



Hamilton

STAFF COMMENTS

HEARING DATE: February 13, 2024

DN/A-23:348 – 98 Sydenham Street, Dundas

Recommendation:

Development Planning - Approve

Proposed Conditions:

N/A

Proposed Notes:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact 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 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.

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



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Development Planning:

Background

To facilitate the severance of an existing property containing an existing single detached dwelling into three (3) parcels.

This Minor Variance Application is to satisfy Condition #5 of previously approved Consent Application (DN/B-23:44). DN/B-23:44 became final and binding on August 23, 2023. Staff note that an Applicable Law Review was completed by Zoning staff on December 5, 2023 identifying the non-conforming setbacks of the existing accessory structures on the subject property.

Analysis

Greenbelt Plan

The subject lands are identified as “Protected Countryside” under the Greenbelt Plan. Per Section 2.2 of the Greenbelt Plan, lands within the Niagara Escarpment Plan Area are subject to the requirements of the Niagara Escarpment Plan and the Protected Countryside policies do not apply.

Niagara Escarpment Plan

The subject lands are designated “Urban Area” under the Niagara Escarpment Plan. A single detached dwelling and its accessory uses are permitted within the “Urban Area” designation.

Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhoods” in Schedule E-1 - Urban Land Use Designations under the Urban Hamilton Official Plan and are identified as “Neighbourhoods” in Schedule E – Urban Structure of the Urban Hamilton Official Plan. Policies found in E.3.4.3, amongst others, are applicable. The existing single detached dwelling and accessory uses are permitted.

Sydenham Neighbourhood Plan

The subject property is identified as “Single and Double” and “Open Space” under the Sydenham Neighbourhood Plan. The objectives of the Neighbourhood Plan are to conserve cultural heritage resources of the area and the existing neighbourhood character and scale, to minimize conflict between residential and industrial or commercial uses as well as to conserve and improve natural features and open spaces. The existing residential use and requested variances are in keeping with the intent of the plan.



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Archeology

Archaeology:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone;
- 3) In areas of pioneer Euro-Canadian settlement; and
- 4) 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 minor variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact 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 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.

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

Cultural Heritage

The subject property comprises a 2 and a half storey dwelling constructed circa 1904 and is listed on the Municipal Heritage Register as a non-designated property. The property is also located in the Sydenham Established Historical Neighbourhood.



Where new construction and/or alterations or additions to existing structures are proposed in an Established Historical Neighbourhood, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Accordingly, sections B.3.4.1.4 and B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.

The applicant is requesting a number of variances to facilitate the severance of an existing property containing an existing single detached dwelling into three parcels. Notwithstanding that the property is listed on the City's Municipal Heritage Register, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the property will be conserved. Staff have no further comments on the application as circulated.

Former Town of Dundas Zoning By-law No. 3581-86

The subject lands are zoned Single Detached Residential (R2) Zone and Open Space Conservation (OS) Zone in Former Town of Dundas Zoning By-law No. 3581-86. The existing single detached dwelling and accessory uses, structures and buildings are permitted.

Variations 1 to 3

1. A minimum setback of 0.30 metres from the rear lot line shall be permitted for accessory structures having a floor area of less than 10 square metres whereas the By-law requires that all accessory structures having a floor area less than 10 square metres shall have a minimum setback from a rear lot line of 1.0 metres.
2. A minimum setback of 0.80 metres from the side lot line shall be permitted for accessory structures on properties where a garage does not form part of a principle building whereas the By-law requires that all accessory structures on properties where a garage does not form part of a principal building shall have a minimum setback from a side lot line of 2.0 metres.
3. A minimum setback of 0.60 metres from the side lot line shall be permitted for accessory structures on properties where a garage does not form part of a principle building whereas the By-law requires that all accessory structures on properties where a garage does not form part of a principal building shall have a minimum setback from a rear lot line of 2.0 metres.

The intent of these provisions is to ensure sufficient space is provided between accessory structures and the property lines for access and maintenance purposes. Staff defer any grading or drainage concerns to Development Engineering.

Regarding Variance 1, staff note that the existing shed has an irregular setback from the rear lot line between 0.38 metres and 0.60 metres. Staff are of the opinion that the southerly 0.6 metre setback provides the minimum amount of space for access and maintenance purposes for the existing frame shed. Staff support the variance.



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Regarding Variances 2 and 3, staff note that the existing brick garage has a setback from the side lot line of 0.87 metres and a setback from the rear lot line of 0.61 metres. Staff are of the opinion that the reduced setbacks would provide sufficient space for access and maintenance purposes. Staff support the variances.

Staff are of the opinion that variances meet the four tests of a minor variance. Based on the foregoing, **staff support the variances.**

Zoning:

Recommendation:	Comments Only
Comments:	<ol style="list-style-type: none"> 1. Please be advised Consent Application DN/B-23:44 became final and binding August 23rd, 2023, for the associated property. 2. Please be advised a portion of the property falls under the Hamilton Conservation Authority. 3. Please be advised the property is a Registered (Non-Designated) Heritage Property.

Development Engineering:

Recommendation:	Approve
Proposed Conditions:	N/A
Comments:	Provided the existing drainage pattern is maintained, Development Engineering has no objection to the proposed minor variances.

Transportation Planning:

Recommendation:	Approve
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Building Engineering:

Recommendation:	Comments Only
Notes:	Be advised that Ontario Building Code regulations may require specific setback and construction types.

Niagara Escarpment Commission (NEC):

Recommendation	Comments Only
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<p>Comments:</p>	<p>The subject property, while not located within the Niagara Escarpment Development Control Area, is located within the Niagara Escarpment Plan Area. As such, the policies within Parts 1.7 and 2 of the Niagara Escarpment Plan apply.</p> <p>Part 1.7.4 of the Niagara Escarpment Plan states: Proposed uses and the creation of new lots may be permitted, subject to conformity with Part 2, Development Criteria, the Development Objectives and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan.</p> <p>Part 1.7.5.1 states: All development shall be of an urban design compatible with the scenic resources of the Escarpment. Where appropriate, provision for maximum heights, adequate setbacks and screening are required to minimize the visual impact of urban development.</p> <p>Part 1.7.5.9 states: Growth and development in Urban Areas shall be compatible with and provide for:</p> <ul style="list-style-type: none">a. the protection of natural heritage features and functions; <p>Part 2.2.1 states: The Escarpment environment shall be protected, restored and where possible enhanced for the long term having regard to single, multiple or successive development that have occurred or are likely to occur.</p> <p>Part 2.4.2 states: New lots to meet residential needs should be created primarily in designated Urban Areas, Minor Urban Centres and Escarpment Recreation Areas.</p> <p>Part 2.7.4 states: Development in other natural features not identified as key natural heritage features or key hydrologic features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible, and the impact of the development on the natural feature and its functions shall be minimized.</p> <p>NEC staff note that the Niagara Escarpment Plan directs lot creation to Urban Areas, such as is proposed. Per the policies in 1.7 NEC staff encourage City staff to ensure that development is compatible and utilizes screening measures such as tree planting and adequate setbacks to ensure visual impact is minimized. NEC staff note there appears to be woodland at the rear of the property. Part 2.7.4 would discourage development within the feature. NEC staff also note Part 2.2.1 which states that the “Escarpment environment shall be protected, restored, and where possible enhanced.” Therefore, if tree removal is required to facilitate the</p>
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	proposed development, NEC staff would encourage City staff to ensure that the development envelope be restored (1:1 ratio) or enhanced.
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Legislative Approvals:

Recommendation:	No comments.
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Please Note: Public comment will be posted separately, if applicable.

January 29, 2024

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

Attention: Committee of Adjustment

File# DN/A-23:348

Re: 98 Sydenham St

In response to your correspondence dated January 25, 2024, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 905-798-2634 or 905-798-3370 or visit our web site @ www.alectrautilities.com. To make a service request, [Make a Service Request | Alectra Utilities](#)
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.
- Developers to acquire an easement, if required.
- In order for Alectra Utilities to prepare design and procure the materials required to service this site in a timely manner, a minimum of 6 months notification is required. It would be advantages for the developer if Alectra Utilities were contacted at the stage where the new site plan becomes available. Please note that it takes approximately 36-52 weeks to purchase a transformer.
- Existing O/H service is supplied from rear and will have to be relocated and supplied from Sydenham Street prior to land severances for proposed other future lots facing Queen Street.

We would also like to stipulate the following:

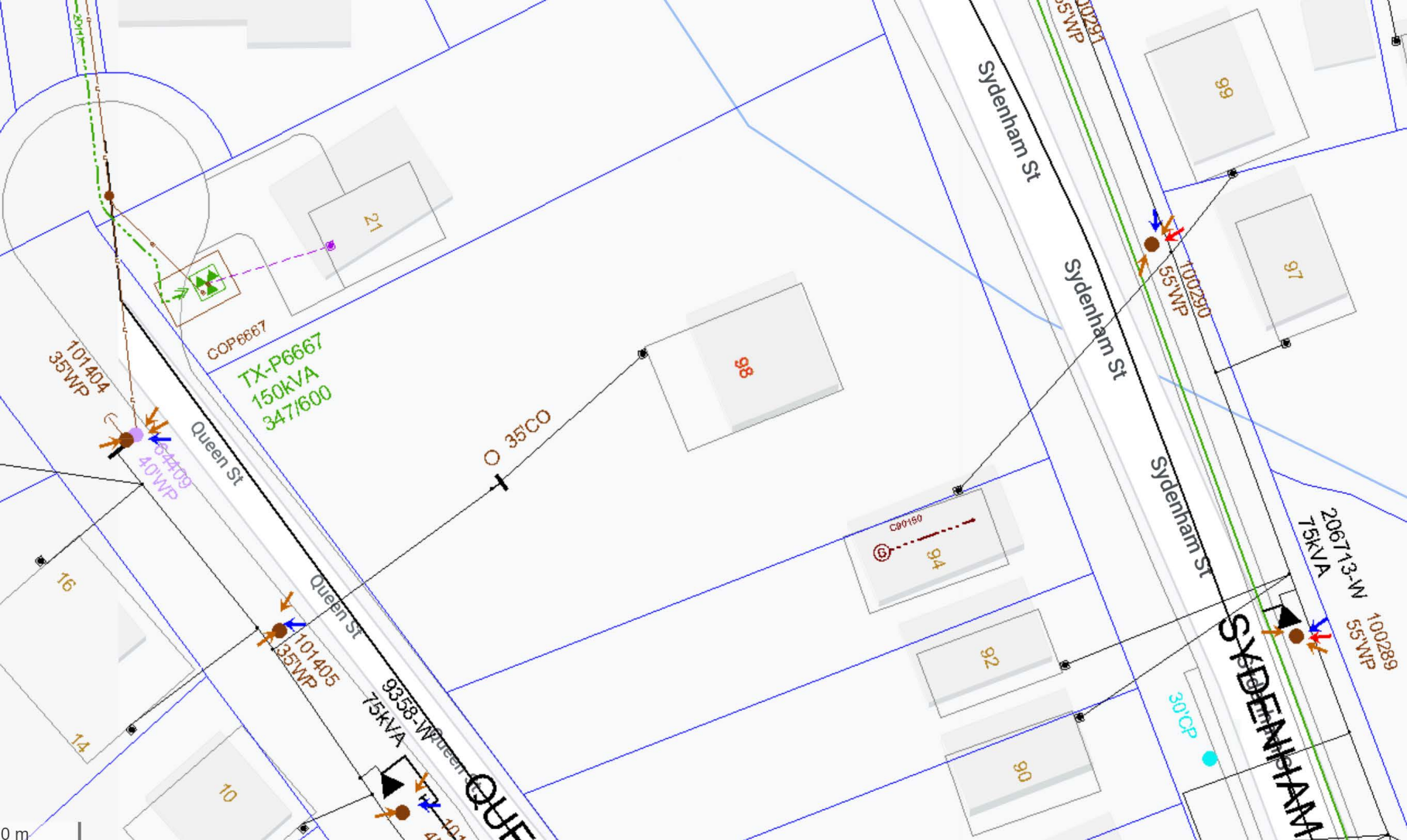
- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CSA Standard C22.3 No. 1:20, Overhead System
 - CSA Standard C22.3 No. 7:20, Underground Systems

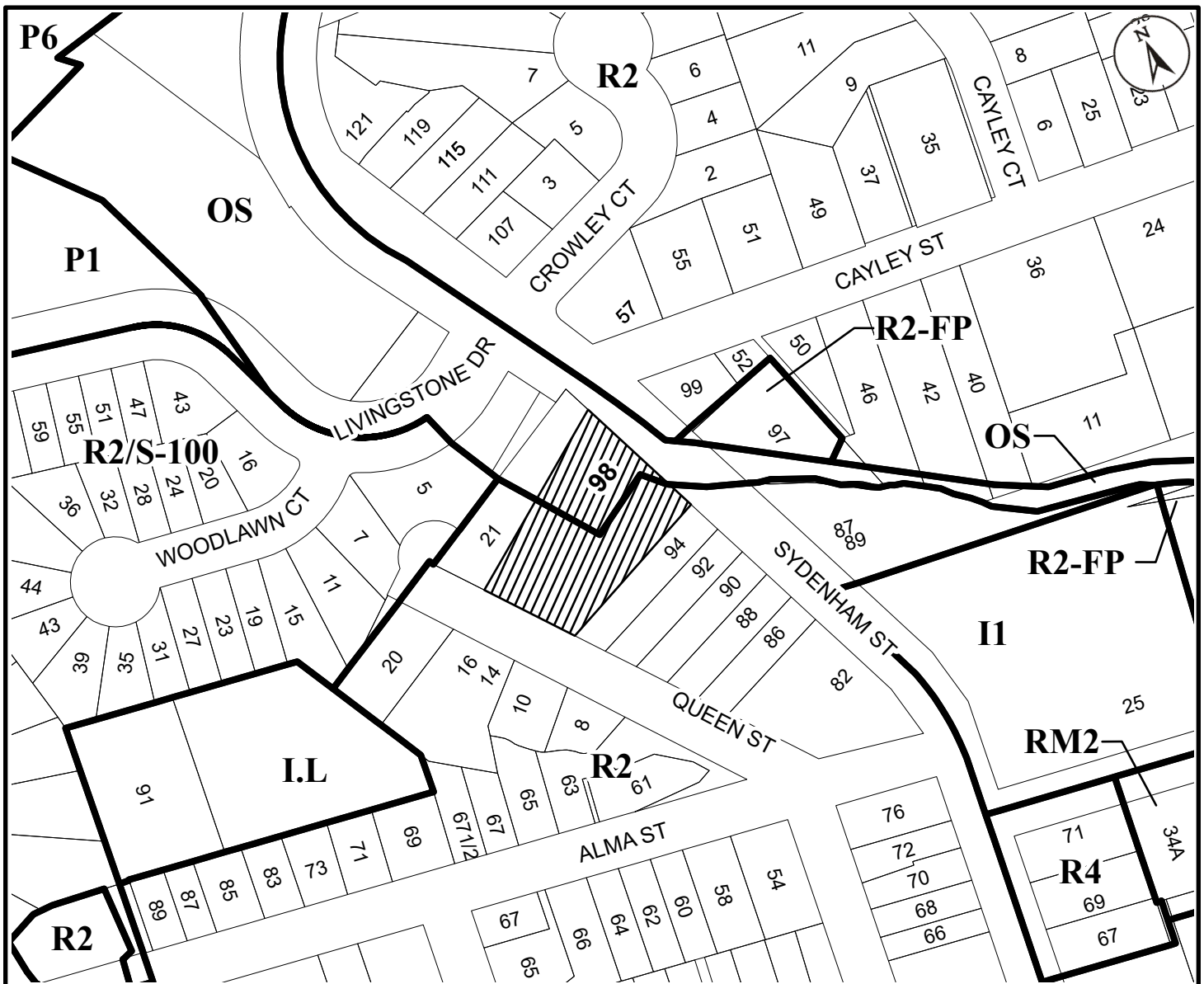
We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-798-2517 in our Engineering Design Department.

Sincerely,

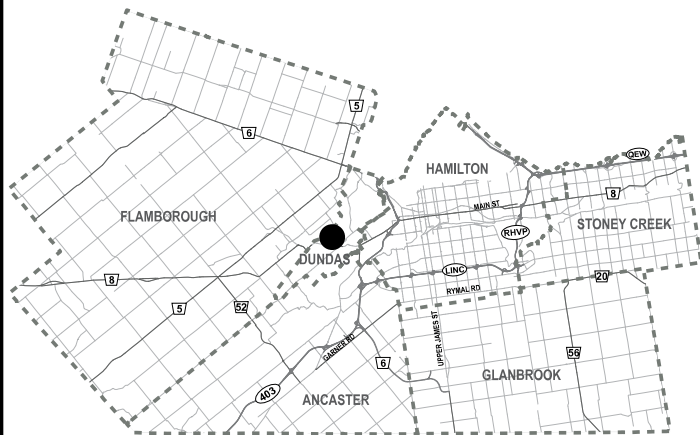
Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital





● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



98 Sydenham Street, Dundas
(Ward 13)

File Name/Number:
DN/A-23:348

Date:
January 29, 2024

Technician:
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Map Not To Scale

Appendix "A"



Hamilton