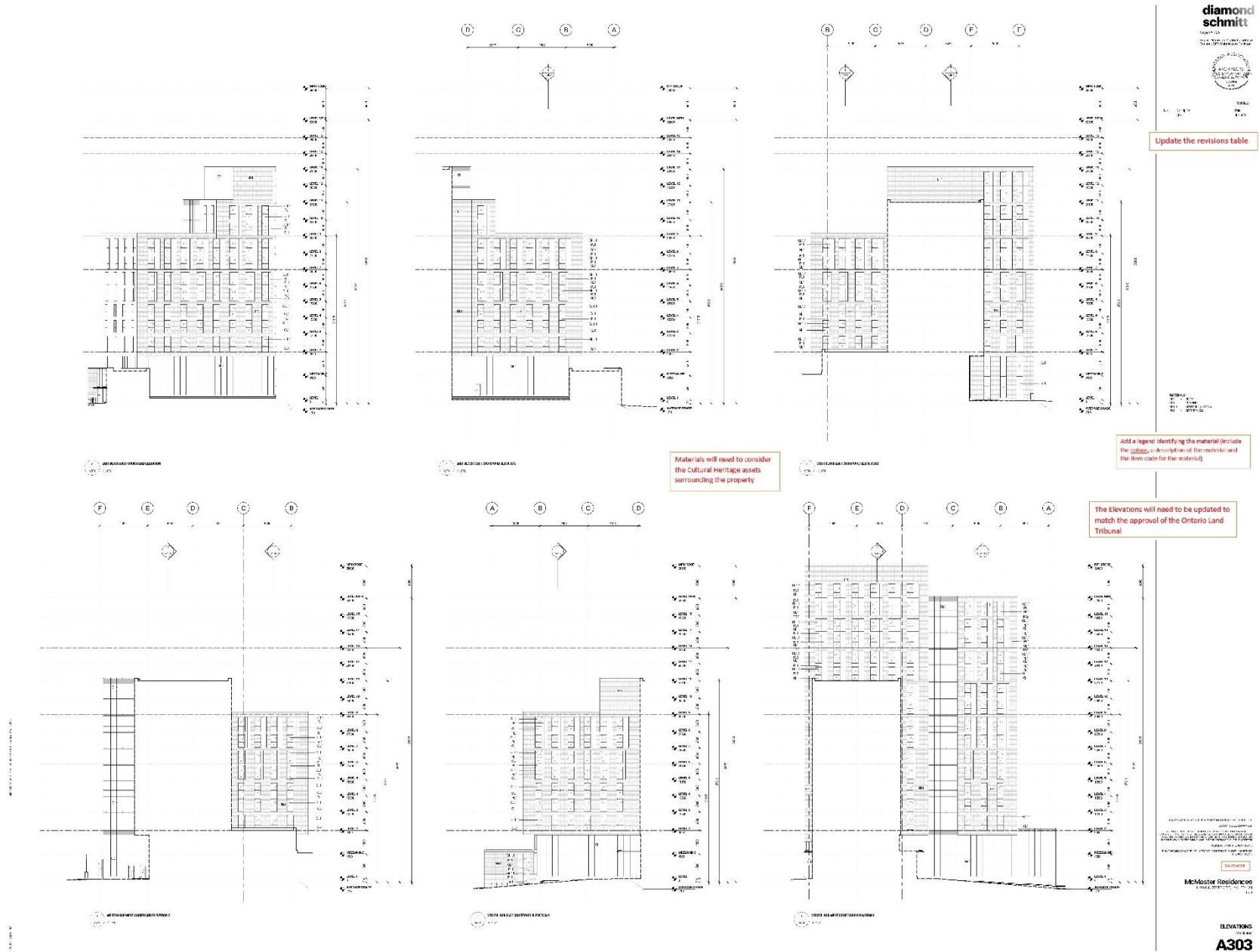


McMaster Residences
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McMaster Residences
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McMaster Residences
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APPENDIX 2

1. SITE PLAN

Site Plan and Underground Parking Plan

1. (b) To develop and maintain the site in compliance with the Site Plan and underground parking plan, attached hereto each of which is dated June 4, 2020 and hereinafter collectively referred to as the "Site Plan". Minor changes to the Site Plan or conditions shall be permitted only upon written approval from the Manager, Heritage and Urban Design.

Approval Limitation

1. (c) That, in the event a building permit for the proposed development has not been issued within one (1) year from the date of site plan approval, the approval shall lapse. Prior to the approval lapsing, a request for an extension for a period up to, but not exceeding a one (1) year period, may be made directly to the Manager, Heritage and Urban Design, with written justification and the required fee. The Manager, Heritage and Urban Design will consider the request in light of current requirements and:
 - i) May deny the request;
 - ii) May grant the request; or
 - iii) May grant the request with revisions or additional conditions.

Ground Cover to Prevent Soil Erosion

1. (d) Where the construction or demolition of a building, or buildings, or site development works are, in the opinion of the City's Director of Building, substantially suspended or discontinued for more than 45 days the Applicant/Appellant shall forthwith provide suitable ground cover to prevent soil erosion by wind, rain and snow for the protection of adjoining lands to the satisfaction of the said Director.

Garbage Collection

1. (e) The Applicant/Appellant acknowledges that garbage collection for the proposed development shall be in accordance with the applicable Municipal By-Law.

2. PRIOR TO THE APPLICATION FOR ANY BUILDING PERMITS**Erosion and Siltation Control**

2. (a) To show all erosion and siltation control features in detail on a Grading and Drainage Control Plan hereinafter described in Section 3(b); to the satisfaction of the City's Manager of Engineering Approvals and to implement all such erosion and siltation control measures. The Applicant/Appellant further agrees to maintain all such measures to the satisfaction of the City's Manager of Development Engineering Approvals until the site has been fully developed as determined by the Manager, Heritage and Urban Design.

Tree Management

2. (b) To prepare a Tree Preservation/Enhancement Plan as part of the required Landscape Plan hereinafter described in Section 3(e), showing the location of drip lines, edges and existing plantings, the location of all existing trees and the method to be employed in retaining trees required to be protected; to obtain approval thereof from the Manager, Heritage and Urban Design; and to implement all approved tree savings measures. The implementation of the Plan shall include a Verification of Tree Protection Letter, prepared by a qualified professional and approved to the satisfaction of the Director of Planning and Chief Planner.

Building Elevations

2. (d) To submit six (6) copies of final building elevations and one (1) reduced 11" x 17" copy to the satisfaction of the Manager of Development Planning, Heritage and Design. Minor changes to the Building Elevations or condition(s) shall be permitted only upon written approval from the Manager, Heritage and Urban Design.

Interior Garbage Storage/Outdoor Garbage Containers

2. (f) To show the following on the required Landscape Plan:
- i) The location of any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, including those which may be internal to a proposed or existing building; or
 - ii) The location of any outdoor garbage and recycling containers and details for a supporting concrete pad and, if required by the Manager, Heritage and Urban Design, a roofed enclosure having a height sufficient to conceal the containers.

Cost Estimate and Letter of Credit

2. (g) i) To provide cost estimates for 100% of the total cost of all exterior on-site works to be done by the Applicant/Appellant. Such cost estimates shall be in a form satisfactory to the Manager, Heritage and Urban Design; or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering.
- ii) Calculate the lump sum payment for exterior works using the City's Letter of Credit Policy to the satisfaction of the Manager, Heritage and Urban Design.
- iii) To provide an irrevocable Letter of Credit to the Manager, Heritage and Urban Design for 75% of the total cost of all on-site development works in a form satisfactory to Finance (Development Officer, Budget, Taxation and Policy) to be held by the City as security for the completion of the on-site development works required in this Agreement.

Alternatively, the Applicant/Appellant may choose to provide a lump sum payment for on-site works in accordance with 2. (g) ii). above.

- iv) The Letter of Credit shall be kept in force until the completion of the required site development works in conformity with the approved design and requirements, securities may be reduced in accordance with the City's Letter of Credit Policy. If the Letter of Credit is about to expire without renewal thereof and the works

have not been completed in conformity with their approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion unless the City Solicitor is provided with a renewal of the Letter of Credit forthwith.

- v) In the event that the Applicant/Appellant fails to complete, to the satisfaction of the Manager, Heritage and Urban Design, the required site development works in conformity with its approved design within the time required, then it is agreed by the Applicant/Appellant that the City, its employees, agents or contractors may, at the City's sole option and in addition to any other remedies that the City may have, enter on the lands and so complete the required site development works to the extent of monies received under the Letter of Credit. The cost of completion of such works shall be deducted from the monies obtained from the Letter of Credit. In the event that there is a surplus, the City shall pay it forthwith to the Applicant/Appellant. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the Municipal Act) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes.

3. PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS

- 3. (a) Satisfy all pre-grading conditions set out in Section 2 above.

Grading and Drainage Control

- 3. (b) i) To prepare a detailed Grading and Drainage Control Plan showing drainage details for the subject property, abutting properties and public rights-of-way so as to ensure compatible drainage, and to show thereon all existing and proposed connections to the municipal storm sewer to provide for that drainage i.e. catch basins/leads etc. to the satisfaction of the City's Manager of Development Engineering Approvals.
- ii) To pay a fee (current rate at time of payment +HST) for the final inspection all aboveground features, such as but not limited to, landscaping, drainage, roads,

driveways, noise barriers/fencing, lighting, etc., to the satisfaction of the Manager of Development Approvals.

Storm Water Management Design

3. (c) To submit to the satisfaction of the City's Manager of Engineering Approvals detailed engineering design for storm water management or to receive from the said Manager an exemption from this requirement.

Road Widenings

3. (d) To convey to the City, without cost and free of encumbrance, the road widening and/or daylighting triangles as indicated on the Site Plan to the satisfaction of the City's Manager of Development Engineering Approvals.

Landscape Plan

3. (e) To prepare a Landscape Plan showing planting and surfacing details for all areas not covered by buildings, structures, loading areas or parking areas; and to obtain approval thereof from the Manager, Heritage and Urban Design.

Fencing/Visual Barriers

3. (f) To obtain approval of the details of all fencing and visual barriers as indicated on the Site Plan, from the Manager, Heritage and Urban Design, as part of the approval of the Landscape Plan.

Boulevard Sodding

3. (g) To show on the required Landscape Plan, planting and surfacing details for the portion of all adjacent public property located between the sidewalks, curbs or streets and the Applicant/Appellant's property line so as to ensure a contiguous landscaped area between the public streets and the Applicant/Appellant's proposed development.

Site Lighting-Design

3. (i) To prepare a Site Lighting Plan, including lighting for any underground parking facilities, and to submit said plan with a signed certification from an Electrical Engineer stating that said plan complies with Section 3.9 “Lighting” of the City of Hamilton Site Plan Guidelines.

Site Servicing Plan

3. (k) i) To submit to the City’s Manager of Development Engineering Approvals a satisfactory Site Servicing Plan and pay the applicable drawing review fee based on the approved User Fees Schedule for the year that the Servicing Plans are submitted for review.

ii) To pay for and obtain the required Site Servicing Permits, the cost of which will be calculated based on the approved servicing design.

Cash-in-Lieu of Parkland

3. (n) To pay to the City of Hamilton Park Trust Fund Account the required cash-in-lieu of parkland contribution based on the value of the lands the day before the issuance of a Building Permit.

Development Charges

3. (o) To pay to the City of Hamilton all applicable Development Charges in accordance with the Development Charges By-law, as amended, to the satisfaction of the City’s Director of Building Services.

Site Plan Drawing

3. (p) To submit six (6) copies of the final site plan drawing and one (1) reduced 11” x 17” copy to the satisfaction of the Manager of Development Planning, Heritage and Design.

Taxes

3. (q) To submit proof from the Taxation Division that the Municipal Taxes are current on the subject lands to the satisfaction of the Manager of Development Planning, Heritage and Design.

Tariff of Fees

3. (r) To pay to the City of Hamilton the applicable additional charges as per the Tariff of Fees By-law for the proposed development type as follows:
 - i) Residential - \$1,005.00/unit for the first 10 units and \$605.00/unit for units 11 to a maximum of 50 units to the satisfaction of the Manager, Heritage and Urban Design.

Wastewater Assessment

3. (s) To submit a wastewater generation assessment to the satisfaction of the City of Hamilton Public Works Department using Part 8 of the latest edition of the Code and Guide for Sewage Systems to establish an updated equivalent population density.

Water Service Assessment

3. (t) To submit a water service assessment to the satisfaction of the City Public Works Department which tabularizes the expected occupancy and provides a water demand estimation, and needed fire flow calculation based on the "Water Supply for Public Protection, Fire Underwriters Survey, 1999".

Storm Drainage Area Plan

3. (u) To submit a storm drainage area plan that clearly illustrates the extent of the property which will contribute surface water and ground water by direct connection to the existing systems. The plan must also illustrate where runoff from the remainder of the subject property if applicable, will be directed and/or collected. Appropriate runoff coefficients are to be assigned for the consideration and records of the Public Works Department.

Construction Management Plan

3. (v) To prepare a Construction Management Plan that provides details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc. The plan must identify any required sidewalk and/or lane closures and the estimated length of time for such closure's). Details on heavy truck routing must also be included. The plan must be submitted to the satisfaction of the Director of Engineering Services, Public Works.

4. PRIOR TO OCCUPANCY

Prior to occupancy of the proposed development the Applicant/Appellant agrees to fulfill each of the conditions which follow:

Driveway Closure

4. (a) To complete the closure of all redundant driveways to the City's or Ministry of Transportation's standards.

Driveway Installation

4. (b) To install, at the Applicant/Appellant's cost and to the City's or Ministry of Transportation's standards, new driveway ramps at grade with the (existing, proposed or future) sidewalk. That the Applicant/Appellant must apply for and receive an Access Permit from the Public Works Department or the Ministry of Transportation.

Relocation of Municipal and/or Public Utilities

4. (c) That the relocation of any Municipal and/or Public Utilities, such as but not limited to, street furniture, transit shelters, signs, hydrants, utility poles, transformers, communication pedestals, wires or lines, required due to the location of buildings, structures, walkways, boulevards, driveways, curbing or parking, be arranged and carried out at the Applicant/Appellant's cost, to the satisfaction of the appropriate City Department or Public Utilities.

Emergency/Fire Routes

4. (d) That any required "Emergency/Fire Routes" shall be established by the City's Director of Building Services and that such signage shall be installed at the Applicant/Appellant's cost and to the satisfaction of the City's Director of Building Services.

Traffic Control Signs

4. (e) To install, at the Applicant/Appellant's cost, all required traffic signs, including directional, visitor parking and barrier-free parking signs, to the satisfaction of the City's Senior Project Manager, Corridor Management, Public Works.

Fire Hydrant

4. (g) To install at the Applicant/Appellant's cost, any fire hydrant required by the Ontario Building Code as directed by the City's Director of Building Services.

Site Servicing

4. (h) To complete site servicing to the satisfaction of the City's Manager of Development Engineering Approvals.

5. WITHIN ONE YEAR OF OCCUPANCY (PRIOR TO RELEASE OF CREDIT)**Grading and Drainage Completion**

5. (a) To complete the site grading and drainage scheme in accordance with the Grading and Drainage Control Plan approval.

Storm Water Management Implementation

5. (b) To complete any storm water management scheme and all related drainage control facilities in accordance with the approval Plan.

Tree Management

- 5. (c) To complete the tree management requirements for the lands in accordance with the approved Tree Preservation/Enhancement Plan.

Landscape Completion

- 5. (d) To complete the landscaping in accordance with the approved Landscape Plan.

Interior Garbage Storage/Outdoor Garbage Container Installation

- 5. (e) To install or demarcate on-site any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, in accordance with the approved Landscape Plan.

Fencing/Visual Barriers Installation

- 5. (f) To install all fencing and visual barriers as indicated on the Site Plan in accordance with the approved Landscape Plan.

Boulevard Sodding

- 5. (g) To complete, at the Applicant/Appellant's cost, the landscaping on all adjacent public property in accordance with the approved Landscape Plan.

Curb Installation

- 5. (h) To install 0.15 metre raised curbing in the locations shown on the Site Plan.

Site Lighting Installation

- 5. (i) To implement the approved Site Lighting Plan.

Paving

5. (j) To pave all areas intended to facilitate on-site vehicular movement, parking and loading, as shown on the Site Plan with hot-mixed asphalt or equivalent and to demarcate the parking on said surface.

Certification of Site Development Works

5. (k) To submit to the City's Director of Building Services, Site Development Works Certification Forms prepared by the appropriate consultants, certifying that the site development works required under this approval have been completed in accordance with the respective plans prepared by such consultant and accepted by the City.

In addition to the foregoing conditions, the following **special conditions** are also part of this approval:

PRIOR TO THE APPLICATION FOR ANY BUILDING PERMITS

1. That the Applicant/Appellant submit a set of Shoring Plans prepared by a Licensed Professional Engineer showing the proposed shoring design and location of any existing municipal services and utilities within the municipal right-of-way as well as any existing adjacent privately-owned utilities, services and structures, all to the satisfaction of the City's Manager of Development Engineering Approvals.
2. That the Applicant/Appellant enters into with the City of Hamilton, a Shoring Agreement to address construction of the shoring system and further satisfy all requirements of the City based on the design of the proposed shoring system, to the satisfaction of the City's Manager of Development Engineering Approvals.
3. That the Applicant/Appellant submits Geotechnical and Hydrogeological Briefs conducted by a qualified professional (P.Eng, P.Geo) that discusses soil/groundwater conditions to properly characterize potential dewatering needs. This brief should discuss seasonal high groundwater levels, excavation depths,

dewatering calculations (on a L/s and L/day basis), and if dewatering is required, groundwater quality sampling to compare against Sewer Use Bylaw criteria, all to the satisfaction of the City's Manager of Development Engineering Approvals.

4. That the Applicant/Appellant submit a Ground Settlement Study by a Licensed Professional to identify any potential ground/soil settlement and anticipated effects on the surrounding lands and structures which may arise as a result of any temporary groundwater dewatering during construction. Ground settlement mitigation measures/strategies shall be discussed and identified in the study, to the satisfaction of the City's Manager of Development Engineering Approvals.
5. That the Applicant/Appellant submit a Vibration Study/Analysis by a Licensed Professional to assess the impacts of vibration on the surrounding lands and structures as a result of construction of the shoring system as well as vibration monitoring and mitigation strategies, all to the satisfaction of the City's Manager of Development Engineering Approvals.
6. That the Applicant/Appellant submit a Tree Protection Plan review fee of \$610.00 to the satisfaction of the Manager of Heritage and Design.
7. That the Applicant/Appellant finalizes municipal addressing with the Growth Planning Section, to the Satisfaction of the Senior Director of Growth Management.
8. That the Applicant/Appellant submits a list and floor plans to the Growth Planning Section, indicating the mailing address unit number of each unit on each floor, to the satisfaction of the Senior Director of Growth Management.
9. That the Applicant/Appellant provide an updated Pedestrian Level Wind Study to the satisfaction of the Manager of Heritage and Urban Design.

PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS

10. That the Applicant/Appellant submit a comprehensive Construction Management Plan addressing: Construction Details/Management, Traffic Management, and Public Communication, and pay the CMP Review Fee for the current year, to the satisfaction of the City's Manager of Development Engineering Approvals.
11. That the Applicant/Appellant submit a sufficient security deposit to the Growth Management Division to cover potential damage to any municipal infrastructure within the municipal right-of-way during construction (including but not limited to sidewalks, curbs, light poles, underground and aboveground utilities, etc.). If any significant reconstruction to the municipal right-of-way (as determined by the City) is proposed, the Applicant/Appellant will be required to enter into and register on title of the lands, an External Works Agreement with the City instead of submitting the abovementioned security deposit, all to the satisfaction of the City's Manager of Development Engineering Approvals.
12. That the Applicant/Appellant submit a Watermain Hydraulic Analysis, identifying the modelled system pressures at pressure district (PD2) level under various boundary conditions and demand scenarios, to the satisfaction of the City's Manager of Development Engineering Approvals.
13. That the Applicant/Appellant agree to provide payment of \$670.96+HST (or current rate at time of payment) for the Tree Management Plan review fee to the satisfaction of the Manager of Parks, Cemeteries, Forestry and Horticulture.
14. That the Applicant/Appellant shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment, Conservation and Parks recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner.

Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Applicant/Appellant/applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner.

15. That the Applicant/Appellant submit and receive approval for a signage and pavement marking drawing shall be completed for the frontage along Traymore Avenue indicating the location of all parking related signage and/or pavement markings shall be submitted, to the satisfaction of the Manager, Transportation Planning.
16. That the Applicant/Appellant submit and receive approval for a supplementary analysis indicating the recommended type of pedestrian crossing to be installed at the intersection of Traymore Avenue and Forsyth Avenue South. Once a protected pedestrian crossing on Forsyth Avenue South at the intersection of Traymore Avenue has been determined, the pedestrian crossing be designed (including Detailed Pavement Markings, Traffic Signs and/or Traffic Signal Plans) and constructed fully at the expense of the Applicant/Appellant to the Satisfaction of the Manager, Transportation Planning.
17. That the Applicant/Appellant submit a letter certifying the design of the underground parking ramp signed by a Licenced Architect or Engineer, to the satisfaction of the Manager, Transportation Planning.
18. That the Applicant/Appellant enter into an off-site parking agreement to satisfy the Minutes of Settlement associated with Ontario Land Tribunal Case No. PL180302