



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: FL/B-21:43

SUBJECT PROPERTY: 198 Victoria St., Flamborough

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): Agent IBI Group
Owner Jorasingh Purewal

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

Severed lands:
15.2m[±] x 61.0m[±] and an area of 927.7m^{2±}

Retained lands:
29.64m[±] x 61.0m[±] and an area of 2082.7m^{2±}

**This application will be heard in conjunction with
Severance Application FL/B-21:44 and Minor
Variance Application FL/A-21:204**

The Committee of Adjustment will hear this application on:

DATE: Thursday, July 8th , 2021
TIME: 3:20 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

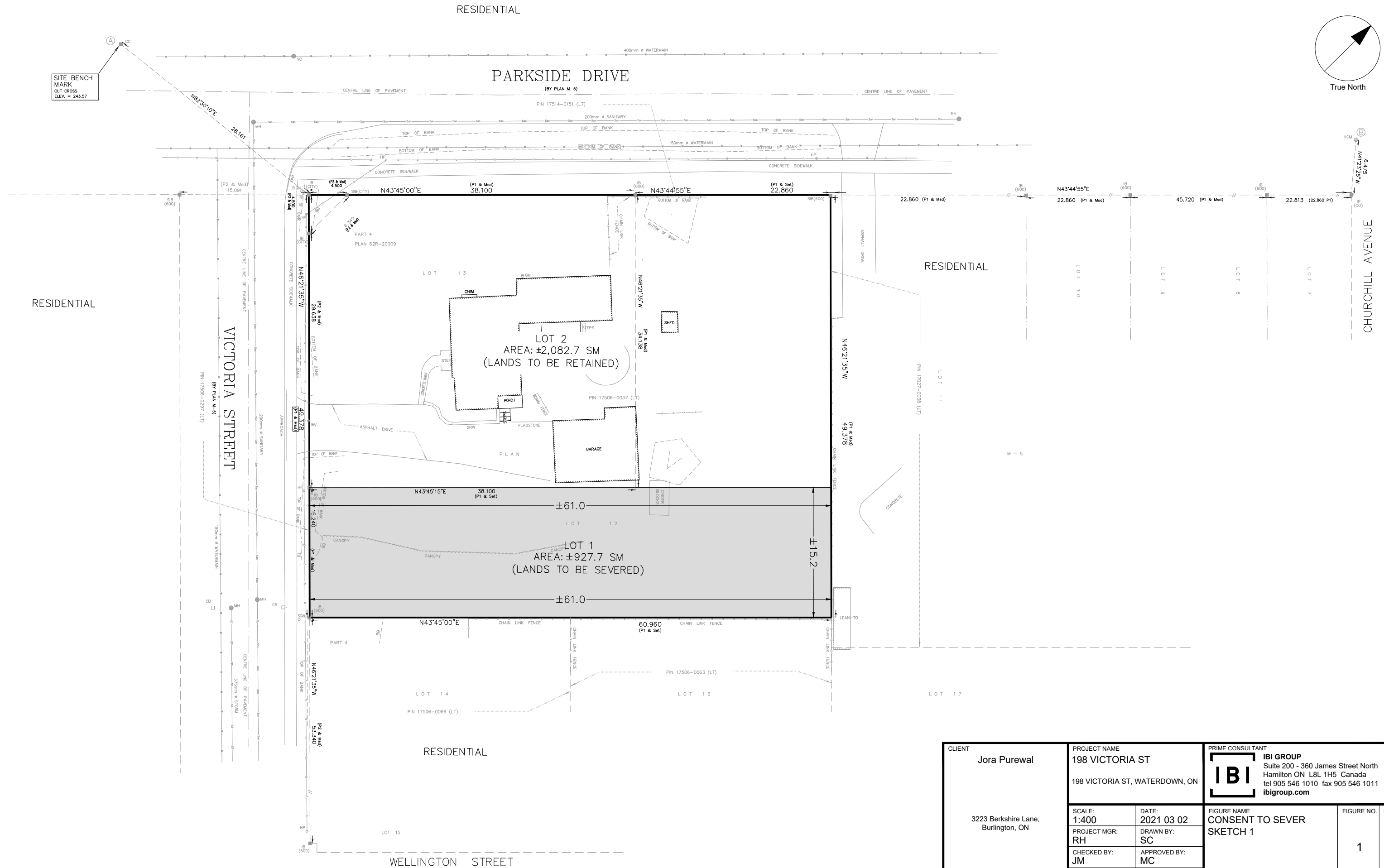
For more information on this matter, including access to drawings illustrating this request:

- 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: June 22nd, 2021

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.





IBI GROUP
200 East Wing – 360 James Street North
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tel 905 546 1010
ibigroup.com

May 10th, 2021

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield
Secretary - Treasurer, Committee of Adjustment
City of Hamilton
71 Main Street West - 5th Floor
Hamilton, Ontario
L8P 4Y5

Dear Ms. Sheffield:

**APPLICATIONS FOR CONSENT AND MINOR VARIANCE
198 VICTORIA STREET, WATERDOWN**

On behalf of the Owner, we are pleased to submit the enclosed concurrent applications for Consent and Minor Variance for the lands located at 198 Victoria Street, Waterdown (herein referred to as the “subject lands”). Consent Applications have been submitted to sever the existing lot into a total of three residential parcels (two severed, one retained), while the Minor Variance Application has been submitted to permit several minor variances to accommodate the proposed severances.

Complete Application Submission Materials

In support of the application, please find enclosed the following:

- Completed Consent Application Forms for Severances 1 & 2;
- Consent Sketches prepared by IBI Group;
- Completed Minor Variance Application Form;
- Minor Variance Sketch prepared by IBI Group; and,
- Survey prepared by A.T. McLaren Ltd.

1.0 SITE LOCATION AND CONTEXT

The subject lands are municipally known as 198 Victoria Street, and are located in the urban area of Waterdown at the south-east corner of the intersection of Parkside Drive & Victoria Street, as illustrated in **Figure 1**. The lands are legally described as PCL 12-1, Section M-5, Lots 12 & 13, Part 1 of Registered Plan M-5, in the City of Hamilton. It should be noted that Plan M-5 is no longer a Registered Plan of Subdivision under the Planning Act. Currently, the subject lands have an approximate frontage of 49.4 metres along Victoria Street, lot depth and frontage of approximately 61.0 metres along Parkside Drive, and an approximate lot area of 3,009.0 square metres. As illustrated in **Figure 2**, the surrounding neighbourhood consists of lot areas ranging from 560 square metres to 1,770 square metres. Therefore, the subject lands are the largest lot in the immediate neighbourhood context.

The subject lands are currently developed with a two-storey residential dwelling, that has an approximate ground floor area of 158.8 square metres and attached porches totaling approximately 29.0 square metres, as illustrated in **Figure 3**. There is a one storey detached garage on the southern portion with an approximate ground floor area of 76.3 square metres. The property is lined with trees and shrubs along Parkside Drive, and along the interior property line to the south, as

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illustrated in **Figures 4 & 5**. The front of the property, along Victoria Street has a variety of trees and small shrubs within a landscaped yard, with a row of trees lining the south portion of the driveway.

The existing dwelling on the subject lands has been inventoried within the City's Municipal Heritage Register as having historical value (Vance House). Inclusion on the Register signals that the City's broad position is that dwellings with cultural heritage value or interest should be maintained on site if possible. Given this, the proposed consents are based on retaining the existing dwelling as a key feature of the immediate neighbourhood context.



Figure 1: Aerial Image of Subject Lands, from City of Hamilton Online Mapping

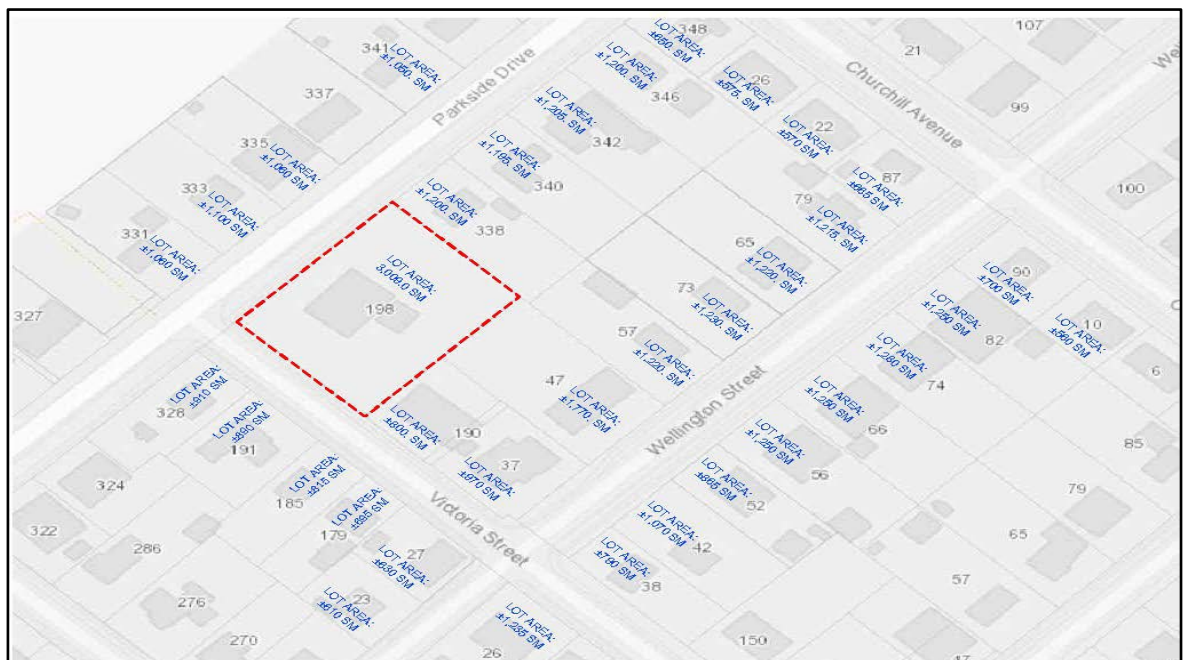


Figure 2: Approximate Lot Areas in Immediate Neighbourhood Context, from City of Hamilton Online Mapping

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Figure 3: Existing Dwelling as Viewed From Victoria St, from Google Streetview



Figure 4: View East Along the Parkside Drive Frontage of the Subject Lands, from the corner of Victoria Street and Parkside Drive

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Figure 5: View of Southern Property Area, Looking East from Victoria Street

2.0 PROPOSED DEVELOPMENT

The applicant is seeking to sever the subject lands into two additional single residential lots, each fronting onto Victoria Street and Parkside Drive respectively, resulting in a total of three residential lots. The existing dwelling and accessory garage will be preserved on the ultimate retained lands, while it is anticipated that one new single detached dwelling will be constructed on each of the severed lands respectively.

The existing lot has a frontage of approximately 44.9 square metres along Victoria Street, frontage and lot depth of approximately 61.0 m along Parkside Drive, and a lot area of approximately 3,009 square metres. The proposed Consent applications will result in the three residential lots (one retained, two severed) in total.

Severance 1 will result in the creation of two lots, Lots 1 & 2. The lands to be served will front onto Victoria Street (Lot 1) and will have an area of 927.7 square metres and a frontage of 22.0 metres. The retained lands will have an area of 2,082.7 square metres, a frontage of 29.6 metres along Victoria Street, and a frontage of 60.9 metres along Parkside Drive, and will contain the existing dwelling and garage.

Severance 2 will result in the creation of two lots, Lots 2 & 3. The lands to be severed will front onto Parkside Drive and have an area of 751.8 square metres and a frontage of 22.0 metres. The retained lands will again consist of the existing dwelling and detached garage and will have an area of approximately 1,330.9 square metres and frontage of 29.6 m along Victoria Street and 39.0 metres along Parkside Drive.

Please refer to the attached Consent Sketches for Severance 1 & 2.

Our review of applicable Zoning provisions has identified a few minor zoning deficiencies pertaining to lot area and frontage on proposed severed lands, and yard setbacks to the existing house and

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accessory dwelling on the ultimate retained lands, which will be addressed through the enclosed Minor Variance Application. These variances must be approved in order to allow the proposed consents.

Please refer to attached Minor Variance Sketch for the identification of required variances.

3.0 APPLICABLE PLANNING POLICY AND LEGISLATION

The subject lands are designated as Urban Area within the Niagara Escarpment Plan and within the Built-Up Area as defined in the Growth Plan for the Greater Golden Horseshoe. In the Urban Hamilton Official Plan, the subject lands are within the Urban Boundary and designated as Neighbourhoods with respect to Urban Structure and Land Use. Lastly, within the Former Town of Flamborough Zoning By-law 90-145-Z, the subject lands are zoned as a R1-5 – Urban Residential.

The following subsections will provide an assessment of the proposed development against current and applicable planning policy, including the Planning Act, Provincial Policy Statement 2020, Niagara Escarpment Plan, Growth Plan for the Greater Golden Horseshoe 2019, the Urban Hamilton Official Plan and the Former Town of Flamborough Zoning By-law 90-145-Z.

3.1 Planning Act

The Planning Act (the “Act”) deals with land use planning in Ontario and outlines how land is controlled and the roles and responsibilities of various levels of government and the public in regard to land use matters. It also provides requirements for making, reviewing and deciding on specific planning application types.

Section 50 of the Act regulates the subdivision of land. **Subsection 50 (3) (f)** requires that a consent to sever must be granted for a person to convey land. This severance application is being made under **Section 53**, complying with the application submission requirements and process, and meets the required criteria for land division as set out in **subsection 53 (12)** of the Act, which refers to matters under **subsection 51 (24)**.

Subsection 51 (24) states:

In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) *the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*

Planning Comment: Matters of provincial interest referred to in Section 2 of the Planning Act include the protection of ecological systems and cultural heritage resources, as well as the full range of housing. The subject lands are located within an existing Built-Up Area. There are no significant natural features on the subject lands. It is anticipated that some tree removals will be required, for instance to make room for a proposed driveway on each of the retained lands. It is expected that such removals will be addressed through the provision of a Vegetation Management Plan as a condition of Provisional Consent.

As stated previously, the existing dwelling on the subject lands have been inventoried within the City’s Municipal Heritage Register as having historical value (Vance House). The proposed Consent Application will preserve the existing dwelling on the ultimate retained lands.

The proposed Consent applications to create two additional single residential lots will facilitate the orderly development of safe and healthy communities, as the subject lands are located within the existing Built-Up Area of Waterdown. The subject lands are an appropriate location for growth and

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development as the proposal will infill an oversized lot with two additional residential lots, which will be compatible with the adjacent low-density neighbourhood.

(b) *whether the proposed subdivision is premature or in the public interest;*

Planning Comment: The proposed Consent Applications to sever and create an additional two residential lots from the subject lands is within the public interest, as it will facilitate growth and development and additional dwelling units within the City's Built Boundary. It is not premature as the lands are designated and zoned for residential uses, with full access to municipal sewage and water services, with direct connections to municipal roadways

(d) *the suitability of the land for the purposes for which it is to be subdivided;*

Planning Comment: The proposed Consent Applications are to facilitate the creation of a total of three residential lots (one retained, two severed). It is a mild form of intensification, appropriate for a corner lot in a stable neighbourhood. The proposed lots are suitable for residential use as the subject lands are already designated, zoned and developed for residential use. Further, the subject lands are located within an existing low-density residential neighbourhood, surrounded by compatible residential development, as illustrated in **Figure 6**.



Figure 6: 3-D Aerial of Subject Lands and Surrounding Neighbourhood

(f) *the dimensions and shapes of the proposed lots;*

Planning Comment: As illustrated in **Figure 2**, the dimensions and shapes of the proposed lots are similar to and compatible with the existing development pattern in the neighbourhood, where sizes of the existing lots in the immediate context range in area from 500 to 1,000 square metres. In comparison, the subject lands as existing are much larger, as the property is currently the largest lot in the neighbourhood with a lot area of 3,000 square metres. Reviewing the parcel fabric illustrates how the current lot size and shape is quite large in comparison to the context.

(i) *the adequacy of utilities and municipal services;*

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Planning Comment: The subject lands are located within an existing Built Up Area, where there are existing municipal services. The proposal lots will optimize available municipal water and servicing infrastructure.

The Powers of the Committee of Adjustment, with respect to minor variances are provided by subsection 45 (1) of the Planning Act.

Subsection 45 (1) *The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1); 2009, c. 33, Sched. 21, s. 10 (11)*

Planning Comment: The above provision provides the legal basis to for the Committee to authorize variances that are desirable, minor in nature, and meet the general intent and purpose of the Official Plan and Zoning By-law. These are identified as the four tests, which will be described further in the letter, where additional planning analysis as to how the proposed variances meet these tests is provided

It is our opinion that there are no undue adverse impacts as a result of the proposed applications. It will not introduce any adverse impacts to adjacent properties nor the neighbourhood, which consists of existing single detached dwellings with similar lot sizes and frontages, as illustrated in **Figures 2 and 7**. The lots sizes in the area range from 500 to 1,000 square metres, whereas the subject lands have a lot area of 3,000 square metres. The proposed Consent Applications will result in the creation of three lots (1 retained, 2 severed), which will each have an approximate lot area within the established contextual range. Similarly, **Figure 7** identifies that the range of lot frontages in the surrounding neighbourhood measure in the range of approximately 15 to 30 metres. The subject lands provide the largest existing frontages of 49 m on Victoria Street and 69 m on Parkside Drive respectively. The proposed Consent Applications will result in frontages ranging from 15 to 29 metres, which is consistent and compatible with this neighbourhood contextual range. Moreover, the size, setbacks, and character of the existing dwelling is not changing, while new dwellings will be constructed to comply with applicable zoning requirements. Maintaining the existing dwelling will ensure a key contextual element that contributes to the character of the neighbourhood is maintained

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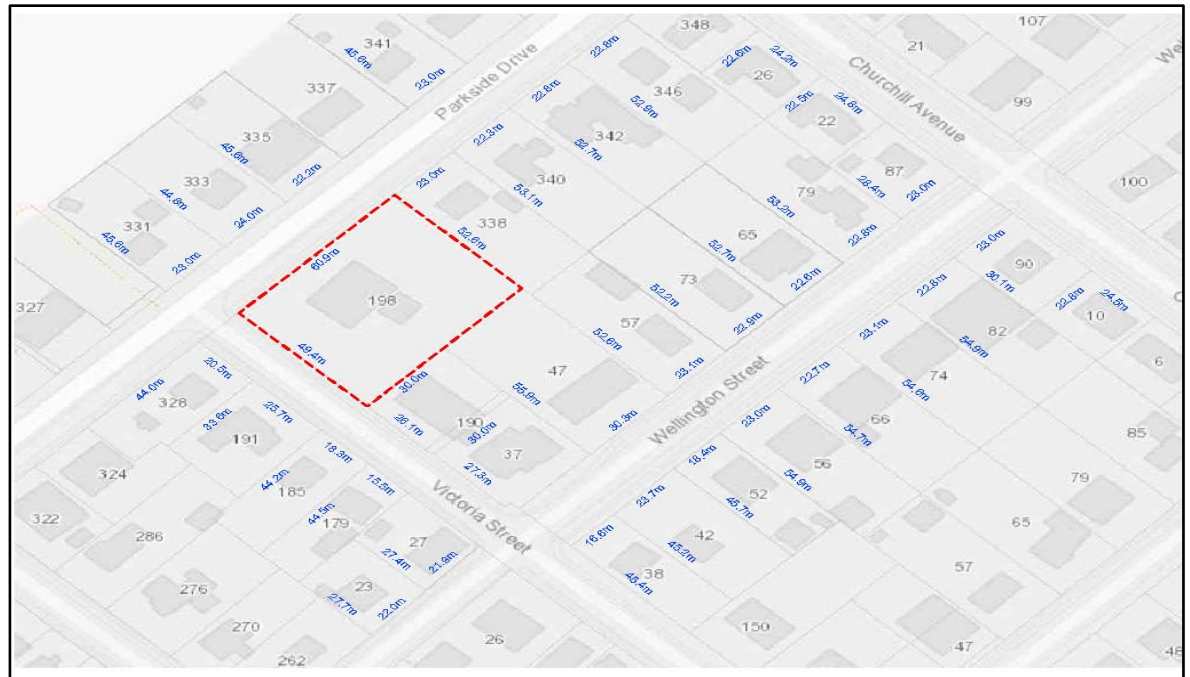


Figure 7: Approximate Lot Frontages of Subject Lands and Surrounding Area from City of Hamilton Mapping

4.2 Provincial Policy Statement 2020

The Provincial Policy Statement 2020 (“PPS”) provides policy direction on matters of provincial interest related to land use planning. This includes policies applicable to protecting resources of provincial interest, guiding and directing the built and natural environments, and protecting public health and safety. It recognizes that the wise management of development may involve directing, promoting or sustaining growth. Planning decisions made by the Committee of Adjustment must be consistent with the PPS.

Section 1.0 provides policies for managing and directing land use to achieve efficient development and land use patterns.

Policy 1.1.1 *Healthy liveable and safe communities are sustained by:*

- b) *accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*

Planning Comment: The proposed Consent will result in modest intensification within the Built-up Area of the City of Hamilton in the form of two additional building lots. This will contribute to the supply of housing in Waterdown, while being compatible with the existing mix of residential dwelling types in the area. Given that the existing Zoning permits only single detached dwellings, the proposed new building lots will be able to contribute specifically to the supply of this type of dwelling within the Built-up Area

Subsection 1.1.3 Settlement Areas

Policy 1.1.3.1 *Settlement areas shall be the focus of growth and development.*

Policy 1.1.3.2 *Land use patterns within settlement areas shall be based on densities and a mix of land uses which:*

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- a) *efficiently use land and resources;*
- b) *are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;*

Policy 1.1.3.4 *Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.*

Policy 1.1.3.5 *Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. However, where provincial targets are established through provincial plans, the provincial target shall represent the minimum target for affected areas.*

Planning Comment: As stated previously, the subject lands are located within the existing Built-up Area of the City of Hamilton, specifically in the bounded Waterdown area. The proposed new lots will contribute to the minimum intensification target for the Built-up Area for the City, while providing focused a focused ability to accommodate Growth in Waterdown. The proposed lots will efficiently use land to provide additional residential units and optimize available municipal infrastructure.

Section 2.0 provides policies relating to the Wise Use and Management of Resources.

Subsection 2.6 Cultural Heritage and Archaeology

Policy 2.6.3 *Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.*

Planning Comment: The existing dwelling on the subject lands has been inventoried by the City and is listed on the Municipal Heritage Register (identified as the Vance House), indicating the dwelling has some historical value. The proposed lot pattern for the consent applications is based on retaining the existing dwelling on the ultimate retained lands, maintaining the dwelling as a contributor to neighbourhood character and conserving the cultural heritage asset.

4.3 Niagara Escarpment Plan

The Niagara Escarpment Plan 2017 ("NEP") provides municipalities with direction and policies to protect and maintain the natural features of the Niagara Escarpment. As seen in **Figure 8**, the subject lands are designated as 'Urban Area' within the NEP.

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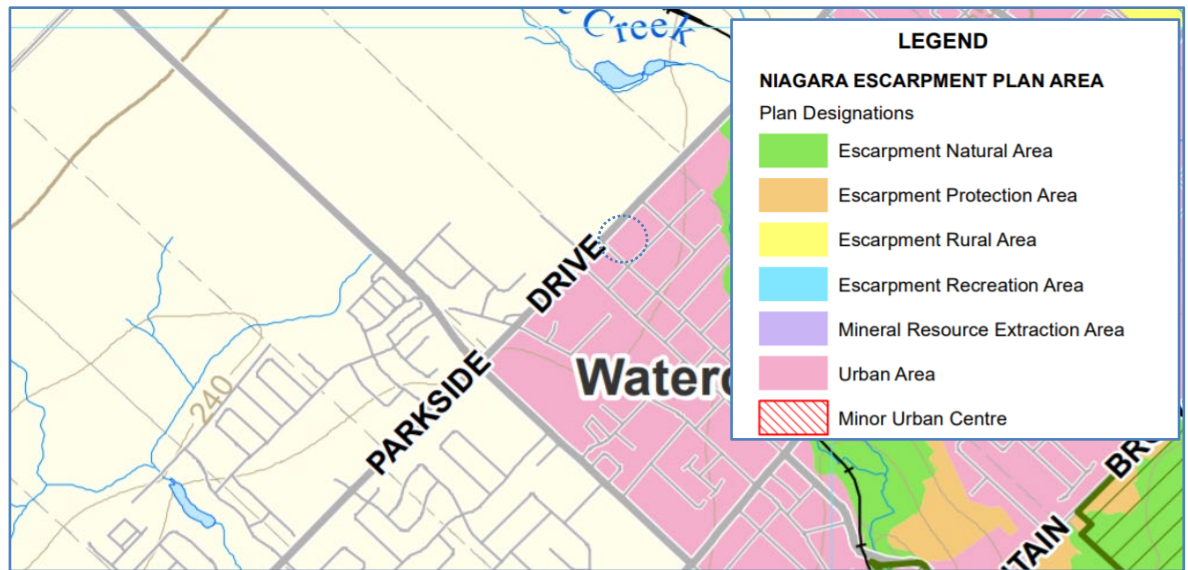


Figure 8: Subject Lands within Niagara Escarpment Plan Mapping

Subsection 1.7 Urban Areas

Policy 1.74 *Proposed uses and the creation of new lots may be permitted, subject to conformity with Part 2, Development Criteria, the Development Objectives and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan.*

Changes to permitted uses, expansions and alterations of existing uses or the creation of new lots within the Urban Area designation will not require an amendment to the Niagara Escarpment Plan.

Planning Comment: As illustrated in **Figure 8**, the subject lands are located within the Urban Area, where the creation of lots is permitted in accordance with local Official Plan and Zoning By-laws.

Section 2 provides Development Criteria and Development Objectives.

Subsection 2.4 Lot Creation

Policy 2 *New lots to meet residential needs should be created primarily in designated Urban Areas, Minor Urban Centres and Escarpment Recreation Areas.*

Policy 5 *New lots must:*

- a) *maintain and enhance the existing community character and/or open landscape character of the Escarpment; and*
- b) *protect and enhance existing natural heritage and hydrologic features and functions*

Planning Comment: The subject lands are located within designated Urban Area and do not encroach into the environmentally significant designations of the NEP. The subject lands are currently an outlier in the neighbourhood by consisting of a larger lot area and frontage. The proposed lot creation maintains the existing community residential character through providing lot widths and areas within the contextual neighbourhood range and through retaining the existing dwelling.

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4.4 Growth Plan for the Greater Golden Horseshoe 2019

The Growth Plan for the Greater Golden Horseshoe 2019, as amended, (“Growth Plan”) was prepared and approved under the Places to Grow Act, 2005.. The Growth Plan provides policies to guide future growth within the defined region. The Growth Plan provides policies to guide future growth and development, where the major goals are to provide a sufficient housing supply, improve transportation options, encourage a high quality of life and a strong economy, all while ensuring a healthy natural environment. The Growth Plan guides development in the Greater Golden Horseshoe (“GGH”) to a time horizon to the year 2051 and forecasts a total population for the City of Hamilton to the year 2051 population of 820,000.

Section 2.2.1 Managing Growth

Policy 2.2.1.2 . *Forecasted growth to the horizon of this Plan will be allocated based on the following:*

- a) *the vast majority of growth will be directed to settlement areas that:*
 - i. *have a delineated built boundary;*
 - ii. *have existing or planned municipal water and wastewater systems; and*
 - iii. *can support the achievement of complete communities;*
- d) *development will be directed to settlement areas, except where the policies of this Plan permit otherwise;*

Planning Comment: The subject lands are located within the existing delineated Urban Boundary for the City, specifically in the Waterdown area, with access to existing municipal water and wastewater systems. The proposed lots will support the achievement of complete communities, by providing additional residential units in the form of infill development at a scale and density compatible with the surroundings

Section 2.2.2 Delineated Built Up Area

Policy 2.2.2.1 *By the time the next municipal comprehensive review is approved and in effect, and for each year thereafter, the applicable minimum intensification target is as follows:*

- a) *A minimum of 50 per cent of all residential development occurring annually within each of the Cities of Barrie, Brantford, Guelph, Hamilton, Orillia and Peterborough and the Regions of Durham, Halton, Niagara, Peel, Waterloo and York will be within the delineated built-up area; and*

Planning Comment: The proposal will contribute to the minimum 50% intensification target that is established in the current Urban Hamilton Official Plan as it represents a mild form of intensification by infilling an existing lot that is oversized in relation to the character of the immediate context. The proposed Consent will create three separate residential lots (1 retained, 2 new) within the delineated Built -Up Area, resulting in a density of approximately 10 Units Per Net Hectare based on each lot accommodating one single detached dwelling.

Section 2.2.6 Housing

Policy 2.2.6.1 *Upper- and single-tier municipalities, in consultation with lower-tier municipalities, the Province, and other appropriate stakeholders, will:*

- a) *support housing choice through the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan by:*

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- i. *identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents; and*

Planning Comment: The proposed Consent will facilitate the creation of two additional residential units through a mild form of intensification on the subject lands. This will add to the range of housing options within the area to meet the projected needs of current and future residents. Specifically, the proposed Consent will allow for the creation of lots to accommodate expected single detached dwellings within the defined Built-up Area, adding to the range of housing options provided as intensification units (i.e. not attached housing).

Section 4.2.7 Cultural Heritage Resources

Policy 4.2.7.1 *Cultural heritage resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas*

Planning Comment: The existing dwelling on the subject lands has been identified within the Municipal Heritage Register. The building will be retained on the ultimate retained lands and will not be impacted by the proposed lots.

4.5 Urban Hamilton Official Plan

The Urban Hamilton Official Plan (“UHOP”) describes the vision for the community and provides City-wide designations and policies in addition to specific urban area structural elements and land use designations and policies. The subject lands are designated Neighbourhood on Schedule E: Urban Structure and Schedule E1: Urban Land Use Designations, as depicted in **Figures 9 & 10**.

Chapter E - Section 2.6 of the Official Plan provides the policies applicable to the Neighbourhoods elements of the Urban Structure.

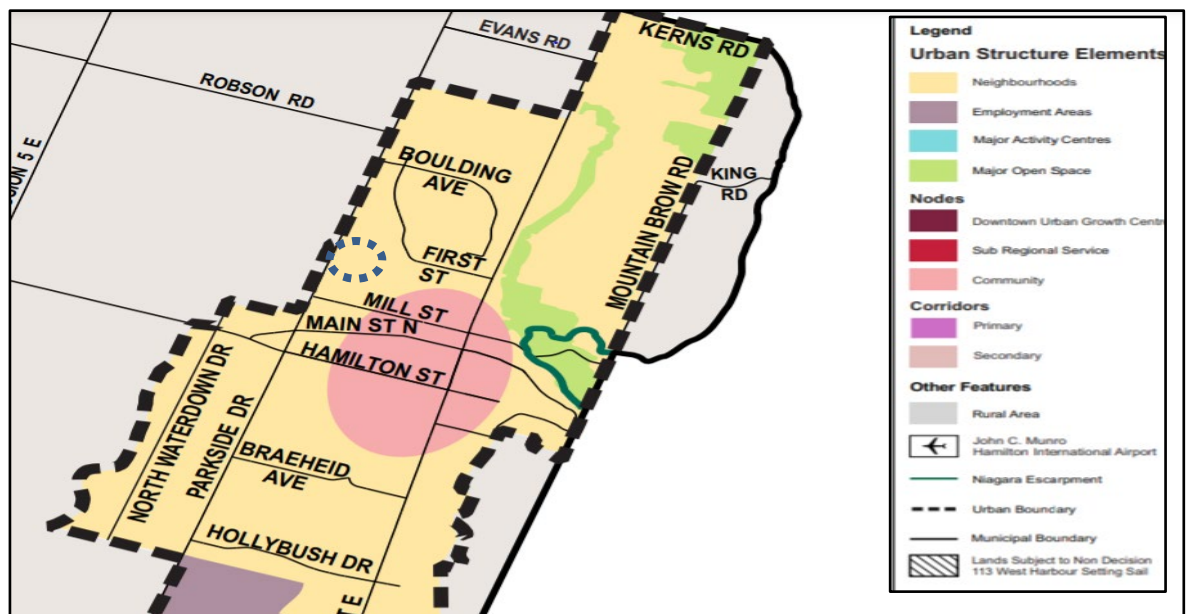


Figure 9: Excerpt of Schedule E: Urban Structure from Urban Hamilton Official Plan

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Figure 10: Excerpt of Schedule E1: Urban Land Use Designations from Urban Hamilton Official Plan

Policy 2.6.1 Neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents. These facilities and services may include parks, schools, trails, recreation centres, places of worship, small retail stores, offices, restaurants, and personal and government services.

Policy 2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation

Planning Comment: The subject lands are located within an existing low-density neighbourhood consisting mainly of single detached dwellings on lots with some variety in size and shape, as illustrated in **Figure 6**. The proposed Consent will facilitate the creation of two new residential lots which are appropriately sized to accommodate one new single detached dwelling respectively, in addition to the ultimate retained lands which will contain the existing single detached dwelling. The proposed dimensions and setbacks for all three lots are compatible with the scale and character of the existing neighbourhood. The lot sizes in the immediate context range from approximately 500 to 1,000 m², as illustrated in **Figure 11**. The variable range of lot sizes indicates that the character of the neighbourhood is not overly defined by a repetitive lot pattern

Policy 3.4.3 *Uses permitted in low density residential areas include single-detached, semidetached, duplex, triplex, and street townhouse dwellings.*

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Policy 3.4.4 *For low density residential areas the maximum net residential density shall be 60 units per hectare.*

Policy 3.4.5 *For low density residential areas, the maximum height shall be three storeys.*

Planning Comment: The intended use of the proposed lots are single detached dwellings, as permitted by the existing Zoning, which can maintain the required yard setbacks of the established zone zoning provisions. The minor variances requested pertain to minimum lot area and frontage for the severed lands and the existing accessory building for the ultimate retained lands. With respect to the lot area and frontage variances, the requested variances are within the established neighbourhood character ranges. With respect to the accessory building, it provides existing built form that is part of the context. The proposed lot density complies with the maximum residential density, as it proposes a density of approximately 10 units per hectare.

Lot Creation – Urban Area

Chapter F- Section 1.14.3 identifies the policies applicable to lot creation within the Urban Area.

Policy 1.14.3.1 *Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use 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.*

Planning Comment: As identified above, the proposed development complies with the policies of the Neighbourhoods Urban Structure, and Neighbourhoods Designation for the creation of new lots. The proposed lots reflect the general scale and character of the established neighbourhood and have frontage onto public roads. The proposal will utilize existing municipal water and sewage infrastructure. A Minor Variance Application is being submitted concurrently to request modifications to the provisions of the Zoning By-law. As such, the proposed development complies with the policies of the Urban Hamilton Official Plan.

4.6 Waterdown Community Node Secondary Plan Study

The purpose of the Waterdown Community Node Secondary Plan Study is to create a clear vision for how the area should evolve in the future, and to establish policies to implement that vision. This will help manage change and redevelopment by providing direction on the desired mix of uses, height, density, built form, and urban design within the area. The project commenced in September 2018. Initially, the subject lands were part of the Study Area for the Waterdown Community Node Secondary Plan. However, the study area has been refined to the lands west of Victoria Street, therefore the subject lands are no longer within the Secondary Plan area.

On May 20th, 2020, Hamilton City Council passed two Interim Control By-laws; By-law 20-101 and By-law 20-102. The by-laws apply to the study area for the Waterdown Community Node Secondary Plan Study and include additional residential lands adjacent to the study area that are part of Waterdown Village Built Heritage Inventory. As seen in **Figure 12**, the lands are subject to the 'Interim Control By-law' ("ICBL"). The ICBL does not permit buildings or structures on the lands

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subject to the by-law, except for those legally existing on the date of passage. The ICBL does not prevent Consents and Minor Variances for lot creation, as proposed. Further, on May 4th, 2020, Planning Committee did not extend the ICBL and thus, the by-law will expire on May 20th.



Subject Property


 Lands Subject to By-law No. 20 - _____
(Interim Control By-law)

Figure 12: Schedule A forming Part of By-law 20-101, Retrieved from the City of Hamilton website

4.7 Former Town of Flamborough Zoning By-law 90-145-Z

As illustrated in **Figure 13**, the subject lands are zoned R1-5 Urban Residential (Single Detached) Zone under Zoning By-law 90-145-Z ("By-law"). Section 6 of the By-law outlines the regulations for this zone, which includes single detached dwellings as a permitted use. The exception for this Zone requires the lot area to be a minimum of 975 square metres and lot frontage to be a minimum of 22 metres. The proposed development will require minor variances to modify these minimums for the proposed lots (Lots 1 & 3), as well as for setback from the new lot lines to the existing accessory garage on the ultimate retained lands (Lot 2). The subsequent sections will outline the proposed variances and provide an explanation of how they meet the four tests set out in the Planning Act.

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield – May 10th, 2021



Figure 13: Interactive Zoning Map from City of Hamilton

5.0 PROPOSED MINOR VARIANCES

In context of establishing the proposed residential lots on the lands to be severed and the resulting retained lot, which includes the existing single detached dwelling and existing accessory building, we have identified the following minor variances for each intended residential parcel based on our review and interpretation of the Former Town of Flamborough Zoning By-law 90-145-Z.

Planning Act Section 45 (1) Compliance

Section 45(1) of the Planning Act permits the Committee of Adjustment to grant Minor Variances from the Zoning By-law provided they are meet what is known as the four (4) tests. The four tests are:

1. Is the variance minor in nature?
2. Is the variance desirable and appropriate?
3. Does the variance maintain the general intent and purpose of the Official Plan? and,
4. Does the variance maintain the general intent and purpose of the Zoning By-law?

The following will provide an analysis of the proposed variances against the four tests.

5.1 Variances 1,2 & 3: Minimum Lot Frontage and Lot Area

The current zoning requires a minimum frontage of 22 m and a minimum lot area of 975 m². The ultimate retained lot containing the existing dwelling will comply with the minimum frontage and lot area, while the severed lot along Parkside Drive will comply with the minimum frontage provisions but not lot area. The proposed severed lot along Victoria Street will not comply with the minimum lot area or frontage provisions. Proposed Lot 1 along Victoria Street requires variances to permit a reduced minimum lot area of 927 m² and a minimum lot frontage of 15 m, while proposed Lot 3 along Parkside Drive requires a variance to permit a reduced minimum lot area of 751 m².

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield – May 10th, 2021

The following discussion is supported by both the consent sketches and the minor variance sketch, which were submitted with the applications, and these should be referred to.

1. Are the Variances Minor in Nature?

The determination of minor is not a matter of quantum of the variance but rather a consideration of the overall impact of the proposed variance. As such, it is our opinion that the requested variances to the lot area and frontage for Lots 1 & 2 are minor in nature and do not impact the overall character of the neighbourhood. The proposed lot areas and frontages are compatible with the existing lots in the neighbourhood, which range from 500 square metres to 1,000 square metres, while the lot frontages range from 15 to 30 metres. The existing lot is the largest in the context of the immediate neighbourhood and is able to accommodate the proposed land division and resulting dwellings while still maintaining a lower density, with lot sizes and shapes compatible with the context.

In the case of Lot 1, the proposed variance for lot area is less than 25 m² below the minimum requirement, while the proposed lot frontage of 15 matches the width of the lot at 179 Victoria St, which is almost directly opposite.

In the case of Lot 2, the proposed frontage matches and continues the lot width and frontage conditions along the south side of Parkside Dr (i.e. 338 to 346 Parkside Drive). The reduced lot area is primarily a result of a reduced lot depth, which will not be seen from the street, nor impact the size and shape of the dwelling that can be constructed on the proposed lot. The key condition of providing a dwelling that will comply with all setbacks can be met, and in the case of the side yard setbacks these will help re-enforce the neighbourhood character as seen from the street. The potential size of the new dwellings on the proposed severed lots will comply with required setbacks as required by the By-law, thereby ensuring an appropriate distance between adjacent dwellings and reducing significant privacy and overlook concerns. Therefore, the proposed development will not have any adverse impacts on the area.

2. Are the Variances Desirable and Appropriate?

The variances are desirable and appropriate because they are compatible within the existing neighbourhood and built form. As illustrated in **Figure 14**, the existing residential lands within the vicinity of the subject lands have a mix and range of lot frontages, which range from approximately 15 to 30 m. As seen in **Figure 11**, lots areas range from 500 m² to 1,000 m². As such, the proposed reductions to the lot area and frontage requirements will facilitate the proposed consents which maintain the character and built form of the neighbourhood, while simultaneously allowing for mild intensification and generally lower density development, and are therefore desirable and appropriate.

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield – May 10th, 2021

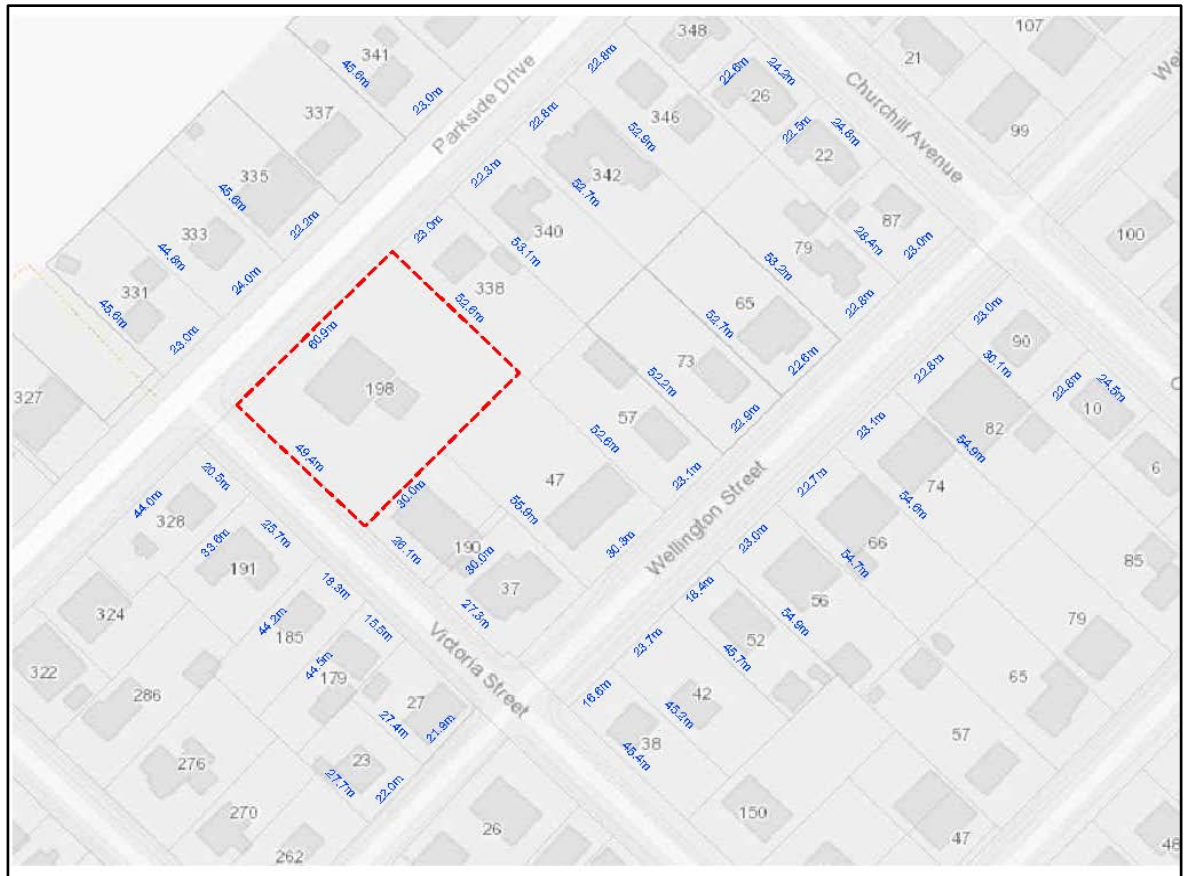


Figure 14: Approximate Lot Frontages of Subject Lands and Surrounding Area from City of Hamilton Mapping

3. Do the Variances maintain the general intent of the Official Plan?

As stated previously, the subject lands are designated Neighbourhoods within the UHOP, which contains policies applicable to Low Density Residential development. These policies permit, amongst other things, single detached dwellings to a maximum net density of 60 units per ha. The proposed lots are intended to be developed with single detached residential dwellings, and the resulting density of approximately 10 units per ha complies with this maximum density. The proposed density of 10 units per matches the low-density character of the neighbourhood.

4. Do the Variances maintain the general intent of the Zoning By-law?

The proposed variances to the minimum lot area and frontage meet the intent and purpose of the Zoning By-law. The lands are located in an established neighbourhood where there is a wide range of lot sizes and frontages. The purpose of a minimum lot area and frontage is to ensure that there is adequate space to develop the lands without over development. In our opinion, both of the proposed new lots can appropriately accommodate single detached dwellings which can comply with required setbacks, while the retained lands and retained dwelling will provide adequate setbacks and lot coverage consistent with the established character.

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield – May 10th, 2021

5.2 Variances 4 & 5: Minimum Rear Yard and Accessory Building Located within Rear Lot Line

The Zoning By-law requires a minimum rear yard of 7.5 metres, while the General Provisions require that an accessory building has to be located within 1.0 metres of an interior side lot line or rear lot line.

The existing single detached dwelling on the retained lot requires a variance to permit a reduced minimum rear yard of 3.5 metres, while the existing garage requires a variance that allows the building to be located within 0.4 metres of the rear lot line.

1. Are the Variances Minor in Nature?

The proposed reduction to the rear yard setback for the existing dwelling is only for a portion of the dwelling, as the existing dwelling is in the form of a 'L' shape. The remainder of the dwelling will exceed the minimum rear yard requirements. Therefore, the proposed variance does not have a negative impact to the neighbourhood and surrounding properties, including the proposed severed lands. Further, the lands are a corner lot and it is common for a reduced rear yard setback to occur, which allows the dwelling to address both frontages. The graphics in this report illustrated that surrounding properties exhibit similar rear yard setbacks at corner lots (26 & 37 Wellington Street).

The existing garage may be removed, which would eliminate the need for the variance. However, given the structure is part of the neighbourhood character, it is proposed to be maintained. The reduction to the accessory building setback to the newly established rear lot line also does not have a negative impact to the neighbourhood and surrounding properties, as it is a single storey garage, which abuts onto the open space proposed at the rear of the property. In addition, there is sufficient tree coverage to provide privacy, while sufficient space is provided for structure maintenance and repair.

2. Are the Variances Desirable and Appropriate?

As illustrated in the submitted Minor Variance Sketch, the subject lands are a corner lot and the lot line in question, consistent with a corner lot condition, exhibits characteristics of an interior side lot line. In the By-law, 1.2 m are required for an interior side yard setback to ensure appropriate separation distance between properties. Therefore, the proposed reduction to the rear yard setback maintains the intent of separation between dwellings and the arrangement of built form in the neighbourhood. There are no privacy and overlook concerns from the existing single storey garage and dwelling.

3. Do the Variances maintain the general intent of the Official Plan?

The variances will permit the existing dwelling to be retained, while also contributing to the lot sizes and shapes of the proposed severed lands, which are intended to accommodate new single detached dwellings. This complies with the use permissions of the Zone, and facilitates a minor and compatible form of intensification.

4. Do the Variances maintain the general intent of the Zoning By-law?

The general intent of the Zoning By-law as it applies to rear yard setbacks is to ensure there is appropriate amenity space and appropriate physical separation between dwellings. As noted previously, the lot line in question exhibits characteristics of an interior side lot line, and the Zoning By-law requires 1.2 m for an interior side yard setback to ensure appropriate separation distance between properties, which the proposal exceeds. There is sufficient amenity space in the interior side yard and between the garage and dwelling, where an existing swimming pool is located.

Chair and Members of Committee of Adjustment
c/o Jamila Sheffield – May 10th, 2021

6.0 CONCLUSION AND RECOMMENDATIONS

Based on our review of the existing context, the proposed plans and applicable planning policy and legislation, it is our opinion that the proposed applications should be approved. The proposed development complies with, conforms to and implements the requirements of the Planning Act, PPS, Niagara Escarpment Plan, Growth Plan, the UHOP and the By-law, and each of the variances, individually and collectively, meet the four tests as required under the Planning Act.

We trust that the enclosed is in order. However, should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Regards,

IBI Group



Stephanie Chalmers
Planning Technician
Lead



Ritee Haider BES RPP
Planner



Mike Crough MCIP RPP
Associate Director – Planning



Hamilton

Committee of Adjustment

City Hall, 5th Floor,
71 Main St. W.,
Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221



Email: cofa@hamilton.ca

**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	NAME	ADDRESS	
Registered Owners(s)	Jorasingh Purewal		Phone:
			E-mail:
Applicant(s)*			Phone:
			E-mail:
Agent or Solicitor	IBI Group c/o Mike Crough		

* Owner's authorisation required if the applicant is not the owner.

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 Hamilton	Lot	Concession	Former Township Flamborough
Registered Plan N°. M-5	Lot(s) 12 & 13	Reference Plan N°. 62R20009	Part(s) 1
Municipal Address 198 Victoria St, Waterdown, ON			Assessment Roll N°.

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

Other: ☐ a charge

- ☐ addition to a lot
☐ an easement

- ☐ 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:

unknown

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) ±15.2	Depth (m) ±61.0	Area (m ² or ha) ±927.7 m ²
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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: single detached dwelling

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) 29.64	Depth (m) ±61.0	Area (m ² or ha) ±2082.7 m ²
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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: 2 storey single detached dwelling & 1 storey detached garage

Proposed: none

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 _____

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

Please see attached justification

5.2 What is the existing zoning of the subject land?

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? Urban Residential Exception R1-5

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?
Online mapping & discussion with client
- 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

Please see attached justification

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

Please see attached justification

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

Please see attached justification

- 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

Please see attached justification

- 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)

Please see attached justification

- 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.

The previous plan of subdivision is no longer applicable

- 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?

2017

- 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.

347 Parkside Drive, Waterdown

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 _____ Status Submitted concurrently

10 RURAL APPLICATIONS

10.1 **Rural Hamilton Official Plan Designation(s)**

- ☐ Agricultural ☐ Rural ☐ Specialty Crop
☐ Mineral Aggregate Resource Extraction ☐ Open Space ☐ Utilities
☐ 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)

- ☐ Agricultural Severance or Lot Addition
☐ Agricultural Related Severance or Lot Addition
☐ Rural Resource-based Commercial Severance or Lot Addition
☐ Rural Institutional Severance or Lot Addition
☐ Rural Settlement Area Severance or Lot Addition
- (Complete Section 10.3)
- ☐ 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 in Section 4.1)
----------------------------------	----------------------------------------------------

Existing Land Use: _____ Proposed Land Use: _____