



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221, 3935

E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING **Consent/Land Severance** **CORRECTED NOTICE**

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

APPLICATION NO.:	HM/B-21:79	SUBJECT PROPERTY:	727 RYMAL ROAD E, HAMILTON
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APPLICANTS: Agent GSP Group – J. Liberatore
Owner M. Khera

PURPOSE & EFFECT: To permit the conveyance of a parcel of land for residential purposes and to retain two parcels of land for residential purposes.

	Frontage	Depth	Area
SEVERED LANDS:	12.00 m [±]	27.42 m [±]	374.92 m ^{2±}
RETAINED LANDS:	12.57 m [±]	27.42 m [±]	364.95 m ^{2±}
RETAINED LANDS:	54.40 m [±]	27.34 m [±]	1,356.09 m ^{2±}

Associated Planning Act File(s): N/A

This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.

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

DATE:	Thursday, July 28, 2022
TIME:	2:05 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment

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

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

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, calling in, or by attending in person. Please see attached page for complete instructions, including deadlines for registering to participate virtually.



 **Subject Lands**

DATED: July 12, 2022

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, and may include posting electronic versions.

HM/B-21:79

If a person or public body that files an appeal of a decision of The City of Hamilton Committee of Adjustment in respect of the proposed consent does not make written submissions to The City of Hamilton Committee of Adjustment before it gives or refuses to give a provisional consent, the Ontario Land Tribunal may dismiss the appeal.

If you wish to be notified of the decision of The City of Hamilton Committee of Adjustment in respect of the proposed consent, you must make a written request to the Secretary-Treasurer of The City of Hamilton Committee of Adjustment by email at cofa@hamilton.ca or by mail through City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5.

PARTICIPATION PROCEDURES

Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing or via email in advance of the meeting. Comments can be submitted by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon two days before the Hearing.**

Comment packages are available two days prior to the Hearing and are available on our website: www.hamilton.ca/committeeofadjustment

Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

1. Virtual Oral Submissions

Interested members of the public, agents, and owners must register by noon the day before the hearing to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email cofa@hamilton.ca. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting the Wednesday afternoon before the hearing. The link must not be shared with others as it is unique to the registrant.

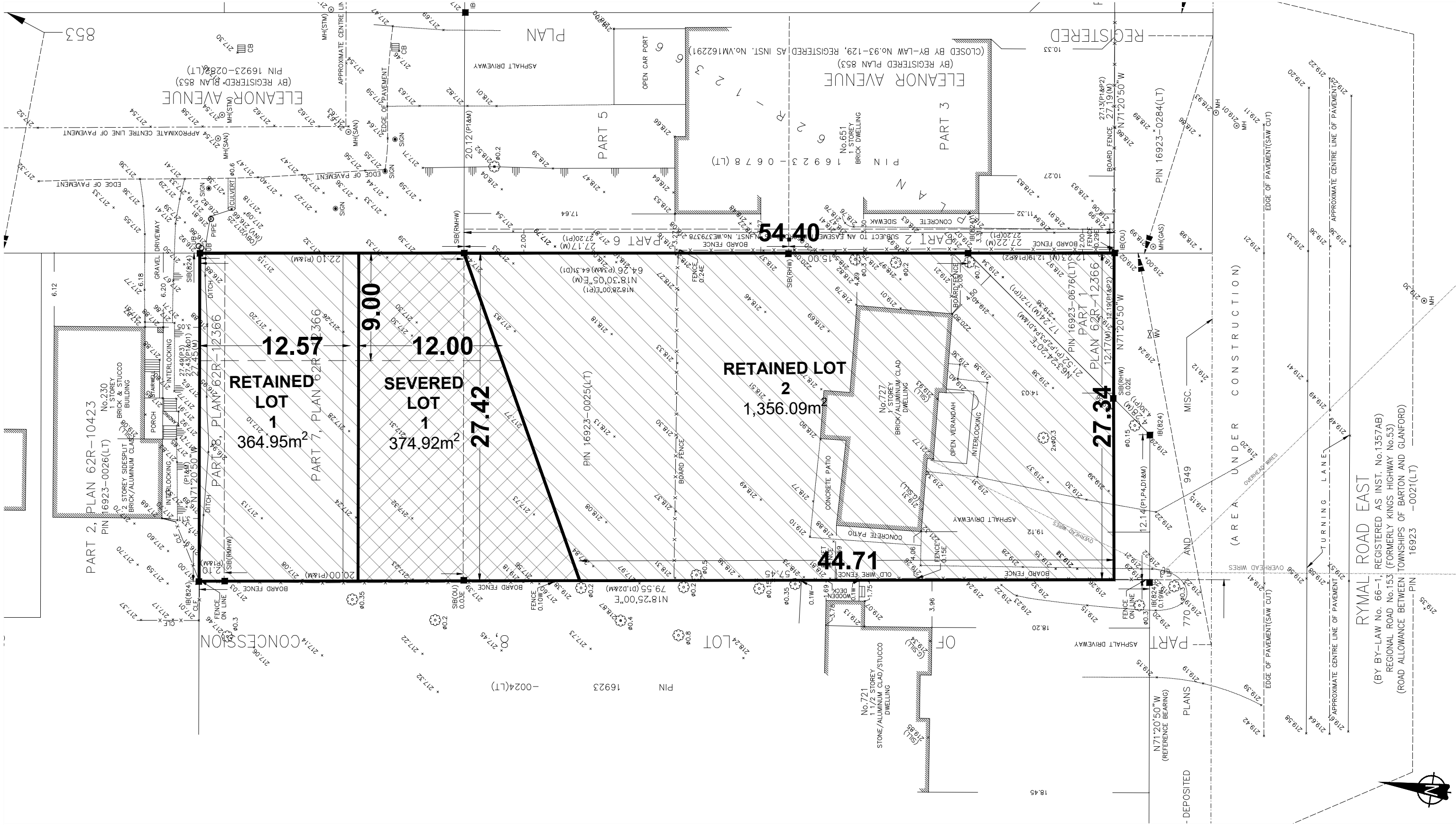
2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person must sign in at City Hall room 222 (2nd floor) no less than 10 minutes before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email cofa@hamilton.ca or by phone at 905-546-2424 ext. 4221.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.

CONSENT SKETCH
 727 RYMAL ROAD EAST, HAMILTON





June 2, 2022

File No. 21161

Jamila Sheffield
Secretary-Treasurer
City of Hamilton
Committee of Adjustment
71 Main Street West, 5th Floor
Hamilton, ON
L8P 4Y5

Dear Ms. Sheffield:

**RE: 727 RYMAL ROAD EAST, HAMILTON
CONSENT APPLICATION – HM/B-21:79**

GSP Group is pleased to resubmit on behalf of the owner, a request to re-add the Tabled updated application for Consent for the creation of 3 lots through a severance to allow the future construction of two (2) new single detached dwelling units on the property currently municipally known as 727 Rymal Road East.

This request provided herein is in response to the approved motion to table the application at the March 3, 2022 Committee of Adjustment Meeting. At that Meeting, an updated application for Consent was considered, which was revised in consideration of several concerns that were raised in comments previously provided by both the public and City staff at the October 7, 2021 Committee of Adjustment Meeting.

For reference, a copy of the Cover Letter Planning Brief from the Revised January 27, 2022 submission has been provided, attached as **APPENDIX A**. In addition, attached to this Letter in **APPENDIX B** is a copy of the Comments Extract from the March 3, 2022 Committee of Adjustment Meeting that include the departmental, agency and public comments received as part of the initial submission.

Provided in the following section of this Brief is discussion on the manner that these concerns were reviewed and addressed/responded to from the revised January 27, 2022 submission of Consent application HM/B-21:79 that was considered by Committee at the March 3, 2022 Meeting.

ELEANOR NEIGHBOURHOOD PLAN

Eaglewood Drive Road Extension

As noted in the Staff and Public Comments, the Eleanor Neighbourhood Plan had indicated a future right-of-way through the Site that was intended to be an extension of Eaglewood Drive to connect into the Losani Homes Sherman Oaks subdivision to the northwest and also a road connection to Upper Sherman Avenue through the commercial plaza site at 695 and 675 Rymal Road East.

As at the time of the initial submission the status of the road extension was unknown, review of adjacent applications that have either been approved or are in the process of gaining approval was undertaken and the findings provided to both Planning Staff and Growth Management Staff to receive direction on the status of the conceptual road extension. This is depicted on the Composite Plan, attached to this Brief as **APPENDIX C** which shows the road extensions contemplated in the Eleanor Neighbourhood Plan overlayed with:

- Files **DA-10-079, SPA-14-118 and HM/B-09:32** at 695 & 675 Rymal Rd E: Approved and constructed commercial development at the intersection of Upper Sherman Avenue and Rymal Road East, which overlaps with one of the road extensions historically contemplated in the Eleanor Neighbourhood Plan.
- Files **UHOPA-21-012 & ZAC-21-026** at 705 & 713 Rymal Rd E: in process medium density residential development for 41 block townhouse units, which overlaps with a significant portion of the Eaglewood Drive road extension contemplated in the Eleanor Neighbourhood Plan.
- File **25T-201105** – Sherman Oaks Subdivision: Approved residential subdivision with a reserve block that was initially intended to be a future road extension contemplated in the Eleanor Neighbourhood Plan and is now under review with Draft approved Consent Applications (HM/B-21:09 and HM/B-21:10) to facilitate future single family homes.

Following discussion and review, it was confirmed by the City's Growth Management Section per correspondence (attached hereto as **APPENDIX D**) dated January 25, 2022 that the Eaglewood Drive extension will not move forward and that a revision to the Eleanor Neighbourhood Plan happen after the lotting is finalized.

CONTEXTUAL APPLICATION HISTORY

It should be noted that the Committee of Adjustment has approved, both in the past and recently, Consent Applications **HM/B-09:32, HM/B-21:09 and HM/B-21:10**, all of which compromise the completion of the Eleanor Extension as initially contemplated in the 1973 Eleanor Neighbourhood Plan. While HM/B-21:09 and HM/B-21:10 are being handled internally within the City's Planning and Economic Development Department through an update with Growth Management staff as it relates to the original Sherman Oaks Subdivision, **HM/B-09:32 was approved by Committee in 2009.**

Committee's 2009 Decision of Consent application HM/B-09:32 for approval (attached as **APPENDIX E**) removed the requirement for the development to reserve and convey lands to the City to account for the road extensions noted in the Neighbourhood Plan, despite the request from City staff that it be added as conditions (attached as **APPENDIX F**). As an alternative, the conditions were added as notes to be captured through future planning applications on the Site (attached as **APPENDIX G**).

Following the Final Approval of the Consent, the Planning and Economic Development Department has also issued Site Plan approval and building permits for files DA-10-079 and SPA-14-118, which facilitated the creation of the multi-tenanted commercial development to the west of the Site. This development has resulted in the road extension being blocked, by approving and constructed a building within the proposed extension in the Eleanor Neighbourhood Plan with no road conveyances having been provided.

As a result of decisions made in the past by both the City and Committee of Adjustment, the road (if constructed), would essentially become a dead-end road with a turn-around bulb. It is anticipated that this would likely have significant impact on the developability of several properties in the area including the subject lands, the Townhouse lands (705 & 713 Rymal Road East) and even the neighbouring lands at 230 Eleanor Avenue.

URBAN HAMILTON OFFICIAL PLAN CONFORMITY

Furthermore, implementation of the road extension from Neighbourhood Plan in accordance with the previous Section of this Letter would not conform to the Urban Hamilton Official Plan (UHOP), specifically as it relates to **Volume 1, Chapter C Policy 4.5.2. f) vii**, which states:

“Local roads ending in cul-de-sacs shall generally be discouraged, except under the following criteria:

- 1. where the topography, natural features, wetlands, watercourses, existing development, etc. prevent the construction of a through street;*
- 2. where the road extension would have to cross a railway right-of-way or any other utility corridor;*
- 3. where it has been determined by the City that public street connectivity is not essential to the street circulation network or the underground services and utility grid network of the adjacent area; or,*
- 4. where the local road network is arranged such that connections for pedestrians and cyclists are direct and continuous.”*

Per **UHOP Policy C.4.5.2 f) vii) 1.**, the road extension (as contemplated in the Neighbourhood Plan and blocked by existing development, resulting in a cul-de-sac) is proposed in a location that appears to be relatively flat with no natural features as identified in the UHOP or wetlands as identified by Hamilton Conservation Authority regulatory mapping. The only hindrance is existing development (i.e. the multi-tenanted commercial development) which was approved by both the Committee of Adjustment and City of Hamilton Planning and Economic Development Department after the establishment of the Eleanor Neighbourhood Plan.

Per **UHOP Policy C.4.5.2 f) vii) 2.**, the road (as contemplated in the Neighbourhood Plan and blocked by existing development, resulting in a cul-de-sac) is proposed in a location that does not cross a railway right-of-way any other utility grid network of the adjacent area.

Per **UHOP Policy C.4.5.2 f) vii) 3.**, the road (as contemplated in the Neighbourhood Plan and blocked by existing development, resulting in a cul-de-sac) has been identified as unnecessary by the City of Hamilton Planning and Economic Development Department in consideration of the approved, constructed and proposed developments in the impacted area.

Per **UHOP Policy C.4.5.2 f) vii) 4.**, the road (as contemplated in the Neighbourhood Plan and blocked by existing development, resulting in a cul-de-sac) is not part of a local road network that is arranged for direct and contiguous pedestrian and cycling connects. This is further demonstrated through the rural road cross section that exists currently along Eleanor Avenue, which does not include any sidewalks that can provide a direct and contiguous pedestrian connection.

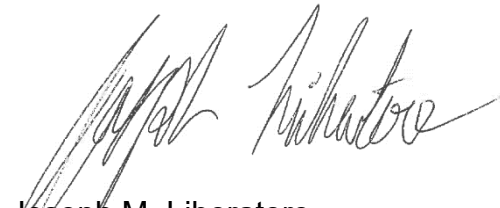
On the basis of the rationale provided herein in support of the Updated Consent application, the following information has been provided:

1. One (1) copy of the updated Consent Sketch (January 27, 2022 Submission Version).

Should you have any question, or require any additional information, please contact me by phone at 226-243-7433 or by email at jliberatore@gspgroup.ca.

Yours truly

GSP Group Inc.



Joseph M. Liberatore,
CNU-A, BURPI., Dip. GIS & Pl.
Planner

cc. *Client*
Melanie Pham, Senior Planner – City of Hamilton

Appendices: *APPENDIX A – Revised January 27, 2022 Submission Cover Letter Planning Brief*
 APPENDIX B – March 3, 2022 Committee of Adjustment Meeting Comments Extract
 APPENDIX C – Composite Plan
 APPENDIX D – January 25, 2022 Growth Management Correspondence
 APPENDIX E – HM/B-09:32 – Committee Approved Consent Decision
 APPENDIX F – HM/B-09:32 – Committee of Adjustment Meeting Minutes
 APPENDIX G – HM/B-09:32 – Committee of Adjustment Consolidated Comments Report



January 27, 2022

File No. 21161

Jamila Sheffield
Secretary-Treasurer
City of Hamilton
Committee of Adjustment
71 Main Street West, 5th Floor
Hamilton, ON
L8P 4Y5

Dear Ms. Sheffield:

**RE: 727 RYMAL ROAD EAST, HAMILTON
CONSENT APPLICATION – HM/B-21:79**

GSP Group is pleased to resubmit on behalf of the owner, an updated application for Consent for the creation of 3 lots through a severance to allow the future construction 2 new single detached dwelling units on the property currently municipally known as 727 Rymal Road East.

The resubmission provided herein is in response to several concerns that were raised in comments provided by both the public and City staff at the October 7, 2021 Committee of Adjustment Meeting. Accordingly, the revisions to the design include:

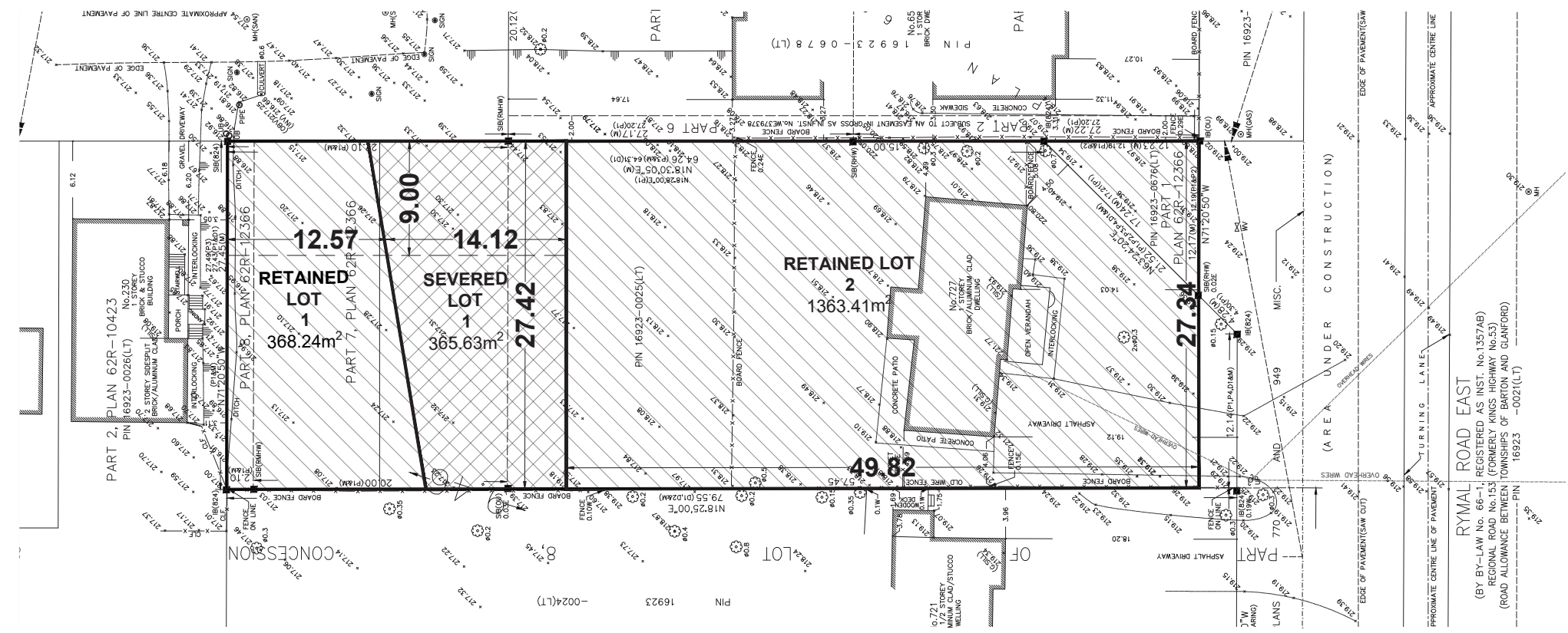
- the realignment of the proposed lot line between Retained Lot 1 and Severed Lot 1; and,
- the shifting of the proposed lot line between Severed Lot 1 and Retained Lot 2.

The above noted changes, illustrated on **Figure 1**, have been incorporated with a collaborative effort from the project team in tandem with City of Hamilton Planning Staff to ensure concerns noted in the comments have been addressed. The concerns generally were with regard to:

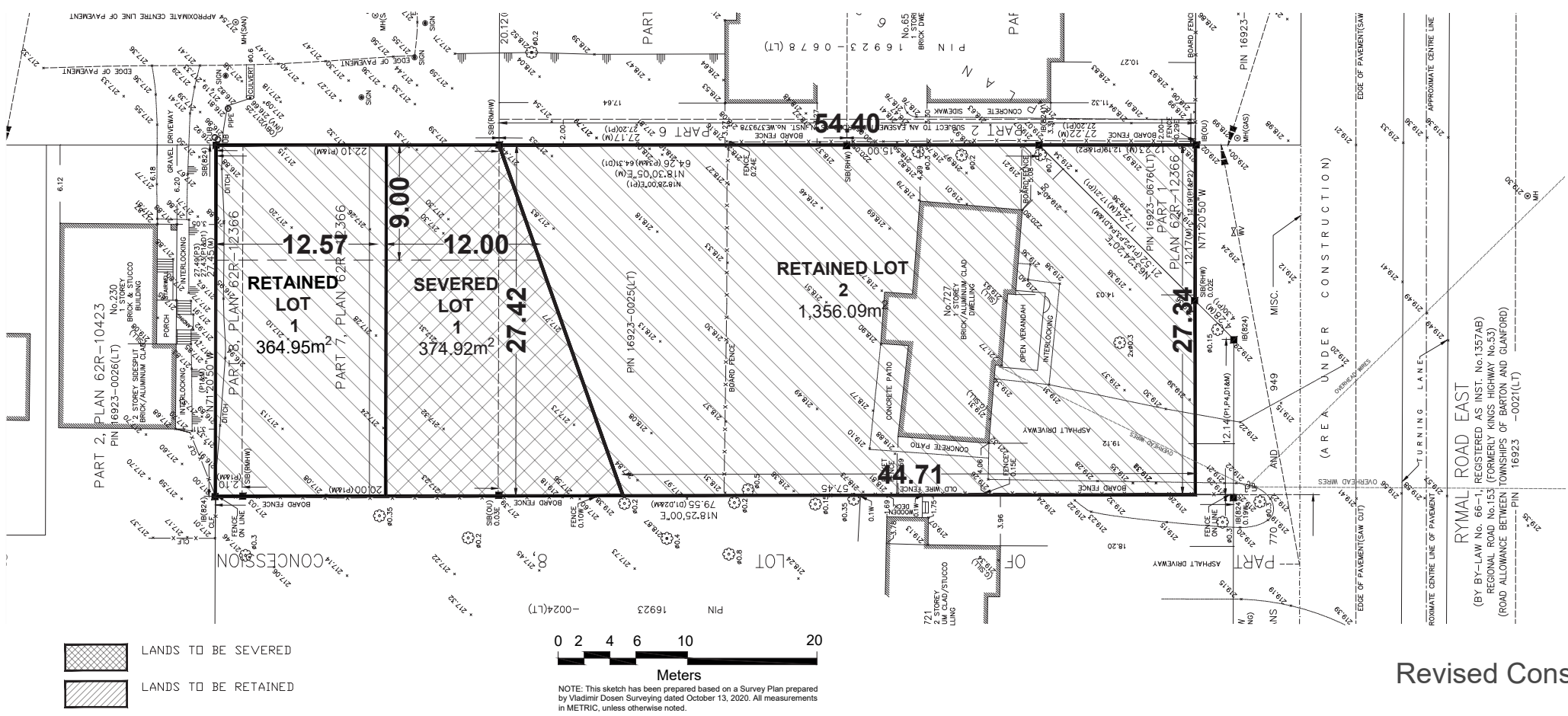
1. Streetscape compatibility with the proposed lots in contrast to the surrounding lot pattern of the neighbourhood;
2. The alignment of the side lot line with the front lot line on Severed Lot 1; and,
3. The status of the Eaglewood Drive Extension initially contemplated in the Eleanor Neighbourhood Plan.

Attached to this Letter in **Appendix A** is a copy of the Comments Extract from the October 7, 2021 Committee of Adjustment Meeting that include the departmental, agency and public comments received as part of the initial submission. Provided in the following section of this Brief is discussion on the manner that these concerns were reviewed and addressed/responded to with this revised submission of Consent application HM/B-21:79.

Original Submission



Revised Submission



Revised Consent Sketch

Revised Lotting

The Site is currently zoned “C” (Urban Protected Residential, Etc.) District in Hamilton Zoning By-law 6593, where single family dwellings are permitted. No modifications to the Zoning By-law are required in order to permit the requested consent for the 3 buildable lots to construct 2 new single family dwellings. The table below summarizes the required lot size requirements in contrast to the initial proposed Consent Sketch and the revised proposed Consent Sketch submitted herein:

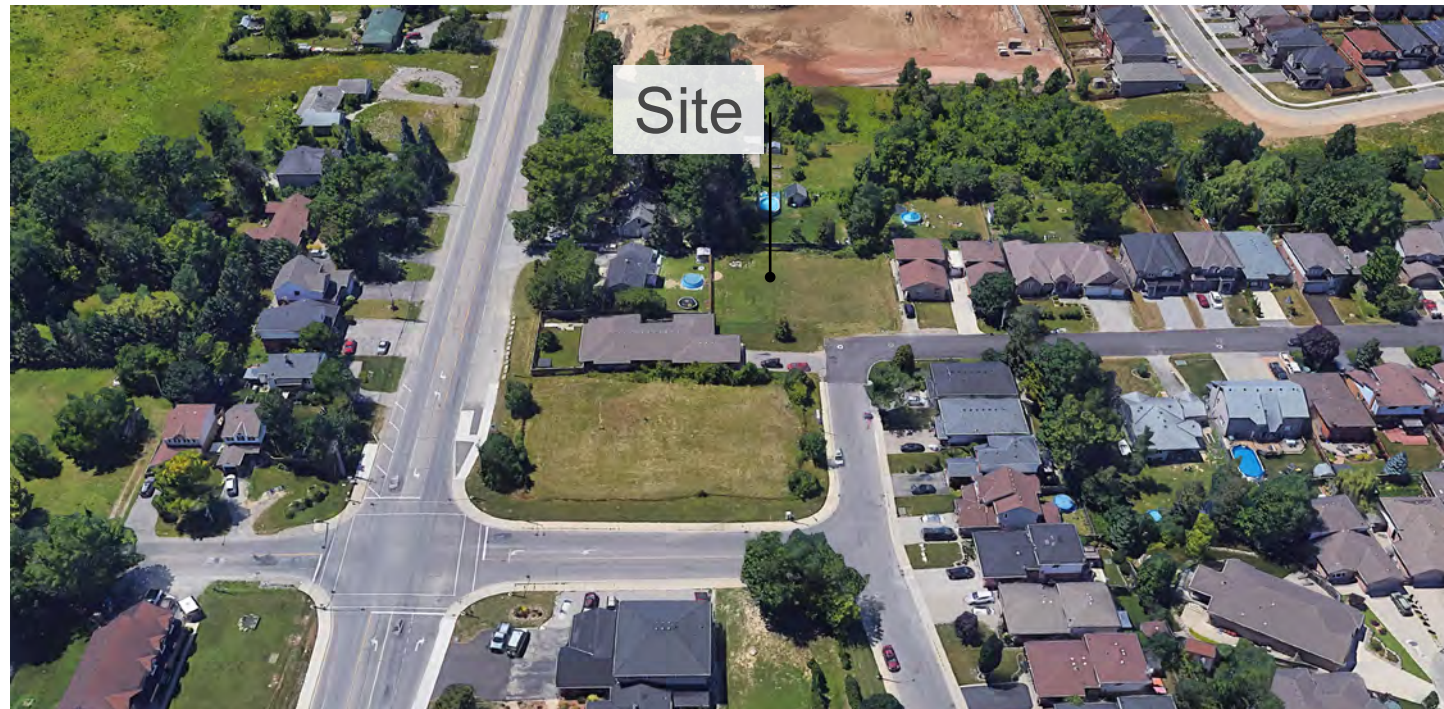
“C” District Regulations					
Lot	Regulation	Required	Initial Design	Revised Design	Conforms? ✓/✗
Retained Lot 1	Minimum Lot Width (measured 9m back from front lot line)	12.0m	12.57m	12.57m	✓
	Minimum Lot Area	360.0m ²	368.24m ²	364.95m ²	✓
Retained Lot 2	Minimum Lot Width (measured 9m back from front lot line)	12.0m	27.34m	27.34m	✓
	Minimum Lot Area	360.0m ²	1,363.41m ²	1,356.09m ²	✓
Severed Lot 1	Minimum Lot Width (measured 9m back from front lot line)	12.0m	14.12m	12.00m	✓
	Minimum Lot Area	360.0m ²	365.63m ²	374.92m ²	✓

Streetscape Compatibility

With respect to Streetscape concerns, a detailed analysis was undertaken to identify a lotting configuration that could enable a building envelope (the portion of a lot that can facilitate a new building within the applicable setbacks) which matches the existing streetscape. The analysis incorporated detailed mapping from the Consent Sketch with relevant setbacks from the C District zone. These setbacks were applied to a conceptual massing of a single family home in accordance with the by-law requirements in a 3D Model to identify the proper alignment with other buildings along the Eaglewood Drive and Eleanor Avenue streetscapes.

This analysis was conducted from multiple perspectives, including a Neighbourhood View (**Figure 2**), an Eaglewood Drive View (**Figure 3**) and an Eleanor Avenue View (**Figure 4**). Each of these respective Views was then depicted further by 4 snapshots, as follows:

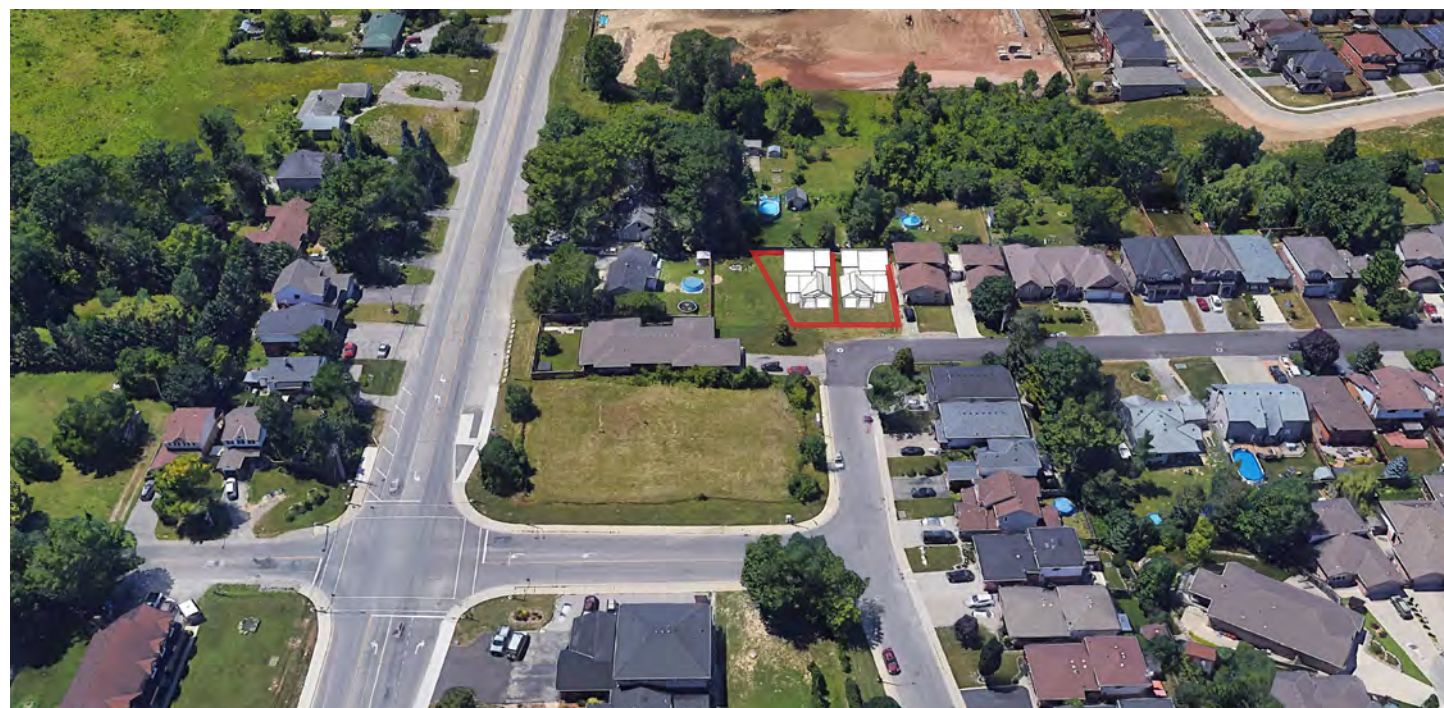
1. Existing View: The Site as it presently exists today.
2. Conceptual View with Lot Lines: The Site as it presently exists today with the proposed future lot lines shown.
3. Conceptual View with Lot Lines & Builds: The Site conceptually developed with the proposed future lot lines and conceptual preliminary building massings shown.
4. Post Construction View: The Site with only the conceptual preliminary building massings shown.



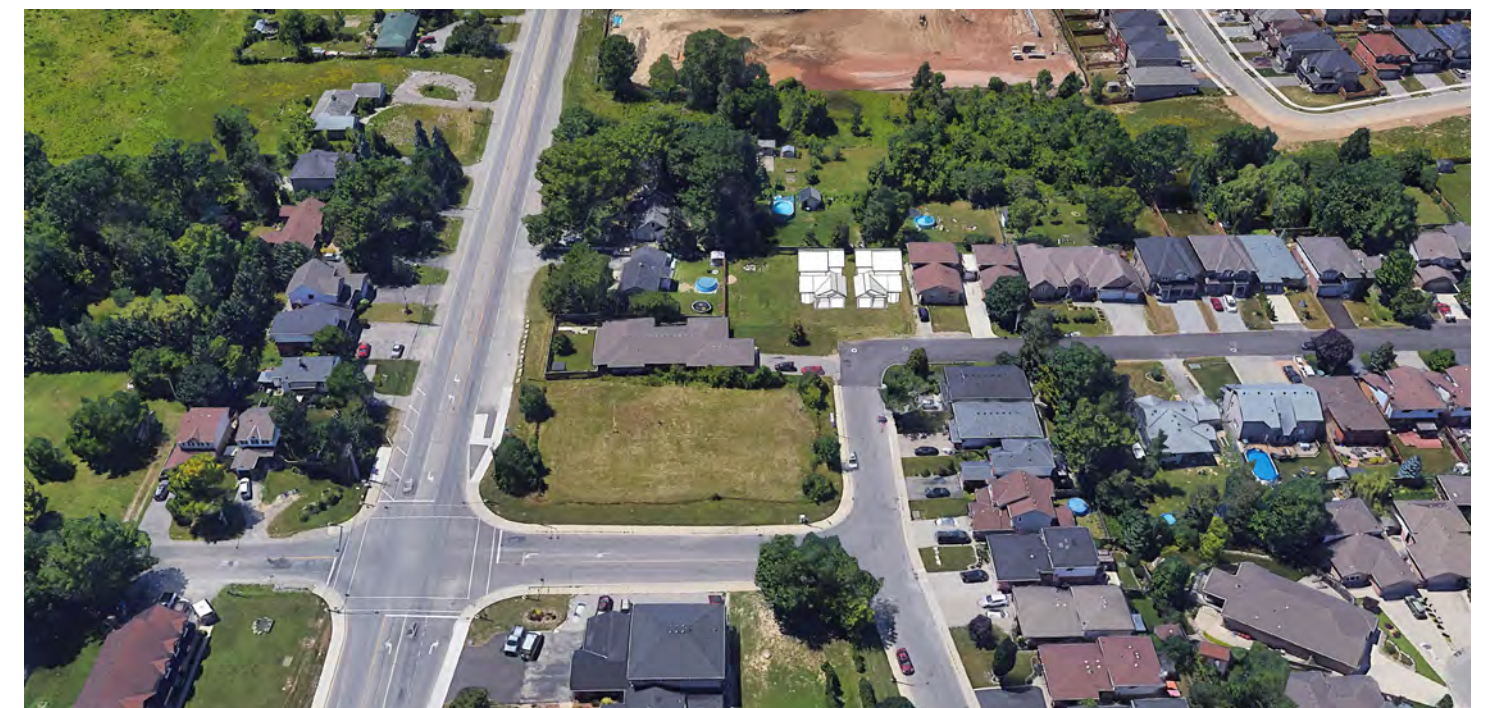
EXISTING VIEW



CONCEPTUAL VIEW WITH LOT LINES



CONCEPTUAL VIEW WITH LOT LINES & BUILDINGS



POST CONSTRUCTION VIEW



EXISTING VIEW



CONCEPTUAL VIEW WITH LOT LINES



CONCEPTUAL VIEW WITH LOT LINES & BUILDINGS



POST CONSTRUCTION VIEW



EXISTING VIEW



CONCEPTUAL VIEW WITH LOT LINES



CONCEPTUAL VIEW WITH LOT LINES & BUILDINGS



POST CONSTRUCTION VIEW

The findings of the analysis identified that despite an angled lot line between Severed Lot 1 and Retained Lot 2, the lotting configuration can allow for dwellings to be constructed in a manner that is compatible with the existing streetscape and match the existing C District zone, similarly to many surrounding dwellings along Eleanor Avenue. Additionally, the updated lot configuration also continues a lotting pattern that is established within the surrounding area and further shown north of the Site along the west side of Eleanor Avenue.

Severed Lot 1 Street Interface

With respect to the interface that Severed Lot 1 had previously been shown, a 4m portion of the front yard had been located immediately adjacent to the front yard of the adjacent property at 651 Eaglewood Drive. This lotting circumstance was concerning as it was noted to have created an inconsistent streetscape per comments received from City Staff; as such, the interface of this lot has been revised in collaboration with Planning Staff from ongoing discussions to no longer interface 651 Eaglewood Drive. **Figure 1** identifies the new lot line as angled from the southeast corner of Severed Lot 1 toward the southwest corner of Severed Lot 1.

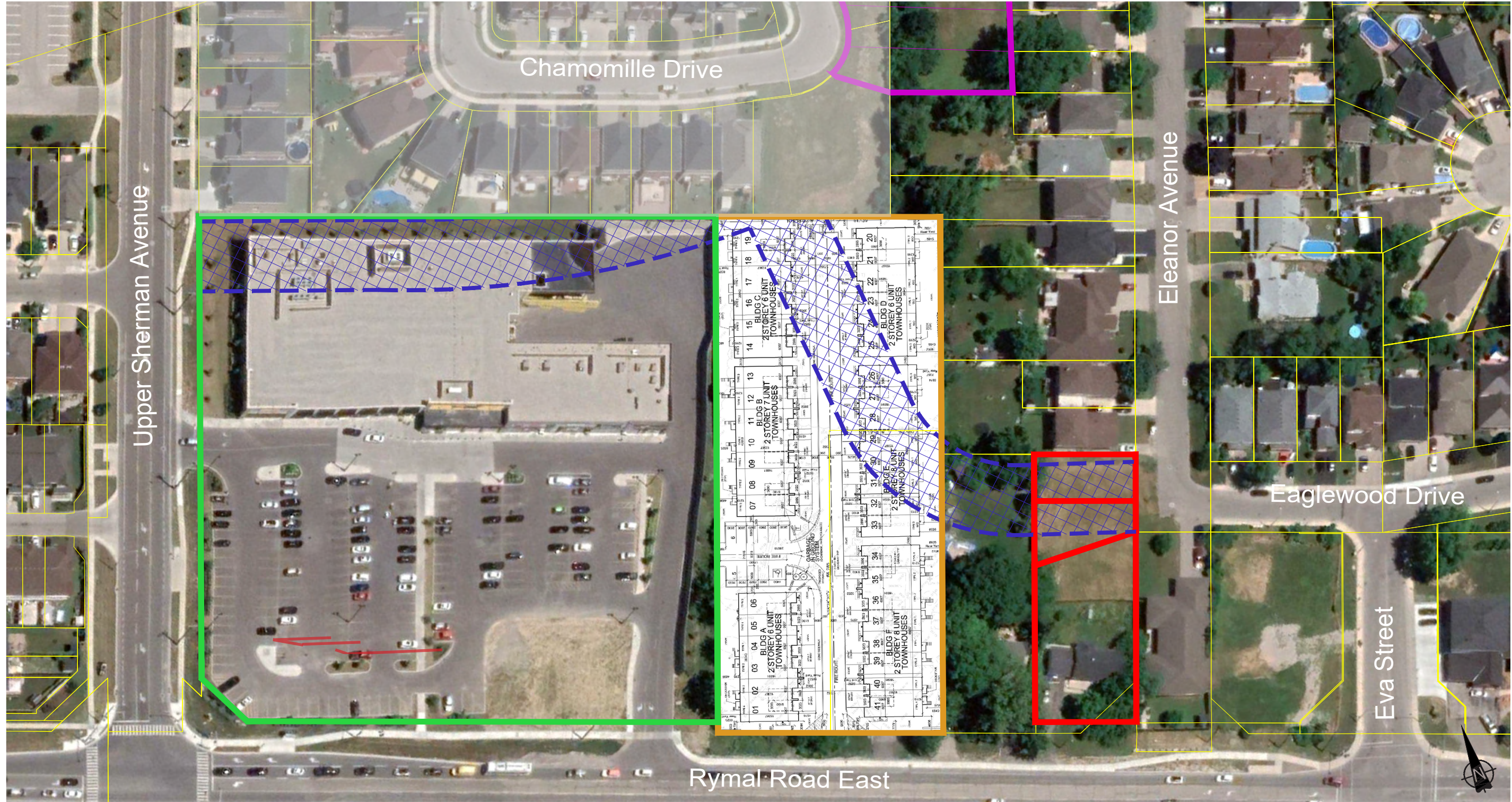
Eaglewood Drive Road Extension

As noted in the Staff and Public Comments, the Eleanor Neighbourhood Plan had indicated a future right-of-way through the Site that was intended to be an extension of Eaglewood Drive to connect into the Losani Homes Sherman Oaks subdivision to the northwest and also a road connection to Upper Sherman Avenue through the commercial plaza site at 695 and 675 Rymal Road East.

As at the time of the initial submission the status of the road extension was unknown, review of adjacent applications that have either been approved or are in the process of gaining approval was undertaken and the findings provided to both Planning Staff and Growth Management Staff to receive direction on the status of the conceptual road extension. This is depicted on the Composite Plan, attached to this Brief as **Figure 5** which shows the road extensions contemplated in the Eleanor Neighbourhood Plan overlayed with:

- Files **DA-10-079 & SPA-14-118** at 695 & 675 Rymal Rd E: Approved and constructed commercial development at the intersection of Upper Sherman Avenue and Rymal Road East, which overlaps with one of the road extensions historically contemplated in the Eleanor Neighbourhood Plan.
- Files **UHOPA-21-012 & ZAC-21-026** at 705 & 713 Rymal Rd E: in process medium density residential development for 41 block townhouse units, which overlaps with a significant portion of the Eaglewood Drive road extension contemplated in the Eleanor Neighbourhood Plan.
- File **25T-201105** – Sherman Oaks Subdivision: Approved residential subdivision with a reserve block that was initially intended to be a future road extension contemplated in the Eleanor Neighbourhood Plan and is now under review with Draft approved Consent Applications (HM/B-21:09 and HM/B-21:10) to facilitate future single family homes.

Following discussion and review, it was confirmed by the City's Growth Management Section per correspondence dated January 25, 2022 that the Eaglewood Drive extension will not move forward and that a revision to the Eleanor Neighbourhood Plan happen after the lotting is finalized.



P:\21161-Manpreet Kherra-727 Rymal Road East, Hamilton\drawings\Area Development Context Plan.dwg

COMPOSITE PLAN

727 RYMAL ROAD EAST, HAMILTON

GSP
group

HM/B-21:79 - 727 Rymal Rd E
Consent Application (in process)

UHOA-21-012 & ZAC-21-026
705 & 713 Rymal Rd E
Official Plan and Zoning By-law
Amendments (in process)

DA-10-079 & SPA-14-118
695 & 675 Rymal Rd E
Site Plan Application (Approved)

HM/B-21:09 & HM/B-21-10
Losani Homes - Sherman Oaks
Consent Application (Conditionally
Approved)

25T-201105 - Sherman Oaks Subdivision
Plan of Subdivision (Approved)

Road Extensions extracted from
Eleanor Neighbourhood Plan

Figure
5

In support of the Updated Consent application , the following information is provided:

1. A cheque in the amount of \$200.00 representing the City's 2022 recirculation fee for Consent;
2. One (1) copy of the updated Consent Sketch.

Should you have any question, or require any additional information, please contact me by phone at 226-243-7433 or by email at jliberatore@gspgroup.ca.

Yours truly

GSP Group Inc.

A handwritten signature in black ink, appearing to read 'Joseph M. Liberatore', is written over the printed name.

Joseph M. Liberatore, B.U.R.Pl., Dip. GIS & Pl.
Planner

cc. Client

APPENDIX A

October 7th, 2021

HM/B-21:79 – 727 Rymal Rd. E., Hamilton

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. (Committee of Adjustment Section)
2. That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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."
3. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
4. The Owner / 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, , 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), all to the satisfaction of the Manager of Development Engineering Approvals.

5. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the 'New Roads Servicing Rate" at the time of payment 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. (Committee of Adjustment Section)
7. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
8. The existing right-of-way along Rymal Road East is 30.48 metres. Approximately 3.0 metres are to be dedicated to Rymal Road East as per the Council Approved Urban Official Plan: Schedule C-2 - Future Right-of-Way Dedications, Rymal Road (Major Arterial Road) is to be 36.576 metres.

A survey conducted by an Ontario land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening

As per Formal Consultation comments, Transportation Planning will not support any new accesses onto Rymal Road East. Access to severed portions of this lot shall only be permitted onto either Eleanor Avenue or Eaglewood Drive.

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained (Retained Lot 2) will remain as **727 Rymal Road East (Hamilton)**, the lands to be retained (Retained Lot 1) will be assigned the address of **234 Eleanor Avenue (Hamilton)**, and the lands to be conveyed (Severed Lot 1) will be assigned the address of **238 Eleanor Avenue (Hamilton)**.

HM/B-21:79 – 727 Rymal Rd. E., Hamilton**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT****Development Planning – Suburban**

The purpose of application **HM/B-21:79** is to sever a portion of the subject lands which fronts onto Rymal Road East. The applicant proposes to retain the existing single detached dwelling (“Retained Lot 2” on submitted survey sketch) and sever “Severed Lot 1” to create a new building lot for the purpose of constructing a single detached dwelling. If approved “Retained Lot 2” will be created by way of natural severance due to the creation of the severed lands. In total, two new lots will be created for the construction of two new single detached dwellings. See Table 1 below.

Table 2

Application: HM/B-21:79	Retained Lot #1	Severed Lot#1	Retained Lot #2
Zoning Classification Zoning By- law No. 6593	Urban Protected Residential “C” District	Urban Protected Residential “C” District	Urban Protected Residential “C” District
Proposed Area:	±368.24 m ²	±365.63 m ²	±1363.41 m ²
Proposed Frontage:	±12.57 metres	±14.12 metres	27.34 metres

Urban Hamilton
Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and

designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are identified as ‘Single and Double’ on the Eleanor Neighbourhood Plan (Map 7505).

The proposal is defined as ‘Residential Intensification’ and must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (UHOP Volume 1). The creation of two irregular lots fronting onto Eleanor Avenue does meet the intent of the UHOP as the proposed lots do not respect nor maintain or enhance the streetscape and are not consistent with the established lot pattern of the neighbourhood. The applicant has failed to demonstrate how the proposed future single detached dwelling for “Severed Lot #1”

will integrate with the existing streetscape and the lands known municipally as 651 Eaglewood Drive. The proposed “Severed Lot #1” though meeting the minimum frontage requirement of 12 metres, only has 10 metres of frontage that interacts with the Eleanor Avenue right-of-way, the other 4 metres is directly abutting the front yard of 651 Eaglewood Drive.

The Eleanor Neighbourhood Plan indicates a future right-of-way which cuts through the subject lands, 721 Rymal Road East, 713 Rymal Road East, and 705 Rymal Road East. This proposal does not take this proposed right-of-way into consideration. See Image 1.

Image 1



Lot creation for ‘Residential Intensification’ in the “Neighbourhoods” designation is permitted if the lots meet the criteria of F.1.14.3.1 (UHOP Volume 1). Staff cannot support the proposed severance as it does not reflect the general scale and character of the established development pattern nor does it comply with the existing Neighbourhood Plan. In addition, this proposal does not represent timely and orderly development as it may compromise the future development of the surrounding vacant lands. It is staff’s opinion that the proposed severance is premature.

Cultural Heritage

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries 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) Along historic transportation routes.

These criteria define 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:

Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Recommendation:

Having regard for the matters under subsection 51(24) of the *Planning Act*, staff is not satisfied that the proposed lots are suitable for the proposed use, that they represent proper and orderly development of the land, nor do they conform to the Official Plan. Staff recommends that the proposed consent, as outlined in the Notice of Hearing, be **Denied**.

If the Committee considers approval of this application, staff recommends the following condition of approval:

Condition:

That the proponent shall carry out an archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, foundation, driveways, any associated landscape alterations or soil disturbance through staging, stockpiling and temporary access, in addition to any areas impacted by the installation of services, such as water and wastewater, electricity, pipelines, easements and ground-source heat pumps. The proponent shall 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.”

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. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
3. The three (3) proposed lots comply with the minimum lot area and lot frontage requirements of the Zoning By-law. Severed Lot 1 and Retained Lot 1 identify lot configurations only at this time. Therefore, compliance with the “C” District provisions is required for new development.

Conditions:

1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained (Retained Lot 2) will remain as **727 Rymal Road East (Hamilton)**, the lands to be retained (Retained Lot 1) will be assigned the address of **234 Eleanor Avenue (Hamilton)**, and the lands to be conveyed (Severed Lot 1) will be assigned the address of **238 Eleanor Avenue (Hamilton)**.

Development Engineering:

INFORMATION:

- 1) Based on the *Eleanor Neighborhood Plan*, it appears as if Eaglewood Drive is intended to extend through the subject lands, specifically through **Retained Lot 1 and Severed Lot 1** which creates a **conflict with the proposal**. If the road extension is required, then the applicant / owner will be **required to dedicate the lands for future road purposes**. We defer to the City Planning Department for the future road network requirements.
- 2) Municipal Infrastructure

The municipal services which surround the subject property are as described:

Rymal Road East

- 3) 600mmø Storm Sewer @ 0.6%
- 4) 750mmø Concrete and 400mmø Ductile Watermain
- 5) 250mmø Sanitary Sewer 2.4%

Eleanor Avenue

- 6) 200mmø Ductile Watermain
- 7) 600mmø Storm Sewer at 0.4%
- 8) 250mmø Sanitary Sewer @ 0.4%

9) Road Improvements:

A right-of-way widening is applicable to the subject property on **Rymal Road East** as per the *Urban Official Plan, Schedule C-2, Future Right-of-Way Dedications* and is described below:

Existing Right-of-Way Width

- 10) Rymal Road East – **30.5m**
- 11) Eleanor Avenue – **20.1m**

Future Right-of-Way Width

- 12) Rymal Road East – **36.576m (LAND DEDICATION IS REQUIRED)**
- 13) Eleanor Avenue – **20.1m (NO LAND DEDICATION)**

The proponent will be required to submit a deposited **R-Plan** and **Land Transfer Deed** in accordance with the City of Hamilton Road Widening Procedural Guide at the Site Plan Control application stage. **Please note that final road widening dimensions are to be determined by Transportation Planning.**

- 14) Currently, Eleanor Avenue is a urban street with a rural cross section adjacent to the subject lands.

RECOMMENDATIONS:

We recommend **denial** of the application based on the *Eleanor Neighborhood Plan*. It appears as if Eaglewood Drive is intended to extend through the subject lands, specifically through **Retained Lot 1 and Severed Lot 1** which creates a **conflict with the proposal**. We defer to the City Planning Department for the future road network requirements. However, if it is determined that the future road networks shown on the Eleanor Neighborhood Plan are not required and do not impact the proposal, then the Owner / Applicant shall submit the following, however, not limited to:

1. The Owner / 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, , 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), all to the satisfaction of the Manager of Development Engineering Approvals.

2. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the 'New Roads Servicing Rate" at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.

Transportation Planning:

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way along Rymal Road East is 30.48 metres.
Approximately 3.0 metres are to be dedicated to Rymal Road East as per the Council Approved Urban Official Plan: Schedule C-2 - Future Right-of-Way Dedications, Rymal Road (Major Arterial Road) is to be 36.576 metres.

A survey conducted by an Ontario land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening

- b. As per Formal Consultation comments, Transportation Planning will not support any new accesses onto Rymal Road East. Access to severed portions of this lot shall only be permitted onto either Eleanor Avenue or Eaglewood Drive.

See attached for additional comments.



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

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: September 29, 2021

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West – 5th Floor

From: Stephen Clark, Urban Forest Health Technician

Subject: 727 Rymal Road East, Hamilton
File: HM/B-21:79

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, October 7th, 2021 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

There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.

Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

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.

LANDSCAPE PLAN

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

SUMMARY

- There are Municipal Tree Assets on site, although no impacts are anticipated therefore no Tree Management Plan or Landscape plan is required.
- Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

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. 7375.

Regards,

A handwritten signature in blue ink that reads "Stephen Clark". The signature is written in a cursive, flowing style.

Stephen Clark
Urban Forest Health Technician

Culic Family, Owners
230 Eleanor Ave,
Hamilton, Ontario, L8W 1C8

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

Oct 4, 2021

Re: Application: HM/B-21:79

We are the owners of 230 Eleanor Ave, the property directly adjacent to the proposed new lots in question (Retained lot 1 and Severed lot 1).
We object to this application for the following reasons:

1) Re: Urban Hamilton Official Plan

This application does not comply with the existing Eleanor Neighbourhood Plan (see Figure 1 & Figure 2) as it would block the future extension of Eaglewood Drive:

-The Eleanor Neighbourhood Plan shows a planned future extension of Eaglewood Drive towards Upper Sherman Ave (extending west, crossing Eleanor Ave adjacent to our property at 230 Eleanor Ave) thereby making the corridor of vacant lands behind Eleanor Ave available for future residential development (see Figure 3 & 4). We were approached by the City of Hamilton several years ago with the Eaglewood Drive Extension Plan and we support it.

2) Re: Provincial Policy Statement 2020 and Growth Plan for the Greater Hamilton Horseshoe 2020

This application effectively decreases residential development potential:

As per the Planning Justification Brief for Application HM/B-21:79, re: Severed Lot 1 and Retained Lot 1: "these two new lots are intended to be used for future single detached dwellings that will have direct access onto Eleanor Drive (sic)" "for the construction (sic) 2 new single detached dwellings"

-This plan would block the Eaglewood Drive extension entry point

- The two proposed single detached dwellings would effectively eliminate the possibility of the redevelopment of the vacant lands behind Eleanor Ave for future multiple single detached dwellings (see Figure 4)
- This contradicts the goals & intent of the Provincial Policy Statement 2020 and the Growth Plan for the Greater Golden Horseshoe 2020 (ie. to increase residential development & intensification); Blocking the development of multiple future dwellings (at the expense of adding only 2 single detached dwellings) would result in a net decrease for residential development potential.

The goals of the Provincial Policy Statement 2020 and the Growth Plan for the Greater Golden Horseshoe 2020 are best served by adhering to the Eleanor Neighbourhood Plan to extend Eaglewood Drive westward toward Upper Sherman Ave, thereby making the vacant lands behind Eleanor Ave available for residential intensification (an area of suitable space for multiple single detached dwellings as illustrated in Figure 4)

Adhering to the extension of Eaglewood Drive as shown in the Eleanor Neighbourhood Plan & the subsequent residential development that would result, would be in the best interest of all the involved parties: the neighbourhood, the land owners and the City of Hamilton.

In Summary:

For the above mentioned reasons, this land severance application is not desirable. It would have a major negative impact on the future redevelopment opportunities of the surrounding area & neighbourhood.

We strongly support the Eleanor Neighbourhood Plan to extend Eaglewood Drive westward & adjacent to our property at 230 Eleanor Ave (as presented to us by the City of Hamilton)

We strongly object to Application HM/B-21:79 and we would officially appeal any decisions that are contrary to or negatively impact the future extension of Eaglewood Drive, as was established by the City of Hamilton (and presented to us by the City of Hamilton) several years ago.

Sincerely,

Nikola and Anda Culic (owners)
Sava Culic

Figure 1: Eleanor Neighbourhood Plan (Source: City of Hamilton)

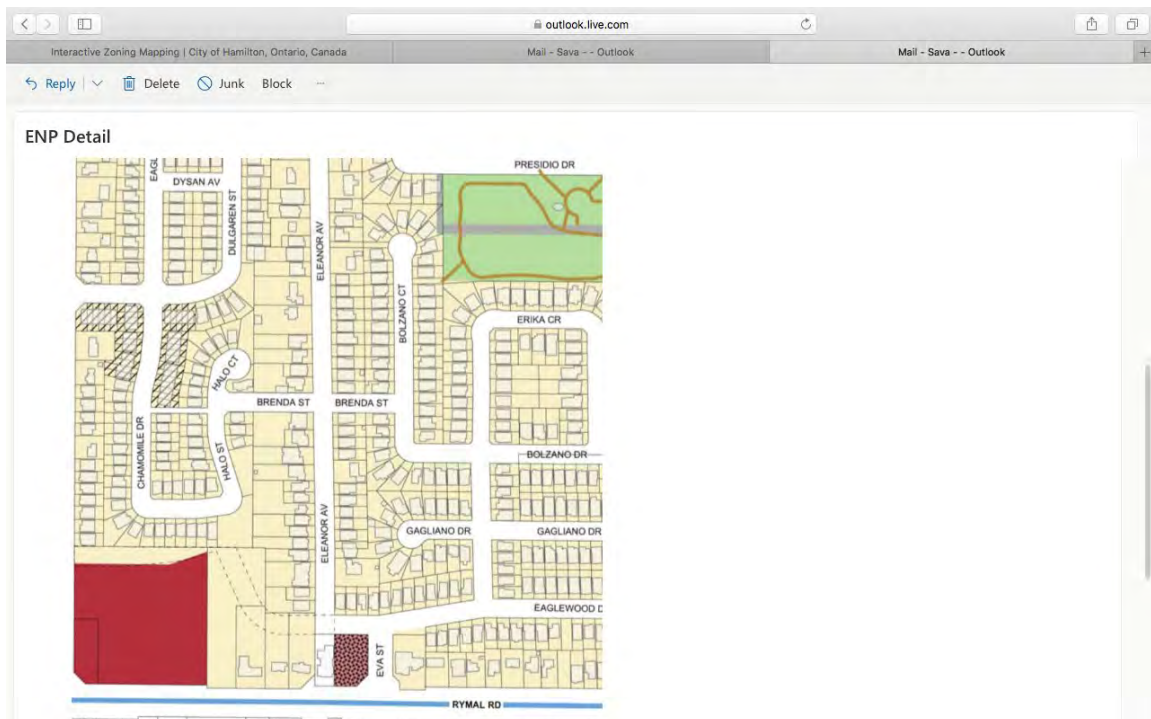
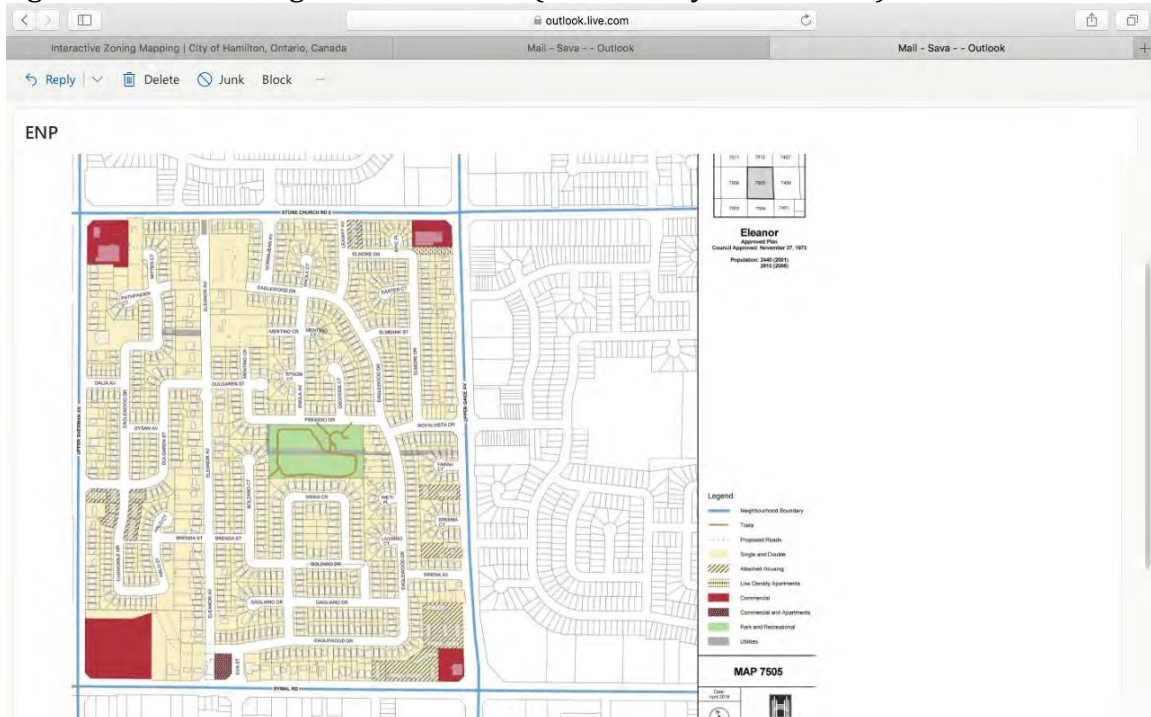


Figure 3: Eaglewood Drive, Current (Source: Google Maps)

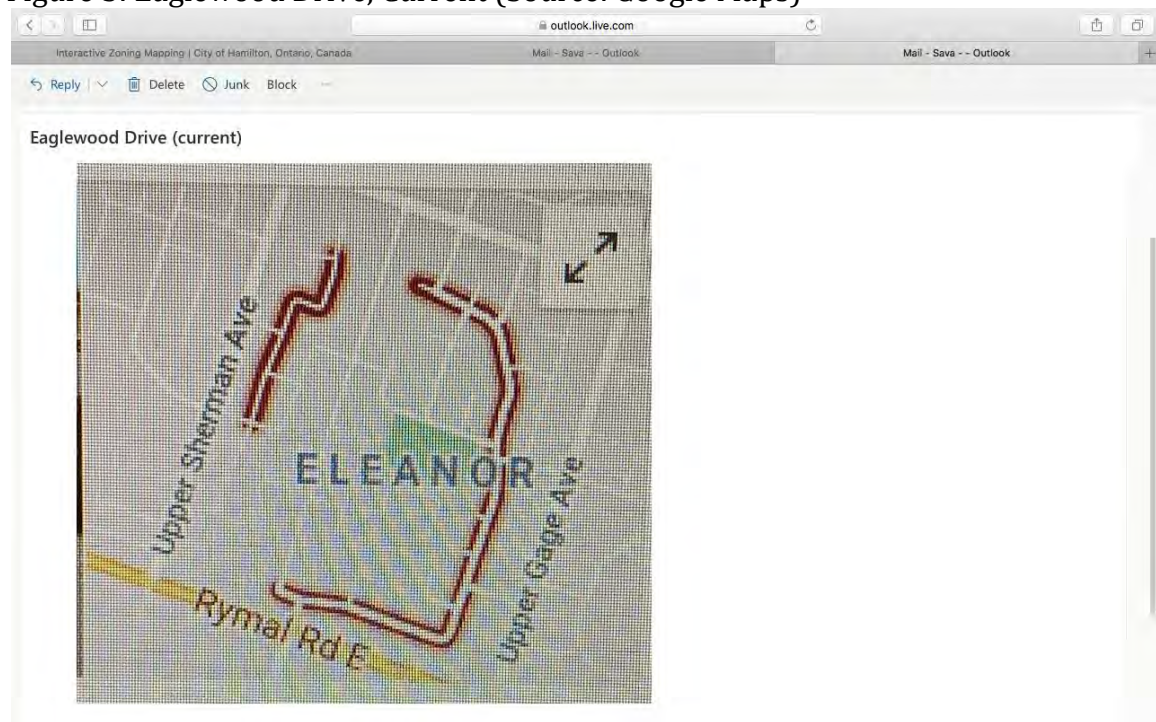
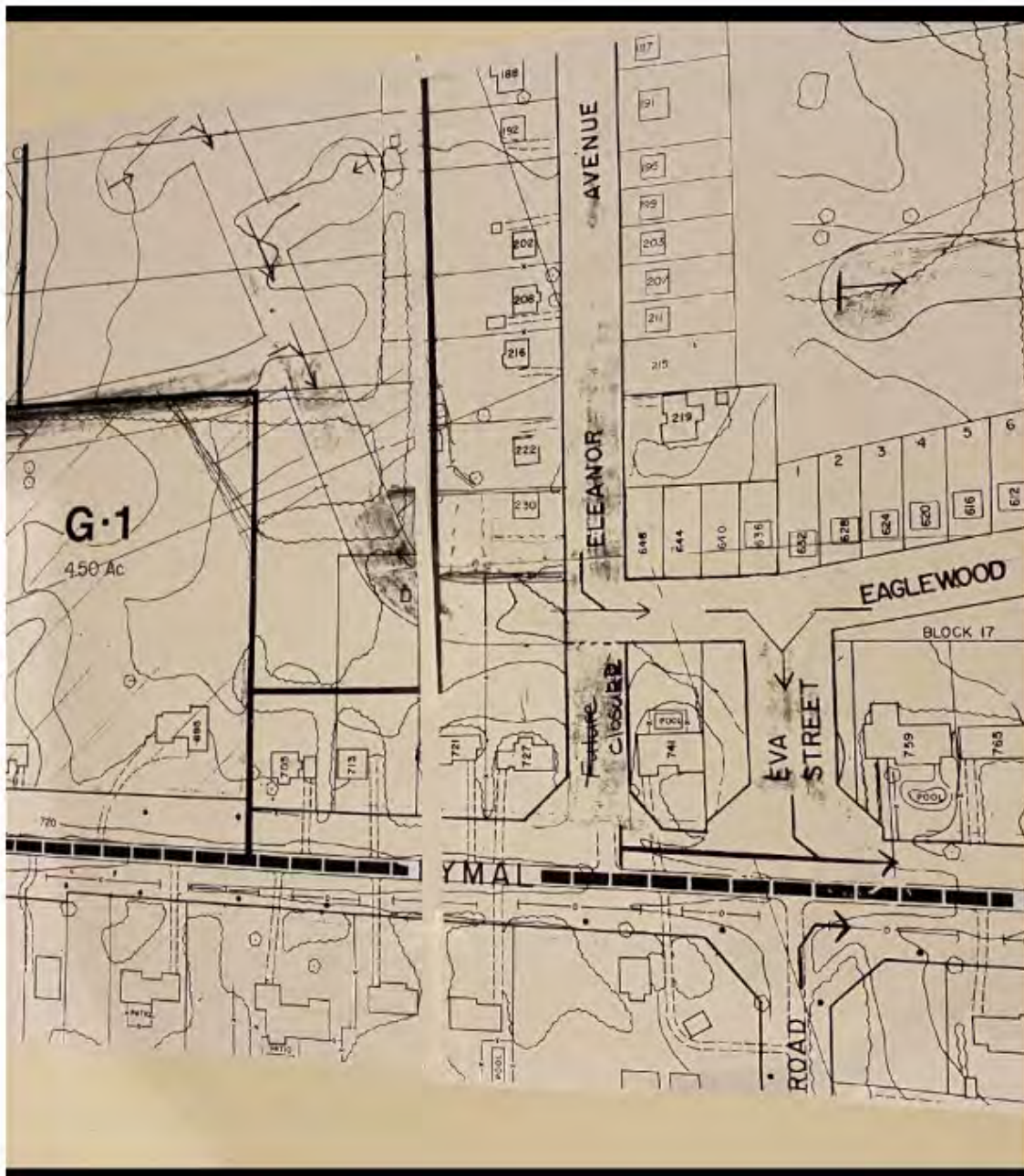
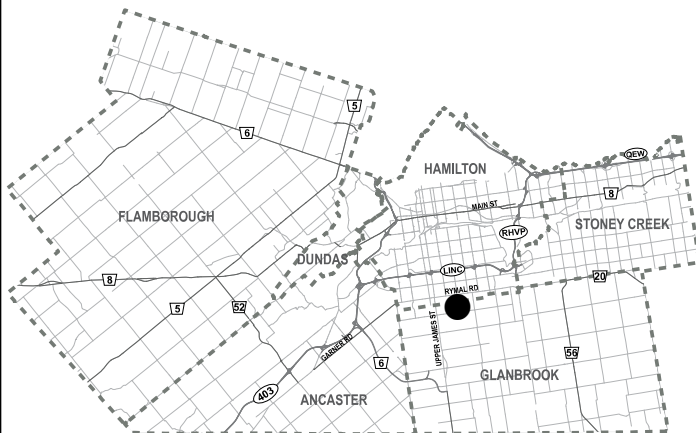


Figure 4: Eaglewood Drive, Future Development Map (Source: City of Hamilton)





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

727 Ryval Road East, Hamilton (Ward 8)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:79

Date:

September 23, 2021

Technician:

VS

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

HM/B-21:79 – 727 Rymal Rd. E., Hamilton

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. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. The existing right-of-way at the subject property is approximately 30 metres. Approximately 3 metres are to be dedicated to the right-of-way on Rymal Road East, as per the Council Approved Urban Official Plan: Schedule C-2 - Future Right-of-Way Dedications. Rymal Road East is to be 36.576 metres from Glancaster Road to Upper Centennial Parkway to the satisfaction of Transportation Planning (tplanning@hamilton.ca).
 - i. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.
5. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section)
6. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
7. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the lot width, lot area, location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or

alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section)

8. The Owner / 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), all to the satisfaction of the Manager of Development Engineering Approvals.
9. That the Owner/Applicant submits a cash payment for the future urbanization of the street based on the City's "New Roads Servicing Rates" at the time of payment, all to the satisfaction of the Manager of Development Engineering Approvals.
10. That the proponent shall carry out an Archaeological Assessment for the severed portion of the property (Severed Lot 1 and Retained Lot 1). The proponent shall 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.

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained (Retained Lot 2) will remain as **727 Rymal Road East (Hamilton)** and the lands to be retained (Retained Lot 1) will be assigned the address of **234 Eleanor Avenue (Hamilton)** and the lands to be conveyed (Severed Lot 1) will be assigned the address of **238 Eleanor Avenue (Hamilton)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

HM/B-21:79 – 727 Rymal Rd. E., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of application **HM/B-21:79** is to sever a portion of the subject lands which fronts onto Rymal Road East. The applicant proposes to retain the existing single detached dwelling (“Retained Lot 2” on the submitted survey sketch) and sever “Severed Lot 1” to create a new building lot for the purpose of constructing a single detached dwelling. If approved, “Retained Lot 2”, will be created by way of a natural severance. In total, two new lots will be created for the construction of two new single detached dwellings. See Table 1 below.

Table 2

Background

Application: HM/B-21:79	Retained Lot #1	Severed Lot#1	Retained Lot #2
Zoning Classification Zoning By-law No. 6593	Urban Protected Residential “C” District	Urban Protected Residential “C” District	Urban Protected Residential “C” District
Proposed Area:	±368.24 m ²	±365.63 m ²	±1363.41 m ²
Proposed Frontage:	±12.57 metres	±14.12 metres	27.34 metres

The application was originally scheduled to be considered by the Committee of Adjustment on October 21st was tabled due to Staff’s recommendation that the severances were pre-mature. The proposal did not take the future right-of-way indicated in the Eleanor Neighbourhood Plan into consideration. Staff had noted that the future right of way is no longer is being proposed.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Further, the lands are identified as ‘Single and Double’ on the Eleanor Neighbourhood Plan (Map 7505).

The proposal is defined as ‘Residential Intensification’ and must be evaluated based on the policies of Sections B.2.4.1.4 and B.2.4.2.2 (UHOP Volume 1). The creation of two irregular lots fronting onto Eleanor Avenue meets the intent of the UHOP as the proposed lots maintains and enhances the streetscape and are consistent with the established lot pattern of the neighbourhood, specifically, 204 & 226 Eleanor Drive and 636 to 648 Eaglewood Drive. The proposed “Severed Lot #1” and “Retained Lot #1” also meet the minimum frontage requirement of 12 metres.

Lot creation for ‘Residential Intensification’ in the “Neighbourhoods” designation is permitted if the lots meet the criteria of F.1.14.3.1 (UHOP Volume 1). Staff supports the proposed severance as it reflects the general scale and character of the established development pattern and complies with the existing Neighbourhood Plan. It is the opinion of staff that the proposed development is compatible with the surrounding area in terms of use and scale. The proposed lots will integrate well with the lot pattern of the neighbourhood and are of adequate size to support a building footprint for the intended use.

Cultural Heritage

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries 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) Along historic transportation routes.

These criteria define 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:

Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential “C” District which permits the use of single detached dwellings and structures accessory thereto, in accordance with the applicable provisions.

Recommendation

Having regard for the matters under subsection 51(24) of the *Planning Act*, staff is satisfied that the proposed lots are suitable for the use, the proper and orderly development of the land, and conform to the Official Plan. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Approved** subject to the condition outlined below:

Condition:

That the proponent shall carry out an Archaeological Assessment for the severed portion of the property (Severed Lot 1 and Retained Lot 1). The proponent shall 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.

Zoning:

1. The Consent Sketch submitted shows Retained Lot 1 having a lot area of 364.95m²; however, based on the lot dimensions shown being 12.57m x 27.42m, the lot area of the Retained Lot 1 appears to be 344.67m² which does not conform to the minimum required lot area of 360m². As such, the lot area of Retained Lot 1 shall be re-confirmed.
2. A variance for lot area will be required for zoning compliance of the lands to be retained (Lot 1) if the lot area is less than 360m².
3. 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.
4. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
5. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

CONDITIONAL UPON:

1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section)

2. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
3. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the lot width, lot area, location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section)

Development Engineering:

Information:

The municipal services which surround the subject property are as described:

Rymal Road East

- 600mmø Storm Sewer @ 0.6%
- 750mmø Concrete and 400mmø Ductile Watermain
- 250mmø Sanitary Sewer 2.4%

Eleanor Avenue

- 200mmø Ductile Watermain
- 600mmø Storm Sewer at 0.4%
- 250mmø Sanitary Sewer @ 0.4%

Development Engineering Approvals defers to Transportation Planning and Planning for any required land dedications (daylighting triangles and ROW widenings) and or future road extensions, all in accordance with the Urban Official Plan and neighbourhood plans.

Currently, Eleanor Avenue has a rural cross section adjacent to the subject lands. Therefore, the owner will be required to submit a cash payment to the City for the future urbanization of the street based on the City's "New Roads Servicing Rates" at the time of payment.

Required Condition:

1. The Owner / 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), all to the satisfaction of the Manager of Development Engineering Approvals.

2. That the Owner/Applicant submits a cash payment for the future urbanization of the street based on the City's "New Roads Servicing Rates" at the time of payment, all to the satisfaction of the Manager of Development Engineering Approvals.

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be retained (Retained Lot 2) will remain as **727 Rymal Road East (Hamilton)** and the lands to be retained (Retained Lot 1) will be assigned the address of **234 Eleanor Avenue (Hamilton)** and the lands to be conveyed (Severed Lot 1) will be assigned the address of **238 Eleanor Avenue (Hamilton)**.

We ask that the following be noted to the applicants:

That the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

Transportation Planning:

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 30 metres. Approximately 3 metres are to be dedicated to the right-of-way on Rymal Road East, as per the Council Approved Urban Official Plan: Schedule C-2 - Future Right-of-Way Dedications. Rymal Road East is to be 36.576 metres from Glancaster Road to Upper Centennial Parkway.
 - i. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.

See attached for additional comments.



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

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: February 24, 2022

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West – 5th Floor

From: Stephen Clark, Urban Forest Health Technician

Subject: 727 Rymal Road East, Hamilton
File # HM/B-21:79

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, March 3rd, 2022, 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

There are no Municipal Tree Assets on site; therefore, a Tree Management Plan will not be required.

No Landscape plan required.

Forestry has no concerns or conditions regarding this application.

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.

LANDSCAPE PLAN

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

SUMMARY

- There are no Municipal Tree Assets on site; therefore, a Tree Management Plan will not be required.
- No Landscape plan required.
- Forestry has no concerns or conditions regarding this application.

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. 7375.

Regards,

A handwritten signature in blue ink that reads "Stephen Clark". The signature is written in a cursive, flowing style.

Stephen Clark
Urban Forest Health Technician

Culic Family, Owners
230 Eleanor Ave,
Hamilton, Ontario, L8W 1C8

25 February 2022

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

**Re: Application: HM/B-21:79
(Hearing Date: 03 March 2022)**

We are the owners of 230 Eleanor Ave, the property directly adjacent to the proposed new lots in question (Retained lot 1 and Severed lot 1).

We object to this application for the following reasons:

1) This application does not comply with the existing Eleanor Neighbourhood Plan (see Figure 1 & Figure 2) as it would block the future plans for extension of Eaglewood Drive.

-The Eleanor Neighbourhood Plan shows a planned future extension of Eaglewood Drive towards Upper Sherman Ave (extending west, crossing Eleanor Ave adjacent to our property at 230 Eleanor Ave)

-This extension would make the corridor of vacant lands behind Eleanor Ave available for future residential development (see Figure 3 & 4). This land is already zoned to permit single detached dwellings.

We were approached by the City of Hamilton several years ago with the Eaglewood Drive Extension Plan and we support it.

2) This application effectively decreases residential development potential:

-This plan would block the Eaglewood Drive extension entry point

-Two proposed single detached dwellings (Retained lot 1 and Severed lot 1) would effectively eliminate the possibility of the redevelopment of the vacant lands behind Eleanor Ave for future multiple single detached dwellings (see Figure 4)

-This contradicts the goals & intent of the Provincial Policy Statement 2020 and the Growth Plan for the Greater Golden Horseshoe 2020 (ie. to increase residential development & intensification)

Blocking the development of multiple future dwellings (at the expense of adding only 2 single detached dwellings) would result in a net decrease for residential development potential.

The goals of the Provincial Policy Statement 2020 and the Growth Plan for the Greater Golden Horseshoe 2020 are best served by adhering to the current Eleanor Neighbourhood Plan.

Adhering to the extension of Eaglewood Drive as shown in the Eleanor Neighbourhood Plan (& the subsequent residential development that would result) would be in the best interest of all the involved parties: the neighbourhood, the land owners and the City of Hamilton.

In Summary:

This land severance application is not desirable.

It would have a major negative impact on the future redevelopment opportunities of the surrounding area & neighbourhood.

We strongly support the Eleanor Neighbourhood Plan to extend Eaglewood Drive westward & adjacent to our property at 230 Eleanor Ave (as presented to us by the City of Hamilton).

We strongly object to Application HM/B-21:79 and would officially appeal any decisions that are contrary to or negatively impact the future extension of Eaglewood Drive.

Sincerely,

Nikola and Anda Culic (owners)

Sava Culic

Figure 1: Eleanor Neighbourhood Plan (Source: City of Hamilton)

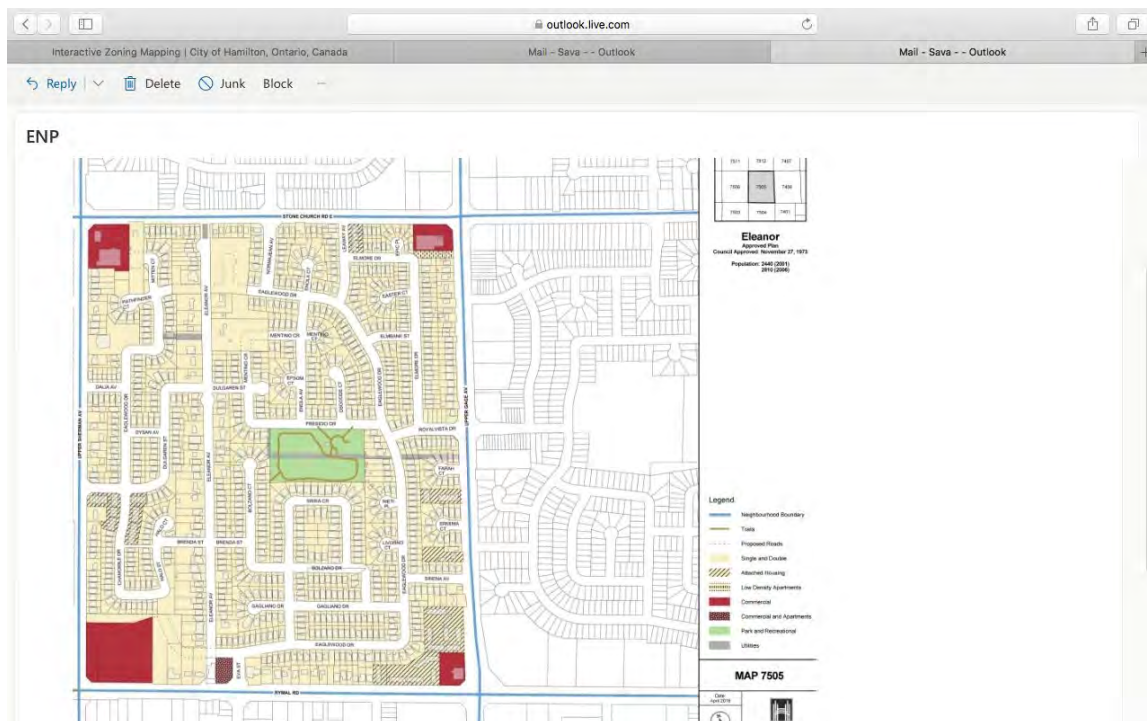


Figure 2: Detail - Eleanor Neighbourhood Plan (showing Future Eaglewood Dr extension, south end of Eleanor Ave)



Figure 3: Eaglewood Drive, Current (Source: Google Maps)

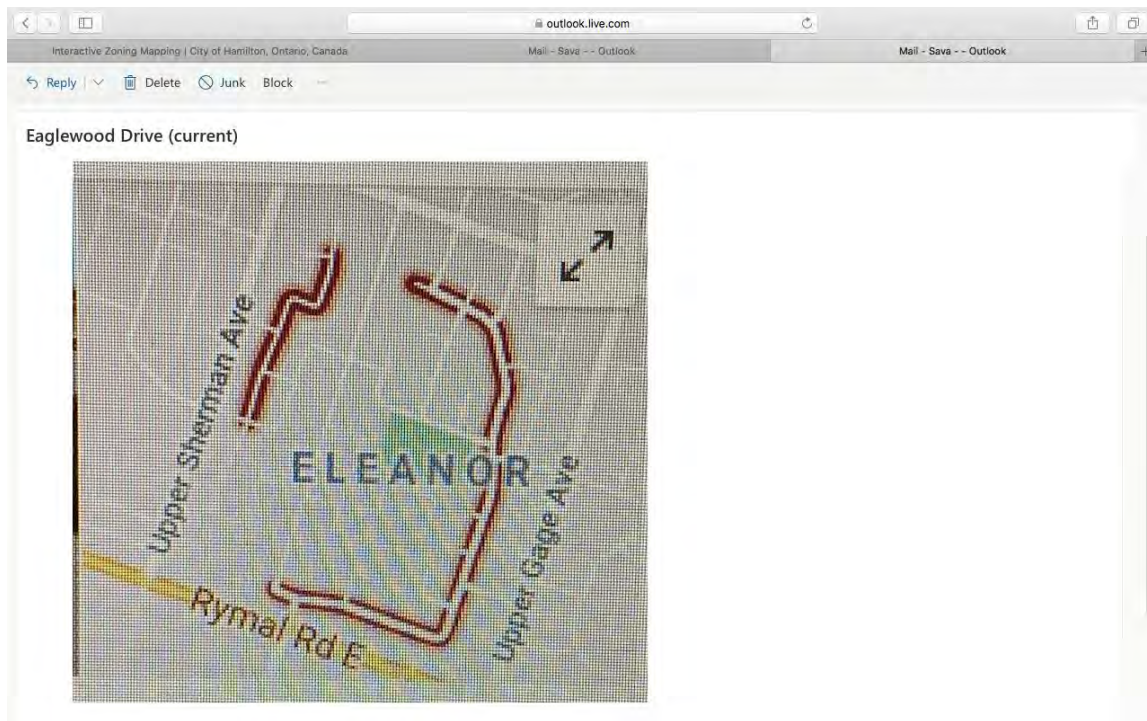
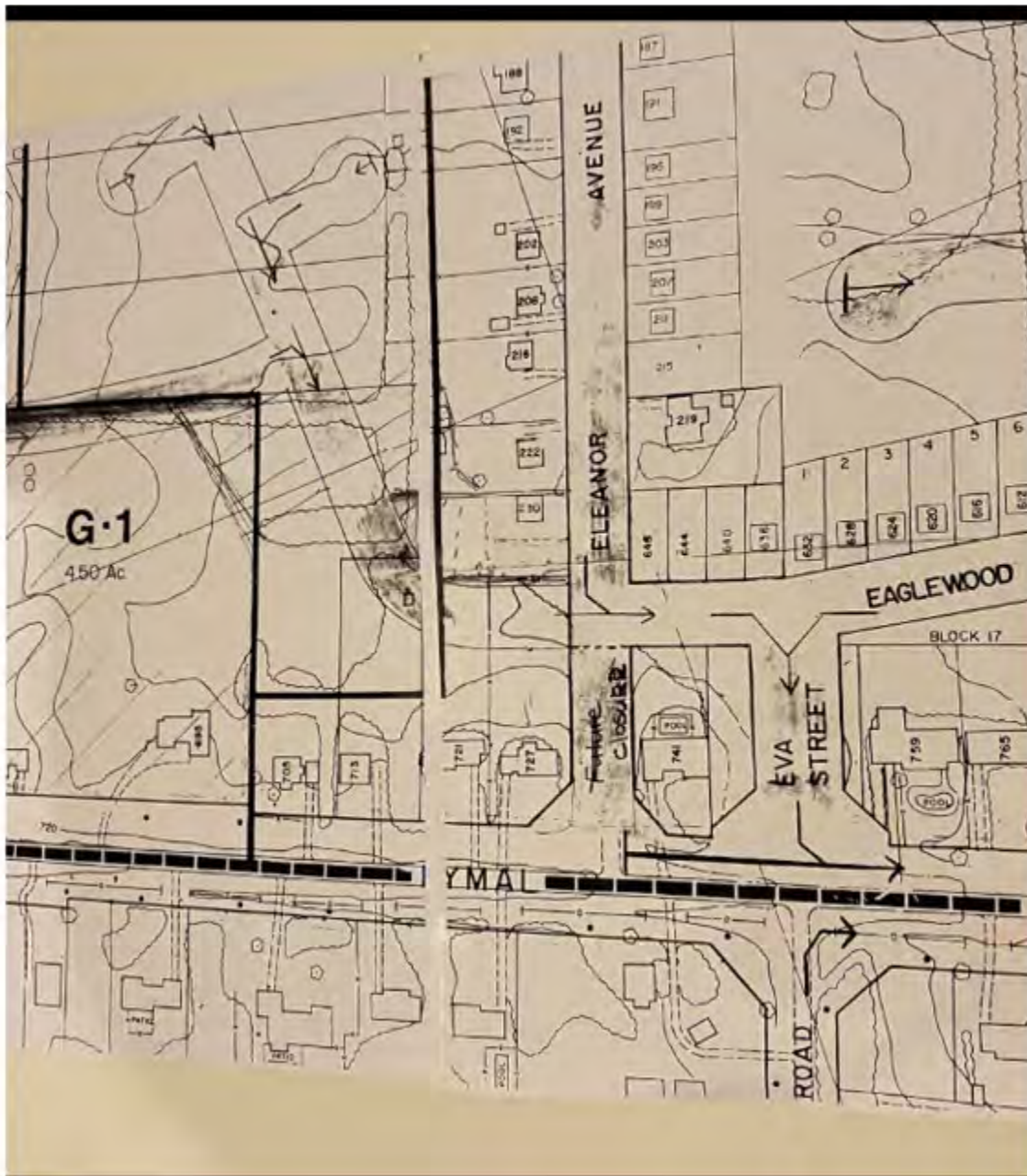
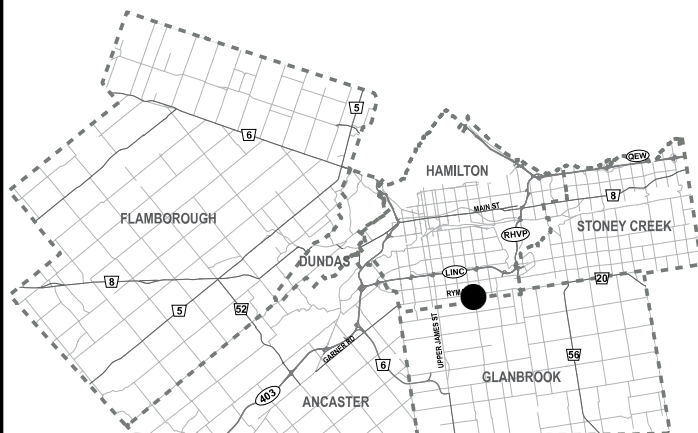


Figure 4: Eaglewood Drive, Future Development Map (Source: City of Hamilton)





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

727 Rymal Road East, Hamilton (Ward7)



Lands to be Retained



Lands to be Severed

File Name/Number:

HM/B-21:79

Date:

February 24, 2022

Technician:

AL

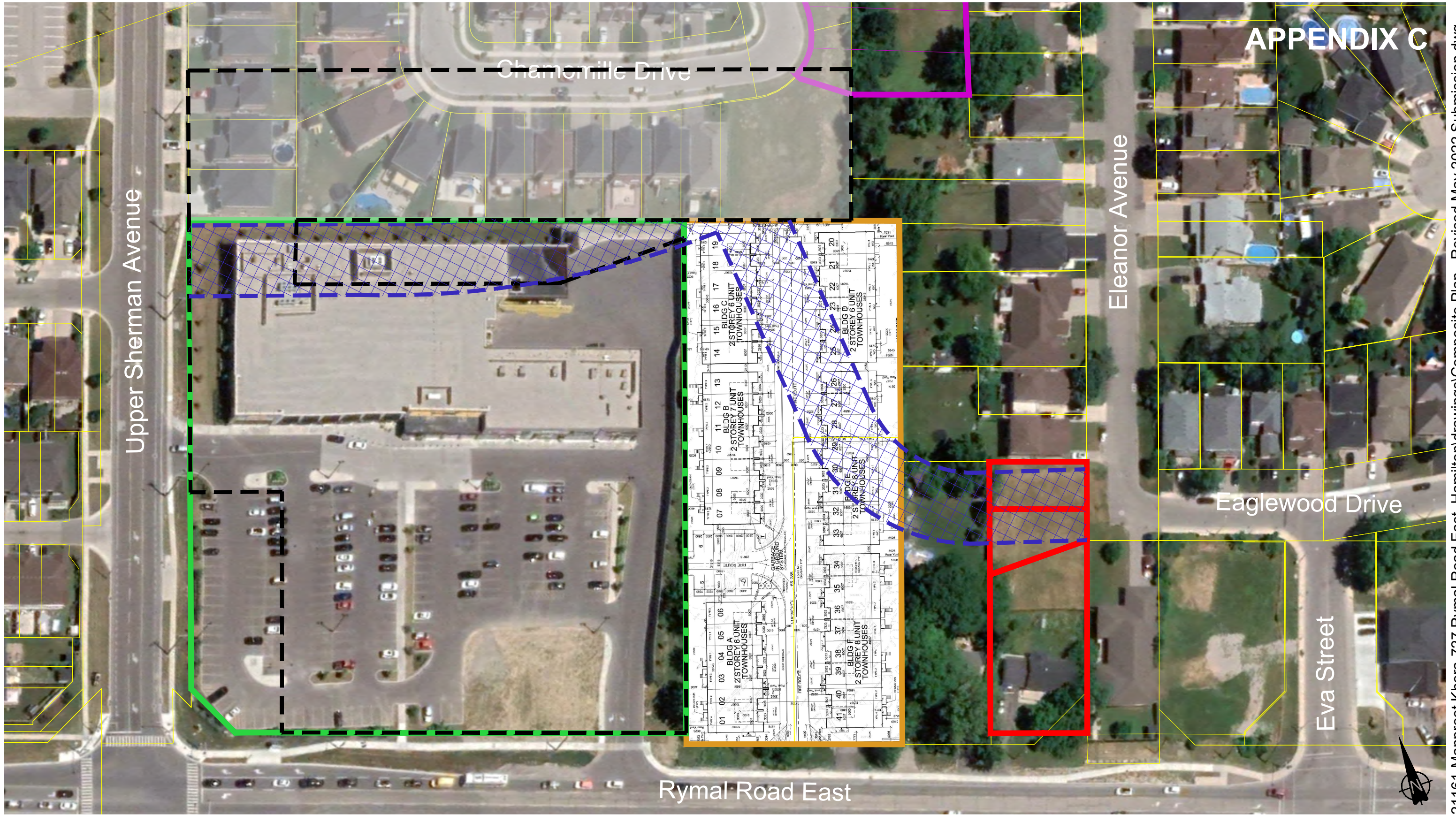
Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT



APPENDIX C

COMPOSITE PLAN 727 RYMAL ROAD EAST, HAMILTON MAY 2022

- HM/B-21:79 - 727 Rymal Rd E
Consent Application (in process)
- UHOPA-21-012 & ZAC-21-026
705 & 713 Rymal Rd E
Official Plan and Zoning By-law
Amendments (in process)
- DA-10-079 & SPA-14-118
695 & 675 Rymal Rd E
Site Plan Application (Approved)
- HM/B-21:09 & HM/B-21-10
Losani Homes - Sherman Oaks
Consent Application (Conditionally
Approved)
- 25T-201105 - Sherman Oaks Subdivision
Plan of Subdivision (Approved)
- HM/B-09:32
1605 Upper Sherman Ave,
695 & 675 Rymal Rd E
Consent Application (Final Approval)

 Road Extensions extracted from
Eleanor Neighbourhood Plan



Joseph Liberatore

From: Chan, Alvin <Alvin.Chan@hamilton.ca>
Sent: January 25, 2022 8:13 AM
To: Crooks, Tage; Joseph Liberatore
Subject: RE: 727 Rymal Rd E - Consent Application

It has yet to receive approval but based on comments received, yes eaglewood will no longer punch through. This is tentative until the lotting is finalized and revision approved.

From: Crooks, Tage <Tage.Crooks@hamilton.ca>
Sent: January 25, 2022 7:39 AM
To: Joseph Liberatore <jliberator@gsppgroup.ca>
Cc: Chan, Alvin <Alvin.Chan@hamilton.ca>
Subject: RE: 727 Rymal Rd E - Consent Application

Good morning Joseph,

I have copied Alvin on this email to speak to the Eaglewood extension. Alvin when we spoke last I believe you had indicated that we are recommending the cancelation of this Eaglewood Drive extension?

Sincerely, Tage Crooks

From: Joseph Liberatore <jliberator@gsppgroup.ca>
Sent: Monday, January 24, 2022 2:46 PM
To: Crooks, Tage <Tage.Crooks@hamilton.ca>
Subject: RE: 727 Rymal Rd E - Consent Application

Hi Tage,

As discussed during our call last week, confirmation from Growth Management regarding the status of the Eaglewood Extension was to be provided. Could you please send this over?

Thank you,

Joseph M. Liberatore
CNU-A, BURPI., Dip. GIS & PI.
Planner
office: 905.572.7477
direct: 226.243.7433
email: jliberator@gsppgroup.ca



162 Locke Street South
Suite 200
Hamilton, ON L8P 4A9

www.gsppgroup.ca

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. If you are not the intended recipient of this communication, please advise us immediately and delete this email without reading, copying or forwarding it to anyone.

GSP Group and Hilton Landmark offices are currently closed. All staff are working remotely. You may contact me directly at 226.243.7433.



Committee of Adjustment
 Hamilton City Centre
 4th floor, Suite 400, 77 James St. N.
 Hamilton, ON L8R 2K3
 Telephone (905) 546-2424, ext. 4221
 Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. HM/B-09:32
 SUBMISSION NO. B-32/09

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal numbers 1605 Upper Sherman Avenue and 675 - 695 Rymal Road East, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owner Paletta International Corporation, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land measuring 42.16m± (138.33'±) x 186.8m± (613'±) for residential purposes, and to retain a vacant parcel of land, being irregular in shape, and having a frontage of 114.07m± (374.25'±), and an area of 16,562m²± (4.1 acres±) for commercial (retail and commercial buildings) purposes.

THE DECISION OF THE COMMITTEE IS:

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

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Hamilton Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

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 conditions.

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.

2. The owner shall receive final approval of an application for minor variance for the lands zoned "AA", to the satisfaction of the Planning and Economic Development Department, Development Planning (West) Division.

3. The owner shall submit to the Committee of Adjustment Office an administration fee of \$15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 30th day of April, 2009.

M. Dudzic, Chairman

C. Lewis

D. Smith

L. Tew

L. Gaddy

D. Serwatuk

D. Drury

V. Abraham

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS May 7th, 2009.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (May 7th, 2010) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS May 27th, 2009.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1. The owner/applicant is advised that any future Planning Act applications for both the lands to be conveyed and the lands to be retained, may require the investigation and mitigation of noise impacts.
2. Based on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed will remain as 1605 Upper Sherman Avenue and that the lands to be retained will remain as 675-695 Rymal Road East.
3. 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 and the applicant is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).
4. Prior to development of the subject lands, the owner shall dedicate sufficient land to the City of Hamilton to establish the future road pattern, as shown on the Eleanor Neighbourhood Approved Plan, and enter into a Subdivision Agreement to the satisfaction of the Director Development Engineering to provide for future construction of the road and servicing of the lands.

APPENDIX F

April 30th, 2009

HM/B-09:32

Paletta International Corporation
1605 Upper Sherman Ave. & 675-695 Rymal Rd. E., Hamilton

Appearances were:

Dave Pitblado, Applicant. Interested parties were: Gerald Otter, 199 Eleanor Avenue, Hamilton, ON L8W 1C7; Mark Tipney, 705 Rymal Road East, Hamilton, ON L8W 1B5; Owner/Occupant, 196 Eleanor Ave., Hamilton, ON L8W 1C8.

Those members present for the hearing of this application were: M. Dudzic (Chairman), V. Abraham, C. Lewis, D. Drury, D. Serwatuk, L. Gaddy, D. Smith, M. Switzer, L. Tew.

A summary comment from the Planning and Economic Development Division together with comments from other departments and agencies were entered into the record.

Letters were entered into the record from: nil

D. Pitblado

- reviewed the application as submitted
- stated that he has read the comments and has no objection to the conditions however he would ask that conditions #2, #3 and #4 be moved to be included under the "note" section
- he thinks it's premature to have to do an archaeological assessment, rezoning and road widening at this time
- the approved Eleanor Neighbourhood Plan is basically used as a guide only; there will be further work involved which would be a more appropriate time to deal with the conditions

D. Barnett
(staff)

- the re-zoning is a must at this time; you cannot put it off to a later date because it would create an illegal lot

D. Pitblado

- questioned what they would re-zone it too?

D. Barnett
(staff)

- probably a "C" district

D. Pitblado

- the long term plan and ultimate development could be 5 – 20 years
- the severance is more to delineate the residential from the commercial
- they are fully complying with the intended zoning

- if we have to do it now we have to do it
- we're just a small piece of the puzzle
- it would make more sense for the City to rezone it thru the new zoning by-law

- D. Barnett
(staff)
 - there is no problem with splitting the residential from the commercial but in order to do that you either have to put it on hold until the City rezones it or it has to be rezoned now
 - the City may or may not do it within the year
 - it needs to be appropriately rezoned to recognize the reduced frontage

- C. Lewis
(Committee Member)
 - questioned who owns #1615 and where is the access?

- D. Pitblado
 - stated that it was previously owned by the City but was recently purchased by Paletta
 - we gave the City some land and they gave us this piece

- G. Otter
 - stated that he was here to protect the integrity of the neighbourhood

- M. Tipney
 - stated that he has a plan from 1973 and nothing has happened yet
 - it's been 36 years and nothing has happened and nothing will happen
 - there is no sewer on Sherman or on Eleanor half way up

- V. Abraham
(Committee Member)
 - condition #3 should be changed from a rezoning to a minor variance for the "AA" zoned lands

- D. Drury
(Committee Member)
 - stated that this is a fairly substantial corner of the City that is gathering garbage and weeds
 - he's astounded to hear Paletta International saying development could be 10-20 years from now
 - he doesn't want to see or facilitate this land remaining vacant for 10-20 years

- D. Pitblado
 - the intent is to sever the residential from the commercial in order to develop the land as quickly as possible
 - if we could sell it tomorrow we certainly would; he can't guarantee how quickly this will happen

- we have access off of Rymal for the commercial piece
 - we are trying to create it so we can develop it as soon as possible
- Owner
(196 Eleanor Ave.)
- wants to know exactly what area he is talking about
- D. Pitblado
- what we are proposing as commercial is already zoned commercial

In answer to questions from the Committee Mr. Barnett stated as follows:

- D. Barnett
(staff)
- he can't speak to the removal of conditions #2 and #4
- V. Abraham
(Committee Member)
- he would recommend changing condition #3 to receiving minor variance approval for the lands zoned "AA"
 - he is not comfortable with removing conditions #2 and #4
- D. Pitblado
- he does not object to dedicating the internal roads but wants to dedicate them at the appropriate time
- D. Barnett
(staff)
- if the road dedications are only for internal roads then he doesn't see a problem changing that condition to a "note"
- D. Pitblado
- in order to develop and adhere to the Eleanor Plan there is a lot of work that needs to be done
 - it's premature to do the archaeological assessment and internal road dedications at this time

Following discussion it was moved by Mr. Abraham and seconded by Mr. Drury that the consent requested be **APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Hamilton Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

3. The Committee considers the proposal to be in keeping with development in the area.

The application shall be subject to the conditions as noted in the summary comment of the Planning and Economic Development Department with the exception of condition #3 which will be changed to approval of a minor variance application and conditions 2 & 4 being changed to a "note".

CARRIED.

CONSOLIDATION REPORT SEVERANCES

The attached comments have been reviewed with regard to Committee of Adjustment Severance File HM/B-09:32 (1605 Upper Sherman Ave. & 675-695 Rymal Road East, Hamilton) and the following is submitted:

Should the Committee grant the severance, an approval should be subject to the following conditions:

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.
2. The owner 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 and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

3. The owner shall receive rezoning approval to the satisfaction of the Manager of Development Planning.
4. The owner shall dedicate sufficient land to the City of Hamilton to establish the future road pattern, as shown on the Eleanor Neighbourhood Approved Plan, and enter into a Subdivision Agreement to the satisfaction of the Director Development Engineering to provide for future construction of the road and servicing of the lands.
5. The owner shall submit to the Committee of Adjustment Office an administration fee of \$15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The owner/applicant is advised that any future Planning Act applications for both the lands to be conveyed and the lands to be retained, may require the investigation and mitigation of noise impacts.
2. Based on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed will remain as 1605 Upper Sherman Avenue and that the lands to be retained will remain as 675-695 Rymal Road East.

HM/B-09:32 (1605 Upper Sherman Ave. & 675-695 Rymal Road East, Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant is proposing to sever the subject property in order to divide the commercial zoned lands from the residential zoned lands on the subject property.

Provincial Policy Statements

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, However, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note that the lands to be conveyed are intended for residential purposes and are located adjacent to **Upper Sherman Avenue** and are within approximately 150m of **Rymal Road East**. In addition, Staff note that the lands to be retained are intended for commercial purposes and are in close proximity to existing residences. As such, any future Planning Act applications for both the conveyed and retained lands may require the investigation and mitigation of noise impacts and the owner/applicant should be advised of note # 1 stated below.

In addition, Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. Staff note that the subject lands are located within an area of archaeological potential.

Hamilton-Wentworth Official Plan

The subject property is designated as "**Urban Area**" within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

However, Policy B-9.2 states that the City shall consider the protection and preservation of Regionally significant historical and cultural resources, including recognized

archaeological sites, in the review of proposals for development and redevelopment. Where possible these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As noted above, the subject lands are located within an area of archaeological potential.

The subject property meets three (3) of the 11 criteria used by the City of Hamilton and Ministry of Culture for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) 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; and,
- 3) Along historic transportation routes.

These criteria define 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.

City of Hamilton Official Plan

The subject property is designated "Commercial" and "Residential" in the City of Hamilton Official Plan. Policy 2.1.1 states, "The primary uses permitted in the areas designated on Schedule "A" as Residential will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together."

Policy 2.2.1 states, "The primary uses permitted in areas exceeding 0.4 hectare designated on Schedule "A" as Commercial will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices, and hotels, convention and entertainment facilities."

As the proposed severance is to separate the Commercial designated lands from the Residential designated lands the proposal conforms to the policies of the City of Hamilton Official Plan.

City of Hamilton Zoning By-law

The subject property is zoned Designated Shopping Centre "G-1", Urban Protected Residential "C", and Agricultural "AA" Districts in the City of Hamilton Zoning By-law. To which the proposed uses comply.

The Designated Shopping Centre "G-1" District requires a minimum lot area of 4,000 sq. m. to which the proposed use complies. The lands to be severed are split zoned with the front of the property being zoned Urban Protected Residential "C" District, while the bulk of the rear of the property is zoned Agricultural "AA" District in the City of Hamilton

Zoning By-law. The Urban Protected Residential "C" District require a minimum lot area of 360 sq. m. and a minimum lot frontage of 12m to which the lands to be severed would comply. The Agricultural "AA" District requires a minimum lot area of 12,000 sq. m. and a minimum lot frontage of 60m to which the subject property would not comply. Therefore the applicant would be required to rezone the rear of the lands to be severed as a condition of severance approval.

Recommendation:

Therefore, staff recommends that the proposed severance be **Approved**, subject to the following conditions:

Conditions:

1. That the owner 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 and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

2. That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The owner/applicant is advised that any future Planning Act applications for both the lands to be conveyed and the lands to be retained, may require the investigation and mitigation of noise impacts.
2. Based on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed will remain as 1605 Upper Sherman Avenue and that the lands to be retained will remain as 675-695 Rymal Road East.

Building Services Division:

This application will permit the severance of a portion of this property to create a new lot for future residential development while retaining a lot for future commercial development.

Any new construction will be subject to the issuance of a building permit in the normal manner.

Our Division has no concerns with this application.

Development Engineering – East:

Public watermains are available on Rymal Road East and Upper Sherman Avenue fronting the severed and retained lands. Separate storm and sanitary sewers front the retained lands on Rymal Road East, however, sewers are **not** available on Upper Sherman Avenue fronting the severed lands which are considered un-developable at this time. For the information of the Owner, a servicing study will be required as a condition of future development approval for the retained lands.

The approved plan for Eleanor Neighbourhood indicates a proposed road pattern running east-west and north-south across the subject lands. Therefore as a condition of approval the Owner will be required to dedicate sufficient land to the City of Hamilton to establish the future road pattern as shown on the Eleanor Neighbourhood approved plan and enter into a Subdivision Agreement to the satisfaction of the Director Development Engineering to provide for future construction of the road and servicing of the lands.

The existing and designated road allowance width of the subject sections of Rymal Road East and Upper Sherman Avenue are 36.58 m and 30.48 m, respectively. As such no additional road allowance widenings are required.

Should this application be approved we recommend that it be subject to the following condition.

1. That the Owner dedicate sufficient land to the City of Hamilton to establish the future road pattern, as shown on the Eleanor Neighbourhood Approved Plan, and enter into a Subdivision Agreement to the satisfaction of the Director Development Engineering to provide for future construction of the road and servicing of the lands.

Hamilton Municipal Parking System (Parking Services):

No concerns.

PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

For the information of the owner/applicant, a separate access is required for each of the severed lands and the retained lands. Any new or change in access requires an Access Permit. Details on the permit and construction of the access for the residential property can be obtained through the offices of the Municipal Parking Systems at Extension 4578. Traffic Engineering will provide additional details on the Access Permit for the commercial access at the site plan stage.