Hamilton

APPLICATION FOR APPROVAL OF A DRAFT PLAN OF SUBDIVISION OR CONDOMINIUM DESCRIPTION
Under Section 51 of the *Planning Act*

Office Use Only

Date Application Received	Date Application Deemed Completed	File No(s)	Fees Paid

1. APPROVAL OF: (Check one)

- ☐ Draft Plan of Subdivision
- ☐ Revision to Draft Approved Plan of Subdivision
- ☒ Draft Plan of Condominium Description (Specify type)
  - a) ☐ Standard Condominium
  - b) ☒ Common Element Condominium
  - c) ☐ Phased Condominium
  - d) ☐ Vacant Land Condominium
  - e) ☐ Revision to Draft Approved Plan of Condominium
- ☐ Conversion from Rental to Condominium

2. COMPLETE FOR SUBDIVISION APPLICATIONS ONLY: All applicants are <u>required</u> to consult with the City of Hamilton prior to the submission of an application for Approval of a Draft Plan of Subdivision.

2.1 Have you formally consulted with the City of Hamilton prior to submitting this application? ☒ Yes ☐ No *(If yes, please attach Formal Consultation Document)*

2.2 Have the required studies, plans or reports been submitted? ☒ Yes ☐ No

3. APPLICANT INFORMATION

NAME	ADDRESS	TELEPHONE NO.
Registered Owner* DiCenzo Construction Company Limited c/o Anthony DiCenzo	1070 Stone Church Road East Unit 39, Hamilton, ON, L8W 3K8	Home: ( ) Business: (905)561-3767 Fax: ( ) E-mail: adicenzo@dicenzogroup.com
Applicant** UrbanSolutions Planning & Land Development Consultants Inc. c/o Matt Johnston	3 Studebaker Place, Unit 1 Hamilton, ON, L8L 0C8	Home: ( ) Business: (905) 546-1087 Fax: ( ) E-mail: mjohnston@urbansolutions.info
Agent or Solicitor		Business: ( ) Fax: ( ) E-mail:
Ontario Land Surveyor A.T. McLaren Limited c/o Rob McLaren	69 John Street South, Suite 230 Hamilton, ON, L8N 2B9	Business: ( ) Fax: ( ) E-mail: rmclaren@atmclaren.com
All correspondence should be sent to (check one): ☐ Owner ☒ Applicant ☐ Agent/Solicitor		

* ***If a numbered company, give name and address of principal owner.***

** ***Owner's authorization (Part 15.1) required if applicant is not owner.***

4. LOCATION OF LANDS

4.1 Complete the chart below.

Former Area Municipality Hamilton	Lot 12	Concession 7	Former Township Hamilton
Registered Plan No.	Lot(s)	Registered Plan No.	Part(s)
Municipal Address 311-313 Stone Church Road East			Assessment Roll No.

4.2 Are there any existing easements or restrictive covenants affecting the subject land?
☐ *Yes* ☒ *No* *If yes, please describe:*

N/A

4.3 Indicate the location and area of adjoining or nearby lands in which the owner has an interest:

N/A

5. CURRENT AND PROPOSED LAND USE:

5.1 What is the current use of the subject land?

The subject lands are currently vacant.

5.2 What is the existing applicable Official Plan designation on the subject lands?

The subject lands are designated "Neighbourhoods" in the Urban Hamilton Official Plan.

5.3 Explain how the draft plan conforms to the applicable Official Plan.

Please refer to the Planning Justification Report prepared by UrbanSolutions dated November 2020.

5.4 TABLE A – Proposed Uses

Proposed Land Use	Number of Units or Dwellings	Number of Lots and/or Blocks on the Draft Plan	Area (ha)	Density (Units, Dwellings per ha)	Number of Parking Spaces[1]
Detached Residential					
Semi-detached Residential					
Multiple attached Residential					
Apartment Residential					
Seasonal Residential					
Mobile home					
Other Residential (specify)					
Commercial					
Industrial					
Park, Open Space					
Institutional (specify)					
Roads					
Other (specify)		Part of Block 2	0.115 ha		10 - Visitor
TOTALS					

[1] Complete only for detached and semi-detached residential if for approval of condominium description

6. PREVIOUS USE OF PROPERTY

☐ *Residential* ☐ *Industrial* ☐ *Commercial* ☐ *Farmland* ☒ *Vacant*

☐ *Other (Explain)*

6.1 If Industrial or Commercial, specify use:

N/A

6.2 *Details of Previous Uses*

		Yes	No	Unknown
6.2.1	Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?	☐	☒	☐
6.2.2	Has a gas station been located on the subject land or adjacent lands at any time?	☐	☒	☐
6.2.3	Has there been petroleum or other fuel stored on the subject land or adjacent lands?	☐	☒	☐
6.2.4	Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?	☐	☒	☐
6.2.5	Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or sewage sludge was applied to the lands?	☐	☒	☐
6.2.6	Have the lands or adjacent lands ever been used as a weapons firing range?	☐	☒	☐
6.2.7	Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational /non-operational landfill or dump?	☐	☒	☐
6.2.8	If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (e.g., asbestos, PCB's)?	☐	☒	☐
6.2.9	Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?	☐	☒	☐

6.3 *What information did you use to determine the answers to 6.2 above?*

Consultation with the Owner.

6.4 *If previous use of property is industrial or commercial, or if YES to any of 6.2, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.*
Is the previous use inventory attached? N/A ☐ *Yes* ☐ *No*

7. ADDITIONAL INFORMATION FOR CONDOMINIUM APPLICATIONS ONLY

7.1 *Has a site plan for the proposed condominium been approved?* ☐ *Yes* ☒ *No*
If yes, and if known, indicate file number and the status of the application.
Site Plan application to be submitted concurrently.

7.2 *Has a site plan agreement been entered into?* ☐ *Yes* ☒ *No*
If yes, and if known, indicate file number and the status of the application.

7.3 *Has a building permit for the proposed condominium been issued?* ☐ *Yes* ☒ *No*

7.4 *Has construction of the development started?* ☐ *Yes* ☒ *No*

7.5 *if construction is completed, indicate the date of completion.* N/A

7.6 *Is this a conversion of a building containing rental residential units?* ☐ *Yes* ☒ *No*
If YES, please complete Tables B and C.

TABLE B – BUILDING CHARACTERISTICS

Year Built:	
Gross Floor Area m^2):	
Number of Storeys:	
Total # of Units:	
By Bedroom Type	
Bachelor	**unit(s)**
1 Bedroom	**unit(s)**
2 Bedroom	**unit(s)**
3 Bedroom	**unit(s)**
4 Bedroom	**unit(s)**

TABLE C – EXISTING TENANTS AND MARKET RENTS IN THE BUILDING
(List by unit number and bedroom type or attach Rent Roll)

Units #	Number of Bedrooms	Rent ($)	Effective Date of Rent Figure	Name of Tenants(s)

(If additional entries, attach as a separate page.)

8. STATUS OF OTHER PLANNING APPLICATIONS

8.1 *Have any of the following applications ever been submitted for the subject lands?*

(a)	*Plan of Subdivision*	☒ *Yes*	☐ *No*	
(b)	*Consent*	☐ *Yes*	☒ *No*	Applications to be submitted concurrently.
(c)	*Official Plan or Plan Amendment*	☒ *Yes*	☐ *No*	
(d)	*Zoning By-law Amendment*	☒ *Yes*	☐ *No*	
(e)	*Site Plan*	☒ *Yes*	☐ *No*	
(f)	*Minor Variance*	☐ *Yes*	☒ *No*	
(g)	*Minister's Zoning Order*	☐ *Yes*	☒ *No*	
(h)	*Other (Specify):*	☐ *Yes*	☒ *No*	

If YES, and if known, indicate the appropriate application file number(s), the status of the application(s) and/or the decision(s) made on the application(s):

8.2 *Is the subject land covered by a Minister's zoning order?* ☐ *Yes* ☒ *No*
If YES, what is the Ontario Regulation Number?

8.3 *Are the water, sewage or road works associated with the proposal subject to the provisions of the Environmental Assessment Act?* ☐ *Yes* ☒ *No*

If YES, do you want the notice of public meeting for this application to be modified to state that the public meeting will address the requirements of both the Planning Act and the Environmental Assessment Act?

☐ *Yes* ☒ *No*

9. PROVINCIAL POLICY

9.1 *Explain how the draft plan is consistent with any policy statements issued under subsection 3(1) of the Planning Act.*

Please refer to enclosed Planning Justification Report prepared by UrbanSolutions dated November 2020.

9.2 *Are the subject land(s) within an area designated under any provincial plan(s)? If YES, identify which plan(s) and provide an explanation of how the Plan of Subdivision conforms with, or does not conflict with the applicable provincial plan(s).*

N/A

9.3 *All applications under the Planning Act are subject to review for regard to the Provincial Policy Statement issued by the Province of Ontario. Complete Table D and be advised of the potential information requirements in the noted section.* ***If the information is not submitted, it may not be possible to do a complete and proper planning evaluation.***

TABLE D – SIGNIFICANT FEATURES CHECKLIST

Feature or Development Circumstance	If a feature, is it on site or within 500m OR If a development circumstance does it apply?		If a feature specify the distance in metres.	Potential Information Needs
	Yes (X)	No (X)		
Non-farm development near designated urban areas or rural settlement area	☐	☒		*Demonstrate sufficient need within 20-year projections and that proposed development will not hinder efficient expansion of urban or rural settlement areas*
Class 1 industry[1]	☐	☒	m	*Assess development for residential and other sensitive uses within 70 metres*
Class 2 industry[2]	☐	☒	m	*Assess development for residential and other sensitive uses within 300 metres*
Class 3 industry[3]	☐	☒	m	*Assess development for residential and other sensitive uses within 1000 metres*
Land Fill Site	☐	☒	m	*Address possible leachate, odour, vermin and other impacts*
Sewage Treatment Plant	☐	☒	m	*Assess the need for a feasibility study for residential and other sensitive land uses*
Waste Stabilization Pond	☐	☒	m	*Assess the need for a feasibility study for residential and other sensitive land uses*
Active Railway line	☐	☒	m	*Evaluate impacts within 100 metres*
Controlled access highways or freeways, including designated future routes	☐	☒	m	*Evaluate impacts within 100 metres*
Airports where noise exposure forecast (NEF) or noise exposure projection (NEP) is 28 or greater	☐	☒		*Demonstrate feasibility of development above 28 NEF for sensitive land uses. Above the 35 NEF/NEP contour, development of sensitive land uses is not permitted*

Feature or Development Circumstance	If a feature, is it on site or within 500m OR If a development circumstance does it apply?		If a feature specify the distance in metres.	Potential Information Needs
	Yes (X)	No (X)		
Electric transformer station	☐	☒	m	*Determine possible impacts within 200 metres*
High voltage electric transmission line	☐	☒	m	*Consult the appropriate electric power service*
Transportation and infrastructure corridors	☐	☒		*Will the corridor be protected?*
Prime agricultural land	☐	☒		*Demonstrate need for use other than agricultural and indicate how impacts are to be mitigated*
Agricultural operations	☐	☒	m	*Development to comply with the Minimum Distance Separation Formulae*
Mineral aggregate resource areas	☐	☒		*Will development hinder access to the resource or the establishment of new resource operations?*
Existing Pits and Quarries	☐	☒	m	*Will development hinder continued operation or extraction?*
Mineral and petroleum resource areas	☐	☒		*Will development hinder access to the resource or the establishment of new resource operations?*
Significant wetlands	☐	☒	m	*Development is not permitted*
Significant portions of habitat of endangered species and threatened species	☐	☒	m	*Development is not permitted*
Significant fish habitat, woodlands, valley lands, areas of natural and scientific interest,	☐	☒	m	*Demonstrate no negative impacts*
Significant groundwater recharge areas, headwaters and aquifers	☐	☒		*Demonstrate that these features will be protected*

Feature or Development Circumstance	If a feature, is it on site or within 500m OR If a development circumstance does it apply?		If a feature specify the distance in metres.	Potential Information Needs
	Yes (X)	No (X)		
Significant built heritage resources and cultural heritage landscapes	☐	☒		*Development should conserve significant built heritage resources and cultural heritage*
Significant archaeological resources	☐	☒		*Assess development proposed in areas of medium and high potential for significant archaeological resources. These resources are to be studied and preserved, or, where appropriate, removed, catalogued and analyzed prior to development*
Great Lakes system: A - Within defined portions of the dynamic beach and 1:100 year flood level along connecting channels	☐	☒		*A - Development is not permitted.*
B - On lands subject to flooding and erosion	☐	☒		*B - Development may be permitted; demonstrate that hazards can be safely addressed*
Erosion hazards	☐	☒		*Determine feasibility within the 1:100 year erosion limits of ravines, river valleys and*
Floodplains	☐	☒		*Where one-zone floodplain management is in effect, development is not permitted within the floodplain.* *Where two-zone floodplain management is in effect, development is not permitted within the floodway.* *Where a Special Policy Area (SPA) is in effect, must meet the official plan policies for the SPA.*

Feature or Development Circumstance	If a feature, is it on site or within 500m OR If a development circumstance does it apply?		If a feature specify the distance in metres.	Potential Information Needs
	Yes (X)	No (X)		
Hazardous sites[4]	☐	☒		*Demonstrate that hazards can be addressed*
Contaminated sites	☐	☒		*Assess an inventory of previous uses in areas of possible soil contamination*

[1] *Class 1 Industry: Small scale, self-contained plant, no outside storage, low probability of fugitive emissions and daytime operations only.*

[2] *Class 2 Industry: Medium scale processing and manufacturing with outdoor storage, periodic output of emissions, shift operations and daytime truck traffic.*

[3] *Class 3 Industry: Processing and manufacturing with frequent and intense off-site impacts and a high probability of fugitive emissions.*

[4] *Hazardous Sites: property or lands that could be unsafe for development or alteration due to naturally occurring hazard. These hazards may include unstable soils or unstable bedrock.*

10. ADDITIONAL INFORMATION

10.1 Please provide any additional information which may assist staff and other agencies in reviewing this application.

Please refer to the enclosed Planning Justification Report prepared by UrbanSolutions dated November 2020.

10.2 Please provide details of the Owner/Applicant's proposed strategy for consulting with the public with respect to the application. (Complete for Subdivision Applications only)

Please refer to the enclosed Public Consultation Strategy prepared by UrbanSolutions dated October 2020.

10.3 Have you attached any of the following plans, reports or studies?

(a)	Traffic/Transit Impact Study	[x] Yes	[ ] No
(b)	Noise and Vibration Report	[ ] Yes	[x] No
(c)	Archaeological Assessment Report	[x] Yes	[ ] No
(d)	Environmental Impact Study	[ ] Yes	[x] No
(e)	Tree Preservation Plans	[x] Yes	[ ] No
(f)	Well Study	[ ] Yes	[x] No
(g)	Phase 1 and Record of Site Condition	[ ] Yes	[x] No
(h)	Hydrogeological Study	[ ] Yes	[x] No
(i)	Phasing and Staging Plan	[ ] Yes	[x] No

11. SERVICING

11.1 Indicate (X) the proposed servicing type in Table F. Attach and provide the servicing information/reports as indicated in the Table.

TABLE F - SEWAGE DISPOSAL AND WATER SUPPLY

	Service Type	Action or Needed Information Mandatory Reports
Sewage Disposal		
[x]	Public piped sewage system	*No action at this time. City will need to confirm that capacity is available to service this application.*
[ ]	Public or private communal septic system.	*Communal systems for the development of more than 5 lots/units: servicing report[1], hydrogeological report[2], and indication whether a public body is willing to own and operate the system[3].*
[ ]		*Communal systems for the development of 5 or less lots/units and generating less than 4500 units per day effluent: hydrogeological report[2].*
[ ]	Individual septic system(s)	*Individual septic systems for the development of more than 5 lots/units: servicing report[1] and hydrogeological report[2].*
[ ]		*Individual septic systems for the development of 5 or less lots/units and generating less than 4500 litres per day effluent: hydrogeological report[2].*
[ ]	Other	*To be described by the applicant.*
Water Supply		
[x]	Public piped water system	*No action at this time. City will need to confirm that capacity is available to service this application.*
[ ]	Public or private communal well(s)	*Communal well systems for the development of more than 5 lots/units: servicing report[1], hydrogeological report[2] and indication whether a public body is willing to own and operate the system[3].*
[ ]		*Communal well systems for non-residential development where water will be used for human consumption: hydrogeological*

		report[2].
☐ ☐	Individual well(s)	*Individual wells for the development of more than 5 lots/units: servicing report[1] and hydrogeological report[2].* *Individual wells for non-residential development where water will be used for human consumption: hydrogeological report[2].*
☐	Communal surface water	*Approval of a "water taking permit" under Section 34 of the Ontario Water Resources Act is necessary for this type of servicing.*
☐	Individual surface water	*MNR clearance should accompany the servicing options report submitted to MOECC.*
☐	Other	*To be described by applicant.*

1. *Confirmation that the Ministry of Environment and Climate Change (MOECC) and the City concur with the mandatory servicing report will facilitate the review of the application.*
2. *All development on individual or communal septic tanks requires a mandatory hydrogeological report. Before undertaking a hydrogeological report, consult MOE about the type of hydrogeological assessment that MOECC would expect to see given the nature and location of the proposal.*
3. *Where communal services are proposed (water and/or sewage), these services must be owned by the City, unless otherwise permitted by MOECC.*

11.2 Indicate (X) the proposed type of storm drainage and access in Table G. Attach and provide the servicing information as indicated in the Table.

TABLE G - STORM DRAINAGE, ROAD ACCESS AND WATER ACCESS

Service Type		**Action or Needed Information/Reports**
Storm Drainage		
☒	Sewers	*A preliminary stormwater management report is recommended, and should be prepared concurrent with any hydrogeological reports for submission with the application. A storm water management plan will be needed prior to final approval of a plan of subdivision or as a requirement of site plan approval.*
☐	Ditches or Swales	
☐	Other	
Road Access		
☐	Provincial highway	*Application for an access permit should be made concurrent with this application. An access permit is required from MTO before any development can occur.*
☒	Municipal road maintained all year	*No action at this time. The municipality will indicate acceptance of road alignment and access when the application is circulated for comment.*
☐	Municipal road	*Subdivision or condominium development is not usually*

	maintained seasonally	*permitted on seasonally maintained roads.*
☐	Right-of-way	*Access by right-of-ways on private roads are not usually permitted, except as part of condominium.*
☐	Water Access	*Information from the owner of the docking facility on the capacity to accommodate the proposed development will assist the review. If Water Access is proposed, attach a description of the parking and docking facilities to be used and the approximate distance of these facilities from the subject land and the nearest public road.*

11.3 Have you attached a preliminary stormwater management report? ☒ *Yes* ☐ *No*
If not attached as a separate report, in what report can it be found?

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12. HERITAGE FEATURES

12.1 Are there any buildings or structures on the subject lands that are on the list of Architectural and/or Historical Interest or have been designated under the Ontario Heritage Act? ☐ *Yes* ☒ *No*

12.2 Are there any buildings or structures on abutting lands that are on the list of Architectural and/or Historical Interest or have been designated under the Ontario Heritage Act? ☐ *Yes* ☒ *No*

12.3 If yes to either of the above, a Heritage Impact Assessment is needed. Is a Heritage Impact Assessment attached? ☐ *Yes* ☒ *No*

12.4 If the plan would permit development on land that is an area of archaeological potential or that contains known archaeological resources, the following are required to be submitted:

(a) an archaeological assessment prepared by a person who holds a licence that is effective with respect to the subject land, issued under Part VI (Conservation of Resources of Archaeological Value) of the Ontario Heritage Act; and

(b) a conservation plan for any archaeological resources identified in the assessment.

N.B. The following sections, 13, 14 and 16 must be completed. If the applicant is not the owner, section 15 must be completed as well.

13. ACKNOWLEDGEMENT CLAUSE

I acknowledge that the City of Hamilton is not responsible for identification and remediation of contamination on the property, which is the subject of this Application - by reason of its approval to this Application.

Dec 2/20
Date

Signature of Owner

14. AFFIDAVIT OR SWORN DECLARATION

I, Matt Johnston of the City of Hamilton in the Province of Ontario make oath and say (or solemnly declare) that the information contained in this application is true and that the information contained in the documents that accompany this application is true.

Sworn (or declared) before me
at the City of Hamilton
in the Province of Ontario
this 14 day of December , 2020

Allison Lee Binns, a Commissioner, etc.,
Province of Ontario, for UrbanSolutions
Planning & Land Development
Consultants Inc.
Expires October 11, 2021.

Allison Binns
A Commissioner, etc.

Applicant

15. AUTHORIZATIONS

15.1 If the applicant is not the owner of the land that is the subject of this application, the authorization set out below must be completed.

Authorization of Owner for Agent to Make the Application

I, DiCenzo Construction Company Limited c/o Anthony DiCenzo, am the owner of the land that is the subject of this application and I authorize UrbanSolutions to act as my agent in this matter and to make this application on my behalf and to provide any of my personal information that will be included in this application or collected during the processing of the application.

Dec 2/20
Date

Signature of Owner

15.2 If the applicant is not the owner of the land that is the subject of this application, complete the authorization of the owner concerning personal information set out below

Authorization of Owner for Agent to Provide Personal Information

I, DiCenzo Construction Company Limited c/o Anthony DiCenzo, am the owner of the land that is the subject of this application for approval of a plan of subdivision (or condominium description) and for the purpose of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56. I authorize UrbanSolutions as my agent for this application, to provide any of my personal information that will be included in this application or collected during the processing of this application.

Dec 2/20
Date

Signature of Owner

16. CONSENT OF THE OWNER

16.1 Complete the consent of the Owner concerning personal information as set out below.

Consent of Owner to the Disclosure of Application Information and Supporting Documentation

Application information is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13. In accordance with that Act, it is the policy of the City of Hamilton to provide public access to all *Planning Act* applications and supporting documentation submitted to the City.

I, DiCenzo Construction Company Limited c/o Anthony DiCenzo, the Owner, hereby agree and acknowledge that the information
(Print name of Owner)
contained in this application and any documentation, including reports, studies and drawings, provided in support of the application, by myself, my agents, consultants and solicitors, constitutes public information and will become part of the public record. As such, and in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, I hereby consent to the City of Hamilton making this application and its supporting documentation available to the general public, including copying and disclosing the application and its supporting documentation to any third party upon their request.

Furthermore, I acknowledge that if the Public Notice Sign is not removed within 30 days of City Council's decision, the City is authorised to enter the land and to remove the sign at my expense.

Dec 2/20
Date

Signature of Owner

17. COLLECTION OF INFORMATION

The personal information contained on this form is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, and will be used for the purpose of processing the application. This information will become part of the public record and will be made available to the general public. Questions about the collection of this information should be directed to the Coordinator of Business Facilitation, Planning and Economic Development Department, City of Hamilton, 71 Main Street West, 1st Floor, City Hall., Hamilton, Ontario, Telephone: 905-546-2424, ext.1284.

18. THE DRAFT PLAN

18.1 The Planning Act requires submission of a key map, at a scale of not less than 1:10,000 and draft plan drawn to scale, showing the matters described in Subsection 51(17) of the Act. For more help on preparing the draft plan and key map, contact the City planning office. Twenty (20) copies of the draft plan on 8 1/2" by 11" paper are needed in addition to a minimum of thirty-five (35) copies of the draft plan drawn to scale (twenty-five (25) for condominiums).

18.2 Digital Mapping Information: One CD containing the digital plotting of the boundary of the proposed subdivision must be submitted with the application in PDF format. This will be retained by the City. The digital file should have a textual description of file format, map standards used, scale, contact person and general locational information, such as lot, concession and municipality. For more information on mapping specifications, contact the City planning office.

Is digital mapping attached? ☒ *Yes* ☐ *No*

A File number will be issued for complete applications and should be used in all communications with the City.

CITY OF HAMILTON
COST ACKNOWLEDGEMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20 _____.

BETWEEN:

DiCenzo Construction Company Limited c/o Anthony DiCenzo
Applicant's name(s)
hereinafter referred to as the "Developer"

-and-

CITY OF HAMILTON
hereinafter referred to as the "City"

WHEREAS the Developer represents that he/she is the registered owner of the lands described in Schedule "A" attached hereto, and which lands are hereinafter referred to as the "lands";

AND WHEREAS the Developer has filed for an application for a (circle applicable) consent / rezoning / official plan amendment / subdivision approval / minor variance.

AND WHEREAS it is a policy of the City that any City costs associated with an appeal to the Local Planning Appeal Tribunal, by a party other than the Developer, of an approval of a consent, rezoning, official plan amendment, plan of subdivision, and/or minor variance, such as, but not limited to, legal counsel costs, professional consultant costs and City staff costs, shall be paid by the Developer.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of two dollars ($2.00) now paid by the City to the Developer, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. In this Agreement:
   (a) "Application" means the application(s) for a (circle applicable) consent/rezoning/official plan amendment/subdivision approval or minor variance dated _____with respect to the lands described in Schedule "A" hereto.
   (b) "Expenses" means all expenses incurred by the City if the application is: (a) approved by the City; (b) appealed to the Local Planning Appeal Tribunal by a party other than the developer; and (c) the City appears before the Local Planning Appeal Tribunal or any other tribunal or Court in support of the application, including but not limited to: City staff time, City staff travel expenses and meals, City disbursements, legal counsel fees and disbursements and all consultant fees and disbursements including, without limiting the generality of the foregoing planning, engineering or other professional expenses.

2. The City agrees to process the application and, where the application is approved by the City but appealed to the Local Planning Appeal Tribunal by a party other than the Developer, the Developer shall file an initial deposit, in the form of certified cheque or cash with the General Manager, Finance & Corporate Services within fifteen days of the date of the appeal of the application by a third party in the amount of 50% of the estimated expenses associated with the appeal as estimated by the City Solicitor in his sole discretion which shall be credited against the Expenses.

3. It is hereby acknowledged that if the deposit required pursuant to section 2 of this Agreement is not paid by the Developer the City shall have the option, at its sole discretion, of taking no further steps in supporting the Developer's application before the Local Planning Appeal Tribunal.

4. It is hereby acknowledged that all expenses shall be paid for by the Developer. The Developer shall reimburse the City for all expenses the City may be put to in respect of the application upon demand.

5. It is hereby acknowledged and agreed that all expenses shall be payable by the Developer whether or not the Developer is successful before the Local Planning Appeal Tribunal or any other tribunal or Court in obtaining approval for their application.

6. The City shall provide the Developer with copies of all invoices of external legal counsel or consultants included in the expenses claimed by the City.

7. The City shall provide the Developer with an accounting of all staff costs and City disbursements included in the expenses claimed by the City.

8. The City may, at any time, draw upon the funds deposited in accordance with sections 2 and 9 of this Agreement to satisfy expenses incurred pursuant to the appeal of the application.

9. In the event that the amount deposited pursuant to section 2 of this Agreement is reduced to less than 10% of the initial deposit, the City may halt all work in respect of the appeal of the application until the Developer deposits with the City a sum sufficient to increase the deposit to an amount which is equal to 100% of the expenses estimated pursuant to paragraph 2 of this Agreement and still to be incurred by the City.

10. Within 60 days of: (a) a decision being rendering in respect of the appeal or any legal proceedings resulting from the decision, whichever is later; or (b) the termination of all legal proceedings in respect of the application, the City shall prepare and submit a final account to the Developer. If there are any deposit funds remaining with the City they shall be applied against the account. Any amount owing in respect of the final account in excess of deposit funds shall be paid by the Developer within 30 days of the date of the final account. If any deposit funds are remaining after the final account has been paid they shall be returned to the developer within 30 days of the date of the final account.

11. This Agreement shall not be construed as acceptance of the application and nothing herein shall require or be deemed to require the City to approve the application.

12. This Agreement shall not stand in lieu of or prejudice the rights of the City to require such further and other agreements in respect of the application that the City may deem necessary.
13. Every term, covenant, obligation and condition in this Agreement ensures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors, trustees and assigns.
14. When the context so requires or permits, the singular number is to be read as if the plural were expressed, and the masculine gender as if the feminine, as the case may be, were expressed; and,
15. This Agreement and the schedules hereto constitute the entire agreement between the parties in respect of the subject matter contained herein and is not subject to, or in addition to, any other agreements, warranties or understandings, whether written, oral or implied. This Agreement may not be modified or amended except by instrument in writing signed by the Developer and the City, and,
16. The waiver or acquiescence by the City of any default by the Developer under any obligation to comply with this Agreement shall not be deemed to be a waiver of that obligation or any subsequent or other default under this Agreement.
17. The Developer covenants and agrees to be bound by the terms and conditions of this Agreement and not to seek a release from the provisions thereof until such time as the Developer's obligations hereunder have been assumed by its successor, assignee or transferee by way of written agreement in the form set out in Schedule "B" to this Agreement.

IN WITNESS WHEREOF the Parties have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED

_____ c/s
Owner:
Title: President
I have authority to bind the corporation

_____ c/s
Assignee:
Title:
I have authority to bind the corporation

CITY OF HAMILTON

_____
Mayor

_____
Clerk

SCHEDULE "A"
DESCRIPTION OF LANDS