



Hamilton

STAFF COMMENTS

HEARING DATE: March 26, 2024

SC/B-24:01 – 294 Green Road, Stoney Creek

Recommendation:

Development Planning: Deny

Watershed Management: Approve

Proposed Conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (MCM).
5. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (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).

6. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division Plan Examination Section).
7. Green Road is to be 26.213 metres from King Street to South Service Road. The existing right-of-way at the subject property is approximately 20 metres. Approximately 3.048 metres are to be dedicated to the right-of-way on Green Road, as per the Council Approved Urban Official Plan Schedule C-2 Right-of-Way Dedications.
The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
8. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$ 5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Manager of Development Approvals. Note that cash payments mentioned above are subject to change.

Proposed Notes:

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



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Development Planning:

Recommendation

- Deny

Proposed Conditions

1. That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (MCM).

Proposed Notes

N/A

Background

To permit the conveyance of a parcel of land to create a new residential building lot. The existing dwelling will be demolished to facilitate this application.

	Frontage	Depth	Area
Severed Lands	7.62 m±	45.72 m±	348.38 m2 ±
Retained Lands	7.62 m±	45.72 m±	348.38 m2 ±

Analysis

Urban Hamilton Official Plan

The subject lands are designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan. Policies F.1.14.3.1 and E.3.4.3, amongst others, are applicable and permit the use.

Western Development Area Secondary Plan



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The subject lands are further designated “Low Density Residential 2b” on Map B.7.1-1 – Western Development Area Secondary Plan – Land Use Plan. Policies B.7.1.1.2, among others, are applicable and permit a duplex.

Archaeology

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

- 1) In an area of sandy soil in areas of clay or stone;
- 2) In areas of pioneer Euro-Canadian settlement; and
- 3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this variance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

“Condition: That the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (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

No comment.

Former City of Stoney Creek Zoning By-law No. 3692-92

The lands are zoned Single Residential “R2” Zone, which does not permit a duplex.

A duplex is defined as a building containing two dwelling units but does not include any dwelling erected as, or in the form of, a pair of semi-detached dwellings.



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Variations 1 and 2 (Lot to be Retained) and 3 and 4 (Lot to be Conveyed)

1. A minimum lot area for a interior lot of 345 sq. m. shall be provided instead of the minimum lot area of 460 sq. m.
2. A minimum lot frontage for a interior lot of 7.6 metres shall be provided instead of the minimum lot frontage of 15 metres.
3. A minimum lot area for a interior lot of 345 sq. m. shall be provided instead of the minimum lot area of 460 sq. m.
4. A minimum lot frontage for a interior lot of 7.6 metres shall be provided instead of the minimum lot frontage of 15 metres.

While the proposed severed and retained lands will be serviced by municipal services and have frontage onto a public road, staff note that the proposed duplex is not a permitted use within the Single Residential “R2” Zone, therefore are not in conformity to the Former Stoney Creek Zoning By-law and would not be in support of a minor variance to add the use. Staff further note that the permitted density within the Low Density Residential 2b designation is 29 units per hectare. Staff note that the proposed density for the severed and retained lands is approximately 57 units per hectare (two duplex dwelling units per lot).

As such, staff are of the opinion that the proposal Consent application does not maintain the intent of the Official Plan lot creation policies as the proposal does not comply with the policies of the Official Plan. Staff are of the opinion that the proper planning approval for the proposal would be an Official Plan and Zoning By-law Amendment application to permit the density and use.

It is noted that staff are recommending in Report PED22154(a) that the subject lands be added to the Low Density Residential (R1) Zone of Hamilton Zoning By-law No. 05-200. This report is being considered at the February 23, 2024 Planning Committee meeting. The implementing by-law has not been adopted by Council at the time of writing this report.

Staff are of the opinion that the variances do not meet the general intent of the Official Plan and Zoning By-law and are neither minor in nature nor desirable for the development as the proposed variances are for a proposed use that is not permitted within the Zoning By-law and exceeds the maximum density permitted in the Secondary Plan. Staff are of the opinion that the proper planning approval would be a Zoning By-law Amendment application. Based on the foregoing, staff **do not support the variance**.



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Zoning:

Recommendation:	Comments Only
Proposed Conditions:	<ol style="list-style-type: none"> 1. The owner/applicant shall receive final and binding approval of minor variance application SC/A-24:04 (Planning Division – Zoning Review Section). 2. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). 3. The owner/applicant shall demolish the detached garage on the lands to be retained to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section), or alternatively apply for and receive final approval of the appropriate Planning Act application in order for the detached garage to remain when no principal use is existing (Planning Division – Zoning Review Section). 4. The owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping [enter any other regulations which may be applicable for determining zoning compliance], conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
Comments:	<ol style="list-style-type: none"> 1. Be advised that if the detached garage is not demolished at the same time as the dwelling, final approval of the appropriate Planning Act application will be required to permit the detached garage to remain on the retained lands when no principal use/building has been established. 2. Final approval of the appropriate Planning Act application is required to permit the accessory structures to remain on the conveyed/retained lands when no main use/building has been established.



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	<ol style="list-style-type: none"> 3. The owner/applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Legislated Approvals and Staging of Development Section of the Planning and Economic Development Department prior to the issuance of a building permit. 4. All or an appropriate portion of the building straddling the proposed property line shall be demolished in order to achieve zoning compliance, or the owner/applicant shall receive final approval of the appropriate Planning Act application. 5. In order to clear conditions, the owner/applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees. 6. The City of Hamilton is continuing to develop Hamilton Zoning By-law 05-200 which encompasses the former City of Hamilton and the five (5) outlying municipalities. Please be advised that the next phase is the Residential Zones Project which will include Low Density Residential Zones. The subject property may be impacted by upcoming changes to be heard at the Planning Committee meeting of February 23, 2024. <p>Please visit https://www.hamilton.ca/build-invest-grow/planning-development/zoning/residential-zones-project or email reszoning@hamilton.ca for further information.</p>
Notes:	N/A

Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>Required Conditions:</p> <ol style="list-style-type: none"> 1. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$ 5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services



	inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City’s Manager of Development Approvals. Note that cash payments mentioned above are subject to change.
Comments:	The current Sewer By-law 23-234 and Water By-laws 23-235 require that each property has an independent private water and sewer services.
Notes:	

Building Engineering:

Recommendation:	Comments and Conditons/Notes
Proposed Conditions:	The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division Plan Examination Section)
Comments:	
Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Transportation Planning:

Recommendation:	Approve with Conditions
Proposed Conditions:	Transportation Planning has no objection to the land severance application, provided the following conditions are met: Green Road is to be 26.213 metres from King Street to South Service Road. The existing right-of-way at the subject property is approximately 20 metres. Approximately 3.048 metres are to be dedicated to the right-of-way on Green Road, as per the Council Approved Urban Official Plan Schedule C-2 Right-of-Way Dedications. The Applicant’s surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
Comments:	
Notes:	

Watershed Management (Source Protection Planning):

Recommendation:	Approve
Proposed Conditions:	



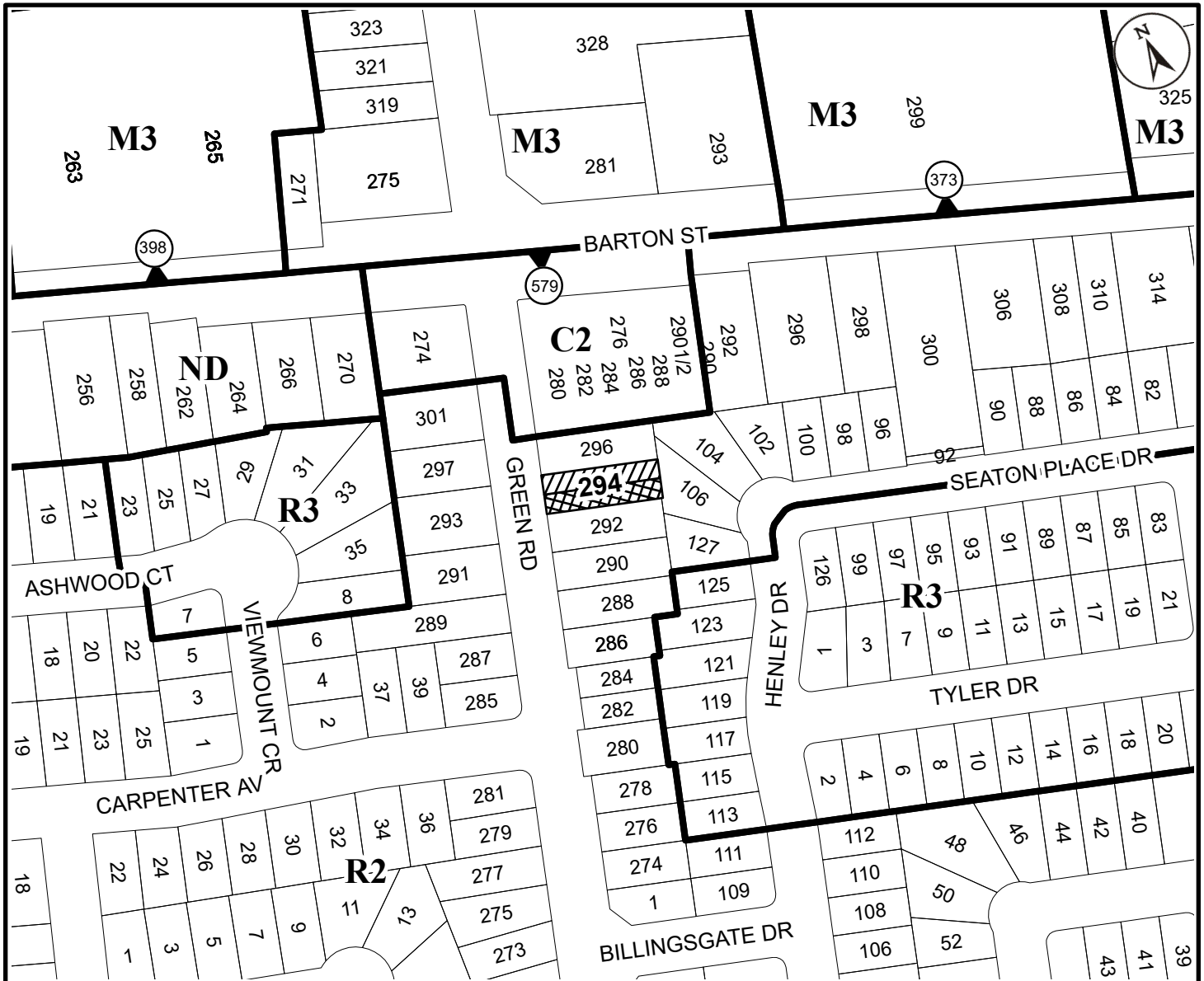
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Comments:	<p>Source Protection Planning understands the applicant is proposing to sever the lot into two lots, both 348.38 m2 in size. Our informational comments are as follows:</p> <p>Information Only: The applicant should be aware that the estimated groundwater level in the area is observed to be approximately 3 meters below the ground surface. For future foundation designs, please note that Hamilton Water does not allow long-term groundwater dewatering into the City's sewers or storm sewers.</p>
Notes:	

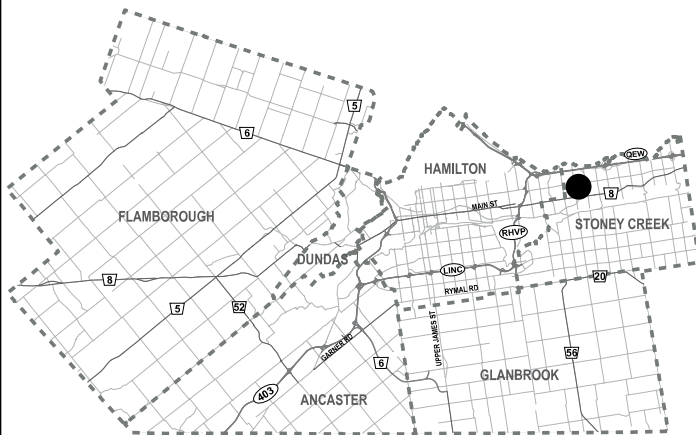
Legislative Approvals:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>We have received a copy of your Consent to Sever Land application and have assigned the following address based on the plans that were submitted with the application, and <u>subject to approval of the application by the Committee.</u></p> <p>The lands to be retained (Part 1) will be assigned the address of 294B Green Road (Stoney Creek).</p> <p>The lands to be conveyed (Part 2) will be assigned the address of 294A Green Road (Stoney Creek).</p>
Notes:	<p>We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.</p>

Please Note: Public comment will be posted separately, if applicable.



● Site Location





City of Hamilton

Committee of Adjustment

Subject Property

294 Green Road, Stoney Creek (Ward 10)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:
SC/B-24:01

Date:
February 15, 2024

Technician:
AL

Map Not To Scale

Appendix "A"



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