

**DN/B-24:11 – 61 Ann Street, Dundas**

Recommendation:

- Staff are unable to determine compliance with the Natural Heritage policies of the Urban Hamilton Official Plan at this time. Staff recommend the application be **tabled** and an Environmental Impact Study and Linkage Assessment be prepared and submitted for review in support of this application.

Proposed Conditions:

1. The owner shall submit survey evidence that the lands to be severed and lands to be retained including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
2. 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**).
3. 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 Engineering.
4. That the Owner register an adequately sized stormwater conveyance and maintenance access easement over the existing creek on the property in favour of the City of Hamilton, at their costs, and to the satisfaction of the City's Manager of Development Engineering.
5. The Applicant is to dedicate land to the Ann Street right-of-way from both severed and retained portions, to ultimately achieve the 20.213 metres maximum widening specified by the Council



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Approved Urban Official Plan: Chapter C – City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2 Local Roads.

- a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.
  - b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
  - c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
6. 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)
  7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
  8. 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)
  9. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed 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).

Proposed Notes:



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Development Planning:

**Background**

	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>
<b>SEVERED LANDS (LOT B):</b>	19.24 m±	174.01 m±	13,026 m <sup>2</sup> ±
<b>RETAINED LANDS (LOT A):</b>	16.76 m±	45.23 m±	758 m <sup>2</sup> ±

To permit the conveyance of a parcel of land to for residential purposes and to retain a parcel of land containing an existing single detached dwelling, proposed to remain. Staff note that the subject lands are located within a flood plain and are subject to approval by the Hamilton Conservation Authority.

**Analysis**

**Urban Hamilton Official Plan**

The subject lands are designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations and are identified as “Neighbourhoods” in Schedule E – Urban Structure of the Urban Hamilton Official Plan. Policies E.3.4.3, F.1.14.3.1, B.2.4.1.4, B.2.4.2.2. and B.3.6.3.7, amongst others, are applicable. The proposed and existing single detached dwellings are permitted uses.

Natural heritage features such as a linkage and a watercourse (Spencer Creek) are identified on the subject lands in Schedule B – Natural Heritage System of the Urban Hamilton Official Plan. Staff defer to Natural Heritage planning staff regarding conformity with the natural heritage policies of the Urban Hamilton Official Plan.

Per B.3.6.3.7, when a residential development is proposed within 400 metres of a major arterial road, a noise feasibility study, or detailed noise study, or both shall be required. Per Schedule C – Functional Road Classification, Governors Road is classified as a major arterial road and the subject lands are within 400 metres of Governors Road. Therefore, an acoustical report investigating the noise levels on the subject lands shall be required.

Per Policy F.1.14.3.1, proposed lots must comply with the policies of the Urban Hamilton Official Plan, must conform with the Zoning By-law or a minor variance must be approved, if necessary, the lots must be compatible with the general scale and character of the established pattern of development in the surrounding area, must be fully serviced by municipal water and wastewater services and must front on to public roads.



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The proposed severance must be evaluated against the policies found in Section B.2.4.1.4 to ensure that the proposal is compatible with the scale, built form and character of the existing neighbourhood. Policy B.2.4.1.4 f) requires that residential intensification proposals must be evaluated against the existing and planned water, wastewater and stormwater capacity in the area, amongst other criteria.

### **Archaeology**

The subject property meets the criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential. 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 for the severed portion of the lot:**

**Condition:** That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed 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.

### **Natural Heritage**

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, a Core Area and Linkage have been identified within and adjacent to the subject property. The Core Area has been identified as a watercourse. This feature is also regulated by the Hamilton Conservation Authority (HCA). The wooded area has been identified as a Linkage. Linkages are important connections that provide opportunities for plant and animal movement, hydrological and nutrient cycling, and the maintenance



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of the ecological health and integrity of the Natural Heritage System. In addition, the wooded area would be subject to the City's Urban Woodland Conservation By-law (By-law 14-212).

Based on policies within the UHOP (C.2.3, C.2.3.3), Core Areas are to be protected and enhanced. Any development within or adjacent to Core Areas shall not negatively impact their features or ecological functions. When development may negatively impact the Core Area and its functions, an Environmental Impact Statement (EIS) is to be prepared. This report characterizes the Core Area, provides an assessment of impacts, and provides measures to mitigate the impacts. Linkages are to be protected, restored, and enhanced to sustain the Natural Heritage System (policy C.2.7) and are to be integrated into the design of a new development (policy C.2.7.3). Where new development or site alteration is proposed within the Linkage, a Linkage Assessment is required. On sites where an EIS is being prepared, a Linkage Assessment can be included within the EIS (policy C.2.7.5).

There is concern with the Plan that has been provided.

- site alteration (grading, filling, rain garden) has been proposed within a portion of the Linkage. The intent of the Linkage policies have not been met.
- the vegetation protection zone (VPZ) will be provided in both lots. This may make it difficult to ensure that the VPZ is being maintained as intended. In addition, it is unclear how the VPZ was determined.
- A Tree Protection Plan (TPP) was prepared by Silv-Econ Limited (Helen Sereda; certified arborist)
  - the woodland has been identified as a Fresh-Moist Black Walnut Deciduous Forest (FOD7-4). This vegetation community is very rare/rare to uncommon in the Province (ranked as S2S3). Measures to mitigate impacts on this vegetation community have not been adequately discussed.
  - Screenings for Species at Risk and Significant Wildlife Habitat occurred, however, this was based on a reconnaissance review in April. The impacts of this development on these species was not adequately identified.
- A Landscape Plan was prepared by Silv-Econ Limited (Helen Sereda; certified arborist)
  - The Landscape Plan is to be prepared by a Landscape Architect
  - A Meadow Seed Mix has been proposed. There is concern with some of the species within this seed mix since they are locally rare (Canada Wild Rye) or Species at Risk (Dense Blazing Star-Threatened).
  - It is unclear how the VPZ for the watercourse on the retained parcel will be maintained. Plantings have not been proposed.

At this time, it is recommended that this application be tabled until an Environmental Impact Statement (EIS) and Linkage Assessment can be provided and reviewed.

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



## Hamilton

### STAFF COMMENTS

HEARING DATE: April 9, 2024

The subject lands are zoned Single Detached Residential (R2-FP) Zone and Urban Reserve (UR) in Former Town of Dundas Zoning By-law No. 3581-86. The proposed single detached dwelling and existing single detached dwelling are permitted uses. Both the proposed severed and retained lots meet the minimum lot area requirement of 450 square metres and minimum lot frontage requirement of 15.0 metres.

#### Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none"><li>1. The owner shall submit survey evidence that the lands to be severed and lands to be retained including the location of any existing structure(s), parking and landscaping, conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).</li></ol>
Comments:	<ol style="list-style-type: none"><li>1. The applicant is proposing to sever the existing land into two (2) separate parcels, in order to construct a single detached dwelling</li><li>2. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit</li><li>3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</li></ol>
Proposed Notes:	

#### Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	<ol style="list-style-type: none"><li>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)</li></ol>



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**STAFF COMMENTS**

**HEARING DATE: April 9, 2024**

	<p>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 Engineering.</p> <p>2. That the Owner register an adequately sized stormwater conveyance and maintenance access easement over the existing creek on the property in favour of the City of Hamilton, at their costs, and to the satisfaction of the City's Manager of Development Engineering.</p>
Comments:	The existing municipal storm sewers discharge into the existing creek that traverse the property. An easement in the City favour is required for access and maintenance purposes as a condition of severance.
Proposed Notes:	

**Building Engineering:**

Recommendation:	Comments and Conditions/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
Comments:	
Proposed 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:	Condition 1 . The Applicant is to dedicate land to the Ann Street right-of-way from both severed and retained portions, to ultimately achieve the 20.213 metres maximum widening specified by the Council Approved Urban Official Plan: Chapter C – City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2 Local Roads.





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**STAFF COMMENTS**

**HEARING DATE: April 9, 2024**

	<p>a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening.</p> <p>b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.</p> <p>c. Subject to the satisfaction and approval of the Manager, Transportation Planning.</p> <p>Transportation Planning can support the severance of the lands if dedications to the Municipal right-of-way are provided. Ann Street is to be 20.213 metres in width.</p>
Comments:	
Proposed Notes:	

**Legislative Approvals:**

Recommendation:	No comments.
Proposed Conditions:	
Comments:	
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.





## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**To:** Jamila Sheffield, Secretary-Treasurer, Committee of Adjustment

**From:** Sam Brush, Urban Forest Health Technician – Forestry

**Email:** Sam.Brush@hamilton.ca

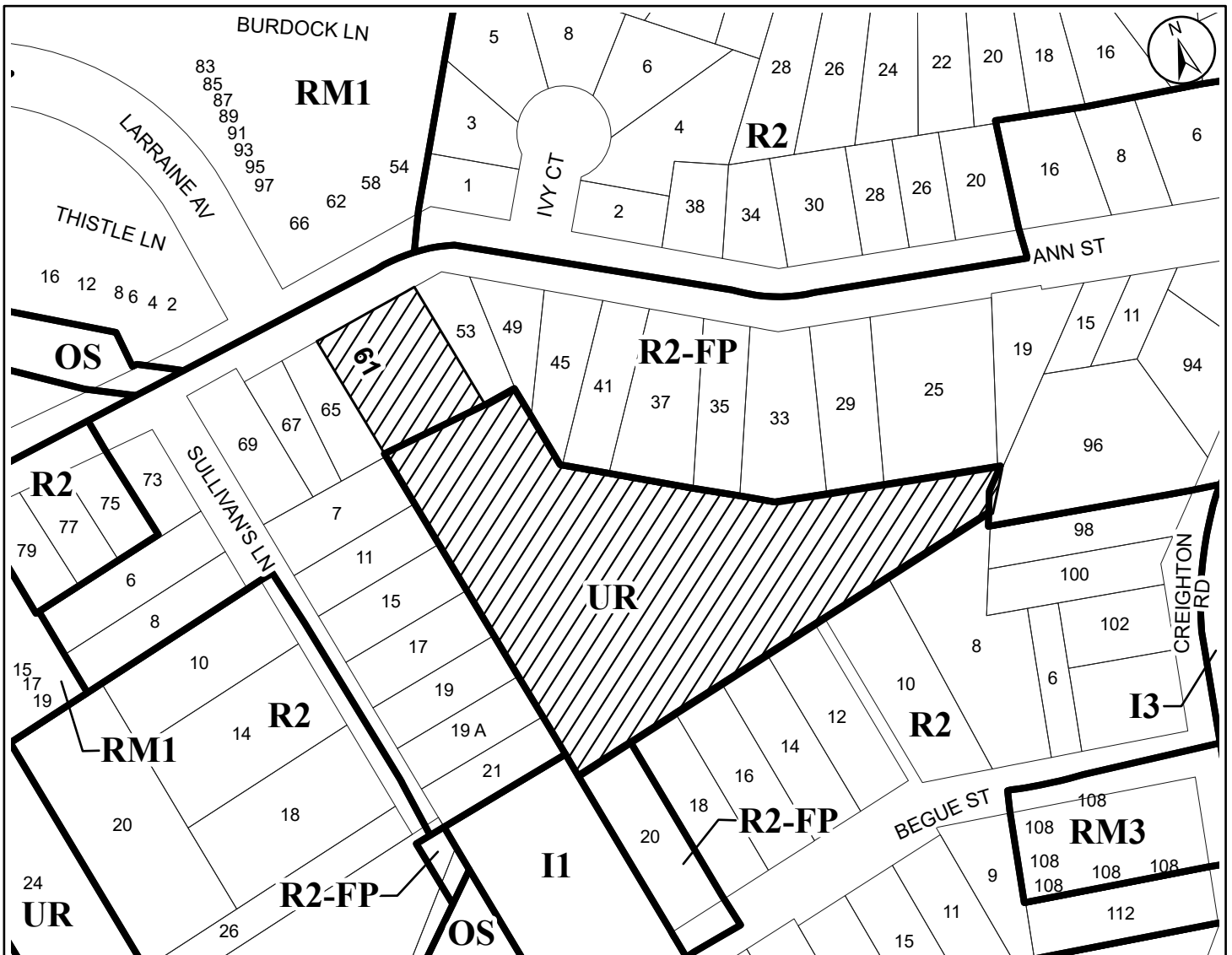
**File Number:** DN/B-24:11

**Address:** 61 Ann Street, Dundas.

**Subject:** Committee of Adjustment File Comments – April 9, 2024

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Recommendation	Approve
Proposed Conditions:	No conditions required.
Comments:	There are no public tree assets impacted by the proposed conveyance.
Notes:	



● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property



61 Ann Street, Dundas (Ward 13)

### File Name/Number:

DN/B-24:11

### Date:

March 18, 2024

### Technician:

AL

### Scale:

N.T.S.

### Appendix "A"



**Hamilton**

Planning and Economic Development Department