

Michael Nemanic Law



Land Development Advocacy and Appeals

July 29, 2025

FROM: Michael Nemanic
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37 Auburn Ave
Toronto, ON M6H 2L6

TO: Office of the City Clerk
Hamilton City Hall
71 Main Street West, 1st Floor
Hamilton, Ontario L8P 4Y5

To Whom it May Concern:

RE: NOTICE OF APPEAL UNDER SECTION 17 OF THE PLANNING ACT REGARDING:

1. **Joanna Katarzyna Jerzak**
0 Upper James Street
Hamilton, Ontario, L0R 1W0
2. **Infini White Church Road East Holding Inc.**
c/o **Ramesh Gawri**
8442 White Church Road E
Hamilton, Ontario, L0R 1W0
3. **Saad Malakhail; Iqbal Malakhail; Safia Malakhail**
8410 White Church Rd E
Hamilton, Ontario, L0R 1W0

**AMEND THE URBAN AND RURAL HAMILTON OFFICIAL PLANS TO FACILITATE
THE EXPANSION OF HAMILTON URBAN BOUNDARY (WHITECHURCH)**

INTRODUCTION

We are legal counsel to the above-noted owners of the lands described above (collectively, the “**Owners**” and the “**Sites**”), as further described in Appendix “**A**” to this Notice of Appeal.

The Official Plan Amendment filed by the Whitechurch Landowners Group proposed to amend the Rural Hamilton Official Plan and the Urban Hamilton Official Plan to remove approximately 364-hectares of land from the rural area and add these lands to the urban area (the “**Application**”). The Official Plan Amendment states that the lands are proposed to be developed with residential, commercial, institutional, and recreational uses (“**Urban Area**”).

The Owners are the registered owners of Sites located within the proposed Urban Area, as described in the subject line of this Notice of Appeal and Appendix "A". They are generally supportive of the Urban Area proposed in the Application, however, they are concerned with the proposed designations, overlays, notations, and policies that are being proposed for the Sites, including the location of stormwater management facilities, a school, a park, and a road.

The Owners want to ensure that the planned facilities and services, including the road network, infrastructure, and community facilities and services are appropriately planned and located within the Urban Area. The Owners made the foregoing submissions, among other statements, in the correspondence directed prior to City Council's full consideration of the Application.

The purpose of this Notice of Appeal is to preserve the Owners' rights to participate in this matter as described above and as permitted by Section 17 of the Planning Act. Given the novel nature of the Application and related matters, this Notice of Appeal will also be relied upon in support of the Owners' party status requests, if deemed required and necessary to be filed.

GROUND'S FOR APPEAL

We respectfully submit that the proposed Application, as it relates to the Urban Area, but not as it relates to proposed designations, overlays, notations, and policies that are being proposed for the Sites, are consistent with the Provincial Planning Statement, aligns with the general purpose and intent of the Urban and Rural Hamilton Official Plans, and would represent good planning.

In particular, and as it relates to the Provincial Planning Statement, the Owners submit that:

1. The Application shows that there is a demonstrated need to designate and plan for additional land to accommodate an appropriate range and mix of land uses, to support a complete and sustainable community. This includes ensuring a sufficient supply of ground-related and affordable / attainable housing options to 2051, consistent with population forecasts and market-based housing needs.
2. The proposed Urban Area can be supported by planned infrastructure and public service facilities. Phased and fiscally responsible servicing strategies have been considered and align with long-range infrastructure planning.
3. While portions of the lands are classified as Class 3 agricultural soils, the proposal has evaluated alternative locations and reflects a reasonable and lower-priority choice within the prime agricultural area. The lands do not contain specialty crop areas, and potential impacts on the agricultural system have been assessed and can be minimized and mitigated through appropriate land use planning and buffering, in accordance with the PPS.
4. The proposed Urban Area complies with Minimum Distance Separation (MDS) formulae and can be appropriately planned to maintain compliance.
5. The proposed Urban Area represents a logical and phased extension of the existing urban boundary, supporting the City's intensification targets and enabling a more balanced and planned approach to long-term community growth.
6. The Application aligns with the Provincial Planning Statement's broader direction to support efficient development patterns and plan for a diverse range and mix of housing options,

further underscoring the appropriateness of the proposed urban boundary expansion.

Additionally, the Owners submit that there is further alignment with the general purpose and intent of the Urban and Rural Hamilton Official Plans:

1. The Application provides adequate demonstration that the required infrastructure and public service facilities will be financially viable over their life cycle.
2. The Application provides adequate demonstrate that there are no unacceptable or adverse impacts upon ecological, environmental, or natural heritage features or areas.
3. The proposed Urban Area will permit, facilitate, and contribute to the City of Hamilton achieving its Provincially-mandated Growth Targets, in the midst of a housing crisis, and where there remains a structural shortage of adequate, grade-related housing options.
4. The Application demonstrates that there will be compatibility as between uses found in the existing and planned context of the lands, including the proximate airport.
5. The Application demonstrates that there will not be unacceptable or adverse noise, odor, environmental, archaeological or cultural heritage resources, or urban design impacts.

In consideration of the Owner's submissions that consistency has been achieved with the Provincial Planning Statement and the general purpose and intent of the applicable Official Plans has been maintained, it is further submitted that the approval of the proposed Urban Area represents good land-use planning. There is further regard to the decision and material before Council, including its decision to refuse the Application on the basis that the majority of intensification ought to be directed towards lands within the existing Urban Area, and the applicable matters of Provincial Interest, which have been addressed in the above submissions.

Regarding the Site-specific designations, overlays, notations, and policies, the Owners submit that further study is required to meet the applicable statutory tests, and in particular:

1. The Context Map included in the proposed Urban Area proposes to locate stormwater management facilities, a school, a park, parks, and a road on, or adjacent, to the Sites.
2. The location of this infrastructure and public service facilities has been determined without the Owners' consent. Further consultation is required with the Whitechurch Landowners Group, which appears to comprise a minority of landholdings in the proposed Urban Area, to determine feasible locations for the foregoing infrastructure and public service facilities.
3. Should the proposed infrastructure and public service facilities be located on, or adjacent, to the Sites, which is strenuously opposed, the compensation payable to the Owners must be determined. Should such compensation not be agreed to, the proposed infrastructure and public service facilities must be relocated to avoid offending the Nepean principle.

Enclosed with this Notice of Appeal is one completed OLT Appellant Form (A1). We look forward to paying the applicable appeal fee(s) via credit Card.

I trust that the enclosed is satisfactory. If you require anything further, please do not hesitate to contact me at 613.601.4639 or info@michaelnemaniclaw.com.

Sincerely,

Michael Arthur Nemanic

Michael Nemanic
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info@michaelnemaniclaw.com

APPENDIX “A”

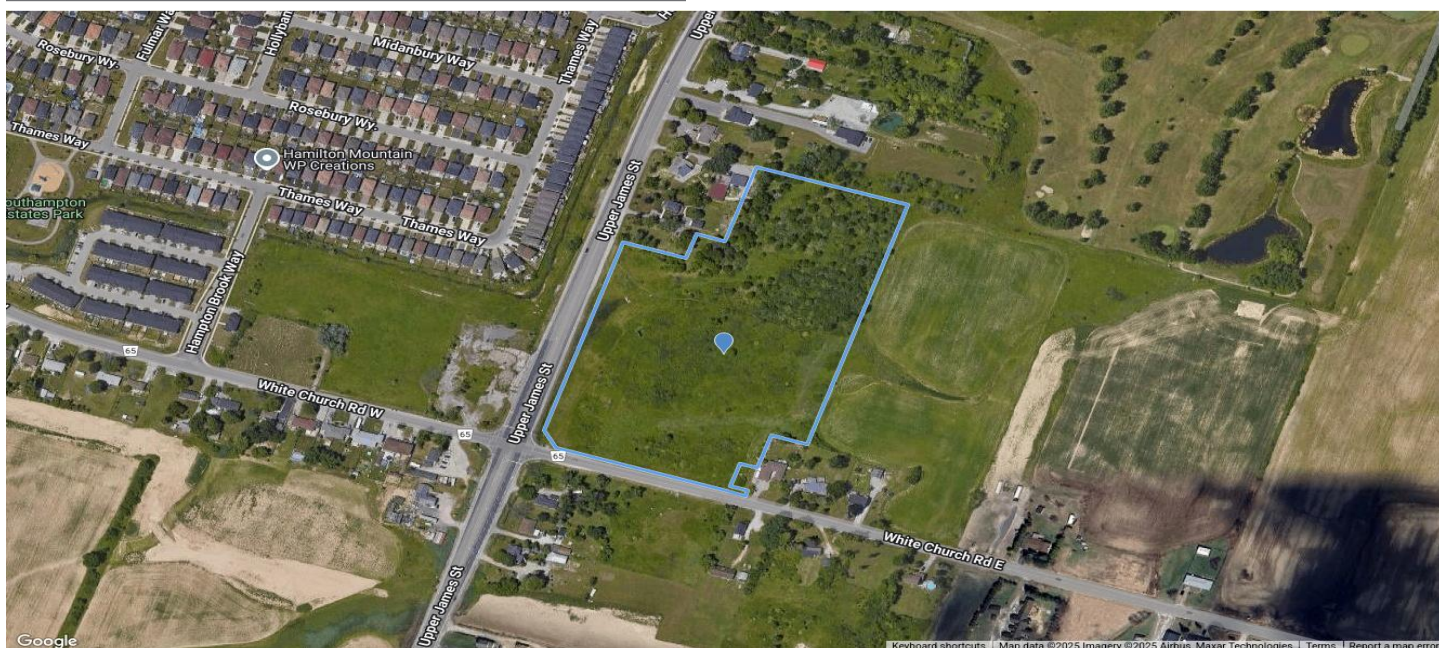
Property Details

GeoWarehouse Address:

3477 HWY 6

MOUNT HOPE

PIN:	173940077
Land Registry Office:	HAMILTON WENTWORTH (62)
Land Registry Status:	Active
Registration Type:	Certified (Land Titles)
Ownership Type:	Freehold



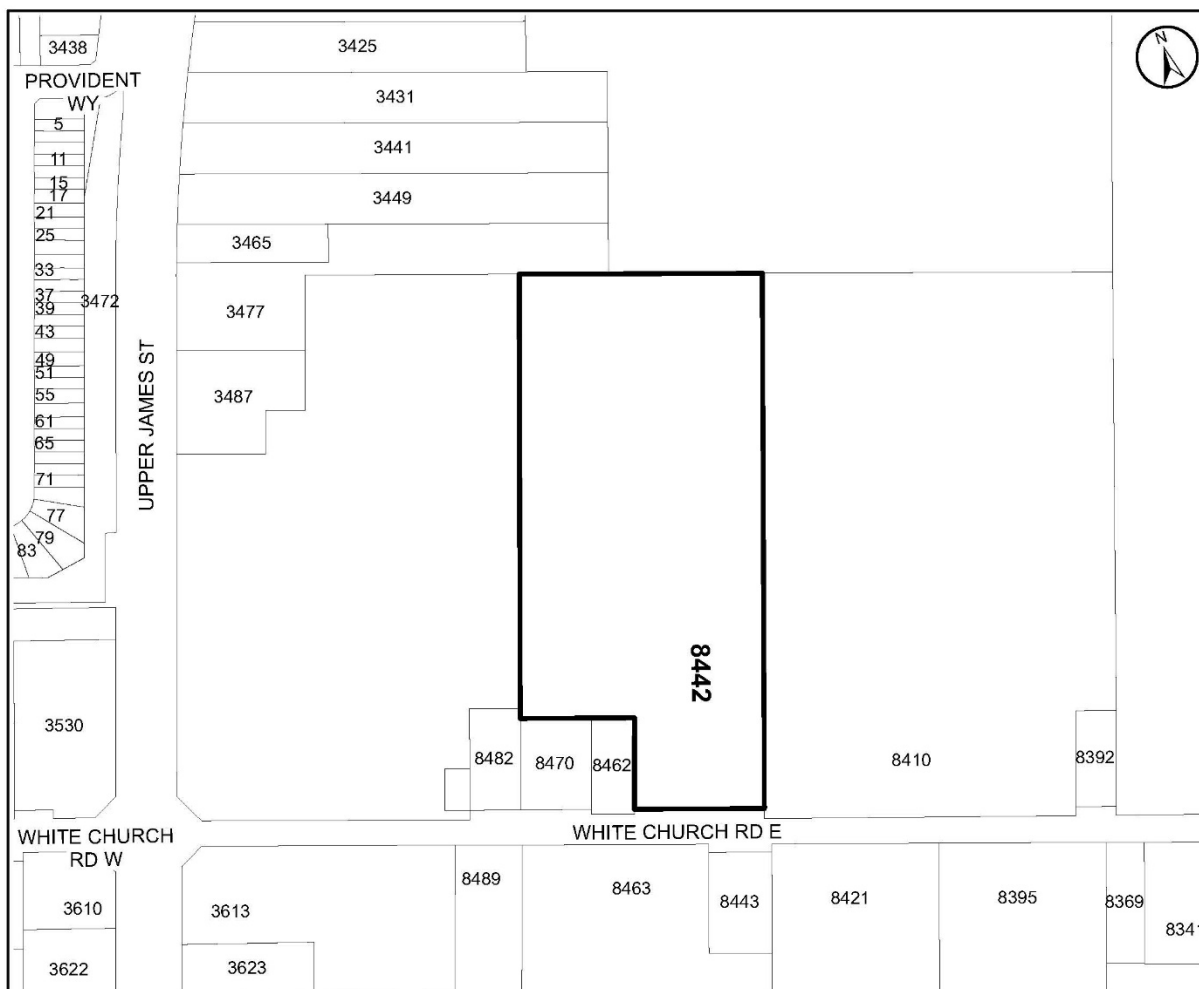
Ownership

Owner Name:

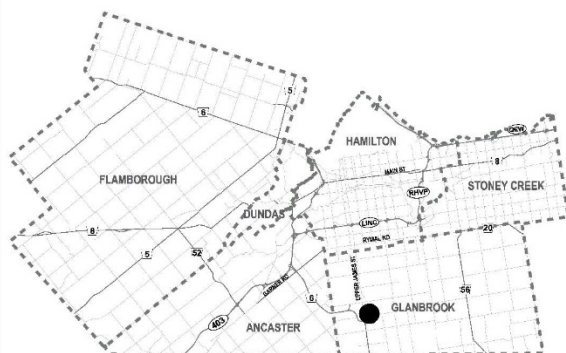
JERZAK, KATARZYNA JOANNA

Legal Description

PART LOT 6, CONCESSION 5 GLANFORD AS IN CD343411 EXCEPT PART 1, 62R21504 SUBJECT TO AN EASEMENT IN GROSS OVER PART 2, 62R21504 AS IN WE1462048 SUBJECT TO AN EASEMENT IN GROSS OVER PART 1, 62R21685 AS IN WE1514060 CITY OF HAMILTON



● Site Location



City of Hamilton

Municipal Address Map

Subject Property



8442 White Church Road East
(Glanbrook)

File Name/Number:
8442 White Church Rd

Date:
June 3, 2024

Technician:
AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

