



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

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-22:93	SUBJECT PROPERTY:	4 TURNER AVENUE, HAMILTON
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APPLICANTS: Owner: Crystal Homes Corporation – Kathy Di Silvestro
Agent: GSP Group Inc. c/o Stuart Hastings

PURPOSE & EFFECT: To facilitate the conveyance of a parcel of land for residential development and to retain a parcel of land containing an existing single detached dwelling.

	Frontage	Depth	Area
SEVERED LANDS:	12.0 m [±]	32.9 m [±]	398 m ² ±
RETAINED LANDS:	18.48 m [±]	32.9 m [±]	615.5 m ² ±

Associated Planning Act File(s): HM/A-22:288

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, October 6, 2022
TIME:	1:30 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	2nd floor City Hall, room 222 (see attached sheet for details), 71 Main St. W., Hamilton
	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:

HM/B-22:93

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th floor City Hall, 71 Main St. W., Hamilton
- 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 attending in person. Please see attached page for complete instructions, including deadlines for registering to participate virtually and instructions for check in to participate in person.



 **Subject Lands**

DATED: September 20, 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-22:93

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.



Hamilton

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

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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. Please include your name and address, hearing date, and file number. 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.

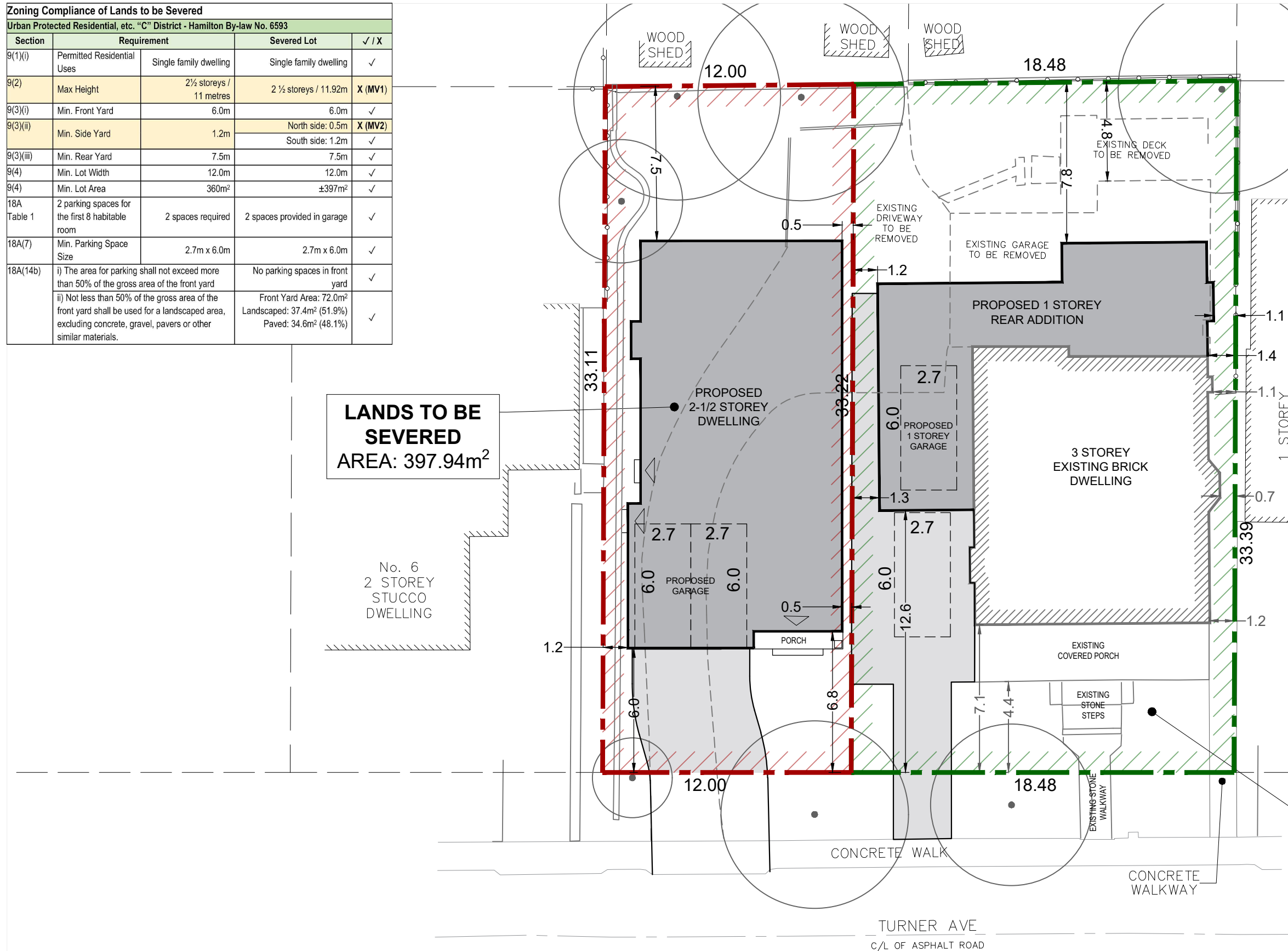
Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly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

Zoning Compliance of Lands to be Severed				
Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593				
Section	Requirement	Severed Lot	✓ / X	
9(1)(i)	Permitted Residential Uses	Single family dwelling	Single family dwelling	✓
9(2)	Max Height	2½ storeys / 11 metres	2 ½ storeys / 11.92m	X (MV1)
9(3)(i)	Min. Front Yard	6.0m	6.0m	✓
9(3)(ii)	Min. Side Yard	1.2m	North side: 0.5m South side: 1.2m	X (MV2)
9(3)(iii)	Min. Rear Yard	7.5m	7.5m	✓
9(4)	Min. Lot Width	12.0m	12.0m	✓
9(4)	Min. Lot Area	360m²	±397m²	✓
18A Table 1	2 parking spaces for the first 8 habitable room	2 spaces required	2 spaces provided in garage	✓
18A(7)	Min. Parking Space Size	2.7m x 6.0m	2.7m x 6.0m	✓
18A(14b)	i) The area for parking shall not exceed more than 50% of the gross area of the front yard	No parking spaces in front yard		✓
	ii) Not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, gravel, pavers or other similar materials.	Front Yard Area: 72.0m² Landscaped: 37.4m² (51.9%) Paved: 34.6m² (48.1%)		✓

Zoning Compliance of Lands to be Retained				
Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593				
Section	Requirement	Retained Lot	✓ / X	
9(1)(i)	Permitted Residential Uses	Single family dwelling	Single family dwelling	✓
9(2)	Max Height	2½ storeys / 11 metres	Existing: 3 storeys and 12.1 metres	X (MV3)
9(3)(i)	Min. Front Yard	6.0m	7.13m	✓
9(3)(ii)	Min. Side Yard	1.2m + 1.5m = 2.7m	North side: 0.7m South side: 1.1m	X (MV4)
9(3)(iii)	Min. Rear Yard	7.5m + 3.0m = 10.5m	7.7m	X (MV5)
9(4)	Min. Lot Width	12.0m	18.48m	✓
9(4)	Min. Lot Area	360m²	615.5m²	✓
18A Table 1	2 parking spaces for the first 8 habitable room	2 spaces required	2 spaces provided (1 in garage and 1 in driveway)	✓
18(3)(vii)(d) Encroachments	Front Porch	Can encroach 3.0 meters into front yard, 1.5 meters distant from front lot line	4.4 metres distant from front lot line	✓
18A Table 1	2 parking spaces for the first 8 habitable room, plus 0.5 for each additional room	3 parking spaces required	2 parking spaces	X (MV7)
18A(1)(f) and Table 6	Min. Manoeuvring space	6.0m	6.0m	✓
18A(7b)	Min. finished level of the garage floor	0.3m above grade	0.3m above grade	✓
18A(10)	Only one parking space may be obstructed by another parking space		One parking space in the driveway is obstructing the garage	✓
18A(14b)	i) The area for parking shall not exceed more than 50% of the gross area of the front yard		No parking spaces in front yard	✓
	ii) Not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, gravel, pavers or other similar materials.		< 50% of front yard used for driveway	✓
18A(14h)	i) only one of the required parking spaces may be located in the front yard, and		No parking spaces are located in the front yard	✓
	ii) notwithstanding subsection 10, only one parking space may be obstructed		Only one parking space is obstructed	✓
18A(22)	All manoeuvring space shall be maintained free and clear of all obstructions to permit unobstructed access to and from required parking spaces.		Only one parking space is obstructed, which is permitted	✓

LANDS TO BE SEVERED
AREA: 397.94m²

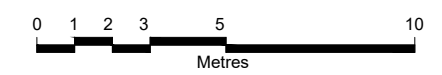
LANDS TO BE RETAINED
AREA: 615.54m²



SEVERANCE SKETCH

4 TURNER AVENUE, HAMILTON

- LANDS TO BE RETAINED
AREA: 615.54m²
- LANDS TO BE SEVERED
AREA: 397.94m²



NOTE: This concept should be considered as a preliminary demonstration model that illustrates an 'order of magnitude' development scenario for the site. The number of units, floor area and parking supply are approximate and subject to more detailed design as well as municipal planning approvals.





September 2, 2022

GSP File No: 20166

Delivered via hard-copy and email

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

Attn: Ms. Jamila Sheffield
Secretary-Treasurer, Committee of Adjustment

Re: 4 Turner Avenue, Hamilton ON
Consent to Sever Application and Minor Variance Application

On behalf of our client, the landowner of 4 Turner Avenue, GSP Group is pleased to submit a consent to sever application and a minor variance application for the property known municipally as 4 Turner Avenue (the “subject lands”), legally described as: “All of Lot 16, and Part of Lots 6, 7 and 17, Registered Plan 392”.

Purpose of these Applications

The purpose of the Consent to Sever application is to divide an existing parcel into two parcels in order to facilitate the construction of a two-and-a-half-storey single-detached dwelling on the severed lands, and a 1 storey garage and 1 storey rear addition on the retained lands. The new garage is required on the retained lands because the severance will displace the current driveway/garage configuration.

The Retained Lands: are proposed to have a frontage of 18.48 metres along Turner Avenue and an area of 615.5 square metres.

The Severed Lands: are proposed to have a frontage of 12.0 metres along Turner Avenue and an area of 397.9 square metres.

Both the lands to be retained and the lands to be severed will comply with the minimum requirements for lot area and lot width per the Urban Protected Residential, etc. "C" District in Hamilton By-law No. 6593.

The purpose of the minor variance application is to address the nonconformities caused by the severance as well as to facilitate the proposed single-detached dwelling to be constructed on the severed lands and the proposed 1 storey garage and 1 storey rear addition to be constructed on the retained lands.

In order to facilitate the proposed single-detached dwelling on the severed lands, the following variances are required:

1. To permit a maximum height of 11.92 metres, whereas 11 metres is required;
2. To permit a northerly minimum side yard of 0.5 metres, whereas 1.2 metres is required.

In order to facilitate the proposed 1 storey garage and 1 storey rear addition on the retained lands, as well as to recognize existing conditions, the following variances are required:

3. To permit a maximum height of 12.1 metres, whereas 11 metres is required;
4. To permit a northerly side yard of 0.7 metres, whereas 2.7 metres is required;
5. To permit a southerly side yard of 1.1 metres, whereas 2.7 metres is required;
6. To permit a minimum rear yard setback of 7.7 metres, whereas 10.5 metres is required.
7. To permit a minimum of two parking spaces; whereas 3 parking spaces are required.

In keeping with the requirements of a Minor Variance application and a Consent to Sever application; and in recognition that the subject lands are listed on the Municipal Heritage Register, please find enclosed the following items:

- One (1) completed and signed Consent to Sever application form;
- One (1) completed and signed Minor Variance application form;
- One (1) Severance Sketch with Minor Variances identified; prepared by GSP Group;
- One (1) Heritage Impact Assessment, prepared by McCallumSather Architects Inc. and dated August 30th, 2022; and
- One (1) cheque made payable to the City of Hamilton in the amount of **\$6,450.00**, representing the combined fee for a Consent to Severance application on a fully serviced lot (\$2,985.00) and the fee for a Minor Variance application (\$3,465.00).

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

Description of Subject Lands

The subject lands currently contain a three-storey single-detached dwelling that was built circa 1903 in the Edwardian style. The southern side yard is currently used as a driveway access for the dwelling. The subject lands are listed in the Municipal Heritage Register; but are not designated under the *Ontario Heritage Act*. The subject lands are characterized by the following attributes:

- Lot Area:** 1,013 square meters (0.1013 hectares)
- Lot Frontage:** 30.48 metres along Turner Avenue
- Lot Depth:** Varies between 33.11 metres - 33.39 metres

Surrounding Land Uses

The subject lands are located in the historic Durand neighbourhood and the immediate surrounding land uses are as follows:

- North:** 2½ storey single-detached dwelling (121 Aberdeen Avenue)
- East:** 3 storey single-detached dwellings (3 and 5 Turner Avenue)
- South:** 2 storey single-detached dwelling (6 Turner Avenue)
- West:** 3 storey single-detached dwellings (1 and 3 Ravenscliffe Avenue)

The adjacent as well as surrounding lands are characterized exclusively by single-detached dwellings. Thus, the proposed single-detached dwelling on the severed lot is contextually in keeping with the surrounding land uses.

Cultural Heritage Considerations

The subject lands are listed in the Municipal Heritage Register; but are not designated under the *Ontario Heritage Act*. As such, a Heritage Impact Assessment has been prepared by McCallum Sather Architects Inc. to explore the impacts and mitigation strategies for the proposed severance as well as the proposed single-detached dwelling on the severed lands. Based on the analysis of McCallumSather Architects, the Heritage Impact Assessment concludes:

- The proposed development will retain the existing heritage property in-situ.
- The proposed development will not result in the loss of the listed and proposed heritage attributes on the subject lands.
- The severance is in line with adjacent and neighbouring lot dimensions.
- The development proposal is clearly legible as a new build that includes sympathetic setbacks to maintain the prominence of the heritage building and has related massing.
- Recommendations on incorporating building materials, design features, architectural proportions and treating the at-grade condition have been made and incorporated into the proposed development to mitigate any issues of transition between the existing heritage building and the proposed development.
- The proposed development will be in keeping with the residential character of the neighbourhood and is distinct of its time as so not to create a false sense of historical development. It features contemporary design aesthetics and materials whilst not competing with the existing building.

The following sections provide an overview of the applicable planning policy framework and provide a policy response where necessary.

Provincial Policy Statement, 2020

All land use decisions are to be consistent with the Provincial Policy Statement (PPS), including applications for Consent to Sever.

Policy 1.1.1 of the Provincial Policy Statement (PPS) states that “Healthy, liveable and safe communities are sustained by” the following applicable policies:

- “a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;”
- “e) promoting the integration of land use planning, growth management, *transit-supportive* development, *intensification* and *infrastructure* planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;”
- “h) promoting development and land use patterns that conserve biodiversity;”

Policy Response to the PPS Healthy, Liveable, and Safe Communities policy:

The proposed severance is consistent with the above PPS policies because it will result in a more efficient development and land use pattern that will sustain the financial well-being of the Province and the City of Hamilton over the long term (policy a); accommodate more housing options (policy b); promote a cost-effective development pattern that will minimize land consumption and servicing costs (policy e); and promote a development pattern that will conserve biodiversity (policy h).

Policy 1.1.3.1 of the PPS states that *settlement areas* (which, by definition, include built-up areas) shall be the focus of growth and development. The proposed severance is consistent with this policy as the subject lands are located in Hamilton’s Built-up Area as identified on Appendix G—Boundaries Map of the UHOP. Policy 1.1.3.2 states that within *settlement areas*, land use patterns “shall be based on densities and a mix of uses which:

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

Policy Response to the PPS Settlement Areas policy:

Consistent with the above policies, the proposed severance represents an efficient use of land and resources (policy a); that will optimize the use of existing infrastructure and public service facilities (policy b).

Based on the above analysis, the proposed severance to facilitate residential intensification within Hamilton’s Built-Up Area is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

Schedule 3 of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) indicates that Hamilton is forecasted to grow to 820,000 people by 2051.

In November 2021, Hamilton City Council voted against expanding Hamilton’s urban boundary; and therefore, the City is required by the Province to accommodate a net growth of 236,000 people by 2051 within the City’s current urban boundary.

Furthermore, Section 2.2.1 of the Growth Plan, Managing Growth, provides that the vast majority of growth will be directed to settlement areas that:

- i. have a *delineated built boundary*;
- ii. have existing or planned *municipal water and wastewater systems*; and
- iii. can support the achievement of *complete communities*.”

Policy Response to the Growth Plan:

In conformity with the above policy, the subject lands are located in Hamilton’s delineated built-up area as identified on Appendix G—Boundaries Map of the UHOP (policy i); has access to existing municipal water and wastewater services (policy ii); and is located in the well-established Durand neighbourhood that can support the achievement of a complete community (policy iii).

Furthermore, Policy 2.2.1.2.c.iv of the Growth Plan states that growth within settlement areas will be focused in “areas with existing or planned public service facilities”. The Durand neighbourhood satisfies this policy as it features numerous public services facilities, including local schools, Durand Park, as well as nearby access to major public institutions such as Hamilton City Hall and St. Joseph’s Hospital. Based on the above analysis, the proposed severance would result in the efficient use of land in an area targeted for growth and is therefore in conformity with the Growth Plan. The proposed development is also consistent with the recent direction of Hamilton City Council to accommodate all future growth to 2051 within the existing urban boundary.

Niagara Escarpment Plan, 2017

The subject lands are located within the Niagara Escarpment Plan and designated “Urban Area”. The objective of the Urban Area designation is:

- “1.7.1 To minimize the impact and prevent further encroachment of urban growth on the *Escarpment environment*.”

In addition, Policy 1.7.4 respecting the “Urban Area” of the Niagara Escarpment Plan provides the following:

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

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

The general Lot Creation policies of the Niagara Escarpment Plan are contained in Section 2.4; the following of which apply to the proposed development:

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

“5. New lots must:

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

“6. Prior to commenting upon proposals for new lots, the implementing authority shall consider:

- a) the number, distribution and density of vacant lots in the area;
- b) the additional lots that may be created in conformity with this Plan;
- c) the consequences of the development of the lots with regard to the objectives of the designation; and
- d) providing for or protecting public access to the Niagara Escarpment, including the Bruce Trail corridor.”

Policy Response to “Urban Area” policies of the Niagara Escarpment Plan:

The objective of the Niagara Escarpment Plan is to direct the formation of new lots to those locations that are least environmentally sensitive, such as urban areas.

The subject lands are designated “Urban Area” where proposed uses and the creation of new lots may be permitted without an amendment to the Niagara Escarpment Plan (per policy 1.7.4).

Furthermore, Policy 2.4.2 provides that new lots required to meet residential needs should be created in the Urban Area.

Lastly, the proposed new lot does not offend the criteria provided in neither Policy 2.4.5 nor Policy 2.4.6.

Based on this analysis, the proposed lot creation is in conformity with the Niagara Escarpment Plan.

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as Neighbourhoods on Schedule E – Urban Structure; and designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The proposed severance is considered residential intensification, and accordingly, must be evaluated based on the policies of Vol. 1, Sections B.2.4.1.4 and B.2.4.2.2.

General Residential Intensification Policies

Section B.2.4.1.4 provides that residential intensification developments shall be evaluated based on a balanced evaluation of a number of criteria, each of which is provided below followed by a policy evaluation:

- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;**

The existing lotting pattern is shown in Figure 2. Note that the proposed lots are similar to the adjacent lots to the south and southeast (6, 7, and 8 Turner Avenue). The proposed single detached dwelling on the severed lot will maintain the existing neighbourhood character as the surrounding built form consists entirely of single

detached dwellings. In this way the proposed severance has regard for the existing built form and is compatible with the existing neighbourhood.

The proposed severance will also allow the neighbourhood to transition to accommodate more density, allow for residential intensification while building upon the desired lot pattern and enhancing the streetscape.

c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;

By facilitating the development of a new single detached dwelling, the proposed severance will contribute to a modest expansion in the range of available dwellings in the neighbourhood.

d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

The proposed severance will allow the severed lot to be redeveloped for a single detached dwelling. A residential use in the scale and form of a single detached dwellings is consistent with the surrounding area and takes into consideration the use, scale, form and character of the existing neighbourhood.

e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;

The subject lands are identified as part of the Neighbourhoods element of Hamilton's urban structure (Vol. 2, E.2.6). The following policies outline the Neighbourhoods function with respect to the proposed severance:

E.2.6.2 The Neighbourhoods shall primarily consist of residential uses [...]

E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, [...]

As both the severed lot and retained lot are proposed for residential uses in the form of single detached dwellings, the proposed severance is consistent with the Neighbourhoods element of the City's planned urban structure.

f) infrastructure and transportation capacity; and,

The net addition of one dwelling would not be expected to have a major impact on existing infrastructure and transportation capacity. Development Engineering will have an opportunity to review the subject applications with respect to infrastructure and transportation capacity.

g) the ability of the development to comply with all applicable policies.

Upon approval of the requested minor variances, the proposed development will be able to comply with all applicable policies.

Residential Intensification in the Neighbourhoods Designation

The following evaluation criteria applies to residential intensification in the Neighbourhoods designation. Policy B.2.4.2.2 provides a number of matters to be evaluated, each of which is provided below followed by policy response:

a) the matters listed in Policy B.2.4.1.4;

Responses to Policy B.2.4.1.4 are provided on pages 9 to 11 of this brief.

b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;

The proposed severance will facilitate the development of one single detached dwelling. With the limited scale of the development in mind and considering that single detached dwellings are the least intensive form of residential intensification, the proposed development would not be expected to produce significant shadowing, overlook, noise, lighting, nor traffic nuisance effects.

c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;

Please refer to pages 23 - 24 of this brief regarding the requested minor variance to the maximum permitted height for a fulsome discussion regarding the relationship of the height of the proposed single detached dwelling to the height of nearby residential buildings.

d) the consideration of transitions in height and density to adjacent residential buildings;

Please refer to pages 23 - 24 of this brief regarding the requested minor variance to the maximum permitted height for a fulsome discussion regarding the relationship of the height of the proposed single detached dwelling to the height of nearby residential buildings.

e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;

Please refer to the discussion regarding the Lot Creation criteria on pages 21 – 23 of this brief for a fulsome analysis of the proposed lots with respect to the surrounding lotting pattern.

f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;

Amenity space will be provided in the form of a front yard and rear yard. This provision of amenity space is consistent with the neighbourhood.

g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;

The proposed severance and proposed single-detached dwelling will maintain and potentially enhance the existing streetscape. Turner Avenue includes a wide variety of housing styles and sizes, as well as a variety of building separations. The proposed development fits within this existing neighbourhood diversity.

h) the ability to complement the existing functions of the neighbourhood;

The existing neighbourhood functions primarily as a residential area in keeping with the planned function of the Neighbourhoods designation, as outlined below:

E.2.6.2 The Neighbourhoods shall primarily consist of residential uses [...]

E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, [...]

In conformity with these UHOP policies, the proposed severance will facilitate single detached dwellings that will compliment the existing residential function of the surrounding neighbourhood.

i) the conservation of cultural heritage resources; and,

Please refer to “Cultural Heritage Considerations” on page 4 of this brief.

j) infrastructure and transportation capacity and impacts.

The addition of one single detached dwelling would not be expected to have a major impact on existing infrastructure and transportation capacity. Development Engineering and Transportation Planning will have an opportunity to review the subject applications with respect to infrastructure and transportation capacity.

Lot Creation Criteria

The Urban Hamilton Official Plan (UHOP) provides policy guidance for lot creation in Vol. 1, Chapter F, Section 1.14.3.1; which states that consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shall be permitted provided the following conditions are met:

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

A policy response to each of these conditions is provided in the following pages:

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

The subject lands are designated Neighbourhoods on Schedule E Urban Structure and Schedule E-1 Urban Land Use Designations.

As per Policy E.2.6.2 of Vol. 1, “Neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents.”

The Neighbourhoods designation permits a wide variety of residential uses and forms, including single-detached dwellings.

As per Policy E.3.2.13 of Vol. 1, “The City supports residential intensification on lands within the Neighbourhoods designation in accordance with Section B.2.4 – Residential Intensification Policies, F.1.14 – Division of Land, and other applicable policies.”

Furthermore, Policy E.3.1.5 provides that a policy goal of the Neighbourhoods land use designation is to “Promote and support *residential intensification* of appropriate scale and in appropriate locations throughout the neighbourhoods.”

Furthermore, the subject lands are located within the interior of the Durand neighbourhood, where “lower density residential uses and building forms shall generally be located [...]” (Policy E.3.3.1 of Vol. 1).

The policies outlining the function of Low Density Residential areas are as follows:

“Function

- 3.4.1 The preferred location for low density residential uses is within the interior of neighbourhoods.
- 3.4.2 Low density residential areas are characterized by lower profile, grade-oriented built forms that generally have direct access to each unit at grade.

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

Policy Response to the Function of Low Density Residential Areas:

The proposed severance will facilitate the construction of a 2½ storey single-detached dwelling (as per Policy 3.4.3 and 3.1.5); which is a grade-oriented built form (as per Policy 3.4.2); and will be located within the interior of the Durand neighbourhood (as per Policy 3.4.1). For these reasons, the proposed development conforms to the planned function of low density residential areas within the Neighbourhoods Designation.

The policies outlining the scale of Low Density Residential areas are as follows:

“Scale

- 3.4.4 For low density residential areas the maximum net residential density shall be 60 units per hectare.
- 3.4.5 For low density residential areas, the maximum height shall be three storeys.”

Policy Response to the Scale of Low Density Residential Areas:

The proposed severance will facilitate the construction of single-detached dwelling at a proposed height of two-and-a-half storeys in conformity with the maximum permitted height of three storeys (as per Policy 3.4.5)

The current density of the subject lands is 9.8 units per hectare (1 unit divided by 0.1013 hectares). The proposed severance application and subsequent construction of an additional single-detached dwelling on the severed lands will increase the density to 19.7 units per hectare (2 units divided by 0.1013 hectare); which represents an intensification and optimization of the subject lands without exceeding the maximum net residential density permitted for low density residential areas. For these reasons, the proposed development conforms to the planned scale of low density residential areas within the Neighbourhoods Designation.

The policies outlining the design of Low Density Residential areas are as follows:

“Design

3.4.6 Development in areas dominated by low density residential uses shall be designed in accordance with the following criteria:

- a) Direct access from lots adjacent to major or minor arterial roads shall be discouraged. (OPA 142)
- b) Backlotting along public streets and in front of parks shall be discouraged. The City supports alternatives to backlotting, such as laneway housing and window streets, to promote improved streetscapes and public safety, where feasible.
- c) A mix of lot widths and sizes compatible with streetscape character; and a mix of dwelling unit types and sizes compatible in exterior design, including character, scale, appearance and design features; shall be encouraged. Development shall be subject to the Zoning By-law regulations for appropriate minimum lot widths and areas, yards, heights, and other zoning regulations to ensure compatibility.

[...]

Policy Response to the Design of Low Density Residential Areas:

The retained and severed lands will both have access from Turner Avenue, which is classified as a Local Road; and therefore Policy 3.4.6(a) is not offended. The proposed development will not result in back-lotting along a public street nor in front of a park; and therefore Policy 3.4.6(b) is not offended. The proposed severance will contribute to providing a mix of lot widths and dwelling unit sizes while maintaining the low-rise, single-detached dwelling character of Turner Avenue and the Durand neighbourhood as per Policy 3.4.6(c).

Based on the above analysis, the proposed severance conforms to the policies of the Urban Hamilton Official Plan; and in particular, the Low Density Residential areas of the Neighbourhoods designation.

“b) The lots comply with existing Neighbourhood Plans;”

The subject lands are part of the Durand Neighbourhood Plan, which was adopted by Council on December 18, 1973 (see Figure 1). The subject lands are identified for “Single and Double” residential use.

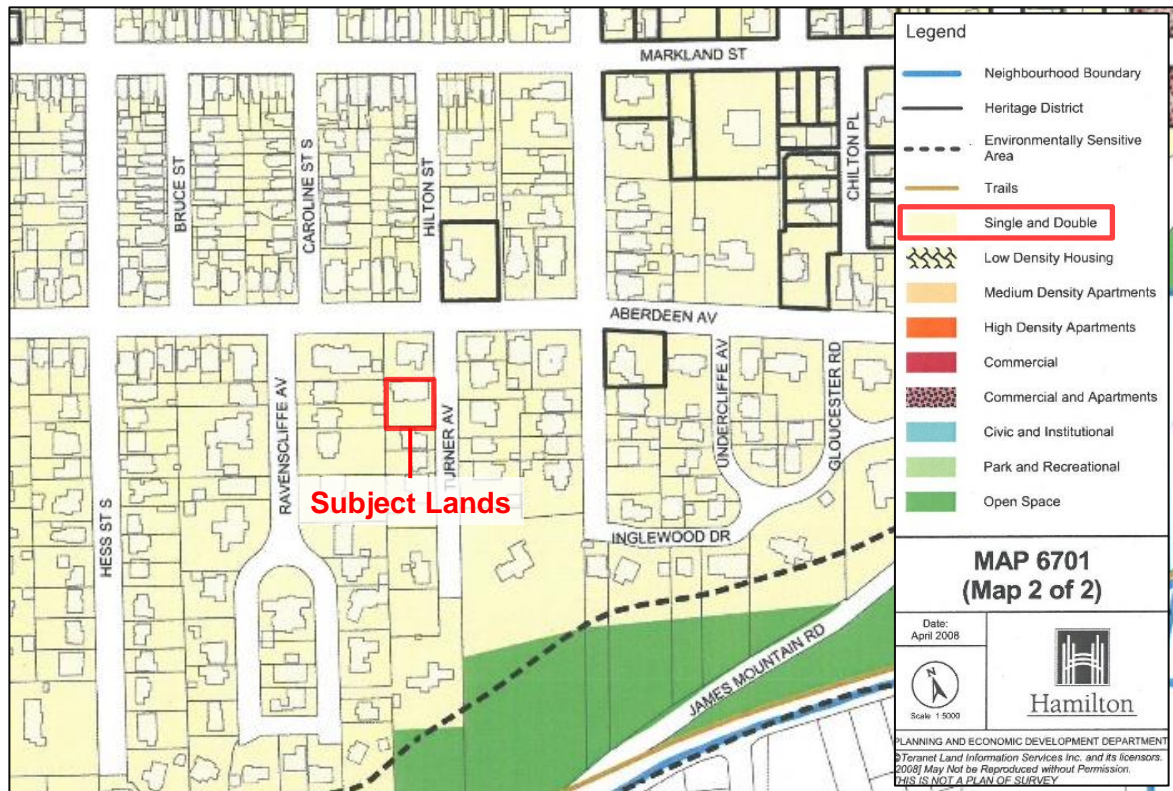


Figure 1: Durand Neighbourhood Plan (Map 6701, Map 2 of 2), approved by Council on December 18, 1973. The subject lands are identified as “Single and Double”.

Policy Response to the Durand Neighbourhood Plan:

The existing use of the retained lands for a single-detached dwelling, as well as the proposed use of the severed lands for single-detached dwelling, complies with the existing Durand Neighbourhood Plan.

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

The subject lands are zoned Urban Protected Residential, etc. “C” District in Hamilton By-law No. 6593. The single detached dwelling proposed on the severed lands is a permitted use in the “C” District. Furthermore, both the severed and retained lands comply with the minimum lot area and lot width requirements of the “C” District.

However, seven minor variances are required to address the nonconformities caused by the severance as well as to facilitate the proposed single-detached dwelling to be constructed on the severed lands and the proposed 1 storey garage and 1 storey rear addition to be constructed on the retained lands.

Note that the existing dwelling is considered a three-storey dwelling per Hamilton Building Division Policy ZON-021, which classifies an upper storey with more than two dormer windows as a full storey.

The zoning compliance of the severed lands and retained lands are outlined in Table 1 and Table 2, respectively.

Table 1 Zoning Compliance of Lands to be Severed

Urban Protected Residential, etc. “C” District - Hamilton By-law No. 6593				
Section	Requirement		Severed Lot	✓ / X
9(1)(i)	Permitted Residential Uses	Single family dwelling	Single family dwelling	✓
9(2)	Max Height	2½ storeys / 11 metres	2 ½ storeys / 11.92m	X (MV1)
9(3)(i)	Min. Front Yard	6.0m	6.0m	✓
9(3)(ii)	Min. Side Yard	1.2m	North side: 0.5m	X (MV2)
			South side: 1.2m	✓
9(3)(iii)	Min. Rear Yard	7.5m	7.5m	✓
9(4)	Min. Lot Width	12.0m	12.0m	✓
9(4)	Min. Lot Area	360m ²	±397m ²	✓

Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593				
Section	Requirement		Severed Lot	✓ / X
18A Table 1	2 parking spaces for the first 8 habitable room	2 spaces required	2 spaces provided in garage	✓
18A(7)	Min. Parking Space Size	2.7m x 6.0m	2.7m x 6.0m	✓
18A(14b)	i) The area for parking shall not exceed more than 50% of the gross area of the front yard		No parking spaces in front yard	✓
	ii) Not less than 50% of the gross area of the front yard shall be used for a landscaped area, excluding concrete, gravel, pavers or other similar materials.		Front Yard Area: 72.0m ² Landscaped: 37.4m ² (51.9%) Paved: 34.6m ² (48.1%)	✓

Table 2 Zoning Compliance of Lands to be Retained

Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593				
Section	Requirement		Retained Lot	✓ / X
9(1)(i)	Permitted Residential Uses	Single family dwelling	Single family dwelling	✓
9(2)	Max Height	2½ storeys / 11 metres	Existing: 3 storeys and 12.1 metres	X (MV3)
9(3)(i)	Min. Front Yard	6.0m	7.13m	✓
9(3)(ii) 18(2)(i)	Min. Side Yard	1.2m + 1.5m = 2.7m	North side: 0.7m	X (MV4)
			South side: 1.1m	X (MV5)
9(3)(iii) 18(2)(i)	Min. Rear Yard	7.5m + 3.0m = 10.5m	7.7m	X (MV6)
9(4)	Min. Lot Width	12.0m	18.48m	✓
9(4)	Min. Lot Area	360m ²	615.5m ²	✓

Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593				
Section	Requirement		Retained Lot	✓ / X
18A Table 1	2 parking spaces for the first 8 habitable room	2 spaces required	2 spaces provided (1 in garage and 1 in driveway)	✓
18(3)(vi)(d) Encroachments	Front Porch	Can encroach 3.0 meters into front yard, 1.5 meters distant from front lot line	4.4 metres distant from front lot line	✓
18A Table 1	2 parking spaces for the first 8 habitable room, plus 0.5 for each additional room 10 habitable rooms proposed	3 parking spaces required	2 parking spaces	X (MV7)
18A(1)(f) and Table 6	Min. Manoeuvring space	6.0m	6.0m	✓
18A(7b)	Min. finished level of the garage floor	0.3m above grade	0.3m above grade	✓
18A(10)	Only one parking space may be obstructed by another parking space		One parking space in the driveway is obstructing the garage	✓
18A(14b)	i) The area for parking shall not exceed more than 50% of the gross area of the front yard	No parking spaces in front yard		✓
	ii) Not less than 50% of the gross area of the front yard shall be used for a landscaped	< 50% of front yard used for paved area		✓

Urban Protected Residential, etc. "C" District - Hamilton By-law No. 6593			
Section	Requirement	Retained Lot	✓ / X
	area, excluding concrete, gravel, pavers or other similar materials.		
18A(14h)	i) only one of the required parking spaces may be located in the front yard, and	No parking spaces are located in the front yard	✓
	ii) notwithstanding subsection 10, only one parking space may be obstructed	Only one parking space is obstructed	✓
18A(22)	All manoeuvring space shall be maintained free and clear of all obstructions to permit unobstructed access to and from required parking spaces.	Only one parking space is obstructed, which is permitted	✓

As outlined in Table 1 and Table 2, seven minor variances are required to address the nonconformities caused by the severance as well as to facilitate the proposed single-detached dwelling to be constructed on the severed lands and the proposed 1 storey garage and rear addition to be constructed on the retained lands. An evaluation of these requested minor variances is provided in subsequent sections of this brief. Upon approval of the requested minor variances, both the retained and severed lot will conform to Zoning By-law No. 6593.

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

The following discussion is provided for each of the criteria listed above:

Lot Frontages and Lot Areas

With respect to the surrounding area, the approximate lot frontages and lot areas along Turner Avenue are provided in Table 3 as follows:

Table 3 Survey of Lot Areas and Frontages along Turner Avenue

Address	Lot Area	Lot Frontage
125 Aberdeen Avenue	±1,001m ²	±30.5m
1 Turner Avenue	±604m ²	±19.0m
3 Turner Avenue	±862m ²	±25.2m
5 Turner Avenue	±994m ²	±24.3m
6 Turner Avenue	±501.7m ²	±15.2m
7 Turner Avenue	±604m ²	±15.2m
8 Turner Avenue	±501.7m ²	±15.2m
9 Turner Avenue	±1,209m ²	±30.6m
10 Turner Avenue	±1,150m ²	±35.0m
18 Turner Avenue	±1,289m ²	±39.4m
Average	±872m ²	±24.3m
Severed Lands	397m ²	12.0m
Retained Lands	615m ²	18.48m

Source: Hamilton's Online Interactive Mapping Software

As demonstrated numerically in Table 3 and illustrated in Figure 2, there is currently a wide variety of lot areas and lot frontages along Turner Avenue. At the smaller end of the spectrum, there are two lots with areas of 501m², and at the larger end, there are four lots over double this size in excess of 1,000m². Lot frontages share this same variation. At the shorter end of the spectrum, there are three lots with a lot frontage of 15.2 metres; and at the longer end, there are four lots over twice that length with frontages over 30 metres.

Despite the wide variety of lot sizes and frontages, a number of general observations can be made. First, the three largest lots (9, 10, and 18 Turner Ave.) are all located at the southern end of the street, closest to the Niagara Escarpment. Second, the three smallest lots, which all have a frontage of 15.2m², are clustered together toward the middle of the street (6, 7, and 8 Turner Ave.). The subject lands are adjacent to this cluster of smaller lots, toward the northern end of the street, and away from the larger lots located closer to the Niagara Escarpment. Based on these observations and the above numerical analysis, the proposed severance will result in a retained lot and severed lot that will fit harmoniously within the diverse range of lot sizes along Turner Avenue.

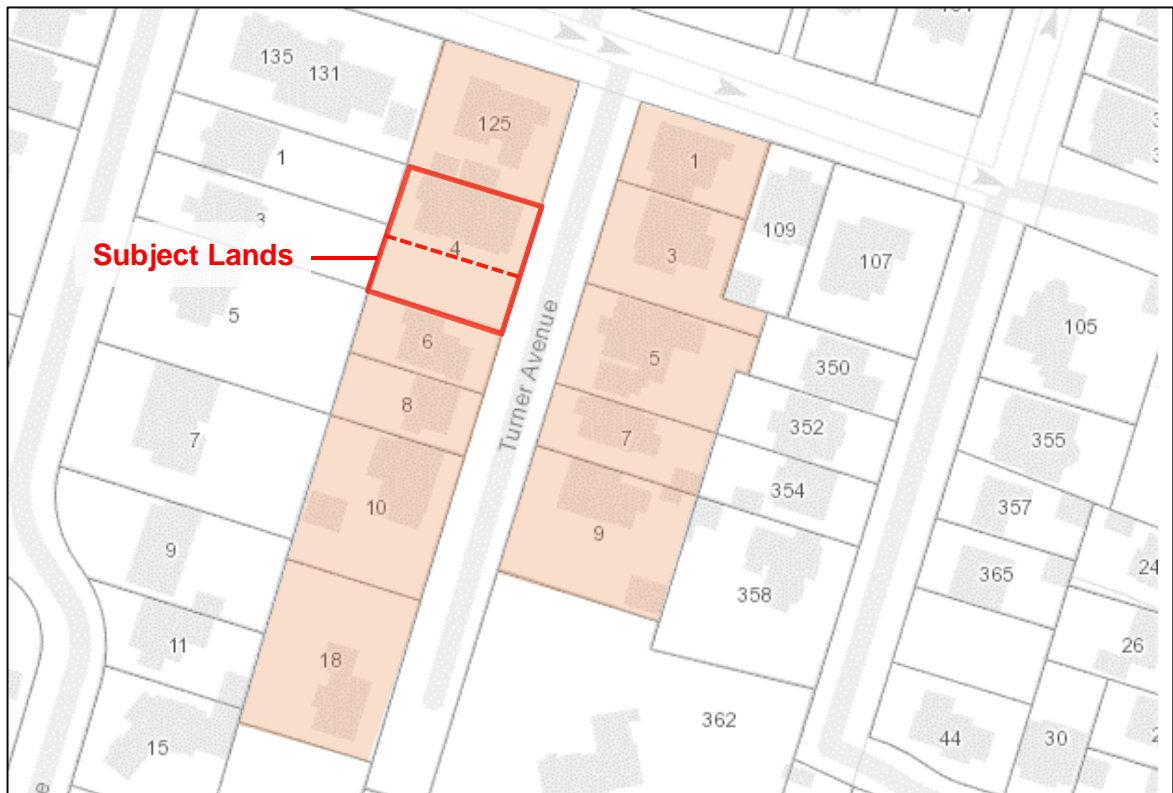


Figure 2: The lots along Turner Avenue are characterized by a variety of sizes and frontages (see Table 3), with the largest lots located toward the south, and the smallest lots clustered in the middle.

Building Heights, Coverage, and Mass

From a policy perspective, the proposed height of the single-detached dwelling is 2½ storeys or 11.92 metres; which is lower than the maximum permitted height of three stories prescribed by the UHOP (E.3.4.5 of Vol. 1).

With respect to the surrounding area, the heights of the single-detached dwellings located along Turner Avenue are provided in Table 3 as follows:

Table 4 Survey of heights of surrounding single-detached dwellings

Address	Height
125 Aberdeen Avenue	3 storeys*
1 Turner Avenue	3 storeys*
3 Turner Avenue	3 storeys*
4 Turner Avenue (existing dwelling)	3 storeys*
5 Turner Avenue	3 storeys*
6 Turner Avenue	2 storeys
7 Turner Avenue	3 storeys*
8 Turner Avenue	2½ storeys
9 Turner Avenue	3 storeys*
10 Turner Avenue	3 storeys*
18 Turner Avenue	2½ storeys

*Note: that any dwelling with more than two dormer windows on the third level is considered a full third-storey per Hamilton Building Division Policy ZON-021.

As outlined above in Table 3, of the 11 single-detached dwellings currently located along Turner Avenue, eight (or 73%) are considered 3 storeys (see above note), two (or 18%) are 2½ storeys, and one (or 9%) is 2 storeys. Based on this numerical analysis, the 2½ storey dwelling proposed to be constructed on the severed lot reflects the general building height of the surrounding area.

From the perspective of massing, Turner Avenue is characterized entirely by single-detached dwellings, most of which are considered 3 storeys. The proposed 2½ storey single-detached dwelling is consistent with the height and form of the existing dwellings along Turner Avenue. With this context in mind, the massing of the proposed development is considered compatible within the existing context.

Furthermore, the Heritage Impact Assessment, prepared by McCallumSather Architects, found that “the development proposal is clearly legible as a new build, that includes sympathetic setbacks to maintain the prominence of the heritage building, and has related massing.” Furthermore, the HIA states on page 36 that “the form and composition of the [proposed dwelling] works well with the surrounding existing neighbourhood character i.e. the rectangular building plan with 3 storey building height.”

For these reasons, the proposed development is considered compatible with the surrounding area with respect to height, coverage, and massing.

Setbacks

With respect to setbacks, four minor variances are required, one of which is to recognize an existing condition. A fulsome discussion on the existing and proposed setbacks is provided in the next section of this brief, which provides an evaluation of these requested minor variances.

Privacy and Overlook

The single-detached proposed to be constructed on the severed lot is 2½ storeys. The proposed height is comparable to the existing dwelling on the subject lands, which is considered 3 storeys, as well as the single-detached dwelling located to the south of the severed lands (6 Turner Avenue), which is 2 storeys. Given that the proposed dwelling would match the approximate height of the existing dwelling to the north and is only half a storey taller than the adjacent dwelling to the south, significant privacy and overlook concerns out-of-the-ordinary for a built-up urban environment would not be expected.

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

Both the severed and retained lots will have full municipal water and wastewater system connections.

“f) The lots have frontage on a public road.”

The retained lands will have a frontage of 19.48 metres along Turner Avenue; and the severed lands will have a frontage of 12.0 metres along Turner Avenue.

Conclusion of policy responses to UHOP Lot Creation Policies:

Based on the above analysis, the proposed consent application satisfies the lot creation policies of Vol. 1, Chapter F, Section 1.14.3.1 of the UHOP.

Requested Minor Variances

The subject lands are zoned Urban Protected Residential, etc. "C" District in Hamilton By-law No. 6593. The zoning compliance of the retained lands and severed lands is outlined in Table 1 and Table 2 of this brief, respectively.

In order to facilitate the proposed single-detached dwelling on the severed lands, the following variances are required:

1. To permit a maximum height of 11.92 metres, whereas 11 metres is required;
2. To permit a northerly minimum side yard of 0.5 metres, whereas 1.2 metres is required.

Secondly, in order to facilitate the proposed 1 storey garage and 1 storey rear addition on the retained lands, as well as to recognize existing conditions, the following variances are required:

3. To permit a maximum height of 12.1 metres, whereas 11 metres is required;
4. To permit a northerly side yard of 0.7 metres, whereas 2.7 metres is required;
5. To permit a southerly side yard of 1.1 metres, whereas 2.7 metres is required;
6. To permit a minimum rear yard setback of 7.7 metres, whereas 10.5 metres is required.
7. To permit a minimum of two parking spaces; whereas 3 parking spaces is required.

Section 45(1) of the *Planning Act* states that the Committee of Adjustment "may authorize such minor variances from the provisions of the by-law, in respect of the land, building or structure or the use thereof" provided the following four tests are met:

1. *Do the minor variances maintain the general intent and purpose of the Official Plan?*

2. *Do the minor variances maintain the general intent and purpose of the Zoning By-law?*
3. *Are the minor variances desirable and appropriate for the lands?*
4. *Are the requested variances minor in nature?*

The analysis that follows demonstrates how the requested variances satisfy the four tests:

1. ***Do the minor variances maintain the general intent and purpose of the Official Plan?***

The subject lands are designated Neighbourhoods on Schedule E Urban Structure and Schedule E-1 Urban Land Use Designations of the Urban Hamilton Official Plan.

Maximum Height (MV1 and MV3)

The purpose of MV3 is to recognize that the height of the existing dwelling (12.1 metres) exceeds the permitted maximum height of 11 metres in the “C” District.

The purpose of MV1 is to permit a new single detached dwelling to be constructed on the severed lands with a height of 11.92 metres, whereas 11 metres is the maximum permitted height.

The maximum height permitted in the Urban Hamilton Official Plan (UHOP) for Low Density Residential Areas in the Neighbourhoods designation is 3 storeys (Policy E.3.4.5 of Vol.1). Both the existing single-detached dwelling (3 storeys) and the proposed single-detached dwelling (2½ storeys) conform to the maximum height permitted in the UHOP. Therefore, the proposed variances maintain the general intent and purpose of the UHOP.

Side Yard and Rear Yard Setbacks (MV2, MV4, MV5, and MV6)

Single-detached dwellings are permitted in the Neighbourhoods designation and the proposed severance would facilitate the construction of a single-detached dwelling. Furthermore, Policy E.3.1.5 of Vol.1 of the UHOP provides a policy goal

to “Promote and support residential intensification of appropriate scale and in appropriate locations throughout the neighbourhoods.”

With this policy objective in mind, the requested variances for the side yards and rear yard would recognize existing conditions as well as facilitate the construction of an additional single-detached dwelling at an appropriate scale and location within the Neighbourhoods designation. Therefore, the proposed variances maintain the general intent and purpose of the UHOP to provide for single detached dwellings in low density residential areas.

Parking Requirement (MV7)

The requested reduction from three parking spaces to two parking spaces for the existing single-detached dwelling would not offend the policies of the UHOP.

2. *Do the minor variances maintain the general intent and purpose of the Zoning By-law?*

The general intent and purpose of the “C” (Urban Protected Residential, etc.) District is to facilitate an urban residential environment consisting largely of single-detached dwellings.

As such, the requested minor variances will maintain this intent and purpose by facilitating the creation of a new building lot upon which a single-detached dwelling will be ultimately constructed. In addition, both the retained lands and severed lands will comply with the minimum lot area and lot frontage requirements of the “C” District.

Based on the above analysis, the requested minor variances maintain the general intent and purpose of the “C” (Urban Protected Residential, etc.) District within Hamilton Zoning By-law 6593.

3. *Are the minor variances desirable and appropriate for the lands?*

The requested variances are desirable and appropriate for the lands because they would facilitate land division in a manner compatible with the existing diverse lotting pattern along Turner Avenue, as well as enable residential intensification in a form

and density that would fit harmoniously within the established built form of the Durand neighbourhood.

Furthermore, the subject lands are an appropriate location for land division and residential intensification as they are located within Hamilton's built-up area in close proximity to Downtown Hamilton (less than a 15 minute walk away) and are in close proximity to numerous HSR transit routes, public service facilities, schools, and parks.

4. Are the requested variances minor in nature?

Maximum Height (MV1 and MV3)

The purpose of MV3 is to recognize that the height of the existing dwelling (12.1 metres) exceeds the permitted maximum height of 11 metres in the "C" District. This variance is considered minor in nature as it is required to recognize an existing condition.

The purpose of MV1 is to permit a new single detached dwelling to be constructed on the severed lands with a height of 11.92 metres, whereas 11 metres is the maximum permitted height. The proposed height of 11.92 metres is less than that of the existing dwelling on the subject lands, at 12.1 metres. In addition, the proposed dwelling maintains the permitted maximum of 2½ storeys. For these reasons, the requested increase in height of less than 1 metre, from 11 metres to 11.92 metres, is considered minor in nature.

Side Yard and Rear Yard Setbacks (MV2, MV4, MV5, and MV6)

MV2: A 0.5 metre northerly side yard setback is requested on the severed lands in order to accommodate the proposed single-detached dwelling, whereas 1.2 metres is required. Pedestrian access to the rear yard will be provided by the southerly side yard, which will comply with the full 1.2 metre requirement. The proposed setback is similar to the current setback (0.7 metres) between the existing dwelling and the northern lot line. For these reasons, the requested reduction is considered minor.

MV4: The existing northerly side yard setback for the retained lands is 0.7 metres, whereas 2.7 metres is required. The requested minor variance

will recognize an existing condition and is therefore considered minor in nature.

MV5: The creation of the new lot will necessitate the construction of a new garage attached to the south side of the existing dwelling. The current garage is located at the rear of the existing dwelling and is angled in such a way that it would be impossible for vehicles to make the 90 degree turn to enter and exit. Therefore, a new 1 storey garage is required to be positioned at the side of the house to facilitate vehicle movements. Given the constraints created by the position of the existing dwelling and the area required for the internal parking space, a reduced southerly side yard setback is unavoidable. The proposed southerly side yard is 1.2 metres, whereas 2.7 metres is required. The proposed side yard of 1.2 metres is sufficient to allow resident access to the rear yard. Furthermore, the proposed garage will include a back door to create a continuous passageway through the garage. Lastly, for dwellings that are 2½ storeys or less, the standard requirement for a side yard setback in a “C” District is 1.2 metres. The existing dwelling is only considered a 3 storey dwelling on account of having more than two dormer windows. For these reasons, the proposed reduction to the retained lands southerly side yard setback is considered minor in nature.

MV6: The current rear yard setback from the existing garage to the rear lot line is 4.8 metres. The existing rear garage is planned to be demolished and replaced with a garage at the side of the house along with a 1 storey rear addition. In doing so, the proposed rear yard will be increased from the current 4.8 metres to 7.8 metres. However, the by-law requires a 10.5 metre rear yard for dwellings considered 3 storeys. Given that the proposed development will result in a net increase in the rear yard setback; the requested minor variance is considered minor in nature.

Parking Requirement (MV7)

With respect to the requirement for three parking spaces for the existing dwelling, it is my opinion that the parking standards contained in Hamilton’s old Zoning By-law No. 6593 are outdated and out of step with modern planning standards. For example, within the new city-wide zoning By-law No. 05-200, only one (1) parking stall is required for each single-detached dwelling. Therefore, the proposed variance to require two (2) parking spaces for the dwelling would represent an over

supply in comparison to the modern parking requirements already being established across the City of Hamilton. The subject lands are also located in the well-established Durand neighbourhood in close proximity to Downtown Hamilton, transit, employment opportunities, schools, parks, and public amenities. For these reasons, the proposed reduction in the parking requirement from three to two parking spaces is considered minor.

Recommendation

The requested variances represent good land use planning as they satisfy the four tests of Section 45(1) of the *Planning Act*. Approval of the requested variances will continue to maintain the general intent and purpose of the UHOP and Zoning By-law, are desirable for the appropriate use of the land, and are considered minor in nature.

The severance application satisfies the Urban Hamilton Official Plan's criteria for new lot creation for residential uses in the Neighbourhoods designation.

In addition, the Heritage Impact Assessment prepared by McCallumSather Architects determined that the proposed development will not result in significant direct and indirect impacts to the heritage attributes of the heritage building on, or adjacent to, the subject lands.

Based on the forgoing analysis, my recommendation is that the requested variances and severance be approved.

Should you have any questions or require any additional information, please do not hesitate to contact me at 289-778-1410 or via email at shastings@gspgroup.ca.

Yours truly

GSP Group Inc.

A handwritten signature in blue ink, appearing to read 'Stuart Hastings', with a long horizontal line extending to the right.

Stuart Hastings, MCIP, RPP
Planner

cc. *Kathy Di Silvestro, Crystal Homes Corporation*



Hamilton

Committee of Adjustment

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

Phone: (905) 546-2424 ext. 4221

Email: cofa@hamilton.ca

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

Office Use Only

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

	NAME	MAILING ADDRESS	
Purchaser*			Phone:
			E-mail:
Registered Owners(s)			
Applicant(s)**			
Agent or Solicitor			

***Purchaser must provide a copy of the portion of the agreement of purchase and sale that authorizes the purchaser to make the application in respect of the land that is the subject of the application. (O. Reg. 786/21)**

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

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

2 LOCATION OF SUBJECT LAND Complete the applicable lines

2.1 Area Municipality Hamilton	Lot	Concession	Former Township
Registered Plan N°. 392	Lot(s) All of Lot 16 Part of Lots, 6, 7, and 17	Reference Plan N°.	Part(s)
Municipal Address 4 Turner Avenue			Assessment Roll N°. 25 18 020 130 11650

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

Yes No

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

[Empty text box for describing easements or covenants]

3 PURPOSE OF THE APPLICATION

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

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

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

- Other: a charge
 a lease
 a correction of title

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

- creation of a new lot
- creation of a new non-farm parcel
(i.e. a lot containing a surplus farm dwelling
resulting from a farm consolidation)
- addition to a lot

- Other: a charge
 a lease
 a correction of title
 an easement

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

Unknown

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

[Empty text box for identifying lands for lot addition]

4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Description of land intended to be **Severed (lease, easement, charge etc.):**

Frontage (m)	Depth (m)	Area (m ² or ha)
12.0	32.9	398

Existing Use of Property to be severed:

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

Proposed Use of Property to be severed:

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

Building(s) or Structure(s):

Existing: None

Proposed: Singe-detached dwelling

Existing structures to be removed: None

Type of access: (check appropriate box)

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

Type of water supply proposed: (check appropriate box)

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

Type of sewage disposal proposed: (check appropriate box)

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

4.2 Description of land intended to be **Retained (remainder)**:

Frontage (m)	Depth (m)	Area (m ² or ha)
18.48	32.9	615.5

Certificate Request for Retained Lands: Yes*

* If yes, a statement from an Ontario solicitor in good standing that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act. **(O. Reg. 786/21)**

Existing Use of Property to be retained:

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

Proposed Use of Property to be retained:

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

Building(s) or Structure(s):

Existing: Single-detached dwelling

Proposed: Single-detached dwelling. Attached garage to be relocated to southerly side yard.

Existing structures to be removed: Existing attached garage at rear of house

Type of access: (check appropriate box)

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

Type of water supply proposed: (check appropriate box)

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

Type of sewage disposal proposed: (check appropriate box)

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

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

- electricity
- telephone
- school bussing
- garbage collection

5 CURRENT LAND USE

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

Rural Hamilton Official Plan designation (if applicable): N/A

Urban Hamilton Official Plan designation (if applicable): Neighbourhoods (Schedule E and E-1)

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

Please see attached Planning Justification Brief

5.2 What is the existing zoning of the subject land?

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? "C" Urban Protected Residential, etc. District

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

Use or Feature	On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
An agricultural operation, including livestock facility or stockyard*	<input type="checkbox"/>	
A land fill	<input type="checkbox"/>	
A sewage treatment plant or waste stabilization plant	<input type="checkbox"/>	
A provincially significant wetland	<input type="checkbox"/>	
A provincially significant wetland within 120 metres	<input type="checkbox"/>	
A flood plain	<input type="checkbox"/>	
An industrial or commercial use, and specify the use(s)	<input type="checkbox"/>	Coffee Shop (430m), Convenience Store / Pharmacy (290m)
An active railway line	<input type="checkbox"/>	
A municipal or federal airport	<input type="checkbox"/>	

*Complete MDS Data Sheet if applicable

6 PREVIOUS USE OF PROPERTY

- Residential Industrial Commercial
 Agriculture Vacant Other (specify)

6.1 If Industrial or Commercial, specify use _____

6.2 Has the grading of the subject land been changed by adding earth or other material, i.e., has filling occurred?

- Yes No Unknown

6.3 Has a gas station been located on the subject land or adjacent lands at any time?

- Yes No Unknown

6.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?

- Yes No Unknown

6.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?

- Yes No Unknown

6.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or biosolids was applied to the lands?

- Yes No Unknown

6.7 Have the lands or adjacent lands ever been used as a weapons firing range?

- Yes No Unknown

6.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?

- Yes No Unknown

6.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (e.g., asbestos, PCB's)?

- Yes No Unknown

- 6.10 Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?
 Yes No Unknown
- 6.11 What information did you use to determine the answers to 6.1 to 6.10 above?

Owner's Knowledge.
- 6.12 If previous use of property is industrial or commercial or if YES to any of 6.2 to 6.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.
 Is the previous use inventory attached?
 Yes No

7 PROVINCIAL POLICY

- 7.1 a) Is this application consistent with the Policy Statements issued under subsection of the *Planning Act*? (Provide explanation)
 Yes No

Please see attached Planning Justification Brief
- b) Is this application consistent with the Provincial Policy Statement (PPS)?
 Yes No (Provide explanation)

Please see attached Planning Justification Brief
- c) Does this application conform to the Growth Plan for the Greater Golden Horseshoe?
 Yes No (Provide explanation)

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

Please see attached Planning Justification Brief
- e) Are the subject lands subject to the Niagara Escarpment Plan?
 Yes No
 If yes, is the proposal in conformity with the Niagara Escarpment Plan?
 Yes No
 (Provide Explanation)

Please see attached Planning Justification Brief
- f) Are the subject lands subject to the Parkway Belt West Plan?
 Yes No
 If yes, is the proposal in conformity with the Parkway Belt West Plan?
 Yes No (Provide Explanation)
- g) Are the subject lands subject to the Greenbelt Plan?
 Yes No

If yes, does this application conform with the Greenbelt Plan?
 Yes No (Provide Explanation)

8 HISTORY OF THE SUBJECT LAND

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

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

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

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

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

8.4 How long has the applicant owned the subject land?

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

5 Turner Avenue

9 OTHER APPLICATIONS

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

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

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

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

File number Minor Variance Status Submitted Concurrently

10 RURAL APPLICATIONS

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

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

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

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

- Agricultural Severance or Lot Addition
 - Agricultural Related Severance or Lot Addition
 - Rural Resource-based Commercial Severance or Lot Addition
 - Rural Institutional Severance or Lot Addition
 - Rural Settlement Area Severance or Lot Addition
- } (Complete Section 10.3)
- Surplus Farm Dwelling Severance from an Abutting Farm Consolidation (Complete Section 10.4)
 - Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation (Complete Section 10.5)

10.3 Description of Lands

a) Lands to be Severed:

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

b) Lands to be Retained:

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

Existing Land Use: _____ Proposed Land Use: _____

10.4 Description of Lands (Abutting Farm Consolidation)

a) Location of abutting farm:

 (Street) (Municipality) (Postal Code)

b) Description abutting farm:

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

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

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

Existing Land Use: _____ Proposed Land Use: _____

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

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

Front yard set back: _____

e) Surplus farm dwelling date of construction:

- Prior to December 16, 2004
- After December 16, 2004

f) Condition of surplus farm dwelling:

- Habitable
- Non-Habitable

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

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

Existing Land Use: _____ Proposed Land Use: _____

10.5 Description of Lands (Non-Abutting Farm Consolidation)

a) Location of non-abutting farm

(Street) (Municipality) (Postal Code)

b) Description of non-abutting farm

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

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

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

Front yard set back: _____

d) Surplus farm dwelling date of construction:

Prior to December 16, 2004 After December 16, 2004

e) Condition of surplus farm dwelling:

Habitable Non-Habitable

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

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

11 OTHER INFORMATION


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

Please see attached Planning Justification Brief.

12 ACKNOWLEDGEMENT CLAUSE

I acknowledge that The City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

August 30, 2022
Date


Signature of Owner