



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202
E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING

Application for Consent/Land Severance

APPLICATION NUMBER: HM/B-20:38

SUBJECT PROPERTY: 29 Magill St., Hamilton

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
 - Applicant/agent on file, or
 - Person likely to be interested in this application
-

APPLICANT(S):

Owner: Demetry Tselepakis
Agent: EcoVue Consulting Services Inc. c/o Frances Wilbur

PURPOSE OF APPLICATION:

To permit the conveyance of a parcel of land to create a new residential building lot and to retain a parcel of land with an existing single storey dwelling.

Severed lands:

7.36m[±] x 34.24m[±] and an area of 235.47m²±

Retained lands:

8.03m[±] x 33.98m[±] and an area of 277.73m²±

This application will be heard by the Committee as shown below:

DATE: Thursday, August 27th, 2020

TIME: 2:45 p.m.

PLACE: Via video link or call in (see attached sheet for details)

To be streamed at www.hamilton.ca/committeeofadjustment
for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

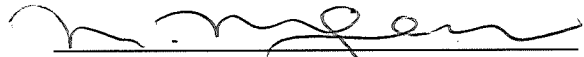
Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: August 11th, 2020.



Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.



Hamilton

Planning and Economic Development Department
Planning Division

Committee of Adjustment
City Hall
5th floor, 71 Main Street West
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424, ext. 4221
Fax (905) 546-4202

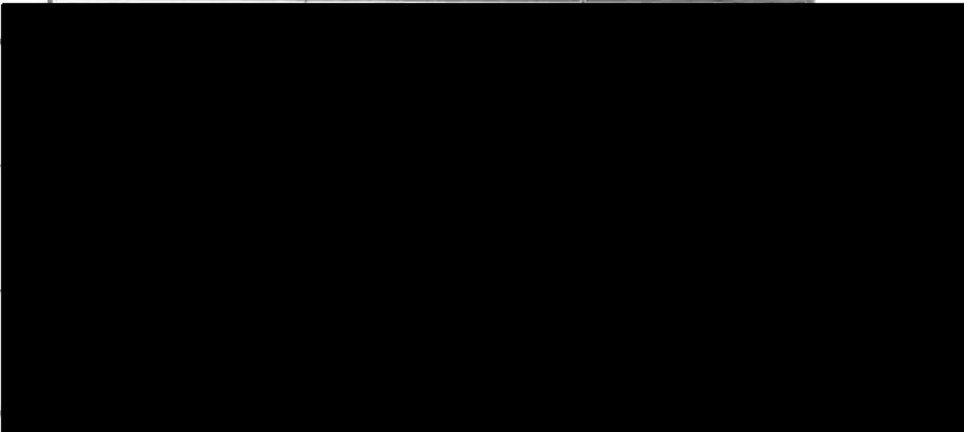
**APPLICATION FOR CONSENT TO SEVER LAND
UNDER SECTION 53 OF THE PLANNING ACT**

Office Use Only

Date Application Received:	Date Application Deemed Complete:	Submission No.:	File No.:
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1 APPLICANT INFORMATION

1.1, 1.2

Registered Owners(s)	
Applicant(s)*	
Agent or Solicitor	

1.3 All correspondence should be sent to ☐ Owner ☒ Applicant ☒ Agent/Solicitor

2 LOCATION OF SUBJECT LAND Complete the applicable lines

2.1 Area Municipality City of Hamilton	Lot	Concession	Former Township
Registered Plan N°.	Lot(s)	Reference Plan N°.	Part(s)
Municipal Address 29 Magill Street, City of Hamilton			Assessment Roll N°. 251801010500130

2.2 Are there any easements or restrictive covenants affecting the subject land?

☐ Yes ☒ No

If YES, describe the easement or covenant and its effect:

3 PURPOSE OF THE APPLICATION

3.1 Type and purpose of proposed transaction: (check appropriate box)

a) Urban Area Transfer (do not complete Section 10):

- ☒ creation of a new lot
☐ addition to a lot
☐ an easement

- Other: ☐ a charge
☐ a lease
☐ a correction of title

b) Rural Area / Rural Settlement Area Transfer (Section 10 must be completed):

- ☐ creation of a new lot
☐ creation of a new non-farm parcel
(i.e. a lot containing a surplus farm dwelling
resulting from a farm consolidation)
☐ addition to a lot
- Other: ☐ a charge
☐ a lease
☐ a correction of title
☐ an easement

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

3.3 If a lot addition, identify the lands to which the parcel will be added:

4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of land intended to be Severed:

Frontage (m)	Depth (m)	Area (m ² or ha)
7.36M	34.24m	235.47m ²

Existing Use of Property to be severed:

- ☒ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☐ Commercial
☐ Vacant

Proposed Use of Property to be severed:

- ☒ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☐ Commercial
☐ Vacant

Building(s) or Structure(s):

Existing: none

Proposed: 2 storey residential home

Type of access: (check appropriate box)

- ☐ provincial highway
☐ municipal road, seasonally maintained
☒ municipal road, maintained all year
- ☐ right of way
☐ other public road

Type of water supply proposed: (check appropriate box)

- ☒ publicly owned and operated piped water system
☐ privately owned and operated individual well
- ☐ lake or other water body
☐ other means (specify) _____

Type of sewage disposal proposed: (check appropriate box)

- ☒ publicly owned and operated sanitary sewage system
☐ privately owned and operated individual septic system
☐ other means (specify) _____

4.2 Description of land intended to be Retained:

Frontage (m)	Depth (m)	Area (m ² or ha)
8.03m	33.98m	277.73m ²

Existing Use of Property to be retained:

- ☒ Residential
☐ Agriculture (includes a farm dwelling)
☐ Other (specify) _____
- ☐ Industrial
☐ Agricultural-Related
☐ Commercial
☐ Vacant

Proposed Use of Property to be retained:

- ☒ Residential ☐ Industrial ☐ Commercial
☐ Agriculture (includes a farm dwelling) ☐ Agricultural-Related ☐ Vacant
☐ Other (specify) _____

Building(s) or Structure(s):

Existing: 1 storey dwelling on retained lot, proposed severed lot is vacant

Proposed: _____

Type of access: (check appropriate box)

- ☐ provincial highway ☐ right of way
☐ municipal road, seasonally maintained ☐ other public road
☒ municipal road, maintained all year

Type of water supply proposed: (check appropriate box)

- ☒ publicly owned and operated piped water system ☐ lake or other water body
☐ privately owned and operated individual well ☐ other means (specify) _____

Type of sewage disposal proposed: (check appropriate box)

- ☒ publicly owned and operated sanitary sewage system
☐ privately owned and operated individual septic system
☐ other means (specify) _____

4.3 Other Services: (check if the service is available)

- ☒ electricity ☒ telephone ☒ school bussing ☒ garbage collection

5 CURRENT LAND USE

5.1 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): _____

Urban Hamilton Official Plan designation (if applicable) Neighbourhood Designation

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

See attached report

5.2 What is the existing zoning of the subject land?

D district, (Urban Protected Residential – One and Two Family Dwellings, etc.)

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? No

5.3 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

Use or Feature	On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
An agricultural operation, including livestock facility or stockyard	<input type="checkbox"/>	

A land fill	<input type="checkbox"/>	
A sewage treatment plant or waste stabilization plant	<input type="checkbox"/>	
A provincially significant wetland	<input type="checkbox"/>	
A provincially significant wetland within 120 metres	<input type="checkbox"/>	
A flood plain	<input type="checkbox"/>	
An industrial or commercial use, and specify the use(s)	<input type="checkbox"/>	
An active railway line	<input type="checkbox"/>	
A municipal or federal airport	<input type="checkbox"/>	

6 PREVIOUS USE OF PROPERTY

- ☒ Residential ☐ Industrial ☐ Commercial
☐ Agriculture ☐ Vacant ☐ Other (specify)

- 6.1 If Industrial or Commercial, specify use _____
- 6.2 Has the grading of the subject land been changed by adding earth or other material, i.e., has filling occurred?
☐ Yes ☒ No ☐ Unknown
- 6.3 Has a gas station been located on the subject land or adjacent lands at any time?
☐ Yes ☒ No ☐ Unknown
- 6.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?
☐ Yes ☒ No ☐ Unknown
- 6.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?
☐ Yes ☒ No ☐ Unknown
- 6.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or biosolids was applied to the lands?
☐ Yes ☒ No ☐ Unknown
- 6.7 Have the lands or adjacent lands ever been used as a weapons firing range?
☐ Yes ☒ No ☐ Unknown
- 6.8 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?
☐ Yes ☒ No ☐ Unknown
- 6.9 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)?
☐ Yes ☒ No ☐ Unknown
- 6.10 Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?
☐ Yes ☒ No ☐ Unknown
- 6.11 What information did you use to determine the answers to 6.1 to 6.10 above?
 ___ Information provided by applicant.
- 6.12 If previous use of property is industrial or commercial or if YES to any of 6.2 to 6.10, 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?
☐ Yes ☐ No

7 PROVINCIAL POLICY

- 7.1 a) Is this application consistent with the Policy Statements issued under subsection of the *Planning Act*? (Provide explanation)

☒ Yes ☐ No

See attached report

- b) Is this application consistent with the Provincial Policy Statement (PPS)?
☒ Yes ☐ No (Provide explanation)

See attached report

- c) Does this application conform to the Growth Plan for the Greater Golden Horseshoe?
☒ Yes ☐ No (Provide explanation)

See attached report

- d) Are the subject lands within an area of land designated under any provincial plan or plans? (If YES, provide explanation on whether the application conforms or does not conflict with the provincial plan or plans.)
☒ Yes ☐ No

See attached report

- e) Are the subject lands subject to the Niagara Escarpment Plan?
☐ Yes ☒ No

If yes, is the proposal in conformity with the Niagara Escarpment Plan?

☐ Yes ☐ No

(Provide Explanation)

- f) Are the subject lands subject to the Parkway Belt West Plan?
☐ Yes ☒ No

If yes, is the proposal in conformity with the Parkway Belt West Plan?

☐ Yes ☐ No (Provide Explanation)

- g) Are the subject lands subject to the Greenbelt Plan?
☐ Yes ☒ No

If yes, does this application conform with the Greenbelt Plan?

☐ Yes ☐ No (Provide Explanation)

8 HISTORY OF THE SUBJECT LAND

- 8.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the *Planning Act*?
☐ Yes ☒ No ☐ Unknown

If YES, and known, indicate the appropriate application file number and the decision made on the application.

- 8.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.
-

- 8.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land? ☐ Yes ☒ No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

- 8.4 How long has the applicant owned the subject land?
The applicant has owned the property since October 3rd, 2019
-

- 8.5 Does the applicant own any other land in the City? ☐ Yes ☒ No
If YES, describe the lands in "11 - Other Information" or attach a separate page.

9 OTHER APPLICATIONS

- 9.1 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval? ☐ Yes ☒ No ☐ Unknown

If YES, and if known, specify file number and status of the application.

- 9.2 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?
☒ Yes ☐ No ☐ Unknown

If YES, and if known, specify file number and status of the application(s).

File number Unknown Status Submitted concurrently

10 RURAL APPLICATIONS

- 10.1 Rural Hamilton Official Plan Designation(s)

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> Agricultural | <input type="checkbox"/> Rural | <input type="checkbox"/> Specialty Crop |
| <input type="checkbox"/> Mineral Aggregate Resource Extraction | <input type="checkbox"/> Open Space | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Rural Settlement Area (specify) | | |

Settlement Area

Designation

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm operation.

- 10.2 Type of Application (select type and complete appropriate sections)

- | | | |
|--|---|-------------------------|
| <input type="checkbox"/> Agricultural Severance or Lot Addition | } | (Complete Section 10.3) |
| <input type="checkbox"/> Agricultural Related Severance or Lot Addition | | |
| <input type="checkbox"/> Rural Resource-based Commercial Severance or Lot Addition | | |
| <input type="checkbox"/> Rural Institutional Severance or Lot Addition | | |

☐ Rural Settlement Area Severance or Lot Addition

☐ Surplus Farm Dwelling Severance from an Abutting Farm Consolidation (Complete Section 10.4)

☐ Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation (Complete Section 10.5)

10.3 Description of Lands

a) Lands to be Severed:

Frontage (m): (from Section 4.1)	Area (m ² or ha): (from Section 4.1)
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Existing Land Use: _____ Proposed Land Use: _____

b) Lands to be Retained:

Frontage (m): (from Section 4.2)	Area (m ² or ha): (from Section 4.2)
----------------------------------	---

Existing Land Use: _____ Proposed Land Use: _____

10.4 Description of Lands (Abutting Farm Consolidation)

a) Location of abutting farm:

(Street) (Municipality) (Postal Code)

b) Description abutting farm:

Frontage (m):	Area (m ² or ha):
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Existing Land Use(s): _____ Proposed Land Use(s): _____

c) Description of consolidated farm (excluding lands intended to be severed for the surplus dwelling):

Frontage (m):	Area (m ² or ha):
---------------	------------------------------

Existing Land Use: _____ Proposed Land Use: _____

d) Description of surplus dwelling lands proposed to be severed:

Frontage (m): (from Section 4.1)	Area (m ² or ha): (from Section 4.1)
----------------------------------	---

Front yard set back: _____

e) Surplus farm dwelling date of construction:

☐ Prior to December 16, 2004 ☐ After December 16, 2004

f) Condition of surplus farm dwelling:

☐ Habitable ☐ Non-Habitable

g) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m ² or ha): (from Section 4.2)
----------------------------------	---

Existing Land Use: _____ Proposed Land Use: _____

10.5 Description of Lands (Non-Abutting Farm Consolidation)

a) Location of non-abutting farm

(Street) (Municipality) (Postal Code)

b) Description of non-abutting farm

Frontage (m):	Area (m2 or ha):
---------------	------------------

Existing Land Use(s): _____ Proposed Land Use(s): _____

c) Description of surplus dwelling lands intended to be severed:

Frontage (m): (from Section 4.1)	Area (m2 or ha): (from Section 4.1)
----------------------------------	-------------------------------------

Front yard set back: _____

d) Surplus farm dwelling date of construction:

☐ Prior to December 16, 2004 ☐ After December 16, 2004

e) Condition of surplus farm dwelling:

☐ Habitable ☐ Non-Habitable

f) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m2 or ha): (from Section 4.2)
----------------------------------	-------------------------------------

Existing Land Use: _____ Proposed Land Use: _____

11 OTHER INFORMATION

Is there any other information that you think may be useful to the Committee of Adjustment or other agencies in reviewing this application? If so, explain below or attach on a separate page.

12 SKETCH (Use the attached Sketch Sheet as a guide)

12.1 The application shall be accompanied by a sketch showing the following in metric units:

- the boundaries and dimensions of any land abutting the subject land that is owned by the owner of the subject land;
- the approximate distance between the subject land and the nearest township lot line or landmark such as a bridge or railway crossing;
- the boundaries and dimensions of the subject land, the part that is intended to be severed and the part that is intended to be retained;
- the location of all land previously severed from the parcel originally acquired by the current owner of the subject land;
- the approximate location of all natural and artificial features (for example, buildings, barns, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
 - are located on the subject land and on land that is adjacent to it, and
 - in the applicant's opinion, may affect the application;
- the current uses of land that is adjacent to the subject land (for example, residential, agricultural or commercial);
- the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private

road or a right of way;

(h) the location and nature of any easement affecting the subject land.

13 ACKNOWLEDGEMENT CLAUSE

I acknowledge that The City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application, as a result of its approval to this Application.

June 19, 2020

Date

14 AFFIDAVIT OR SWORN DECLARATION

authorization set out below must be completed.

16 CONSENT OF THE OWNER

Complete the consent of the owner concerning personal information 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 application information and supporting documentation submitted to the City.

I, _____, the Owner, hereby agree and acknowledge

that the information contained in this application and any documentation, including reports, studies and drawings, provided in support of the application, by myself, my agents, consultant 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 public upon request and disclosing the application and its supporting documentation.

June 19, 2020

Date

Signature

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, 1st floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone, 905-546-2424, ext.1284.

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

APPLICANT'S CHECKLIST

Please attach all items listed below:

- ☐ Two (2) copies of the completed application form (Ensure you have a copy for yourself);
- ☐ Three (3) copies of the prescribed sketch or survey (one (1) full scale size and two (2) no larger than ledger size paper 11" x 17"); and
- ☐ The required fee. (A cheque or money order payable to the City of Hamilton)

CITY OF HAMILTON
COST ACKNOWLEDGEMENT AGREEMENT

This Agreement made this _____ day of _____, 20_____.

BETWEEN:



-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 hereto have set their corporate seals under the hands of their duly authorized officers.



WITNESS _____

Per: _____
I have authority to bind the corporation

DATED at Hamilton, Ontario this ____ day of _____, 20____.

City of Hamilton

Per: _____
Mayor

Per: _____
Clerk

Schedule "A"
Description of Lands

SCHEDULE "B"
FORM OF ASSUMPTION AGREEMENT

THIS AGREEMENT dated the _____ day of _____, 20____.

BETWEEN



OF THE FIRST PART

-and-

(hereinafter called the "Assignee")

-and-

OF THE SECOND PART

CITY OF HAMILTON
(hereinafter called the "Municipality")

OF THE THIRD PART

WHEREAS the owner and the Municipality entered into and executed a Cost Acknowledgement Agreement dated _____.

AND WHEREAS Assignee has indicated that it will assume all of the Owner's duties, liabilities and responsibilities as set out in the Cost Acknowledgement Agreement.

AND WHEREAS Council for the Municipality has consented to releasing the Owner from its duties, liabilities and responsibilities under said Cost Acknowledgement Agreement subject to the Assignee accepting and assuming the Owner's duties, liabilities and responsibilities and subject to the Assignee the Owner and the Municipality entering into and executing an Assumption Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the parties hereto agree as follows.

1. The Assignee covenants and agrees to accept, assume and to carry out the Owner's duties, liabilities and responsibilities under the Cost Acknowledgement Agreement and in all respects to be bound under said Cost Acknowledgement Agreement as if the Assignee had been the original party to the agreement in place of the Owner.
2. The Municipality hereby releases the Owner from all claims and demands of any nature whatsoever against the Owner in respect of the Cost Acknowledgement Agreement. The Municipality hereby accepts the Assignee as a party to the Cost Acknowledge Agreement in substitution of the Owner, and agrees with the Assignee that the Assignee will be bound by all the terms and conditions of the Cost Acknowledgement Agreement as if the Assignee had been the original executing party in place of the Owner.
3. All of the terms, covenants, provisos and stipulations in the said Cost Acknowledgement Agreement are hereby confirmed in full force save and except for such modifications as are necessary to make said clauses applicable to the Assignee.

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

Title:

I have authority to bind the corporation

Assignee:

Title:

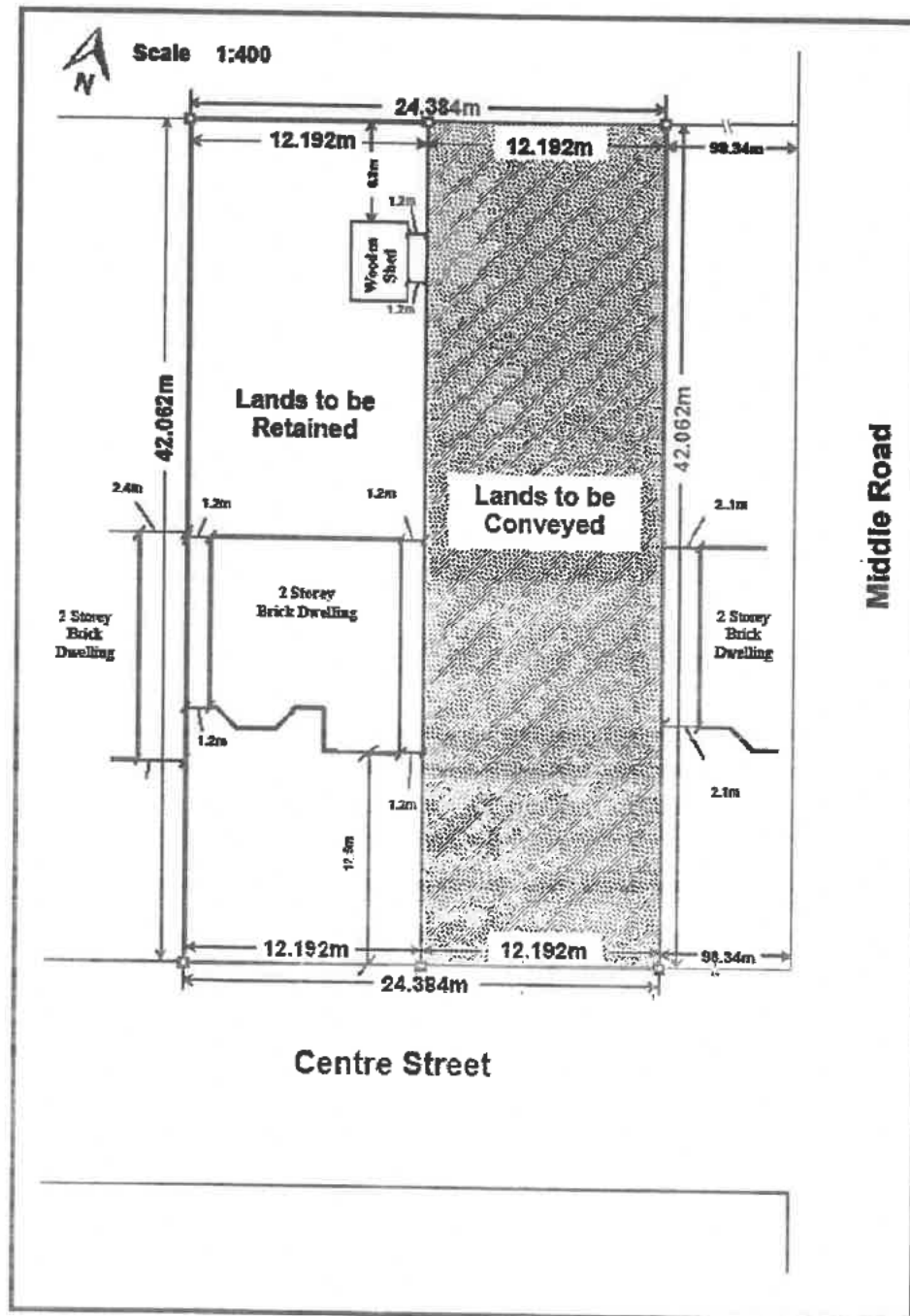
I have authority to bind the corporation

CITY OF HAMILTON

Mayor

Clerk

Sketch Sheet





June 22, 2020

Committee of Adjustment
71 Main Street West, 5th Floor
Hamilton, Ontario, L8P 4Y5

Attn: Jamila Sheffield
Secretary-Treasurer

**Re: Application for Minor Variance and Consent to Sever
29 Magill Street, City of Hamilton
EcoVue Project Number: 19-1975**

The following is being submitted in support of applications for Minor Variance and Consent at the above-noted property. The purpose of the applications are as follows:

1. **Consent** to create one (1) new lot from the property that will accommodate a new single detached dwelling;
2. **Minor Variance** to seek relief from the following provisions of Section 10 ("D" District) of the City of Hamilton Zoning By-law related:
 - a. To the retained lot:
 - i. Minimum Lot Frontage – the retained lot will have 3.18 metres of frontage, where a minimum of 12 metres of frontage is required;
 - ii. Minimum Lot Area – the retained lot will have a lot area of 277.73 square metres where 360 square metres is required;
 - iii. Interior Side Yard – the dwelling on the retained lot will have an interior side yard setback between .22 metres and 0.64 metres where 1.2 metres is required;
 - iv. A reduction in number of parking spaces from two spaces to one off street parking with use of 2.27 metres of the city owned boulevard.
 - b. To the severed lot:

- i. Minimum Lot Frontage – the severed lot will have 7.36 metres of frontage, where a minimum of 12 metres of frontage is required;
- ii. Minimum Lot Area –the severed lot will have a lot area of 235.47 square metres where 360 square metres is required;
- iii. Interior Side Yard – the proposed dwelling on the severed lot will have an interior side yard setback of 0.6 metres where 1.2 metres is required;
- iv. Variances for the percentage of landscaped area in the front yard – 43.12% where 50% is required;
- v. A reduction in number of parking spaces from two spaces to one space.

This letter-report will review both applications in the context of applicable land use planning regulations and policies, including Section 45(1) of the Planning Act, as well as the Provincial Policy Statement, Place to Grow: Growth Plan for the Greater Golden Horseshoe, and the City of Hamilton Official Plan.

1.0 SUBJECT PROPERTY AND PROPOSAL

The subject property is located at 29 Magill Street in the City of Hamilton. The property is approximately 474 square metres with 15.5 metres of frontage on Magill Street. There is currently a one (1) storey single detached dwelling located on the northern portion of the property.

The property owner is proposing to sever the subject property into two lots of approximately equal size and frontage. A new single detached dwelling will be constructed on the severed lot. The existing dwelling unit will remain on the retained lot. Each lot will have one parking area in the front of the dwelling.

The property is located in a residential area with primarily single and semi-detached dwellings. The property is currently zoned “D” District (Urban Protected Residential – One and Two Family Dwellings).

2.0 APPLICATION FOR MINOR VARIANCE

The following provides a review of the variance in the context of the four tests under Section 45 (1) of the Planning Act. Section 45(1) of the *Planning Act* sets out ‘four tests’ to be considered when submitting a Minor Variance application. Those four tests are:

1. The application should meet the general intent of the Official Plan;
2. The application should meet the general intent of the Zoning By-law;
3. The requested variance is minor in nature; and,
4. The requested variance is desirable for the appropriate development or use of land, building or structure.

Below is a summary of the proposed Minor Variances in the context of the four tests listed above.

2.1 General Intent of the City of Hamilton Official Plan

The subject lands are designated Neighbourhood Designation according to Chapter E – Urban Designations of the City of Hamilton Official Plan. As outlined in Section E.3.2.4 of the Official Plan, this designation provides for *residential intensification* within the Neighbourhood Designation that will *enhance and be compatible with the scale and character of the existing residential neighbourhood*. Section B.2.4 – Residential Intensification further outlines the key component of Hamilton’s growth strategy and confirms that residential intensification is essential to meet growth and employment targets within the City of Hamilton. This proposed minor variance would provide for residential intensification and would be in keeping with the neighbourhood character. The dwelling units along Magill Street generally feature small side yards on lots that range between approximately 225 and 550 square metres. In particular, there are a number of existing single detached dwellings located on lots of a similar size to the proposed severed and retained lots adjacent to the subject lands on the eastern side of Magill Street. Therefore, it is our opinion that the proposed minor variances meet the general intent of the City of Hamilton Official Plan.

2.1.1 West Harbour Secondary Plan

The subject property is located within the West Harbour Secondary Plan (the Secondary Plan) and is designated Low Density Residential on Schedule M-2: General Land Use. General Policies for land uses are outlined in Section 6.3.3 of the Secondary Plan to ensure that “*all future planning and development in the area addresses issues and opportunity best viewed from an area-wide or city-wide perspective*”. Section A.6.3.3.1.12 outlines development in Low Density Residential areas:

- i) the scale, type and character of new development shall generally reflect existing low density development in the neighbourhood;*
- ii) single detached, semi-detached and street townhouses are permitted;*
- iii) the density of development shall range from 25 to 60 units per gross hectare;*
- iv) existing grid patterns of streets, blocks, and open space, and/or those proposed by this plan, shall be respected;*
- v) lot dimensions and building setbacks shall be generally consistent with other Low Density Residential properties in the neighbourhood;*
- vi) for streets where a road allowance widening is required, the setback under the zoning by-law must be taken from the widened road allowance; and*
- vii) garages shall be located generally at the rear of properties and accessed from rear laneways where feasible.*

Section A.6.3.3.1.16.3.1 further outlines:

Notwithstanding policy A.6.3.5.1.2.3 of this Plan, the following uses shall be permitted on lands designated Low-Density on Schedule M-2a:

- i) single detached, semi detached, street townhouses and stacked townhouses; and*
- ii) open space and parks.*

In addition, the Secondary Plan Section A.6.3.2.2 – Strengthen existing neighbourhoods, provides a planning principle in terms of development in the West Harbour area of Hamilton. Section A.6.3.2.2 i) states that *“it is important to i) ensure new development respects and enhances the character of the neighbourhoods”*.

The proposed minor variances will provide for a new single detached dwelling unit, which is a permitted use in the Low Density Residential designation. Furthermore, the scale of the proposed development will be in keeping with the neighbourhood character (see: **Appendix A**). As mentioned, the dwelling units on Magill Street are generally arranged on lots of a similar size and with similar side yard setbacks. With the additional dwelling unit, the total density of the subject lands equates to 36 units per hectare, which is in keeping with the density requirements in the Low Density Residential designation.

The overall intent of the Secondary Plan is to allow for intensification in the West Harbour neighbourhood. The proposed development would allow for an additional single detached dwelling on the street, through infilling, that is currently municipally serviced and where residents can access amenities in the neighbourhood. Therefore, it is our opinion that the minor variances meet the general intent of the Secondary Plan.

2.2 General Intent of the City of Hamilton Zoning By-law No. 6593

The property at 29 Magill Street is zoned “D” District (Urban Protected Residential – One and Two Family Dwellings, etc.) according to the interactive Zone Map of the City of Hamilton. The “D” District Zone permits a range of residential uses including, but not limited to, *“a single family dwelling, together with accommodation of lodgers to the number of not more than three.”*

In “D” District the following yard requirements are provided:

- (i) a front yard of a depth of at least 6.0 metres (19.69 feet);*
- (ii) for a building or structure not over two and a half storeys or 11.0 metres (36.09 feet) in height, a side yard along each side lot line, of a width of at least 1.2 metres (3.94 feet), and for any other building or structure, side yards of a width each of at least 2.7 metres (8.86 feet); and*
- (iii) a rear yard of a depth of at least 7.5 metres (24.61 feet).*

In “D” District the following intensity of use also apply:

- (i) for a single family dwelling, residential care facility or lodging house, a width of at least 12.0 metres (39.37 feet) and an area of at least 360.0 square metres (3875.13 square feet);*

The proposed redevelopment does not meet the required frontage, lot area or interior side yard setbacks of the “D” District. As such, the applicant is requesting a variance from the Minimum Lot Width (frontage), the Minimum Lot Area, and the Minimum Interior Side Yard Setback provisions. The purpose of these provisions in the Zoning By-law is as follows:

- **Minimum Lot Width and Area:** these provisions are intended to ensure that new lots within residential areas can appropriately accommodate new development that is in keeping with the character of the neighbourhood. As demonstrated herein, the proposed severed and retained lot can adequately accommodate both the existing and a new dwelling unit. The addition of the new dwelling unit will be in keeping with the neighbourhood character.
- **Minimum Interior Side Yard Setback:** this provision is intended to ensure that development on residential lots are adequately spaced. In our opinion, the proposed reduction in the interior side yard will still provide adequate space between the existing and proposed dwelling unit. Furthermore, the interior side yard is in keeping with existing interior side yards along Magill Street.
- **Parking**

The proposed development does not meet the requirements established as part of Table 1 - Minimum Required Parking for, Residential, Institutional, Public and Commercial Uses which requires 2 parking spaces for each Class A dwelling unit, for the first 8 habitable rooms in the dwelling unit...”. It is our opinion that the intent of requiring 2 spaces for each dwelling unit is to adequately accommodate the needs of families and those residents that require multiple vehicles. That said, it is understood that this provision may not accurately reflect the changing trends within urban centres.

Both the severed and retained lot will allow for one parking space for each dwelling. This general area of the City of Hamilton has been identified in the West Harbour (Setting Sail)

Secondary Plan as an area where public transit, cycling, walking should play a significant role in the City's transportation system. Both the proposed single detached dwelling on the severed lot and the existing single detached dwelling on the retained lot should can be adequately served by one parking space each as there are a number of options for transportation in the area. Furthermore, a number of commercial services are located within walking distance of the subject property. Therefore, allowing for a reduction in parking spaces can be considered minor in nature.

Overall, it is our opinion that the Minor Variances meet the general intent of the City of Hamilton Zoning By-law.

2.3 The Requested Variances are Minor in Nature

It is our opinion that this variance should be considered minor. It has been demonstrated herein that the reduction in lot area, frontage and the side yard setback will not result in any negative impacts to the adjacent properties or the surrounding neighbourhood. Both the severed and retained lots are equal or greater in size to several lots in the immediate area. Furthermore, the relief being sought for each provision is numerically minor:

1. Lot Area Conveyed: 234 sq. m where 360 sq. m is required = 35% reduction
2. Lot Area retained: 277.73 sq. m where 360 sq. m is required = 23% reduction
3. Lot Frontage (severed): 7.36 m where 12 m is required = 61% reduction
4. Lot Frontage (retained): 3.18 m where 12 m is required = 73% reduction
5. Interior Side Yard Setback: 0.59 to 0.65 m where 1.2 m is required = 49 to 54% reduction
6. Parking: 1 space per dwelling unit where 2 spaces are required.

Although the reduction in the side yards for both the severed and retained lots represents a larger percentage reduction (61% and 73% respectively), the distance is relatively small in the context of standard lot regulations (0.8 metres). Furthermore, the reduction in the side yards, as well as lot frontage for both the severed and retained lots, is comparable to a number of properties on Magill Street. Therefore, it is our opinion that the requested variances are minor in nature.

2.4 Desirable for the Appropriate Development

The subject property is part of the Built-up Area of the City of Hamilton which has been identified in both Provincial and local planning documents as an area of higher densities. The proposed severance and minor variance would provide for development that is consistent with the character of the street. As demonstrated herein, the neighbourhood is currently made up of a mix of medium to high density. The existing dwelling units, particularly those units and lots located immediately east of the subject lands, are of a similar size and massing as the proposed severed and retain lots. Furthermore, the minor variance would enable more housing in an area identified in the Official Plan as an area for intensification.

3.0 PROVINCIAL POLICY STATEMENT AND A PLACE TO GROW: GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE

As noted, the proposed Consent application must be evaluated under the applicable land use policies, including those applicable Provincial policies.

The Provincial Policy Statement (PPS) 2020 and Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) provide a policy framework for land use planning within the Province of Ontario. It is the responsibility of the local planning authorities, in this case the City of Hamilton, to uphold the policies of the PPS pertaining to land use planning and development. In particular, the planning authorities must ensure that their decisions are consistent with key provincial interests including policies related to settlement areas in urban and rural communities, the wise use and management of resources and public health and safety.

Section 1.1.3 of the PPS outlines policies as they relate to Settlement Areas. Section 1.1.3.1 states *that settlement areas shall be the focus of growth and development*. The subject property is in an Urban Growth Centre and thus is considered to be located within a settlement area. It is the intention of the PPS to direct the vast majority of growth to settlement areas, in particular the ones with municipal services. The proposed development represents infilling and intensification within a settlement and is therefore consistent with the policies listed in Section 1.1.3 of the PPS.

The City of Hamilton is also included within the area subject to the policies of the Growth Plan. Section 2.2.1.2 a) of the Growth Plan states that *“the vast majority of growth will be directed to*

settlement areas that have a delineated built boundary, have existing or planned municipal water or wastewater systems and can support the achievement of complete communities". As mentioned, the subject property is located within a settlement area that is serviced with municipal sewer and water and supports the achievement of complete communities with options for active transportation, mixed uses and commercial areas within the neighbourhood.

The Growth Plan also sets out population and employment distribution by municipality over the horizon of the Plan. The City of Hamilton is expected to grow significantly over the next 30 years. At least 50% of this growth is expected to occur with the built boundary of the municipality. The proposed lot creation provides for intensification on fully serviced land within the built boundary. Therefore, the proposed severance is in line with the policies for growth as outlined in the Growth Plan.

As such, it is our opinion that the proposed severance is consistent with the policies of the PPS and the Growth.

3.1 City of Hamilton Official Plan – Division of Land – Lot Creation – Urban Area

Consents for new lot creation in the Neighbourhood Designation is outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan. Lot creation in the Neighbourhood Designation shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;*
- b) The lots comply with existing Neighbourhood Plans;*
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;*
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;*
- e) The lots are fully serviced by municipal water and wastewater systems; and,*
- f) The lots have frontage on a public road.*

The following discussions outlines the requirements for consents for new lot creations as it relates to this proposed development.

a) The lots comply with the policies of this Plan, including secondary plans, where one exists;

Compliance/consistency with the City of Hamilton Official Plan is outlined in Section 2.1 of this report. The proposed severance will be in line with the City of Hamilton Official Plan as it relates to intensification in an existing neighbourhood. The City's growth strategy, outlined in the Official Plan, confirms that residential intensification is essential to meet growth and employment targets within the municipality. This severance will also provide for residential intensification within an existing neighbourhood, which is outlined as desirable in the Official Plan.

b) The lots comply with existing Neighbourhood Plans;

West Harbour (Setting Sail) Secondary Plan (January 2020) outlines guidelines for development in the area of West Harbour in the City of Hamilton. Section A.6.3.3.1.12 outlines development for the subject property and is described in Section 2.1 of the plan.

c) The lots are in conformity with the Zoning By-law or a minor variance is approved;

Minor variances are being requested as part of the Consent application. These variances are related to relief from lot frontage, lot area, and interior side yard provisions.

d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;

The proposed severed and retained lots will be in line with the character of the neighbourhood as outlined in Section 2 this report. **Appendix A** provides photographs of the street and shows the overall character of the area. As seen on the Consent Sketch, the proposed lot sizes and frontages will be in keeping with the sizes and frontages of lots on the street, particularly those lots in the immediate area.

e) The lots are fully serviced by municipal water and wastewater systems; and,

The new lot will be fully serviced by municipal water and wastewater.

f) The lots have frontage on a public road.

The new lot will have frontage on to a public road.

The proposed lot creation meets the requirements for a lot creation in a Neighbourhood Designation is outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan.

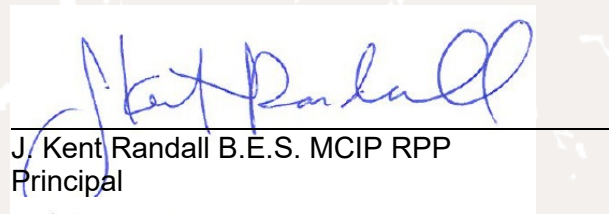
4.0 SUMMARY

As demonstrated, the proposal meets the four tests for a Minor Variance. The proposed variance meets the general intent of the City of Hamilton Official Plan, the City of Hamilton Zoning By-law, is considered minor in nature and is appropriate and desirable development for the neighbourhood. Based on the foregoing review of relevant *Planning Act* and policy considerations, it is our opinion that the Minor Variance constitutes good planning.

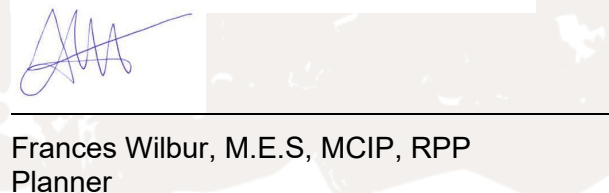
The proposal also meets the requirements for lot creation – urban areas as outlined in Chapter F Section 1.14.3 of the City of Hamilton Official Plan. The lot creation is in line with existing housing on the street and will create additional housing in a neighbourhood identified for intensification in the City of Hamilton Official Plan. It is our opinion that the lot creation constitutes good planning.

Respectfully Submitted,

ECOVUE CONSULTING SERVICES INC.

A blue ink signature of J. Kent Randall, written in a cursive style, is positioned above a horizontal line. Below the line, the text "J. Kent Randall B.E.S. MCIP RPP" and "Principal" is printed.

J. Kent Randall B.E.S. MCIP RPP
Principal

A blue ink signature of Frances Wilbur, written in a cursive style, is positioned above a horizontal line. Below the line, the text "Frances Wilbur, M.E.S, MCIP, RPP" and "Planner" is printed.

Frances Wilbur, M.E.S, MCIP, RPP
Planner

Appendix A

Photographs of current housing on Magill Road





Current dwelling at 29 Magill Street, retained lot.



Directly across the street, 28 and 26 Magill Street.



Images of other housing units on Magill Street, 30 and 32 Magill Street.



Images of other housing units on Magill Street. 51 and 53 Magill Street.



Looking North on Magill Street.



Images of other housing units on Magill Street. 37 Magill Street.

Appendix B

Sketch of proposed building

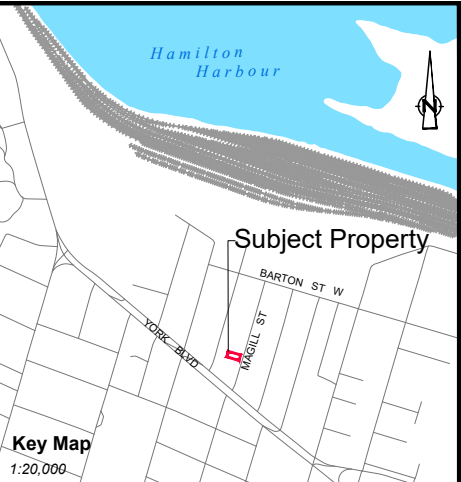
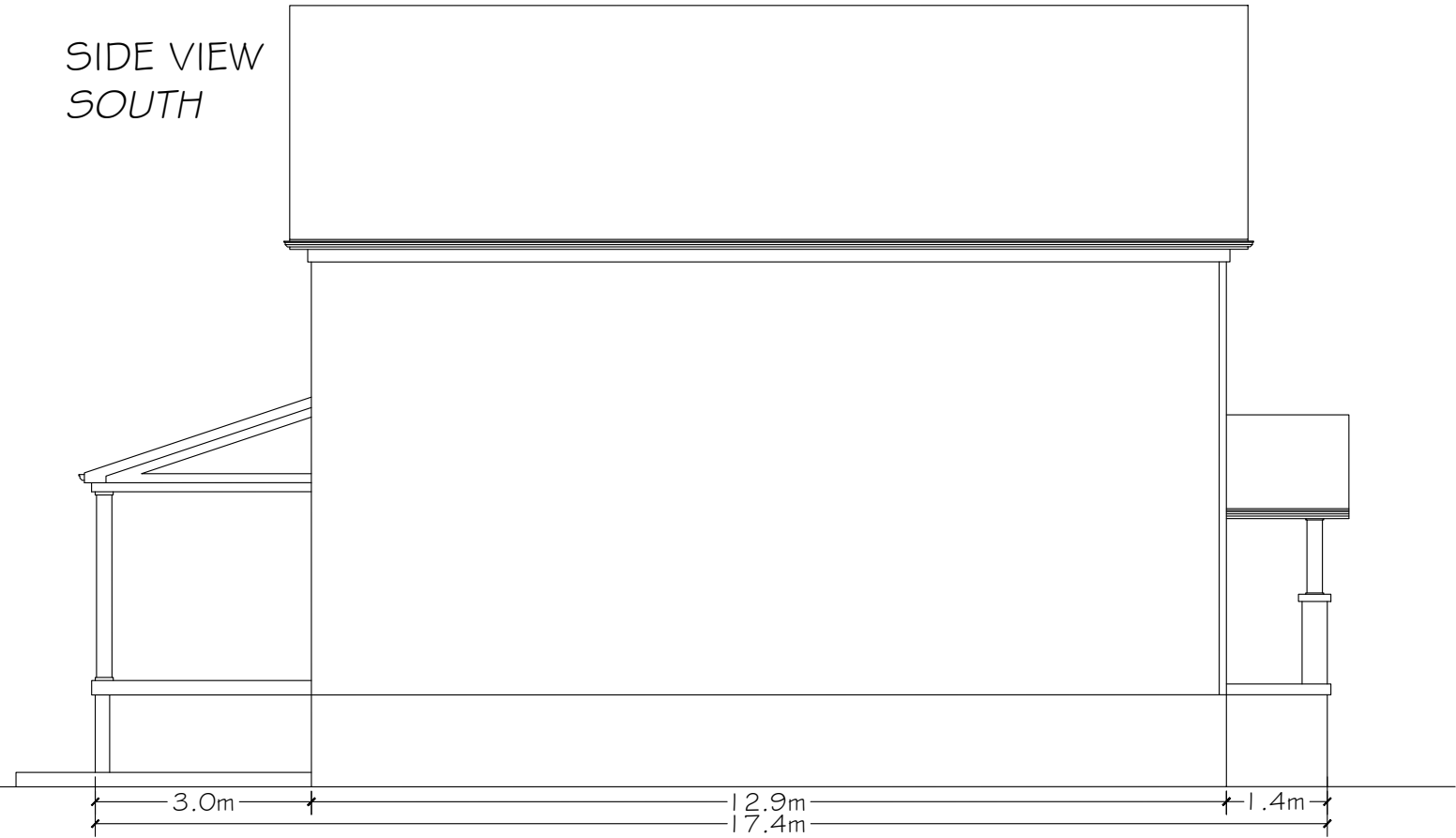





SIDE VIEW
NORTH



SIDE VIEW
SOUTH



		EcoVue Consulting Services Inc. 311 George St. N., Suite 200 Peterborough ON K9J 3H3 Tel: 705-876-8340 Fax: 705-742-8343 www.ecovueconsulting.com	
DRAWN BY: MC		PROJECT No.: 19-1975	
APPROVED BY:		HORIZ. SCALE: 1:100	
REVISION DATE: March 12 2020		PLOT DATE: March 12 2020	
Demetry Tselepakis 29 MAGILL STREET Hamilton, ON			
CONCEPTUAL BUILDING ELEVATIONS			CS2

