GOVERNMENT OF BERMUDA

Department of Planning
Dame Lois Browne-Evans Building, 58 Court Street, Hamilton HM 12, Bermuda
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Number: P0261-23 Officer: Vazquez, Dolores B.
Date Received: August 15, 2023
Applicant: Blue Investment SPE, Ltd.
Description: Proposed Demolition of Existing Buildings, New office and Retail Building as Through-Block Development.
Location: 54 Reid Street City of Hamilton, BM HM12
Decision Type: DAB Meeting Date: 8 November Planner Recommendation: Refuse
Category: Final Approval Advertised: 15/08/2023 Decision Class: Not Permitted
Subdiv Number:

Parcel Number: 23065 Latitude/Longitude:
Vacant Site: No Lot #: Property Name:

Zone Zone Name Lot #: Property Name:
2 City of Hamilton Plan 2015 Development Zone

Active Plans: City of Hamilton Plan 2015

Historic Protected Areas: Front Street/Reid Street & Par-la-Ville

Site Information Existing Proposed Add./Red. Total
Site Coverage Sq. Ft. 9,994 -244 9,750
Gross Floor Sq. Ft. 27,000 58,906 61,606
Hard Surfacing Sq. Ft. 9,994 0 9,994
Dwelling Units 0 0 0
Car Parking Spots 0 8 8
Bike Parking Spots 0 4 4

Total Lot Size: 9,994

Site Coverage Percentage: 99.60
Hard Surface Percentage:

History:

Case Number Date Status Description
P0762/94 08/19/1994 Refused Installation of Pharmacy
P0968/95 11/03/1995 Approved Convert 2nd floor from Existing Use to Office Space
B0781/96 08/13/1996 Complete Upgrade Electric Service to 200 AMP
B0005/99 01/05/1999 Issued Change and replace windows
B0932/99 10/15/1999 Expired Internal Alterations for Bathrooms
B0249/01  03/09/2001  Expired  Minor alterations to form wash-up area
B0813/01  07/31/2001  Expired  Change of Use from Retail Shop to Sandwich Based Restaurant and Proposed Al Fresco Dining
P0643/01  07/31/2001  Approved  Change of Use from Retail Shop to Sandwich Based Restaurant and Proposed Al Fresco Dining
B0889/01  08/21/2001  Expired  Reconfiguration of existing partitions & new partitions
B0214/02  02/25/2002  Complete  Erect wall to create storage, increase existing ice-cream serving area, create a take-out cafe & metal stud drywall
B0321/05  05/10/2005  Complete  Install Electrical in New Office/Storage Areas. Proposed Al Fresco Dining
B0841/05  08/10/2005  Needs Final Inspection  Upgrading Finishes - New Electrical for New Equipment for Hungry Bear Cafe.
CMPL-4452  04/21/2010  Closed - Resolved  Interior demolition and building works without Planning Permission or a Building permit. All works in relation to ground floor and second floor to stop. B0321/05
B0371/10  05/10/2010  Complete  Interior Renovation of Existing Restaurant & Bar
B0375/10  06/03/2010  Expired  Demolition of Interior Partition Walls
P0262/10  06/09/2010  Approved  Proposed Internal Renovations for Change of Use from Retail to Bar - Listed Building Site.
B0531/10  08/18/2010  Complete  Proposed Internal Renovations for Change of Use from Retail to Bar - Listed Building Site.
CMPL-4916  04/17/2012  Closed - Resolved  Audio Speakers Have Been Mounted On The Building and Music Is Played Into The Street.
B0079/17  02/07/2017  Complete  Proposed Minor Modifications to Cafe
SCO0004-23  07/05/2023  Complete  EIA Scoping Report for demolition and new construction at 91 Front Street.

**Comments:**

**SITE AND SURROUNDING AREA**

The application site is a brownfield site within the City of Hamilton, extending from Front to the south to Reid Street to the north, with a total area of 9,994 square feet. The site comprises three separate but interconnected buildings at 91 Front Street (Lot B, 3,179.88 square feet), 1 Chancery Lane (Lot A, 1,829.52 square feet) and 54 Reid Street (Lot C, 4,965.84) of 3 storeys in height on Front Street, with an embellished roof adding to the vertical visual mass, and Reid Street, with Reid Street being at a higher elevation. The Front Street façade is more traditional in appearance incorporating Bermuda Image elements, with the Reid Street façade more modern in appearance. Existing site coverage, and by extension, hard surfacing, is 100%.

The entire complex is vacant, with the immediate past uses including a bar on Front Street, a hair salon on Reid Street and realtor and small food outlet on Chancery Lane. Other retail areas along Chancery Lane are vacant. Upper floors were used as offices, with some occupied and others vacant.

This site lies on the northern side of Hamilton Harbour, follows the natural contour of the land, sloping northwards from approximately 5 meters (16'-0") above sea level at the lower level on Front Street, to 9 meters (29'-6") at the northern end fronting on Reid Street.

Front Street is a two way east/west directional road and Reid Street is a two lane one way westerly directional...
road. The closest crossroad to the east is Parliament Street, a two lane one way northerly directional road, and the closest crossroad to the west is Burnaby Street which includes an outdoor restaurant patio. All aforementioned streets have parking and loading bays on both sides.

The application site is surrounded by existing occupied buildings. On Front Street, immediately adjacent to the east is an empty building, number 93. Adjacent to this is a restaurant, a hair salon and a retail store. Chancery Lane, owned by the City of Hamilton, abuts the property to the west. A number of businesses gain their access from Chancery Lane, including another restaurant, legal offices, the Bermuda Heart Foundation and private counselling services. To the west of Chancery Lane, directly on Front Street, is a restaurant complex. The buildings immediately to the east and west are two storeys in height, with the building to the west incorporating a smaller three storey element. The maximum height of building is four storeys, with one building incorporating mansard type roof.

On Reid Street to the east is a health retail store, whilst to the western side of the Chancery Lane exit is a health/gym business with offices above. Opposite, on the north-eastern side of Reid Street, is the Wessex Building, with the Freemasons Lodge to the north-west. Both of the aforementioned properties on the northern side of Reid Street have vehicular access to Reid Street. Heights along this street vary from a single storey cottage to four storey buildings, with additional upper storeys set back.

This lot is sited within Hamilton’s Historic and Retail District. The Front Street portion (91 Front Street) is also subject to the Historic Protection Area and falls within the Pedestrian Enhancement Area, where verandahs are required under the provisions of the City of Hamilton Plan 2015. The lot is also located within a Restricted Parking Area.

PLANNING HISTORY/BACKGROUND
A pre-consultation, PCON0068-23 was carried out wherein the department confirmed it could not support the application primarily due to the height of the proposed building and proposed parking. The pre-consultation did result in some improvements including the removal of the mezzanine which resulted in a lowered Front Street ground floor more in more scale to adjacent buildings, the introduction of two micro retail units on Chancery Lane and changing fenestration from plate glass to more traditional sizes. The need for an Environmental Impact Statement (EIS) to accompany the application was also confirmed.

PROPOSAL
The project includes the demolition of the existing buildings (a combined gross floor area of 29,000 square feet) and construction of a new mixed use building, with commercial uses at grade and office space above. The building will have a gross floor area of 61,606 square feet. The mix and general location of the proposed uses are the same as the buildings to be demolished.

The main entrance of the office building will be located midway up Chancery Lane to allow for maximum retail frontage on Front Street and Chancery Lane. There is up to 2,554 square feet of ground floor area located for retail use with access under the verandah along Front Street, the colonnade along Chancery Lane and two micro retail units further up the lane. Pedestrians at Front and Reid Streets, and along the south half of Chancery Lane, will enjoy covered setback spaces. The Front Street retail space is designed to provide the opportunity for highly visible retail and/or food and beverage activity.

From the Front Street side, the total height of the proposed building is 9 storeys (ground level plus 8 additional storeys) in addition to a mechanical and engineering penthouse. OD at level 8 is 134'-7" with the M&E penthouse at 147'-5". The first 4 storeys (ground level plus levels 1 to 3) are setback 9'-0" from the lot line, with a covered verandah occupying the space between the southern façade of the building and the lot line. Ground level and level 1 have covered verandahs, with level 2 an uncovered roof deck. Level 3 has a roof deck cut-out at the south-western corner. Level 4 is setback an additional 8'-6" from the lower facade, with a roof deck and cut-out at the south-eastern corner. Level 5 is setback 18'-0", with a roof deck and cut-outs on either extremity of the southern façade. Level 6 is set back 9'-0" with a roof deck, level 7 is setback 9'-0" with a roof deck and
cut-out at the south-western extremity and level 8 is setback 9'-0" with a roof deck and cut-out at the south-eastern extremity. Finally, the M&E penthouse is set back 9'-0" with a total distance of 71'-5" from the southern boundary line. The design statement notes that “Above the third floor (Level 2), the Front Street façade steps back in a staggered pattern that does not conform to the Hamilton Plan. This is to allow viable floor plates, and more importantly, avoids horizontal layering that is out of character with Front Street and older buildings”. The maximum height of the Front Street ground floor is 17'-4".

From the Reid Street approach, there are 2 storeys (level 2 and 3) setback 9'-0" (3'-0" more than the 6'-0" required under the City of Hamilton Plan 2015), with the supporting rationale stating “This is intended to make the gathering spaces at the top of Chancery Lane and to give a generous entrance to the building”. Levels 4 to 8 (5 storeys) abut the northern property boundary, with only level 8 having roof deck cut outs at the western and eastern extremity of the floor plate. The M&E penthouse is set back 42'-6".

The stated design emphasis, as noted by the applicant, is “on street presence and place making with setbacks for public space and high-quality materials to provide a good experience for the public.” This will be achieved by giving up some property at the entrance to Chancery Lane and creating a publicly accessible colonnade on the south half of the lane. The building entrance is close to the midpoint of the lane, which is intended to enhance the activity and vitality of the lane.

The main lobby for the office use on the floors above Front Street is via the colonnade along the southern half of Chancery Lane. The intent is to invigorate Front Street and Chancery Lane. Level 2 on Reid Street will have a glazed frontage with a street entrance to promote activity on this street. This floor will be available for retail or business uses. All floors above Reid Street are designated for business use and it is intended that the building will accommodate the business offices related to the developer. According to the EIS, it will be partially, and significantly, an owner/occupier building.

Due to the difference in elevation between Reid and Front Streets, the north halves of the lower two levels on Reid Street are below ground. It is proposed that these uninhabitable spaces are utilized for building service facilities and a small parking garage. Water tanks, administrative offices and mechanical and engineering facilities are located in lowest basement area, an extension of the Front Street ground floor. Parking for 8 cars (including an ADA space), 4 motorbikes and 14 bicycles are proposed in the upper basement area, extended from level 1 on Front Street. Vehicular entrance from Reid Street will be accommodated at ground level at the north-eastern extremity of the lot.

The Front Street sidewalk will be repaved to match the setback verandah area, with the surface blending in with the sidewalk on each side and with Chancery Lane. The Reid Street sidewalk will be enhanced with a covered setback and uniform paving extending to the curb. Sidewalk paving will continue across the vehicular entrance in order to give priority to pedestrians. Some property has been surrendered at the entrance to Chancery Lane to create a publicity accessible colonnade to the south half of the lane. The building entrance is close to the midpoint of the lane with the intent of enhancing the activity and vitality of the lane.

Due to the lot’s location in an urban environment, hardscaping will focus on repaving the sidewalks at Front and Reid Street and the disturbed areas of Chancery Lane will be re-paved using the existing brick pavers to help preserve the existing character of the Lane. The steps in the Lane will be modified slightly for greater comfort and safety. Trees removed during construction will be planted on Reid Street in agreement with the Corporation of Hamilton (COH). Two additional trees are proposed, for a total of 5 street trees once construction is complete.

The following improvements to Chancery Lane are proposed, some of which have been discussed, and would necessarily have to be approved by and coordinated with the COH:

1) sidewalk paving repairs and replacement at Reid and Front street as described above
2) lighting feature, to be determined
3) stair riser artwork, to be determined with local artists
4) building fretwork screening on western façade of building
5) passage character and scaled lighting on western façade of building
6) bricks salvaged from the Caesar shipwreck (1818) to be reused for a feature wall (or donated to a museum for a more authentic display)
7) historical window proportions under the arcade
8) arcade pendant lighting to be determined
9) lighting standard on Front Street

The proposed servicing details and infrastructure are set out as follows.

The site will be connected to the COH piped sewage systems.

Potable water will be collected from roof catchment and discharged into potable water tanks for kitchen sinks, hand basins and showers. There will be connection to the Watlington Waterworks municipal water main for topping up the potable water tank if necessary. Greywater will be collected from the roof terraces and discharged into separate greywater tanks with predicted use for flushing, irrigation and exterior building maintenance, with surplus greywater disposed into a disposal borehole located within the curtilage of the lot.

Connection to the major electrical service under Front Street is being coordinated with BELCO. An air cooled Variable Refrigerant Flow (VRF) system will be used for HFAC as this is the most energy efficient.

Connections data and communications will utilize existing manholes in the Reid Street sidewalk.

Trash collection will be coordinated with the COH. Only the retail component fronting on Front Street will deposit trash for collection there; the remainder will deposit trash for collection on Reid Street.

Air intakes and exhausts are at the top of the building and will not have any impact on pedestrians outside or in the vicinity of the proposed building. Sanitary and waste vents will also be at roof level, along with the emergency generator air intakes and exhausts.

Finally, in regards to sustainability, it is the owner’s intent to achieve LEED Gold Certification, which will be accomplished by including the following:

1) closed cell rigid insulation for exterior walls
2) additional interior insulation for perimeter walls
3) insulated roof and roof decks
4) high performance double glazing for windows and exterior doors
5) detailing for vapour barriers and sealed joints
6) mechanical systems; heat recover
7) electrical systems: light harvesting, motion sensors
8) electrical vehicle stations
9) building energy management system for monitoring and controlling pedal bike parking the garage

As a result of the redevelopment, site coverage would decrease slightly to 99.6% with hard surfacing remaining at 100%.

ENVIRONMENTAL IMPACT STATEMENT

Given the scope of the proposal, particularly with respect to the potential impact of the construction and operations of the commercial building on the marine and surrounding human environment, the application was accompanied by an Environmental Impact Statement (EIS), which explores and tests the types and levels of impacts expected. The EIS is intended to assess all relevant potential impacts created by the proposed works and looks at all viable alternatives, ascertains the level of impact of all aspects of the development and offers...
mitigations where possible. The EIS was produced by Bermuda Environmental Consulting, Ltd., dated 7 August 2023, and based on the Environmental Scoping Report (ESR) wherein the contents of the EIS were agreed with the Department.

Through the consultation process from the review of the ESR, the following were examined under the EIS:

- Groundwater and Surface Water
- Air Quality
- Noise and Vibrations
- Landscape and Visual
- Waste
- Energy and Sustainability
- Traffic, Parking and Pedestrians
- Economic
- Cultural Heritage
- Human Health and Public Safety

In the methodology for examining the magnitude of impacts for each area of concern, impacts were tested and classified into 4 separate groups: “not significant”, “minor”, “moderate”, and “major”. “Major” is: ‘considerable impact (by size, extent or duration), which is the ease of a negative impact, is in violation of legislation, policy or acceptable standards which extends beyond the local area; for positive impacts, this includes those which benefit the wider community or Bermuda as a whole or even beyond.’ “Moderate” is defined as some impact (by size, extent or duration) which is significant within the site or surrounding areas’. “Minor” is defined as short term or very localised impact, with minimal consequence, with “Negligible” defined as an impact that does not disrupt the integrity of the receptor.

In applying this classification system, the highest level determined through the EIS for pre-mitigation of various topics was “major” for four categories during demolition and construction, including increase in construction noise, vibration and dust. While these activities are temporary in nature, they can impact workers on the site and employees and consumers in surrounding buildings. Also part of Front Street, Chancery Lane and Reid Street will be closed during construction impacting pedestrians and tourists. When mitigation measures were put into place, the only category remaining as “major” was visual, from two specified viewpoints; the Cenotaph and junction of Reid and Parliament Streets. The EIS identifies a total of 44 “moderate” effects pre-mitigation, with only 15 remaining “moderate” after mitigation measures were put into place; inclusive of 6 positive moderate impacts (job creation/improved site/GDP).

The EIS concludes adherence to a detailed Construction Environmental Management plan (CEMP) would ensure detrimental impacts would be mitigated appropriately. A CEMP is a standard requirement for submission with the building permit application for projects of this magnitude.

A non-technical summary of the EIS was prepared, as summarized below. Any impacts associated with decommissioning have purposefully been excluded given that the project is not projected to be decommissioned in the foreseeable future and, as such, an accurate assessment of consequent impacts cannot reasonably be made at the current time.

Groundwater and Stormwater
The main impacts are identified as release of sediments, leading to an introduction of contaminants into surface waters or groundwater. In addition, potential for stormwater run-off into Hamilton Harbour. The highest pre-mitigation impact was determined to be Moderate. Application and implementation of good construction site management along with use of environmentally-friendly hydraulic oils can reduce this. If mitigation measures are employed all residual impacts are deemed to be Not Significant.

Air Quality
The only residual impact identified is potential particulate (dust) contaminants exceeding Bermuda air quality regulations from demolition and construction on an ad hoc basis, assessed as Major/Moderate residual impacts. The EIS sets out mitigation measures such as avoiding activities on windy days, damping down of piles along with spraying of water and creating physical distance between dust generative activities and receptors. If such mitigation measures are employed, all residual impacts are deemed minor.

Noise and Vibration
The impact of construction was found to have a level of significance for all of the receptors assessed during construction, inclusive of construction workers and the nearest buildings (office workers and equipment and the buildings themselves, restaurant staff, patrons and equipment, retail outlet staff and customers, and passing pedestrians), although of greatest impact to the construction workers (Major) and further away, reduced to Moderate. By implementing mitigation measures the significant impact is reduced to Minor for most receptors but Moderate for some.

Landscape and Visual
The development, whilst noticeable from across the harbour, does not change the character of the view. Closer to the project site and from more culturally significant locations, including the Cenotaph and corner Burnaby and Parliament Streets, the significance of the impact is deemed major, because the development tends to impose elements that dominate the visual field. At other locations within the City, whilst the new development is readily apparent, it is not felt that the development changes the character of the view so the significance of the impact is less. It notes that mitigation measures are not readily applied, however other design options are possible, which the applicant did not agree to.

Waste
The demolition of the existing building will generate considerable waste rubble requiring deposit primarily at the Bulk Waste Facility at the airport, although much of this may be used as fill for other construction projects, reducing the impact of this waste stream. There is also a small quantity of hazardous waste, inclusive of asbestos, which must be carefully removed and shipped overseas, and as a result, this impact remains Moderate. All other impacts are considered to be Minor with wash down water from construction capable of being reduced to Not Significant through careful site management.

Energy and Sustainability
During operation, the property will place a demand on the existing energy generation infrastructure but given design efforts to improve energy efficiency to meet LEED’s Gold Certification (possibly Platinum), the project is conservatively deemed to have a Minor Positive impact. As the project does not include renewable energy generation, it does not help the Bermuda Government’s aspirational target of 85% renewable energy by 2035.

Economic
The benefits of temporary construction and ongoing operation jobs are deemed as a Major (positive) economic benefit, with the engagement of additional service providers (architects, engineers and environmental consultants) as Minor (positive). The project may impact adjacent business during construction by discouraging pedestrian traffic (shopper/patrons), which is deemed to be of minor negative significance. During operations, the project may impact adjacent businesses by increasing pedestrian (shoppers/patrons) traffic, resulting in positive impacts.

Cultural Heritage
The re-development site is within a Historic Protected Area (Front Street), however the property is not historically listed nor are the properties around it. The removal of brick salvaged from the wreckage of the English ship Caesar is potentially risky with careful extraction and presentation within a protected area appropriate mitigation. Construction activities may cause disruption in local cultural events as well as the disembarking of tourists from Hamilton dock but these can be mitigated by the careful scheduling of construction activities and erection of visual screens. The redevelopment of the site is expected to be an improvement, creating a better experience for these receptors.
Human Health & Public Safety
Implementing industry standard health and safety mitigation measures for workers can ensure that residual impacts are Not Significant. For all phases, the production of nuisance noise and dust on neighbouring residents was considered but mitigation should render these impacts to Minor significance for dust. Noise is harder to mitigate and will likely remain at Moderate significance. The employment opportunities created are considered to be an impact of Minor Positive significance to human health and well-being.

CONSULTATIONS
The assessment of this application required numerous consultations, with comments summarized below. The consultations are available on the Department’s Customer Self Service portal (“the CSS”) in their totality.

In minutes dated 8 September 2023, the Architectural Advisory Panel (AAP) advised that it was satisfied with the proposal and hopeful this would be a catalyst for additional development within the city. The only issue raised was the eastern façade because it will be prominent for the foreseeable future. Whilst the agent advised that there is a plan of increasing articulation and/or interest along the eastern façade, the Panel encourages that a better solution for this particular façade be developed.

In correspondence dated 13 June 2023, the Bermuda Fire & Rescue Service (BF&RS) confirmed its review of the application would be undertaken once/if planning permission was granted.

In correspondence dated 12 September 2023, the Department of Environment and Natural Resources-Pollution Control Section (DENR-PCS) made the following recommendations:

1) Since the site is located in the second oldest rock formation, standard cave conditions should be applied in the event that a cave is detected during construction or excavation works.
2) A water right for the rainwater disposal borehole will be required.
3) All back-up electricity generators serving the development shall be properly licensed under the Clean Air Act 1991. All controlled plants used during the demolition and construction phases shall be licensed under the Clean Air Act 1991.
4) Any fuel storage tanks, except liquefied natural gas or liquefied petroleum gas, that are not integral to back-up electricity and generators shall be registered with DENR-PCS.
5) A demolition plan and CEMP should be submitted to DENR for review prior to work commencing.

In correspondence dated 14 September 2023, the Corporation of Hamilton (COH) had the following comments:

1) The overall building height interfering with the view of the Cathedral from specific viewpoints is not seen as negatively as it is by some members of the public. The building would be a better fit if one storey was removed.
2) The street level and upper storey setbacks on the Reid Street side of the development should be enforced. The impact of the size of the building is going to be greater here than on Front Street due to buildings being on both sides of the road and the scale of the building versus its neighbours. Setting the building back will soften the impact and also allow for street trees to develop in this area. COH notes the application drawings illustrate the proposed building impacting street trees.
3) On the Front Street side of the building, the COH is of the opinion that the upper storey setbacks are not necessary and would advocate that they could be used as a trade-off for removing a storey from the proposal, so that the floor area could remain constant. Additionally, having the façade tiered back makes the construction more expensive and wastes development space.

In correspondence dated 17 September 2023, the Department of Health (DOH) raised four issues, all of which can be encapsulated at the building permit stage.
In correspondence dated 21 September 2023, the Historic Buildings Advisory Committee (HBAC) provided the following comments:

1) Recommended that a photo survey of the existing building be carried out prior to a building permit commencement inspection.
2) Has concerns about the loss of the sense of place, human scale and historic character on Front Street and within the Historic Protection Area.
3) The proposal appears out of scale to the neighbouring buildings in height and on column size, contributing to an overall appearance of heavy massing.
4) Ground floor proportions appear significantly larger from their neighbouring properties, more in keeping with the architecture at the western end of Front Street/Pitts Bay Road, for example Point House and Waterloo House. Within this portion of Front Street, the character of the area better retains its ties to the past.
5) Height and span of the buildings and verandahs would have been limited by resources and technology of the time, resulting in the low height between the ground and first floor verandahs. As the area has modernized, these levels have been clearly maintained in the existing streetscape (redevelopment of buildings). The slenderness and rhythm of the columns, seen when replaced by concrete, as many are today, are kept diminutive, in keeping with their wooden predecessors and maintaining the feel of the past. Additionally, the facades often are layered with perforated and decorative details, such as intricate railings and other ornamentation on the columns and fenestration which softens the massing and provides the distinctive sense of place familiar to its historic origins.

In summary, HBAC’s opinion is that the proposal is missing these key elements that would tie the new building to the character of Front Street. It believes some effort should be made to replicate the property’s immediate surroundings to not disrupt the distinct sense of place of this area, and recommends alterations to the Front Street portion to address these issues.

The agent provided the following responses which are also available to view, in full, on the CSS:

DENR-PCS
The agent confirmed excavation will be carried out with care; all required rights/licenses will be applied for and a CEMP will be submitted at building permit stage.

COH
All but 3 buildings on this block of Reid Street do not provide any street level setbacks on Reid Street and these buildings do not appear to negatively impact the current street trees from growing or maturing. The proposed building provides an increased street level setback that doubles the sidewalk width to over 16'-0" in front of the building connecting to Chancery Lane. The setback over the first 2 levels on Reid Street provides a generous contribution to the public realm, creating sufficient space for street trees to thrive. Two additional trees on the Reid Street sidewalk adjacent to the property are proposed in addition the reinstate of the existing trees at the completion of the project. Finally, the design and loading on Front Street would eliminate terraced outdoor space and fundamentally change the look of the building and the relationship to other buildings on Front Street.

HBAC
A pre-demolition report was carried out by Mason and Associates Ltd on April 19 2022 and will be included as part of the demolition permit. The existing building has been extensively documented and photographed to date.

The original Lockwood & Ingham Store on the site did not have a verandah or balcony and therefore did not have slender exterior columns. It was always larger in massing to its immediate adjacent neighbouring buildings.

The proposed design recreates the scale of the original windows and entrances at street level to the building.
Care was also taken to make sure the windows on the upper level are more traditional punched openings rather than using a modern curtain wall system as reference at more recent developments on the western edge of the city.

The original first level has always been higher than the immediate adjacent neighbouring buildings. Given the adjacent buildings are only 2 storeys in height, the second level has always been almost as tall as the adjacent buildings roof ridge line. In order to make a functional through-block development, the levels had to be raised but were kept to a practical minimum to make the building work. This creates a nominal height increase of 2'-0" on the first level and 3'-0" from the existing second level to the proposed. The lintels on the verandas bring these levels down to a scale in keeping with the original development.

The original façade at grade level was not layered with intricate or ornamental detail, but was of more substantial and prominent storefront. The proposed wrapped colonnade adds this layer, while still maintaining the original prominence of the streetscape. This colonnade also gives back in creating a welcome entrance to Chancery Lane and further enhances the place making to the end if this Front Street block.

OBJECTIONS AND REPRESENTATIONS
The application was gazetted on 15 August 2023 with the following objections received:

REP0260-23 (CH Limited, owner of 52 Reid Street) in-time
REP0262-23 (Wessex Limited, owner of 45 Reid Street) in time
REP0263-23 (BNT) in time
REP0265-23 (unsigned) out of time
REP0281-23 (BNT addendum to REP0263-23) out of time, reiterating other objector’s concerns

The objections can be broadly summarized into the following categories of Height, Massing and Scale, Impact on Property Values, Access and Impact, Railings and Brick. The agent provided a comprehensive response to these points of objection in a letter dated 8 September 2023.

APPLICABLE PLANNING POLICIES
This application has been assessed against the relevant policies contained in The City of Hamilton Plan 2015 (the “2015 Plan”), as listed below.

The application site is located within the Historic and Retail District with the following objectives:

HRD (1) to support the street oriented retail and business environment
HRD (2) to protect Bermuda’s architectural heritage and eclectic design characteristics
HRD (3) to maintain the Historic Areas of Front Street, Queen Elizabeth Park and Queen Street West, the Sessions House, Cabinet Office and former Magistrates’ Court Building, and Upper Burnaby Street

Section 4.1 Historic and Retail District (HRD)
HRD.1 the Board shall apply the HRD policies and other relevant policies of the Plan in a manner best calculated to achieve objectives HRD (1) to (3).
HRD.2 (1) in accordance with policy DEP.1, the provision of community benefits to the public realm of this district will be encouraged with all developments and will be required for certain developments which seek the Board’s discretion and (2) community benefits within this district may include, but are not limited to, the provision of new, or improvements to, amenity areas, parks and open spaces, sidewalks, landscaping, pedestrian links, pedal cycle links, street furniture, awnings, public are and signage.
HRD.3 (1) only retail uses, restaurants and cafes or other similar uses on the ground floors fronting within the principal shopping area
HRD.5 the proposal for development in the Historic and Retail District is reflective of the Bermuda architectural characteristics of the district and takes into account the following principles:
(a) design sensitivity to and compatibility with Bermuda’s architectural heritage, respecting the existing scale,
proportion and character of the area
(b) the preservation of important features, landmarks, views and vistas
(c) respect for the historical evolution of the area and buildings from different time periods
(d) respect for the character defining features of individual buildings as well as the building frontages, setback from roads, building materials and light and shadow characteristics of a group of buildings
(e) site context including the pattern and historic value of surrounding buildings and the overall topography of the area; and
(f) compatibility of new development with the setting, and historical and architectural character of the area

HRD.6 maximum number of storeys 5
HRD.7 (a) the proposal does not have a detriment impact on the aspect or prospect of any historical area in accordance with policies HSC.6 and DSN.5(1)(a) and (b) the development does not normally exceed 138 feet OD in height
HRD.8 maximum number of storeys at street level 3 on Front Street and 4 on Reid Street
HRD.9 first upper storey minimum setback from building front 25'-0” with each additional storey setback an additional 15'-0” on Front Street
HRD.10 first upper storey setback will normally be a minimum of 10'-0” from the building front with each additional upper storey setback an additional 5'-0” for other streets
HRD.11 notwithstanding policies HRD.9 and HRD.10, the Board may vary upper storey setback requirements in order to provide a better design solution, provided the Board is satisfied with items (a) through (h)
HRD.12 minimum street level setback 9'-0” from Front Street and 6'-0” from Reid Street
HRD.13 verandah shall be required along the north side of Front Street; covering the full frontage of the building and the entire building setback

Section 2.6 Planning Application Considerations (GEN)
GEN.24 the submission of an Environmental Impact Statement (EIS) may be required for (a) major commercial developments
GEN.25 EIS requirements
GEN.26 grounds in support of an application

Section 3.2 Utility Services (UTL)
UTL.1 (a) the proposal is designed and sited so as to minimize its visual impact on the City environment and (b) will not detract from the amenity or environment of any neighbouring property
UTL.4 renewable energy
UTL.5 water supply
UTL.6 fire and emergency services
UTL.7 wastewater collection and disposal
UTL.9 storm water management within Hamilton Harbour watershed Area
UTL.10 sustainable drainage systems
UTL.11 refuse collection and disposal
UTL.13 mail facilities

Section 3.3 Traffic Management and Parking (TPT)
TPT.1 Traffic impact Statement for development comprising a gross floor area of 50,000 sq.ft. or more
TPT.2 Traffic Impact Statement shall include the appropriate plans
TPT.5 On-site private parking shall not be provided in a restricted parking zone
TPT.8 Max number of on-site parking spaces if parking permitted 1 car/light truck and 1 motorcycle per 500 square feet
TPT.13 design of parking area (a) parking will normally be required to be provided underground (b) any parking area which includes a ramp shall be designed according to the satisfaction of the Minister responsible for Highways and the Corporation of Hamilton
TPT.14 (1) Minimum vehicle parking space 16'-0” long by 8'-0” wide by 7'-0” high and cycle 6'-0” long and 3'-0” wide
TPT.15 Pedal Bike parking should be provided in form of pedal cycle rack or cycle shed
Section 3.4: The Public Realm and Pedestrian Environment (PED)

PED.1 the provision of community benefits to the public realm will be encouraged with all developments designed in a manner which contributes to a high quality, pedestrian oriented and universally designed public realm, and provides for the enjoyment, comfort and safety of pedestrians.

PED.2 any new development proposed within the Pedestrian Enhancement Area which has frontages on two or more city streets, shall provide a pedestrian link at ground floor level through the site to connect the site’s principal streets or other public spaces and (2) the Board may exercise its discretion and relax this requirement provided it is satisfied that alternative pedestrian links are available.

PED.3 the principal ground floor entrance of all new buildings shall be required to provide level access for pedestrians form the sidewalk.

PED.4 Verandahs will be required along Front Street.

PED.5 all new buildings shall be accessible to persons with physical disabilities in accordance with the current Bermuda Building Code.

PED.6 all facilities and amenities open to the public should be designed to ensure that they are barrier free.

Section 3.5: Greening the City (GRE)

GRE.1 incorporating green spaces

GRE.4 street trees

Section 3.6: Development in the City (DEV)

DEV.1 office and retail uses permitted in all districts

DEV.2 development on the ground floors of properties within the Historic and Retail District will be expected to provide retail uses, restaurants and cafes or other similar uses in accordance with HRD.3.

Section 3.9: The Historic Environment (HSC)

HSC.1 HBAC to be consulted if a proposal is located in a Historic Area.

HSC.6 Board shall have the power to refuse planning permission if it considered the development would cause detriment to (a) the established historic, architectural or cultural character of the area; (b) the aspect, appearance or view of the area; and (c) a prospect or view from one or more parts of the area.

HSC.7 Board shall take the following into consideration for an application in a Historic Area and be satisfied that (a) setbacks are in general conformance with existing buildings on the street(s) to which the building is visually related; (b) building frontages are similar to those of existing buildings; (c) the physical attributes of buildings, including their setting, massing, height, proportions, roof pitch, doors and windows, chimneys and other elements preserve and enhance the historic character and defining features of the surrounding areas; and (d) the proposal does not include any reflective glass.

HSC.8 Board shall have the discretion to reduce the upper storey setbacks within the Front Street Historic Area provided (a) the proposal adds a significant contribution to the architectural character of the Front Street Historic Area; (b) the proposal is supported by the AAP and HBAC; and (c) grounds in support provided.

Section 3.10: City Design Standards (DSN)

DSN.2 AAP to be consulted if (a) proposal comprises a gross floor area of 50,000 square feet or more.

DSN.3 design statement requirement.

DSN.4 maximum building height in accordance with HRD.6.

DSN.5 (1) (a) the proposal does not have a detrimental impact on the aspect or prospect of any Historic area (see HSC.6) (b) development does not normally exceed 138 O.D. in height and (2) in exceptional circumstances (rooftop feature or structure) the Board may approve a development which exceeds the maximum height limit set out in policy DSN.5(1)(b) provided the Board is satisfied that the development (a) does not negatively impact the aspect or prospect of the Anglican Cathedral; (b) creates an attractive addition to the City skyline.

DSN.6 (1) storey heights shall not normally exceed 14'-0" with above ground storeys to be less than 14'-0"

DSN.7 maximum number of storey permitted at street level in accordance with HRD.8.

DSN.8 where development is proposed through a City block from one road to another, the upper storey(s) of
the building at the higher grade may be extended through the site provided the extended storey(s) does not project beyond a line drawn at 30 degrees from the height of the proposed building on the road frontage at the lower grade.

DSN.9 Roof design of any new development is of high visual quality and compatible with the existing roof designs within the district.

DSN.10 (1) Board shall ensure that new development does not have a detrimental visual impact on the City’s skyline and shall require that plant and machinery comply with the provisions of policy DSN.19 and (2) in exceptional cases, such as for a development which proposing a rooftop feature or structure, the Board may allow the maximum overall height limit to be exceeded as stated in policy DSN.5 (2).

DSN.11 Minimum street level setback to maintain all storeys (3) Board’s discretion to vary minimum setback.

DSN.12 Upper storey setbacks to be determined in accordance with HRD.9 to HRD.11.

DSN.13 Sustainable design, energy and water conservation.

DSN.14 New buildings shall be accessible to persons with disabilities.

DSN.15 Direction in regards to appearance of building including (a) the development enhances the visual quality of the streetscape and relates well to its context and any surrounding buildings; (c) there are no areas of blank wall on the visible side and/or rear elevations; (d) windows and/or other architectural details are provided to improve the aesthetics and visual impact of external walls of buildings; and (d) large areas of reflective glass are avoided and are not installed on the street level storeys.

DSN.16 Plant and machinery should be housed within the building and where this is not possible, they should (a) be integrated into the overall design scheme for the development through coordination of materials, colour and configuration; (b) be placed on the portion of the roof which is least visible from adjacent streets and properties; (c) not normally exceed 138 feet O.D in height; and (d) be adequately screened from view.

DSN.17 Public art requirement.

DSN.18 Details of public art requirement for proposals with a GFA greater than 50,000 square feet.

DSN.19 Public art must be accessible to the public and external to the building.

DSN.20 Board may seek views of Bermuda Arts Council.

DSN.21 Landscaping requirement.

PLANNING ASSESSMENT

Due to the overlapping policies within the COH Plan, the assessment will concentrate on the Historic and Retail District (HRD) policies, referencing other sections when applicable.

HRD.2 Requires the provision of community benefits, and this proposal does provide a number of community benefits including larger setbacks than required, providing covered public areas for pedestrian gathering and street activity at both ends of Chancery Lane, a new sidewalk pavement on both Front and Reid Streets, the planting of two additional trees for a total of five (three will be replaced) improvements to Chancery Lane and a widened area of Reid Street sidewalk and a crosswalk at the top of Chancery Lane to facilitate safe pedestrian crossing of the road. As such, this policy is deemed satisfied.

Policy HRD.3(1) mandates only retail uses, restaurants and cafes or other similar uses on the ground floors fronting streets within the principal shopping area. This is only applicable to the Front Street portion of the building, with 2,554 square feet dedicated to retail. This frontage has been designed be broken into two smaller units if necessary, with separate entrances on Front Street and Chancery Lane. Two micro retail units have also been incorporated along Chancery Lane at the Department’s request to enhance pedestrian activity on the eastern side of the Lane, more closely aligning with the previous uses prior to closure. The opportunity to utilize the Reid Street frontage for commercial use does exist if there is demand. Policy DEV.1 permits office uses in all districts, so the proposal is compliant in respect of proposed uses.

HRD.6 Dictates the maximum number of storeys is 5 in this location, and as a result, this proposal does not satisfy this policy. The Front Street elevation is 9 storeys in height, with the Reid Street elevation 7 storeys in height. Even if DSN.8 is taken into consideration (through block development), that would permit only two
additional storeys on the Front Street side, for a maximum of 7.

HRD.7(a) requires that the proposal does not have a detriment impact on the aspect or prospect of any historical area in accordance with policies HSC.6/DSN.5(1)(a) and HRD.7(b) requires that development does not normally exceed 138 feet O.D. in height. The height of the building related to O.D. is 134'-7". When the M&E penthouse is taken into consideration, the total height is 147'-5" O.D., exceeding 138'-0". While DSN.10(2) does allow the Board the discretion to exceed the overall height for a development proposing a rooftop feature or structure, a M&E penthouse cannot be considered a rooftop feature or structure warranting the Board’s discretion, since it can be located elsewhere in the building. As a result, this policy is not deemed satisfied.

Policy HRD.8 dictates the maximum number of storeys at street level on Front Street as 3 (4 storeys are proposed) and on Reid Street as 4 (7 storeys are proposed). Therefore this policy is not deemed satisfied. It should be noted that the first two storeys on Reid Street are setback back 9'-0", 3'-0" more than required, which creates a covered space. This is deemed a planning gain.

Policy HRD.9 requires on Front Street that the first upper storey minimum setback from building front is 25'-0" (no setback is proposed on the fourth storey) with each additional storey setback an additional 15'-0" (a staggered setback is proposed, with each step less than 15'-0”). This policy is not deemed satisfied. Similarly, policy HRD.10 requires that the first upper storey setback on Reid Street to normally be a minimum of 10'-0” from the building front, with each additional upper storey setback an additional 5'-0”. The three additional storeys proposed exhibit zero setback, although the seventh storey does have two terrace cut outs on the building’s extremities. HRD.11 does provide the Board the discretion to vary upper storey setbacks.

With regards to the Front Street façade, excepting height and notwithstanding the lack of discretion afforded to the Board, the variation in setbacks is considered to be an appropriate design solution for this site, introducing a similar yet modification in design typical of recently redeveloped properties. The Department does, however, agree with the COH’s concern with respect to the lack up stepping on the upper storeys on Reid Street. While the upper storeys replicate what is there now in terms of siting on the boundary (three storeys with zero lot line setback), the proposal is much higher and there appears to be some opportunity to slide the floor plates allowing for some variation on the upper storeys.

The minimum street level setback required under policy HRD.12 from Front Street is met (9'-0"), with Reid Street exceeding the minimum 6’-0” requirement by 3’-0”, for a total of 9’-0”. This policy is deemed satisfied.

Policy HRD.13 requires a verandah along the north side of Front Street; covering the full frontage of the building and the entire building setback. This policy has not only been satisfied but has been enhanced with the additional colonnade along Chancery Lane, approximately 82’-0” in length, which is deemed a planning gain.

Utilities have been taken into consideration as required under Section 3.2 of the 2015 Plan. Being a brownfield site, utilities already service the site. While the proposal itself will not generate renewable energy, the applicant is desirous of achieving at minimum LEED Gold Certification. Therefore, UTL.3 is deemed satisfied by virtue of the building efficiencies which will be achieved. With respect to refuse collection and disposal, only the two retail units will utilize Front Street on collection days; the remainder of the complex will utilize Reid Street, deemed a minor improvement over immediate past conditions, and therefore UTL.11 is deemed satisfied.

The application site is located in a restricted parking zone, where no on-site private parking is permitted, and due to the application proposing parking for 8 cars (including an ADA space) and 4 motorbikes, policy TPT.5 is breached. Provision for 14 bicycles is made, adhering to policy TPT.15. While the proposed number of parking spaces is not excessive, the Department is not in support of new vehicular access points in heavily pedestrianized areas where the 2015 Plan encourages free, safe and pleasant passage of pedestrians. There are ample public parking lots in proximity to meet parking demand for this development.
The application site is located in the Pedestrian Enhancement Area, and meets all of the policies contained therein, with the exception of PED.3(1) which requires any proposed development having frontage on two streets to provide a pedestrian link at ground floor level through the site to connect the site’s principal streets or other public spaces. PED.3(2) gives the Board the discretion to relax this requirement provided alternative pedestrian links are available. With Chancery Lane abutting the entire western boundary of the application site, the Board’s discretion is warranted to forego the pedestrian link required in PED.3(1).

With respect to the Greening the City policies of the 2015 Plan, being the redevelopment of an urban brownfield site, there was no expectation for the inclusion of new green space within the curtilage of the lot. With respect to street trees, as required under GRE.4, two additional trees are proposed in addition to the replacement of three which already exist on Reid Street, for a total of five. As a result, policy GRE.4 is deemed satisfied.

With respect to the Historic Environment and the policies contained therein, the proposal has aptly demonstrated that the development will visually compete with the Anglican Cathedral but will not be taller than it. The EIS demonstrated that the structure will be visible from various vantage points, with the most prominent being the Cenotaph and the corner of Parliament and Reid Streets. The AAP’s main concern was with this latter vantage point. While some windows are incorporated on the building's extremities and articulation is proposed on the eastern façade, the Panel encouraged that a better design solution be developed for this façade, particularly since it will dominate that viewpoint for the foreseeable future. The Department concurs with the Panel’s concern over the eastern façade and that more visual interest should be incorporated.

Finally, public art is required as dictated by policies DSN.21 through DSN.23. The proposal has incorporated outline concepts for public art, particularly in Chancery Lane, and the agent did advise that introducing public art on the eastern façade is also being considered. The agent requested that the final details of the public art be deferred, incorporated as a condition of approval at building permit stage, if approved. Final public art deferral has been utilized in approving other major developments (the redevelopment of Point House and 31/33 Church Street) with the Department agreeing that the final details can be deferred to the building permit stage, if approved.

This concludes the technical analysis of the proposal against the COH policies, and with few exceptions, has not dealt with the many discretionary policies, and in this particular case, dealing with a relaxation of the height of the building. As already inferred, there is a number of overlapping policies within the COH Plan, but it is the following HRD policy that best encapsulates the esoteric nature of whether the building, as designed, inclusive of total height, is reflective of the Bermuda architectural characteristics:

HRD.5 the proposal for development in the Historic and Retail District is reflective of the Bermuda architectural characteristics of the district and takes into account the following principles:

(g) design sensitivity to and compatibility with Bermuda’s architectural heritage, respecting the existing scale, proportion and character of the area
(h) the preservation of important features, landmarks, views and vistas
(i) respect for the historical evolution of the area and buildings from different time periods
(j) respect for the character defining features of individual buildings as well as the building frontages, setback from roads, building materials and light and shadow characteristics of a group of buildings
(k) site context including the pattern and historic value of surrounding buildings and the overall topography of the area; and
(l) compatibility of new development with the setting, and historical and architectural character of the area

Higher buildings within the City of Hamilton are not necessarily inappropriate, notwithstanding current height restrictions as set out above. However, the Department considers the height of the proposed building to be excessive and that it would more readily assimilate into the existing scale, proportion and character of the area by the removal of at least one storey. This could be achieved by either removing an office level or by relocating the M&E components into one of the two basements.
Even with the removal of one storey, the proposal would still visually dominate the skyline, particularly relative to the existing buildings to the immediate west and east on Front Street. However, the redevelopment of this site may be the catalyst for improvements to other older vacant buildings on this stretch of Front Street, which is clearly needed given current vacancy rates. Further, a reduction in height would allow the building to more readily relate to the natural topography of the area and the existing building heights on Reid and Church Street.

The building itself does exhibit respect for the historical evolution of the area and buildings from different time periods. While more modern in appearance, it incorporates traditional elements including covered verandahs and open terraces; columns; decorative plaster and windows scaled to historical proportions.

Although the proposal includes a number of positive elements, including the redevelopment of an older brownfield site and various public realm improvements, particularly Chancery Lane and the introduction of a new cross walk, this proposal cannot be recommended for approval due to non-compliance with a number of policies in the City of Hamilton Plan 2015 (COH Plan), and notwithstanding the updating of the COH Plan, is deemed an overdevelopment of the site as it relates to height.

Recommendation: To refuse the final application as received on August 15, 2023 for the following reason(s):

1. The proposal exceeds the maximum number of storeys permitted in the Historic and Retail District, contrary to policy HRD.6 of the City of Hamilton Plan 2015, exceeding the maximum height of 138'-0" O.D. prescribed under policy DSN.5(1)(b). In addition, the proposal does not incorporate any upper storey setbacks on Reid Street as required by HRD.10 of the City of Hamilton Plan 2015, or other design element, which may assist in reducing the overall mass relating it to the existing scale and proportion of the area.

2. The proposal, by reason of its height, would not be sensitive to, or compatible with, the Historic and Retail District and would result in a form of development which detracts from the visual amenity of the area, detracting from important features, landmarks, views and vistas, contrary to Policies HRD.5 of the City of Hamilton Plan 2015.

3. The application proposes parking in a Restricted Parking Zone wherein on-site private parking is not permitted, to the detriment of the safe and free passage of pedestrians and contrary to policy TPT.5 of the City of Hamilton Plan 2015.