



October 30, 2020

360-20

Via Email

Ms. Jamila Sheffield
Secretary Treasurer
Committee of Adjustment

City of Hamilton
71 Main St. West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Dear Ms. Sheffield,

**RE: Consent to Sever Application No. SC/B-20:44
28 Sandbeach Drive, Hamilton
Notice of Decision – Conditions**

As you know, UrbanSolutions Planning & Land Development Consultants Inc. (UrbanSolutions) is the authorized planning consultant acting on behalf of the owners, Gianni and Marcie DeFaveri, for the lands known municipally as 28 Sandbeach Drive.

In the normal fashion, Page 1 of the staff Consolidation Report dated August 27, 2020 for the subject application contained 7 conditions of approval that staff recommended should apply should the Committee grant the severance. None of the 7 conditions required an Archeological Assessment.

Later, the Notice of Decision, also dated August 27, 2020 included 8 conditions with Condition No. 6 requiring the completion of an Archaeological Assessment to the satisfaction of the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) despite that the need for this additional conditions was not raised during the hearing.

Typically, in severances involving a staff recommendation for a condition of approval requiring an Archaeological Assessment, it is UrbanSolutions practice to request the condition be changed to a Note advising the potential of encountering archaeological resources and the need to report any findings to the MHSTCI immediately. In these instances, the Committee of Adjustment often grants this request.

Had Page 1 of the staff Consolidation Report recommended an Archaeological Assessment condition, UrbanSolutions would have requested the condition be changed to a Note as described above.

Accordingly, please accept this letter as UrbanSolutions formal request to have the Committee of Adjustment issue and circulate a new Notice of Decision with Condition No. 6 changed to the following Note:

NOTE:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct a archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation of resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation by an Ontario-licensed archaeologist, may include monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MHSTCI.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MHSTCI should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

We trust that the enclosed is in order, however, please feel free to contact us with any questions.

Regards,
UrbanSolutions



Matt Johnston, MCIP, RPP
Principal



Brandon Petter, MPlan
Planner

cc: Mr. Gianni DeFaveri
Mr. Sergio Manchia, MCIP, RPP, UrbanSolutions



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424
ext. 4221, 3935
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENTLAND SEVERANCE

APPLICATION NO. SC/B-20:44
SUBMISSION NO. B-44/20

APPLICATION NUMBER: SC/B-20:44

SUBJECT PROPERTY: 28 Sandbeach Dr., Stoney Creek

APPLICANT(S): Urban Solutions c/o M. Johnston on behalf of the owners G. & M. Defaveri

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for residential purposes and to retain a parcel of land for residential purposes

Severed lands:

24.20m[±] x 57.81m[±] and an area of 1,399.96m^{2±}

Retained lands:

16.20m[±] x 57.87m[±] and an area of 937.70m^{2±}

**This application was heard in conjunction with
Minor Variance Application SC/A-20:145**

That the said application, as set out above, **IS APPROVED**, for the following reasons:

1. The proposal does not conflict with the intent of the Urban Hamilton Official Plan.
2. The proposal does not contravene Zoning By-law requirements.
3. The Committee considers the proposal to be in keeping with development in the area.
4. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.
3. The owner shall receive final and binding approval of minor variance application SC/A-20:145 to be heard in conjunction with this application.

4. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).
5. That the owner provided a cash payment to the City for the outstanding servicing costs, adjusted with Canadata index, related to the 0.3m reserve to the satisfaction of the Manager of Engineering Approvals Section.
6. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
8. The owner submits to the Committee of Adjustment office an administration fee, of \$20.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

DATED AT HAMILTON this 27th day of August, 2020.

D. Smith (Acting Chairman)

D. Serwatak

L. Gaddy

B. Charters

M. Switzer

T. Lofchik

M. Smith

N. Mleczo

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS September 3, 2020.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (September 3, 2021) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE LOCAL PLANNING APPEAL TRIBUNAL (LPAT) MAY BE FILED IS **September 23rd 2020.**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

1. Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 24 Sandbeach Drive (Stoney Creek), and the lands to be retained will be assigned the address of 28 Sandbeach Drive (Stoney Creek).
2. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

SC/B-20:44 (28 Sandbeach Dr., Stoney Creek

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The owner/applicant shall satisfy the requirements of the Public Works Department Operations and Maintenance Division, Forestry & Horticulture Section.
3. The owner shall receive final and binding approval of minor variance application SC/A-20:145 to be heard in conjunction with this application.
4. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).
5. That the owner provided a cash payment to the City for the outstanding servicing costs, adjusted with Canadata index, related to the 0.3m reserve to the satisfaction of the Manager of Engineering Approvals Section.
6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
7. The owner submits to the Committee of Adjustment office an administration fee, of \$20.00 payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot.

Notes:

1. Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 24 Sandbeach Drive (Stoney Creek), and the lands to be retained will be assigned the address of 28 Sandbeach Drive (Stoney Creek).
2. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

SC/B-20:44 (28 Sandbeach Dr., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the conveyance of a parcel of land for residential purposes and to retain a parcel of land for residential purposes

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The Urban Lakeshore Area Secondary Plan designates the subject lands “Low Density Residential 2b” (Volume 2 - Map B.7.3-1). Single detached dwellings are permitted within the designations (Volume 1 - E.3.4.3 and Volume 2 - B.7.3.1.3 (a)). The proposed density is consistent with the permitted density range of 1 to 29 units per hectare (Volume 2 - B.7.3.1.3 (b)).

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Neighbourhood Development “ND” Zone.

The “ND” Zone does not permit the use of the land for any purpose other than that for which it was used on the date that the Zoning By-law was passed until the land has been rezoned by By-law (Subsection 7.1.1). New single detached dwellings are not permitted, and as such, there are no provisions within the zoning that would apply to the proposed single detached dwellings, such as minimum lot area or frontage, or minimum yards. The purpose of these applications is to permit the construction of a single detached dwelling; however, should the subject consent be approved, the existing zoning would not permit single detached dwellings to be constructed. Accordingly, staff requests that any approvals be conditional upon final and binding approval of a Zoning By-law Amendment.

Archeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone; and,
- 3) Along historic transportation routes.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Analysis

Staff must have regard for whether the proposed lots conform to the Official Plan and adjacent plans of subdivision when considering severance applications (Planning Act, subsection 51 (24) (c)). Notwithstanding the proposed use and density conforms, Staff is of the opinion that the proposal does not conform to the applicable Residential Intensification policies nor the Lot Creation policies of the UHOP.

The proposed development is defined as Residential Intensification, and as such, must be evaluated based on the criteria of Volume 1-Section B. 2.4.1.4 and B.2.4.2.2. The proposal does not maintain or enhance the existing neighbourhood character or streetscape patterns. The lots on the east side of Sandbeach Drive (Plan of Subdivision 62M-987) provide consistent lot frontages of 18 m (interior lots) and lot areas of 450 sq. m (interior lots). The proposed lots along provide frontages of 16.20 m and 24.20 m and lot areas of 937.70 sq. m and 1,399.96 sq. m. The proposed lots do not conform to the adjacent Plan of Subdivision.

In addition to the criteria established for Residential Intensification in Volume 1-Section B, lot creation in the urban area must be consistent with the UHOP policies of Volume 1-Section F. 1.14.3 Lot Creation – Urban Area. The proposed lots do not reflect the general scale and character of the established development pattern in consideration of the reduced and inconsistent lot frontages and relatively large lot areas. The proposed lots are not in conformity with the Zoning By-law and require submission and approval of Zoning By-law Amendment application to permit any development. The proposed lots do not have frontage on a public road until such time as the reserve block abutting Sandbeach Drive is dedicated as public highway. It is the opinion of staff that the conditions outlined in Section F.1.14.3.1 are not satisfied by the proposed development.

In the opinion of staff, the lots should be rezoned prior to approval of any development applications under the Planning Act. Through the Zoning By-law Amendment process,

the proposed lot frontages and lot areas would be comprehensively reviewed to determine whether they represent good planning. Further, the Zoning By-law Amendment process would allow opportunity to apply provisions to control permitted uses and required yards, maximum building height, and maximum lot coverage. Should these applications be approved prior to final and binding approval of a Zoning By-law Amendment, the lot frontages and lot areas would be established thereby circumventing the planning process.

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is not satisfied that the proposed consents conform to the Official Plan or the adjacent plan of subdivision. Staff recommends that the requested consents be denied.

Should the Committee approve the applications, staff requests that approval be subject to the conditions outlined below.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

1. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal

Parking System (905-546-2424 x4578 or parking@hamilton.ca).

Building Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
2. Final and binding approval of SC/A-20:145 is required to facilitate this application.
3. Demolition permits 20-156925 and 20-156914 have been issued and closed for the existing single detached dwelling and accessory building on the subject lands, as shown of GISNet mapping system.

CONDITIONS:

1. The owner shall receive final and binding approval of minor variance application SC/A-20:145 to be heard in conjunction with this application.

Growth Management:

Note: Based on the application being approved and all the conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the address of 24 Sandbeach Drive (Stoney Creek), and the lands to be retained will be assigned the address of 28 Sandbeach Drive (Stoney Creek).

Development Engineering:

Information:

There is an existing 0.3m reserve along Sandbeach Drive adjacent to the subject lands that must be lifted prior to development of the subject lands. Therefore, as a condition of approval the owner is required to provide a cash payment to the City for their share of the outstanding servicing costs for installation of Sandbeach Drive.

Recommendations:

1. The applicant must enter into and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure as required and securities for items that may include: lot grading (\$10,000.00

grading security), driveway approaches and culverts, relocation of any existing infrastructure (hydro poles, etc.) and any damage to municipal infrastructure during construction (unknown costs at this time).

2. That the owner provided a cash payment to the City for the outstanding servicing costs, adjusted with Canadata index, related to the 0.3m reserve to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning & Parking Division (Traffic):

Transportation Planning have no objections to the land severance application.

See attached for additional comments.



Shannon Clarke, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 4219, Fax (905) 546-4473
Email – Shannon.Clarke@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: August 18, 2020

To: Jamila Sheffield, Committee of Adjustments Secretary/Treasurer
Development Planning Heritage and Design
City Hall – 71 Main St. W. – 5th Floor

From: Shannon Clarke, Urban Forest Health Technician

Subject: 28 Sandbeach Drive, Stoney Creek
File: SC/B-20:44

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, August 27th, 2020, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

An assessment of the information provided shows that there are potential conflicts with publicly owned trees. Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician.

Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.

A **Permit** to injure or remove municipal trees is a requirement of this application. Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.

Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees and payments.

No Landscape plan required

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

The Forestry & Horticulture Section requires that a **Tree Management Plan** be prepared by a **Registered Landscape Architect**. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intensions regarding retention or removal.

It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.

The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree.

- ❖ Species by Botanical and common name
- ❖ Diameter at breast height in centimeters or millimeters
- ❖ Ownership {> 50% @ ground level = ownership}
- ❖ Biological health
- ❖ Structural condition
- ❖ Proposed grade changes within individual driplines {compulsory}
- ❖ Proposed utility construction within individual driplines {compulsory}
- ❖ Proposed removals or relocations
- ❖ Proposed trees to be protected

If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the **Public Tree Preservation and Sustainability Policy**.

The determination of ownership of all trees is the responsibility of the applicant and any civil issues which may exist or arise between property owners with respect to trees, must be resolved by the applicant. The ownership of each individual tree inventoried must be clearly stated as municipal or private.

All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the **Public Tree Preservation and Sustainability Policy** in conjunction with **By-Law 15-125**.

A \$273.26 plus HST permit fee, payable to the City of Hamilton is required prior to the permit issuance.

A permit will be issued upon approval of the Tree Management Plan and applicable fees.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the forestry & Horticulture Section.

SUMMARY

- There are municipal tree assets on site; therefore a Tree Management Plan is required.
- No Landscape plan required
- **A permit will be issued upon approval of the Tree Management Plan and applicable fees.**

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546-2424 Ext. 4219.

Regards,

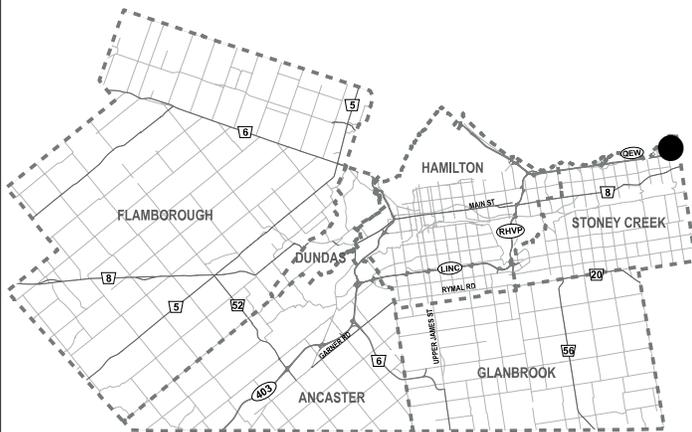


Shannon Clarke
Urban Forest Health Technician

HST # 22828-000100



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

28 Sandbeach Drive, Stoney Creek (Ward 10)



Lands to be Retained



Lands to be Severed

File Name/Number:

SC/B-20:44

Date:

August 18, 2020

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

SC/A-20:145 (28 Sandbeach Dr., Stoney Creek)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

1. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

SC/A-20:145 (28 Sandbeach Dr., Stoney Creek)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the creation of two (2) new lots and the construction of a new single detached dwelling on each lot.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The Urban Lakeshore Area Secondary Plan designates the subject lands “Low Density Residential 2b” (Volume 2 - Map B.7.3-1). Single detached dwellings are permitted within the designations (Volume 1 - E.3.4.3 and Volume 2 - B.7.3.1.3 (a)). The proposed density is consistent with the permitted density range of 1 to 29 units per hectare (Volume 2 - B.7.3.1.3 (b)).

Former City of Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Neighbourhood Development “ND” Zone.

The “ND” Zone does not permit the use of the land for any purpose other than that for which it was used on the date that the Zoning By-law was passed until the land has been rezoned by By-law (Subsection 7.1.1). New single detached dwellings are not permitted, and as such, there are no provisions within the zoning that would apply to the proposed single detached dwellings, such as minimum lot area or frontage, or minimum yards. The purpose of these applications is to permit the construction of a single detached dwelling; however, should the associated consent (SC/B-20:44) be approved, the existing zoning would not permit single detached dwellings to be constructed. Accordingly, staff requests that any approvals be conditional upon final and binding approval of a Zoning By-law Amendment.

Variance 1

The applicant is seeking a variance for the creation of two new lots and the construction of a new single detached dwelling on each lot to be permitted whereas any building, structure or land in a ND zone is only permitted to be used for the purpose for which it was used on the date of the passing of the By-law (December 8, 1992) until such land has been rezoned by a By-law, which has been approved in accordance with Subsection 34 of The Planning Act, R.S.O., 1990, c.P.13.

Staff note that new single detached dwelling are not permitted within the Neighbourhood Development “ND” Zone. Therefore, the variance is not minor in nature and is not

desirable for the appropriate development of the lands, staff are not in support of this variance.

Variance 2

The applicant is seeking a variance for the construction of a new single detached dwelling to be permitted to be constructed on both the lands to be conveyed and the lands to be retained whereas Permitted Uses for Each Lot only allows single detached dwellings and uses, buildings or structures accessory thereto which existed on the date of the passing of the By-law (December 8, 1992).

Staff note that new single detached dwellings are not permitted within the Neighbourhood Development “ND” Zone. Therefore, the variance is not minor in nature and is not desirable for the appropriate development of the lands, staff are not in support of this variance.

Variance 3

The applicant is seeking a variance for regulations of Section 5.4.3 to apply to a new single detached dwelling whereas the regulations of Section 5.4.3 are only permitted to be applied to any additions or reconstruction of a single detached dwelling existing on the dated of the passing of the by-law (December 8, 1992).

Staff note that new single detached dwellings are not permitted within the Neighbourhood Development “ND” Zone. Therefore, the variance is not minor in nature and is not desirable for the appropriate development of the lands, staff are not in support of this variance.

Archeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone; and,
- 3) Along historic transportation routes.

These criteria defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).

Recommendation:

Having regard for the matters under subsection 51(24) of the Planning Act, staff is satisfied that the proposed variances conform to the Official Plan but do not conform to the intent of the Zoning By-law and are not minor in nature. Staff recommends that the requested variances be **denied**.

Should the Committee approve the applications, staff requests that approval be subject to the conditions outlined below.

CONDITIONS: (If Approved)

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI).
2. That final and binding approval of a Zoning By-law Amendment application be received.
3. That the reserve block abutting Sandbeach Drive, being Part of Block 193, 62M-987, be dedicated by By-law as public highway, and that the By-law be registered.

NOTE:

2. The applicant should be notified that any new driveway or an access entrance, relocation of an existing driveway and/or the access entrance, or required alteration to a driveway design or the access entrance, will require a Residential Access Permit. The applicant is responsible for the application fee of the Access Permit, as well as the installation of any new approach ramp/access and or any modification to any existing approach ramp. Abandoned driveway approach ramps must be restored to curb/sidewalk at the expense of the applicant. Further information and

applications are available from the Parking Investigator at Hamilton Municipal Parking System (905-546-2424 x4578 or parking@hamilton.ca).

Building Division:

1. These variances are necessary to facilitate Land Severance application SC/B-20:44 to be heard in conjunction with this application.
2. Further variances will be required if the proposed lots are not serviced by sanitary sewers and municipal water.
3. Details regarding the proposed dwellings have not been provided to determine zoning compliance.
4. Construction of the proposed single detached dwellings are subject to the issuance of a building permit from the Building Division. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Development Engineering:

No Comment

See attached for additional comments.

August 24, 2020

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Morgan Evans

File# 28 Sandbeach Dr

Re: SC/A:20-145

In response to your correspondence dated August 11, 2020, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.

We would also like to stipulate the following:

- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)

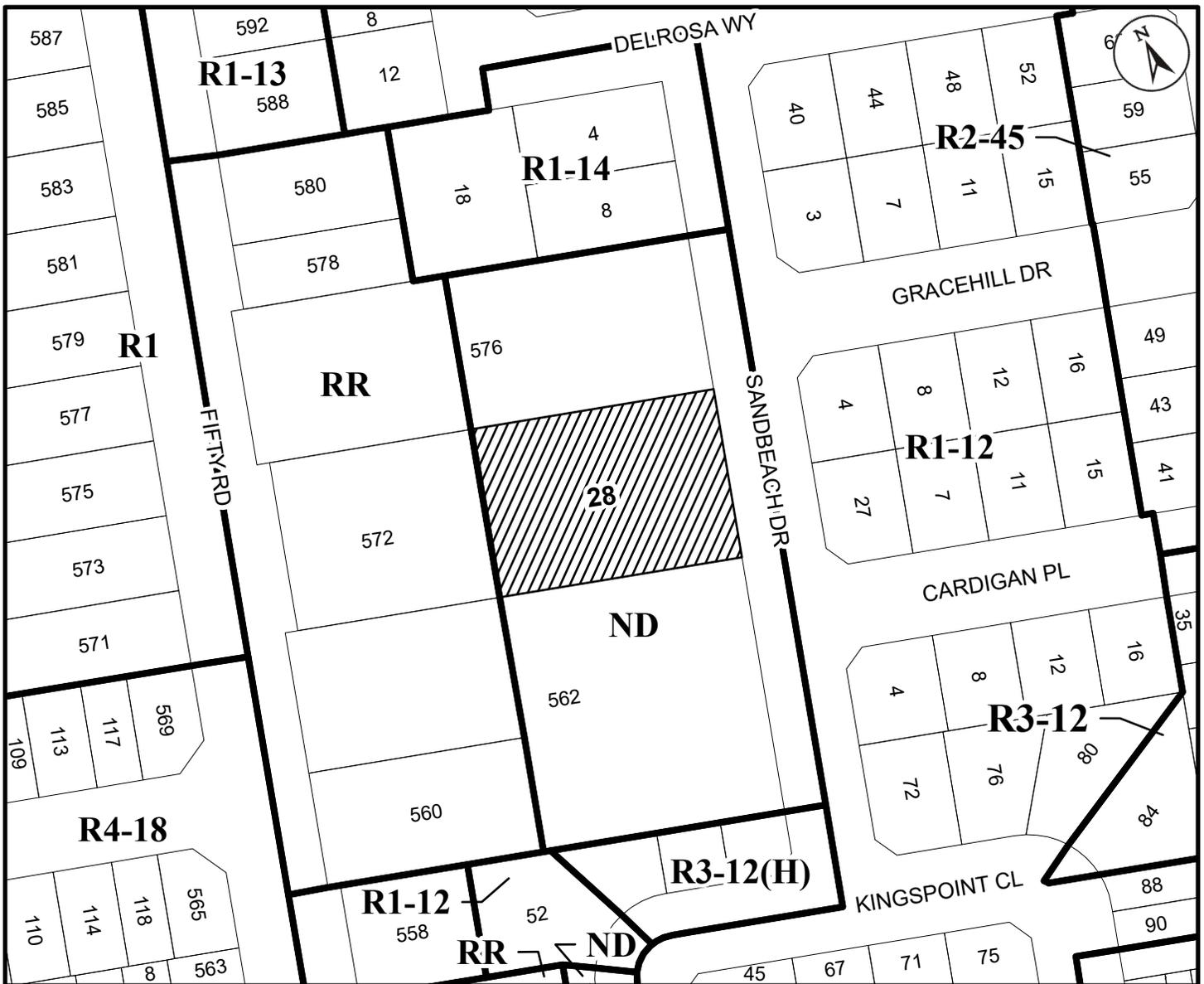
- Electrical Safety Code Rule 75-312
- Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
- CAN/CSA-C22.3 No. 1-15, Overhead System
- C22.3 No. 7-15 Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-522-6611 ext: 4729 in our Engineering Design Department.

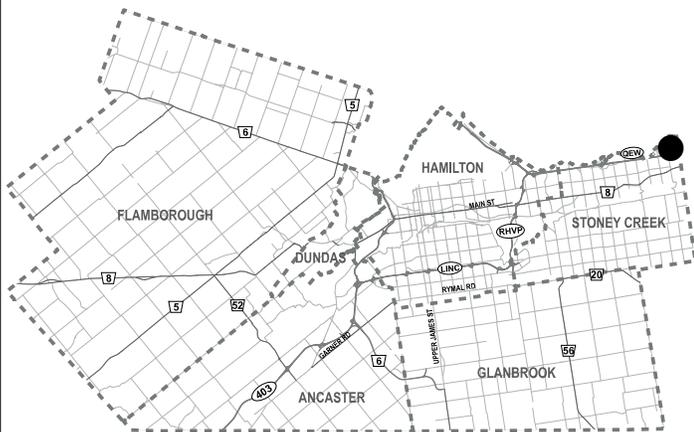
Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



28 Sandbeach Drive, Stoney Creek
(Ward 10)

File Name/Number:
SC/A-20:145

Date:
August 17, 2020

Technician:
VS

Map Not To Scale

Appendix "A"



Hamilton