



Hamilton

COMMITTEE OF ADJUSTMENT

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

NOTICE OF PUBLIC HEARING

Application for Consent/Land Severance

APPLICATION NUMBER: HM/B-21:81

SUBJECT PROPERTY: 83 Melbourne St., Hamilton

You are receiving this notice because you are either:

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

APPLICANT(S): Agent A.J. Clarke & Associates c/o F. Kloibhofer
Owner Joseph Marchese

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

Severed lands:

7.39m[±] x 46.21m[±] and an area of 341.49m^{2±}

Retained lands:

7.39m[±] x 46.21m[±] and an area of 341.49m^{2±}

**This application will be heard in conjunction with
Minor Variance Application HM/A-21:335**

The Committee of Adjustment will hear this application on:

DATE: Thursday, October 7th , 2021

TIME: 3:25 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:

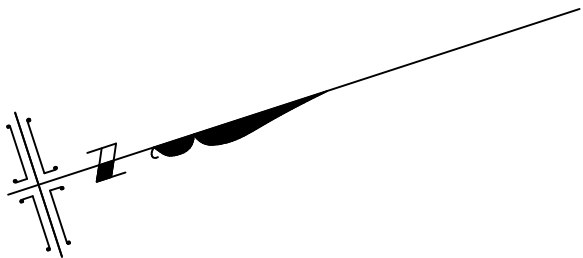
- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: September 21st, 2021

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

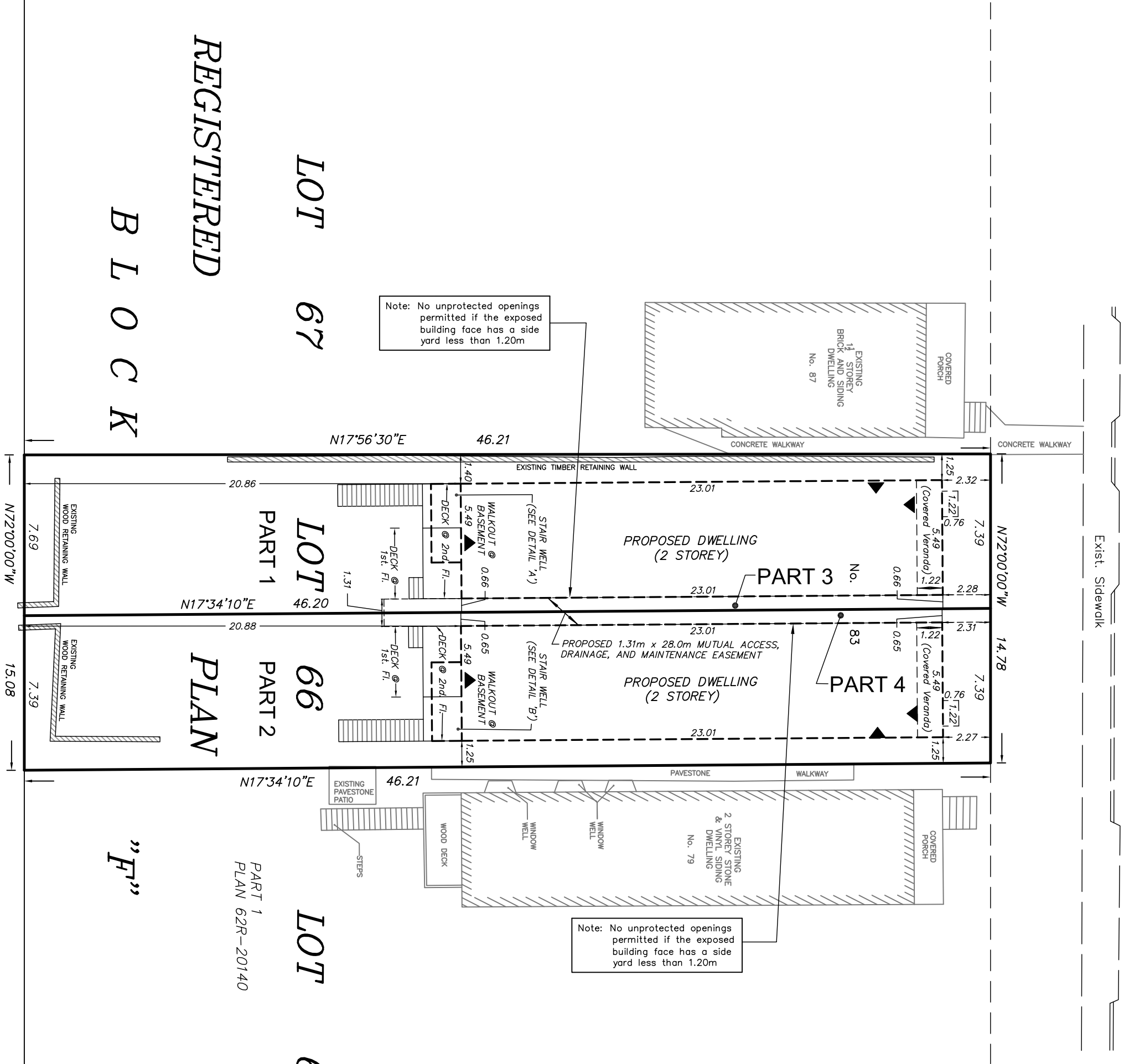
Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions,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

CONSENT SKETCH OF
LOT 66
BLOCK "F"
REGISTERED PLAN No. 253
IN THE
CITY OF HAMILTON
A. J. CLARKE O.L.S.



MELBOURNE STREET

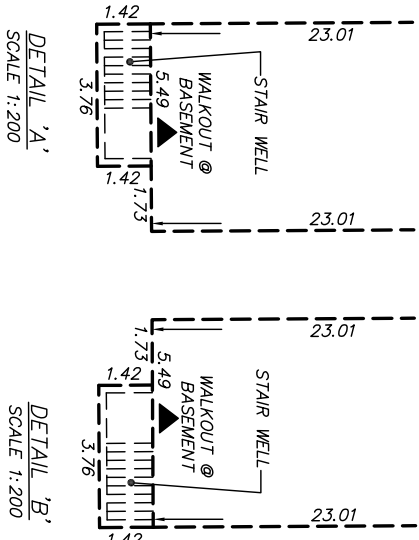
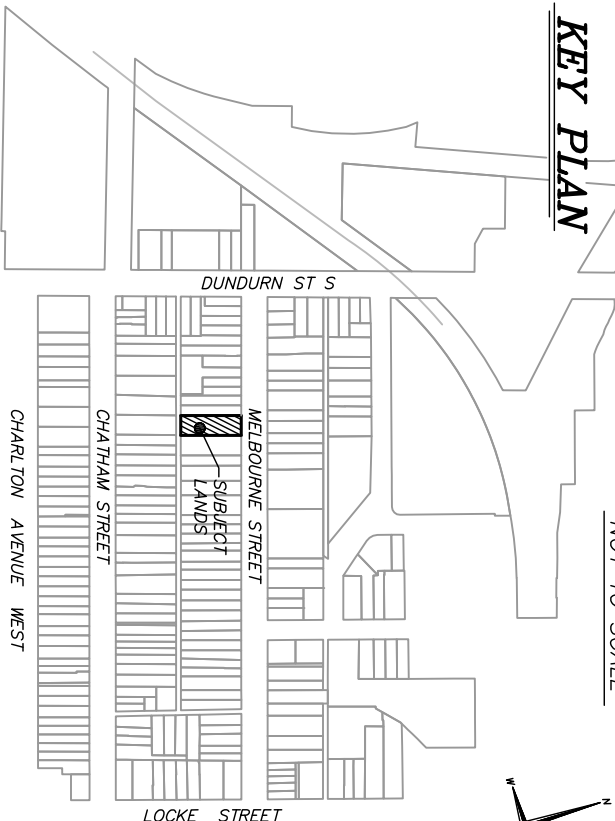
LOT 67
REGISTERED
BLOCK
PLAN
LOT 66
LOT 65
253
3.66 WIDE ALLEYWAY



NOTE:
THE BOUNDARIES AND MEASUREMENTS SHOWN ON THIS SKETCH
ARE BASED ON A TOPOGRAPHIC SURVEY BY TARASICK MCILLAN KUBICKI LTD.
DATED JUNE 10, 2021

KEY PLAN

NOT TO SCALE



AJ
A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS
25 MAIN STREET WEST, SUITE 300
HAMILTON, ONTARIO, L8P 1H1
TEL. 905-528-8761 FAX 905-528-2289
email: ajc@ajclarke.com

AUGUST 18, 2021
DATE

PROJECT No 218185

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.:

1 APPLICANT INFORMATION

1.1, 1.2	NAME	ADDRESS
Registered Owners(s)	Joseph Marchese	
Applicant(s)*		
Agent or Solicitor	A.J. Clarke & Associates Ltd c/o Franz Kloibhofer	

* Owner's authentication 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 18	Concession 3	Former Township Barton
Registered Plan N°. 253	Lot(s) 66 Block F	Reference Plan N°.	Part(s)
Municipal Address 83 Melbourne Street			Assessment Roll N°. 251801009155560

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:

N/A

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:

N/A

4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of land intended to be Severed:

Frontage (m) +- 7.39 m	Depth (m) +- 46.21 m	Area (m² or ha) +- 341.49 sq m
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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: One single detached dwelling (to be demolished)

Proposed: One two family dwelling per lot

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) +- 7.39 m	Depth (m) +- 46.21 m	Area (m² or ha) +- 341.49 sq m
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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

☐ Agriculture (includes a farm dwelling)

☐ Other (specify) _____

☐ Industrial

☐ Agricultural-Related

☐ Commercial

☐ Vacant

Building(s) or Structure(s):

Existing: One single detached dwelling (to be demolished)

Proposed: One two family dwelling per lot

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) _____

4.3 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): N/A

Urban Hamilton Official Plan designation (if applicable) Neighbourhoods

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

The proposed severance is keeping in character with the surrounding neighbourhood, and does not present a proposed use that is prohibited.

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? No Minister's Zoning Order. "D/S-1787" Zone.

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 N/A
- 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 and discussion with lawyer.
- 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

The proposed severance is keeping in character with the surrounding neighbourhood, and does not present a proposed use that is prohibited.

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

The proposed severance is keeping in character with the surrounding neighbourhood.

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

The proposed severance will assist in the intensification of the surrounding neighbourhood.

- 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

- 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)

N/A

- 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)

N/A

- 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)

N/A

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.

N/A

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

N/A

- 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.

N/A

8.4 How long has the applicant owned the subject land?

1 month.

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.

Unknown.

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.

N/A

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 _____

10 RURAL APPLICATIONS

10.1 Rural Hamilton Official Plan Designation(s)

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

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

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

<input type="checkbox"/> Agricultural Severance or Lot Addition	}	(Complete Section 10.3)
<input type="checkbox"/> Agricultural Related Severance or Lot Addition		
<input type="checkbox"/> Rural Resource-based Commercial Severance or Lot Addition		
<input type="checkbox"/> Rural Institutional Severance or Lot Addition		
<input type="checkbox"/> Rural Settlement Area Severance or Lot Addition		
<input type="checkbox"/> Surplus Farm Dwelling Severance from an Abutting Farm Consolidation		(Complete Section 10.4)
<input type="checkbox"/> 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)
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Existing Land Use: _____ Proposed Land Use: _____

b) Lands to be Retained:

Frontage (m): (from Section 4.2)	Area (m ² or ha): (from Section 4.2)
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Existing Land Use: _____ Proposed Land Use: _____

10.4 Description of Lands (Abutting Farm Consolidation)

a) Location of abutting farm:

(Street) (Municipality) (Postal Code)

b) Description abutting farm:

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

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

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

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

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

Front yard set back: _____

e) Surplus farm dwelling date of construction:

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

f) Condition of surplus farm dwelling:

☐ Habitable ☐ Non-Habitable

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

Frontage (m): (from Section 4.2)	Area (m ² or ha): (from Section 4.2)
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Existing Land Use: _____ Proposed Land Use: _____

10.5 Description of Lands (Non-Abutting Farm Consolidation)

a) Location of non-abutting farm

(Street) (Municipality) (Postal Code)

b) Description of non-abutting farm

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

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

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

Front yard set back: _____

d) Surplus farm dwelling date of construction:

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

e) Condition of surplus farm dwelling:



A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS

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

October 18, 2021

Attn: Ms. Jamila Sheffield
Secretary Treasurer, Committee of Adjustment (email: Jamila.Sheffield@hamilton.ca)

Re: 83 Melbourne Street
Minor Variance and Severance Application Re-Submission
File Numbers : HM/B-21 :81 and HM/A-21 :335

Dear Ms. Sheffield:

A.J Clarke and Associates Ltd. has been retained by Falcon Manor Homes for the purposes of submitting the enclosed Minor Variance and Consent Applications for the subject lands, municipally known as 83 Melbourne Street. Concurrent applications for severance consent and minor variance were previously submitted under the file numbers noted above. The purpose of this resubmission is to clarify details discussed at the previous Committee of Adjustments Hearing held on October 7, 2021, wherein this application was tabled. Those details include:

1. An amended Consent Sketch showing reciprocal easements over Parts 3 and 4 at a proposed width of 0.45m each. The purpose of this amendment is to show the correct easement width such that a 0.90m drainage swale can be accommodated between the two proposed structures as per Development Engineering comments.
2. The proposed Minor Variances as noted on the Notice of Public Hearing will also have to be amended to match the change to the Consent Sketch as described in point 1 above, and the related Development Engineering comments:

Lands Identified as Part 1: (Westerly Lot – to be known as 85 Melbourne)

Variance 4: A minimum easterly side yard width of **0.45 m** shall be provided instead of the minimum required side yard width of 1.2 m; and

Variance 7: Eaves or gutters shall be permitted to project **0.45 m** into the required **0.45 m** side yard so that the eaves and gutters may be as close as 0.0m to the easterly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being **0.225 m**);



Lands Identified as Part 2: (Easterly Lot – to be known as 83 Melbourne)

Variance 4: A minimum westerly side yard width of **0.45 m** shall be provided instead of the minimum required side yard width of 1.2 m; and

Variance 7: Eaves or gutters shall be permitted to project **0.45 m** into the required **0.45 m** side yard so that the eaves and gutters may be as close as 0.0m to the westerly side lot line, instead of the requirement that an eave or gutter may project into the required side yard not more than ½ of its required width (being **0.225 m**);

3. The Staff recommendation for Consent Approval included several Conditions:

Condition # 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).

It is not typically the practice of the Committee of Adjustments to require full Archaeological Assessments for Consent Applications such as this condition will require as written. This is because the subject lands are part of a previously constructed subdivision/neighbourhood; wherein, all soils on the subject lands have previously been disturbed. It would seem very onerous and deleterious to my client's application to require a ± \$5,000.00 archaeological study when one is not necessary. Rather, a note is typically included in the Notice of Decision that states the following:

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

It is requested that Condition # 6 be removed in its entirety and a note be included in the Notice of Decision as described above.

Condition # 7: That the applicant submit and implement a Cultural Heritage Impact Assessment to the satisfaction and approval of the Manager of Development and Planning, Heritage and Design prior to any minor variance or consent to sever approval.

We would request that this condition be amended to remove "prior to any minor variance or consent to sever approval", as we are in fact appearing before the Committee of Adjustments to obtain both minor variance and consent to sever approval.

As per correspondence with Amber Knowles, Cultural Heritage Planner for the downtown planning team, we would request that this condition be further amended to include “if required” at the end of the condition. The dwelling currently located on the subject lands has been extensively renovated over the years and has also suffered significant water damage. As a result, it is our opinion that any heritage value has likely been lost. We have agreed to provide photo documentation of the interior of the structure and are happy to attend a site visit with Cultural Heritage Staff. Following the review of this information, if Cultural Heritage Staff determine that a CHIA is indeed required, then the Study will be completed to the satisfaction of the Manager of Development and Planning, Heritage and Design. As this condition is currently written, a CHIA is an absolute requirement, where such a study may not be necessary. A picture of the existing dwelling currently located on the subject lands is shown below as Figure 1 for reference.



Figure 1: Photo of Existing Dwelling from Melbourne Street (83 Melbourne Street)

The following supporting materials are submitted to your attention, in support of the subject application:

- 1) One (1) digital copy of the Concept Plan.
- 2) One (1) digital copy of the Consent Plan.



I trust that you will find the enclosed satisfactory for your purposes. Please confirm receipt of this submission and we look forward to being scheduled for the next available hearing date. If you have any questions or require additional information, please do not hesitate to contact our office.

Sincerely,

Franz Kloibhofer, MCIP, RPP
Principal Planner
A. J. Clarke and Associates Ltd.

Encl.

Cc: Joseph Marchese, Owner
Falcon Manner Homes c/o Mike Vasallo