# **Local Planning Appeal Tribunal**

Tribunal d'appel de l'aménagement local



**ISSUE DATE:** July 03, 2018 **CASE NO(S).:** PL170282

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Queenston Road Holdings Inc.

Subject: Request to amend the Urban Hamilton Official

Plan (UHOP) and Old Town Secondary Plan - Refusal of request by the City of Hamilton

Existing Designation: Mixed Use – Medium Density (UHOP); General

Open Space (Old Town Secondary Plan)

Proposed Designated: Neighbourhoods and Open Space (UHOP);

Mixed Use – Medium Density, High Density Residential 1 and Natural Open Space (Old

Town Secondary Plan)

Purpose: To permit the development of a 19 storey

residential building, recognize the existing 2 storey commercial building and open space

lands

Property Address/Description: 860 Queenston Road

Municipality:

Approval Authority File No.:

OMB Case No.:

OMB File No.:

City of Hamilton
UHOPA-16-01
PL170282
PL170282

OMB Case Name: Queenston Road Holdings Inc. v. Hamilton

(City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O.

1990, c. P.13, as amended

Applicant and Appellant: Queenston Road Holdings Inc.

Subject: Application to amend Zoning By-law No. 05-

200 – Refusal of Application by the City of

Hamilton

Proposed Zoning: Adding lands to Zoning By-law No. 05-200 to

be zoned Conservation/Hazard (P5)

Purpose: To recognize the open space lands

Property Address/Description: 860 Queenston Road Municipality: City of Hamilton Municipality File No.: ZAC-16-009 OMB Case No.: PL170282

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O.

1990, c. P.13, as amended

OMB File No.:

Applicant and Appellant: Queenston Road Holdings Inc.

Subject: Application to amend Zoning By-law No. 3692-

92 - Refusal of Application by the City of

Hamilton

PL170283

Existing Zoning: General Commercial (GC) Zone and Open

Space (OS) Zone

Proposed Zoning: Site-Specific General Commercial (GC) Zone,

Site-Specific Multiple Residential (RM5) Zone and to remove lands to be rezoned in Zoning

By-law No. 05-200

Purpose: To permit the development of a 19 storey

residential building and recognize the existing

2 storey commercial building

Property Address/Description: 860 Queenston Road

Municipality: City of Hamilton
Municipality File No.: ZAC-16-009
OMB Case No.: PL170282
OMB File No.: PL170284

**Heard:** March 12, 2018 in Stoney Creek, Hamilton

APPEARANCES:

Parties Counsel

Queenston Road Holdings Inc. Patricia Foran

City of Hamilton Patrick MacDonald

# MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT ON MARCH 12, 2018 AND ORDER OF THE BOARD

### INTRODUCTION

- [1] Queenston Road Holdings Inc. appealed the refusal by the Council of the City of Hamilton of applications to amend the Official Plan and Zoning By-laws in order to permit the addition of a 19 storey, 219 unit, rental residential development to the lands located at 860 Queenston Road which are currently developed with a two storey commercial office building.
- [2] The applications, as revised, were supported by staff, but refused by Council in February of 2017, resulting in the appeal of March 2017.
- [3] In January 2018 the parties voluntarily participated in a confidential Ontario Municipal Board ("OMB") assisted mediation, which successfully led to an agreement to settle the appeals on the basis of modifications to the height of proposed residential rental building to 14 storeys while maintaining the unit count to 219 units.
- [4] At the commencement of the hearing the executed Minutes of Settlement, were submitted, and the Board heard un-contradicted evidence from Sarah Knoll, who was qualified to give expert opinion evidence in matters of land use planning to assist the Board in its deliberations of testing the settlement.
- [5] The property is located on the south side of Queenston Road, east of Centennial Parkway. Approximately half of the site is wooded ravine or sloped lands forming part of Battlefield Creek. The site shares a controlled access to Queenston Road with the retail plaza and an existing two storey office building located to the west.
- [6] The site is located at the terminus of the LRT and is 1.5 km south of the GO Station currently under construction.
- [7] The surrounding community was characterized as being a combination of low

rise, low density residential dwellings and a series of medium to high density residential buildings with heights varying from 9 to 21 storeys.

### THE EVIDENCE

- [8] It was the overall opinion of the qualified expert that the proposal constituted appropriate intensification that was in keeping with the scale, and therefore compatible with the existing and planned context. The proposal is consistent with the Provincial Policy Statement ("PPS"), and conforms to the Growth Plan 2017 ("GP"), and Urban Hamilton Official Plan ("UHOP"), and therefore, represent good planning and is in the public interest.
- [9] Citing specifically s. 1.1.1, 1.1.3, 1.1.3.2(5), the proposal is sited within a settlement area and in the opinion of Ms. Knoll and the City, represents an excellent opportunity to better use an underutilized site for rental housing to further the range and mix of housing opportunities, at transit supportive densities along a transit corridor currently served and to be further served by the planned LRT and nearby GO station under construction.
- [10] The proposal observes the stable top of bank established by the conservation authority, and although the valley lands remain in private ownership they will be protected through appropriate zoning and be retained as part of the natural amenity of the setting, in keeping with s. 3.1.1.6 of the PPS.
- [11] It is the opinion of the planner that the location and underutilization of this site combine to create an ideal opportunity to better use existing infrastructure, and to contribute towards meeting the City's targets set in order to conform to the Growth Plan, particularly for sites such as the subject, being in close proximity to a planned major transit station area, citing s. 2.2.1.c(3), 2.2.4.3(b) and 2.2.6.
- [12] The Board also heard from one neighbour, Paul Glenney the owner of 99

Blanmora Drive located to the south west of the subject site. It was the view of Mr. Glenney that a building of 9 storeys would more appropriately reflect the scale of other, older existing multiple unit residential buildings in the community.

### FINDINGS AND DECISION

[13] The Board is persuaded by the evidence of Ms. Knoll, and supported by the City, that the proposal is consistent with and conforms to the PPS and the Growth Plan, and that it implements the Housing and Corridor policies of UHOP. While a site specific amendment is required to allow the proposed net residential density, it is required so as to permit the designation of the ravine lands so as to protect the natural amenity which will remain in private stewardship.

### **ORDER**

[14] The Board allows the appeals in part and orders that the Official Plan Amendment be approved. With respect to the two Zoning By-law Amendments, amending By-law Nos. 05-200 and 3692-92 are respectively amended in accordance with the draft amendments attached and forming part of Exhibit 3, and Attachment 1 of this order.

"Sharyn Vincent"

SHARYN VINCENT MEMBER

If there is an attachment referred to in this document, please visit www.elto.gov.on.ca to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

A constituent tribunal of Environment and Land Tribunals Ontario Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-224

### **ATTACHMENT 1**

### SCHEDULE "B" TO MINUTES OF SETTLEMENT

OMB Case File No.: PL170282

Schedule "1"

# Urban Hamilton Official Plan Amendment No. 97

The following text, together with:

Appendix "A" Volume 1, Schedule E-1 – Urban Land Use Designations

Appendix "B" Volume 2, Old Town Secondary Plan – Land Use Plan – Map

B.7.2-1

attached hereto, constitutes Official Plan Amendment No. 97 to the Urban Hamilton Official Plan.

### 1.0 <u>Purpose and Effect</u>:

The purpose of this Amendment is to change the subject property's land use designations to permit a high density residential development, and to further identify and protect a natural heritage feature. The purpose of this Amendment is also to establish a Site Specific Policy Area "E" in the Old Town Secondary Plan.

The effect of this Amendment to the Urban Hamilton official Plan is to:

- Recognize an existing office building on the westerly portion of the subject property;
- Permit a high density residential development on the central portion of the subject property;
- Recognize and protect the existing linkage on the easterly portion of the subject property; and,
- Add a Site Specific Policy Area "E" to permit a density which exceeds the "High Density Residential 1" designation permission.

### 2.0 Location:

The lands affected by this Amendment are known municipally as 860 Queenston Road, located east of the intersection of Centennial Parkway South and Queenston Road and west of Little League Ball Park in the former City of Stoney Creek. The subject lands are approximately 1.24 ha in area and are also within the Old Town Secondary Plan area.



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### 3.0 Basis:

The basis for permitting the Amendment is as follows:

- The Amendment is consistent with the Provincial Policy Statement, 2014 and the Growth Plan for the Greater Golden Horseshoe, 2017.
- The changes are consistent with Volume 1 of the Urban Hamilton Official Plan, including Schedule E-Urban Structure Plan and Schedule B- Natural Heritage System.
- The redesignation of the Linkage feature protects the feature and implements the Natural Heritage System policies of the Urban Hamilton Official Plan.
- The proposed development implements the Residential Intensification policies of the Urban Hamilton Official Plan.
- The proposed development complies with the policies of the Old Town Secondary Plan, including the height and location of the proposed multiple dwelling. The density of the proposed development generally conforms with the "High Density Residential 1" designation of the secondary plan.
- The proposed development would provide high density residential development appropriately located along a major arterial road and urban corridor and furthers the City's goals for the Centennial Neighbourhoods Sub-Regional Service Node, which is a major growth area for the city and is supported by employment, transit, and commercial services. The proposed development will contribute to the sustainability of the local and regional transit system, including the future Confederation GO Station commuter service as well as the proposed light rail transit on Queenston Road.
- The proposed development is compatible with the surrounding area due to building location, pedestrian connectivity, open space buffer, and provision of underground parking.

### 4.0 Actual Changes:

## 4.1 Volume 1 – Parent Plan

### 4.1.1 Volume 1 - Schedules

a. That Volume 1, Schedule E-1 – Urban Land Use Designations be amended by:

Urban Hamilton Official Plan	Page	
Amendment No. 97	2 of 4	Hamilton

OMB Case File No.: PL170282

- i) redesignating a portion of the subject lands from "Mixed Use Medium Density" to "Neighbourhoods", and,
- ii) redesignating a portion of the subject lands from "Mixed Use Medium Density" to "Open Space",

as shown on Appendix "A" of this amendment.

### 4.2 Volume 2 – Secondary Plans

### 4.2.1 Chapter B.7.2 – Old Town Secondary Plan

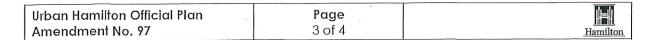
a. That Section 7.2 – Old Town Secondary Plan, Policy B.7.2.8 be amended by adding a new Site Specific Policy as follows:

### "Site Specific Policy – Area E

B.7.2.8.5 Notwithstanding Policy E.3.6.6 of Volume 1 and Policy B.7.2.2.4 a) of Volume 2, for lands located at 860 Queenston Road designated "High Density Residential 1" and identified as Site Specific Policy – Area E on Map B.7.2-1 – Old Town Secondary Plan – Land Use Plan, a multiple dwelling having a maximum of 219 dwelling units shall be permitted."

### 4.2.2 Secondary Plan Maps

- a. That Volume 2, Map B.7.2-1 Old Town Secondary Plan Land Use Plan be amended by:
  - i) redesignating a portion of the subject lands from "General Open Space" to "High Density Residential 1";
  - ii) redesignating a portion of the subject lands from "General Open Space" to "Mixed Use – Medium Density";
  - iii) redesignating a portion of the subject lands from "General Open Space" to "Natural Open Space"; and,
  - iv) identifying a portion of the subject lands as Site Specific Area E, as shown on Appendix "B" of this Amendment.

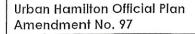


OMB Case File No.: PL170282

# 5.0 <u>Implementation:</u>

An implementing Zoning By-Law Amendment and Site Plan Control will give effect to this Amendment.

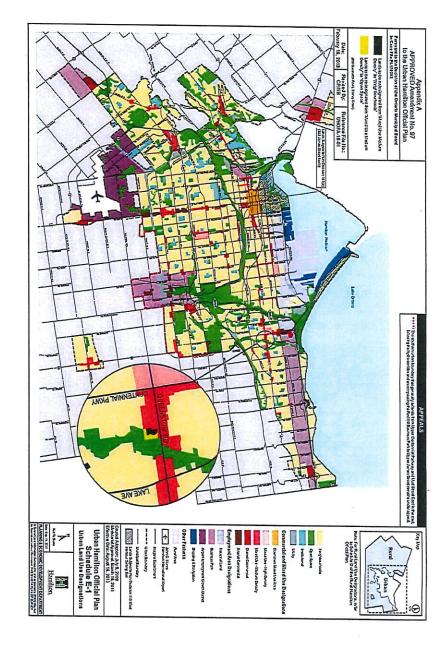
This Official Plan Amendment is Schedule "1" to By-law No. \_\_\_\_, pursuant to Decision/Order of the Ontario Municipal Board issued in Case No. PL170282.



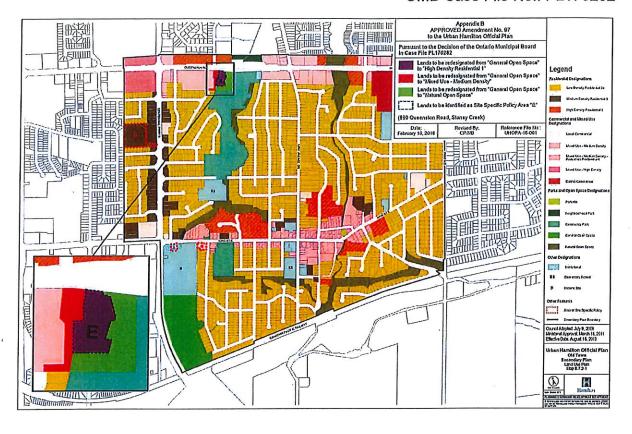




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OMB Case File No.: PL170282



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Authority: Ontario Municipal Board Order

issued on \_\_\_\_\_, 2018 in

Board File No. PL170282

### CITY OF HAMILTON

### BY-LAW NO.

To Amend Zoning By-law No. 05-200, as Amended Respecting Lands Located at 860 Queenston Road, Hamilton

**WHEREAS the** City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap 14;

**AND WHEREAS** the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

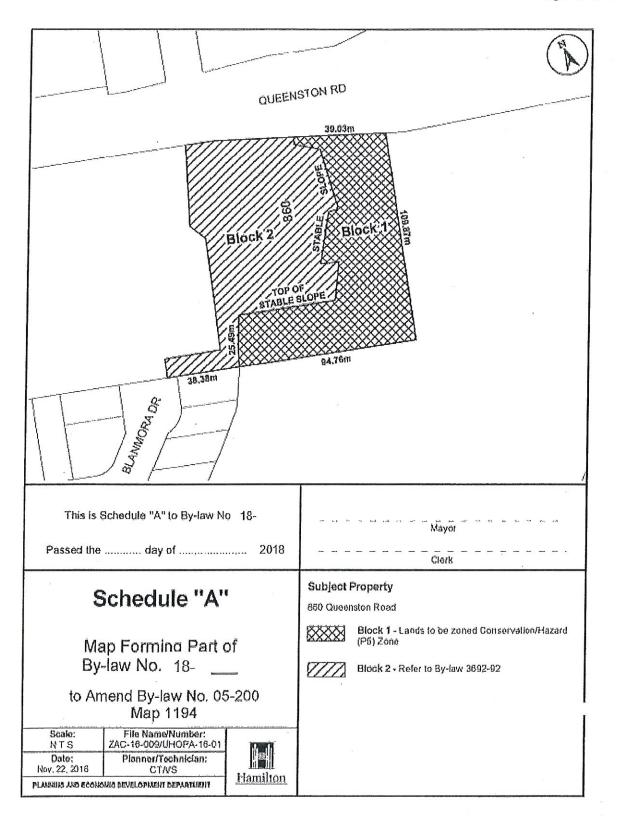
AND WHEREAS Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan upon the approval of Urban Hamilton Official Plan Amendment No.\_\_.

**NOW THEREFORE** pursuant to the Order/Decision of the Ontario Municipal Board Issued on March \_\_\_\_, 2018, under Board File No. PL170282:

1. That Map No. 1194 of Schedule "A" - Zoning Maps of By-law No. 05-200, is amended, by incorporating additional Conservation / Hazard Land (P5) Zone boundaries, for the applicable lands, the extent and boundaries of which are shown as "Block 1" hereto annexed as Schedule "A".

ZAC-16-009 UHOPA-16-01



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Authority: Ontario Municipal Board Order

issued on \_\_\_\_\_, 2018 in Board File No. PL170282

Bill No.

### CITY OF HAMILTON

### BY-LAW NO.

To Amend Zoning By-law No. 3692-92
Respecting Lands Located at 860 Queenston Road, Stoney Creek

**WHEREAS** the *City of Hamilton Act, 1999*, S. O. 1999 Chap. 14, Sch. C did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton –Wentworth":

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8<sup>th</sup> day of December, 1992, and approved by the Ontario Municipal Board on the 31<sup>st</sup> day of May, 1994;

**AND WHEREAS** pursuant to the Order/Decision of the Ontario Municipal Board Issued on March \_\_\_\_, 2018, under Board File No. PL170282, approved that Zoning Bylaw No. 3692-92 (Stoney Creek) be amended as hereinafter provided;

**AND WHEREAS** this By-law will be in conformity with the Urban Hamilton Official Plan upon adoption of UHOPA No. \_\_\_;

**NOW THEREFORE** pursuant to the Order/Decision of the Ontario Municipal Board Issued on March \_\_\_\_, 2018, under Board File No. PL170282:

1. That Zoning By-Law 3692-92 (Stoney Creek) be amended as follows as it relates to 860 Queenston Road:

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- (a) by changing the zoning from the General Commercial "GC" Zone to the General Commercial "GC-XX" Exception Zone, for the lands comprised in Block "1":
- (b) by changing the zoning from the Open Space "OS" Zone to the Multiple Residential "RM5-XX" Exception Zone, the lands comprised in Block "2"

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Subsection 8.3.8. "Special Exemptions", of Section 8.3 General Commercial "GC" Zone of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, "GC-XX", as follows:

### "GC-XX" 860 Queenston Road, Schedule "A", Map No. 5

Notwithstanding the provisions of Paragraphs (a), (c), (e), (g) of Subsection 8.3.3 of the General Commercial "GC" Zone, (j) of Subsection 8.3.3, and Subsections 4.10.3, 4.10.4, 4.10.5, 4.10.9, the following regulations shall apply:

(a) Minimum Lot Frontage: 34.0 metres

(c) Minimum Front Yard 5.0 metres

(e) Minimum Rear Yard 4.0 metres

Notwithstanding the provisions of Paragraph (g), Subsection 8.3.3, the following regulations shall apply:

- (1) A landscape strip shall have a minimum width of 5.0 metres abutting a street, not including points of ingress or egress;
- (2) A landscape strip shall have a minimum width of 0 metres abutting a commercial or industrial zone;
- (3) A landscape strip shall have a minimum width of 4.2 metres adjacent to a Single Residential "R2" Zone and a landscape strip shall not be required adjacent to a Conservation/Park" Zone.

Notwithstanding the provisions of Subsection 8.3.3 (j) and Subsection 4.9, a loading space shall not be required.

Notwithstanding the provisions of Subsection 4.10.3, the minimum dimensions of parking spaces which are not designated for the physically challenged shall be 2.7 metres by 5.5 metres.

Notwithstanding the provisions of Subsection 4.10.4, a minimum of one parking space shall be designated for the physically challenged.

Notwithstanding the provisions of Subsection 4.10.5, access to parking space provisions shall not apply.

Notwithstanding the provisions of Subsection 4.10.9, and Subsection 8.3.3 (i), Schedule of Minimum Parking Requirements, a business or professional office within an existing building at the date of passing of the amending by-law shall require a minimum of 25 parking spaces.

3. That Subsection 6.12.6. "Special Exemptions", of Section 6.12 Multiple Residential "RM5" Zone of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, "RM5-XX", as follows:

### "RM5-XX" 860 Queenston Road, Schedule "A", Map No. 5

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d),(e), (f), (g), (h),(i) and (j) of Subsection 6.12.3, the following regulations shall apply:

(a) Minimum Lot Area:

0.448 ha

(b) Minimum Lot Frontage

32.5 metres

(c) Minimum Front Yard:

2.2 metres (Queenston Road)

(d) Minimum Side Yard

0.3 metres for the first to fourteenth storeys (westerly yards between front and rear lot lines including northerly side yard)

6.9 metres from the easterly limits of the "RM5" Zone Boundary for the first to fourteenth storeys (easterly side yard)

(e) Minimum Rear Yard

For above-grade buildings and structures: 8.9 meters from the southerly limits of the "RM5" Zone Boundary for the first to fourteenth storeys

Above grade buildings and structures shall be set back 35.0 metres to southerly property boundary for the first to fourteenth storeys

Underground parking shall be setback a minimum of 7.9 meters from the from the southerly limits

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of the "RM5" Zone Boundary

(f)	Increased Yards	None required above ground floor	
(g)	Maximum Lot Coverage	48%	
(h)	Maximum Residential Density	489 units per net hectare	
(i)	Maximum Building Height	14 storeys, excluding any mechanical penthouse or any portion of a building designed, adapted or used for decorative features	
(j)	Minimum Landscaped Open Space		
	.1. Minimum Landscaped Area	Minimum 45% of area within the "RM5" Zone.	
	Minimum     Landscaped Strip	0 metres adjacent to the street.	

Notwithstanding the provisions of Paragraphs (a), and (c) Subsection 6.12.4 and Subsection 4.10.4 the following regulations shall apply:

- (a) Minimum number of parking spaces shall be based upon the provision of 1.20 parking spaces for each apartment unit inclusive of visitor parking spaces and including a minimum of 4 parking spaces designated for the physically challenged.
- (c) A parking structure shall not be located closer than 0.3 metres from a property line and the entrance to a parking structure shall not be closer than 0.3 metres to a property line.

Notwithstanding the provisions of Subsection 4.10.3(a) and Subsection 6.1.8, the minimum rectangular dimensions for a 90 degree perpendicular parking space shall be 2.75 metres by 5.8 metres except that 31 parking spaces may have minimum dimensions of 2.6 metres by 5.8 metres for 90 degree perpendicular parking. In addition, a maximum of 32 of the required parking spaces may be comprised of tandem parking spaces.

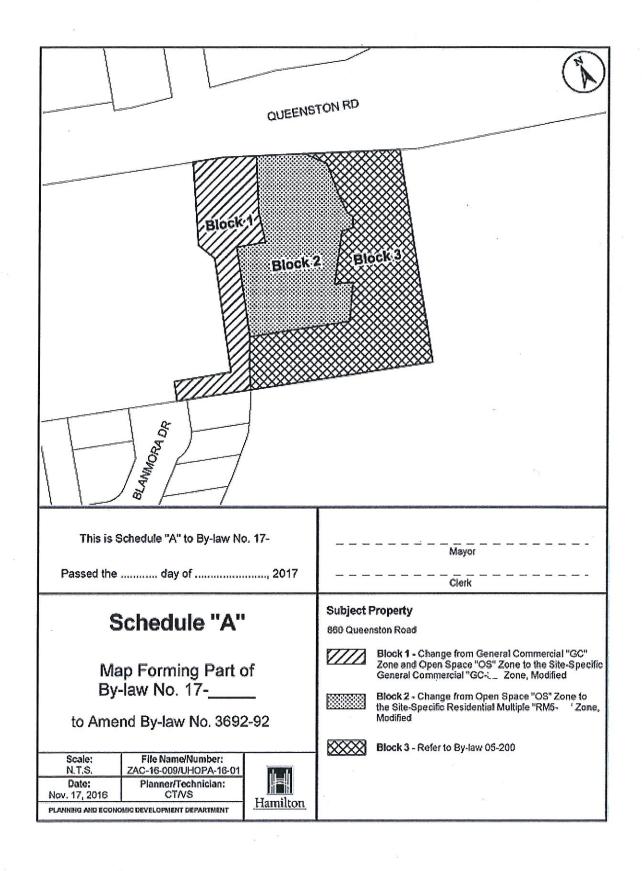
Notwithstanding the provisions of Subsection 6.12.4 (c), tenant and visitor parking shall be permitted at grade, below grade and above grade.

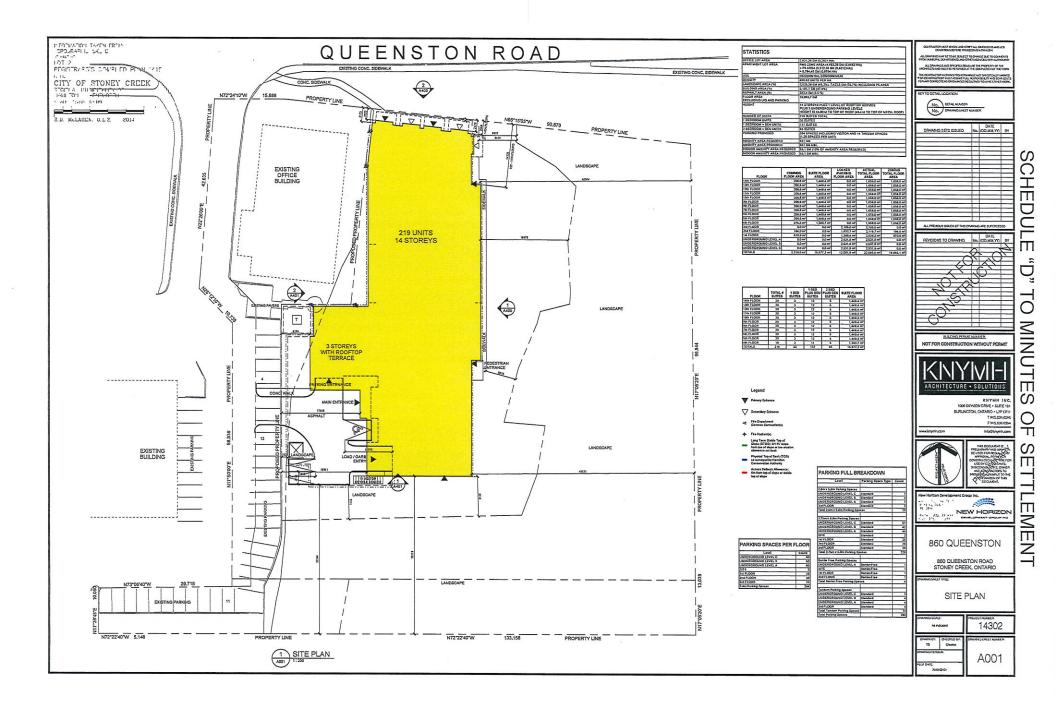
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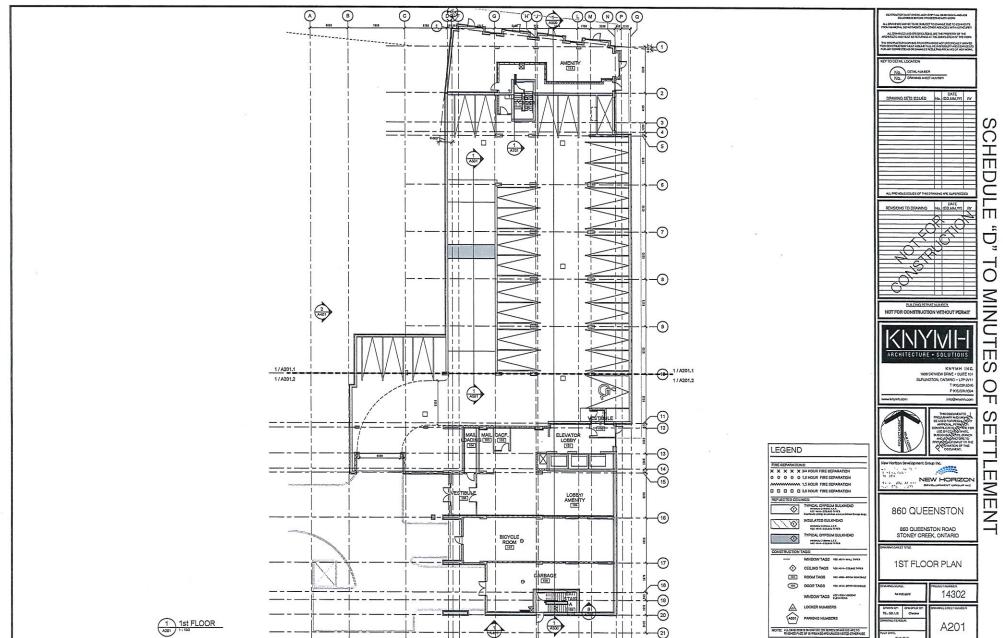
Notwithstanding the provisions of Subsection 4.19(d), the maximum encroachment for a canopy into the front yard shall be 2.0 metres.

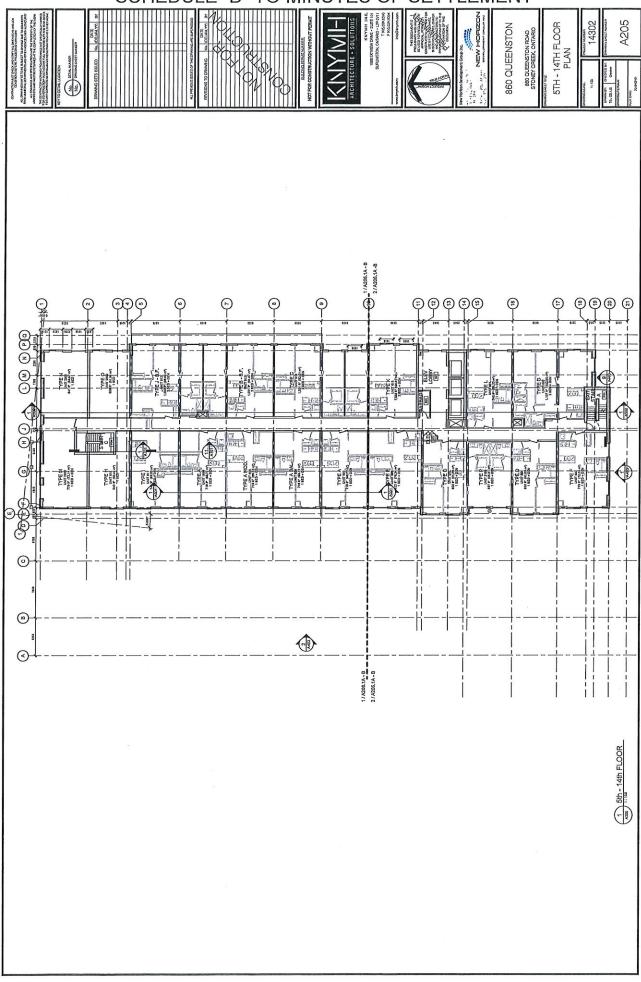
Pursuant to the Order/Decision of the Ontario Municipal Board Issued on March \_\_\_\_\_, 2018, under Board File No. PL170282.

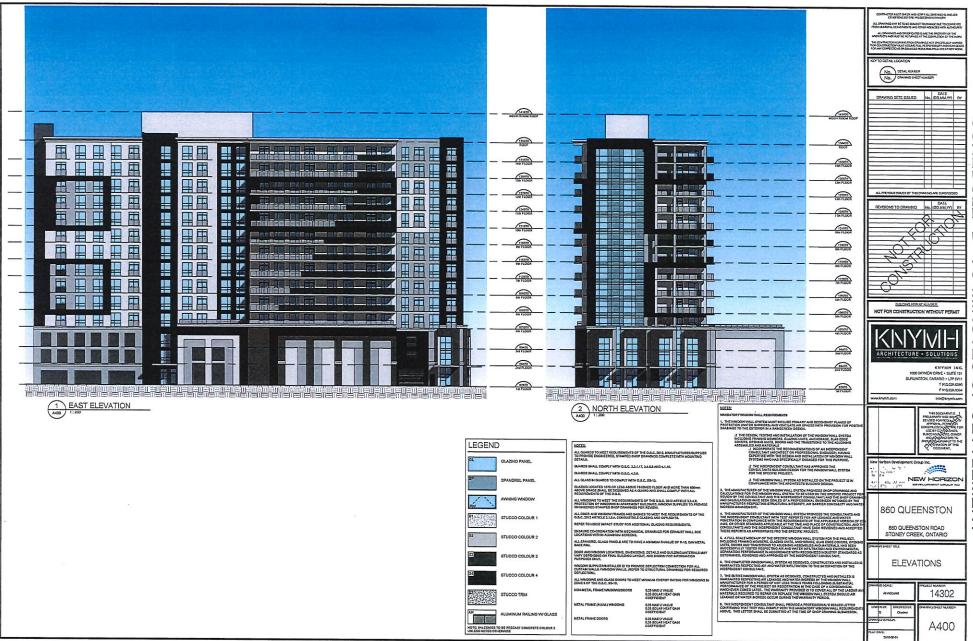
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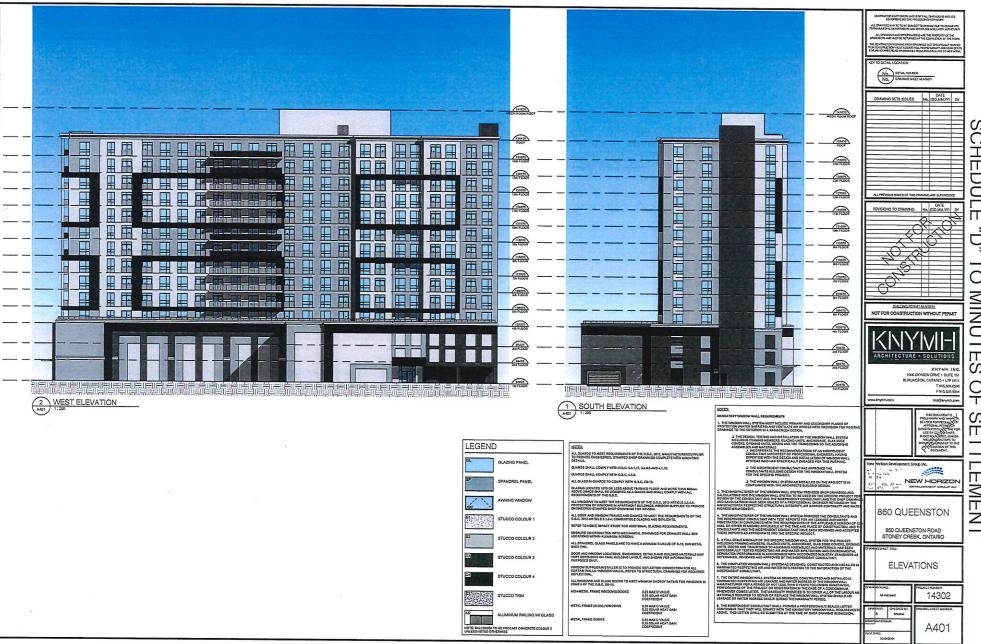








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