

FL/B-24:06 – 151 Highway 8, Flamborough

Recommendation:

Approve

Proposed Conditions:

1. Highway 8 is to be 36.576 metres from Peters Corners to Woodleys Lane, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications.
 - 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.
2. Herbert Place is to be 20.213 metres. The Applicant is to dedicate the right-of-way on Ann Street, as per the Council Approved Rural 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.
3. 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)
4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
5. 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)



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6. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
7. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design Proposed Notes:
8. The owner/applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the S2 Exception 79 or alternatively apply for and receive final approval of the appropriate Planning Act application in order to permit the intended use (Planning Division – Zoning Review Section).
9. The owner/applicant shall submit survey evidence that the lands to be retained, including the location of any existing structure in the rear yard 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).

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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STAFF COMMENTS

HEARING DATE: April 9, 2024

Development Planning:

Background

To permit the conveyance of a parcel of land (Part 3 on Plan 62R-20552) to be added to the property known municipally as 9 Herbert Place (Part 2 on Plan 62R-20552). Staff note the purpose of this Consent Application (FL/B-24:06) is to correct a technical error stemming from the Certificate issued for the previous and related Consent Application (FL/B-11:81). The purpose of Consent Application FL/B-11:81 was to create a new lot for a single detached dwelling, consisting of Parts 2 and 3 of Plan 62R-20552. The Certificate issued by the City of Hamilton on June 30, 2017 referenced only Part 2 of Plan 62R-20552, whereas Part 3 of Plan 62R-20552 was to be included together with Part 2.

Staff also note that application FL/B-11:81 was approved on May 5, 2016 with a condition related to rezoning the subject lands (being 151 Highway 8 and 9 Herbert Place). This Zoning By-law Amendment application (ZAR-16-036) was to amend the zoning on 9 Herbert Place from Settlement Commercial (S2, Exception 79) Zone to Settlement Residential (S1) Zone. Similarly, 151 Highway 8's existing zoning of Settlement Commercial (S2, Exception 79) Zone was amended to add a special exception regarding the existing single detached dwelling, which lost legal non-conforming status as a result of the success Consent Application.

Analysis Greenbelt Plan

The subject lands are identified as "Protected Countryside" under the Greenbelt Plan. Per Section 2.2 of the Greenbelt Plan, the site is subject to the policies of the Niagara Escarpment Plan.

Niagara Escarpment Plan

The subject lands are identified as "Escarpment Rural Area" and as "Minor Urban Centre – Greensville" under the Niagara Escarpment Plan. Per Section 1.4.4.2 a) of the Niagara Escarpment Plan, a severance may be permitted for the purpose of correcting conveyances, provided the correction does not include the re-creation of merged lots. As this Consent Application is to correct a technical issue from the Certificate issued for the previous Consent Application (FL/B-11:81), the application complies with this policy.

Rural Hamilton Official Plan

The subject lands are designated as part of the "Greensville Rural Settlement Area" in Schedule D - Rural Land Use Designations under the Rural Hamilton Official Plan. Per Section D.5.0 Rural Settlement Areas, lands designated Rural Settlement Area shall be subject to the Rural Settlement Area general policies and Secondary Plan policies for each Rural Settlement Area as set out in Volume 2 of this Plan.



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Additionally, Per Policy F.1.14.2.6, minor lot line adjustments and minor boundary adjustments may be considered for legal or technical reasons provided the following:

- a) a separate lot is not created for a dwelling or any other non-farm use except in designated Rural Settlement Areas;
- b) there is no increased fragmentation of a key natural heritage feature or key hydrologic feature;
- c) the land area of the lot adjustment does not exceed the land area required to address the legal or technical issue, meet the requirements of Section C.5.1, Private Water and Wastewater Services, and meet F.1.14.2.6 b) above with as little acreage as possible taken out of agricultural use; and,
- d) the adjustments do not conflict with intent of the policies of this Plan.

Further to F.1.14.2.6, the Rural Hamilton Official Plan defines legal and technical reasons as the following:

For the purposes of Section F.1.14.2.6, means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments which do not result in the creation of a new lot (PPS, 2005).

Based on the above policies, staff are of the opinion that the proposed boundary adjustment complies with the Rural Hamilton Official Plan. Staff defer to Source Water Protection staff regarding Private

Water and Wastewater concerns and to Natural Heritage staff regarding the Natural Heritage concerns.

Greensville Rural Settlement Area

The subject lands are designated "Settlement Residential" in Map 8a of the Greensville Rural Settlement Area Plan and further identified as part of "Major Development Area A" in Map 8b of the Greensville Rural Settlement Area. Per Volume 2, Chapter A – Policy 1.3.1, single detached dwellings are permitted within Rural Settlement Areas.

Archeology

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) Along historic transportation routes; and



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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 consent 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 archaeological 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 property known as 151 Highway No. 8, Flamborough is part of the Greensville Cultural Heritage Landscape. Accordingly, the following section of the Provincial Policy Statement applies:

2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

Additionally, the following section of the Rural Hamilton Official Plan, Volume 1, applies:

B.3.4.6.2 Cultural heritage landscapes...shall be protected in the carrying out of any undertaking subject to the Environmental Assessment Act or the Planning Act.

Notwithstanding that the subject property is within the Greensville Cultural Heritage Landscape, staff have reviewed the application and are of the opinion that the cultural heritage value of the landscape will be conserved. Staff have no further comments on the application as circulated.

Natural Heritage

The subject property is located within the Rural Hamilton Official Plan area. There are trees located on the subject lands, tree conservation is important to the City of Hamilton per RHOP



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C.2.10.1. Natural Heritage planning staff request a tree protection plan following the City of Hamilton Tree Protection Guidelines (2010), and a Landscape plan to be completed by an OALA in good standing per the City of Hamilton Tree Protection Guidelines (2010). There is a \$715 fee.
Hamilton Zoning By-law No. 05-200

The subject lands are zoned Settlement Commercial (S2, Exception 79) Zone under Hamilton Zoning By-law No. 05-200. The proposed retained lands meet the minimum requirements for lot area and frontage and the benefitting lands (being 9 Herbert Place) meet the minimum requirements of the Settlement Residential (S1) Zone for lot area and frontage.

Staff are of the opinion that the proposed boundary adjustment complies with the Rural Hamilton Official Plan and meets the Plan's definition for legal and technical reasons. Based on the foregoing, staff recommend approval, subject to confirmation from Source Water Planning that the proposal complies with the policies of section C.5.1 of the Rural Hamilton Official Plan.

Zoning:

Recommendation:	Comments and Conditons/Notes
Proposed Conditions:	<ol style="list-style-type: none">1. The owner/applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the S2 Exception 79 or alternatively apply for and receive final approval of the appropriate Planning Act application in order to permit the intended use (Planning Division – Zoning Review Section).2. The owner/applicant shall submit survey evidence that the lands to be retained, including the location of any existing structure in the rear yard 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. The existing Frame and Concrete Building located in the rear yard must be at least 6.64 m from the proposed rear property line. The Survey provided is illegible and zoning compliance cannot be confirmed. As a condition of this application, the owner/applicant shall be required to demonstrate zoning compliance or receive final approval of the appropriate Planning Act application.2. 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.



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HEARING DATE: April 9, 2024

	<p>3. The lands to be conveyed/retained shall be merged in title with the lands to which they are to be added.</p> <p>4. Legally established rights of ways shall be properly registered on title to provide access between properties (lands to be conveyed and retained) and sharing of the parking areas.</p> <p>Furthermore, it is noted as per the survey submitted that Part 2 of Part of Lot 7 Concession 1 appears to not maintain frontage along a street line as a result of Part 3 being conveyed to Parts 4 & 5. Please note, should Part 2 not maintain frontage onto a Street Line, as required under Section 4.3, the owner/applicant may 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.</p>
Proposed Notes:	

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	Provided there are no proposed alterations or additions with respect to servicing, buildings / structures or foundations and the existing drainage patterns are maintained with no adverse impacts to the adjacent lands, then Development Engineering has no comments regarding the Consent Application as proposed.
Proposed Notes:	

Building Engineering:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	This Division has no concerns with the proposed application.
Proposed Notes:	

Transportation Planning:

Recommendation:	Approve with Conditions
Proposed Conditions:	Transportation Planning can support the severance of the lands if the following dedication to the Municipal right-of-way are provided:



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

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

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

From: Sam Brush, Urban Forest Health Technician – Forestry

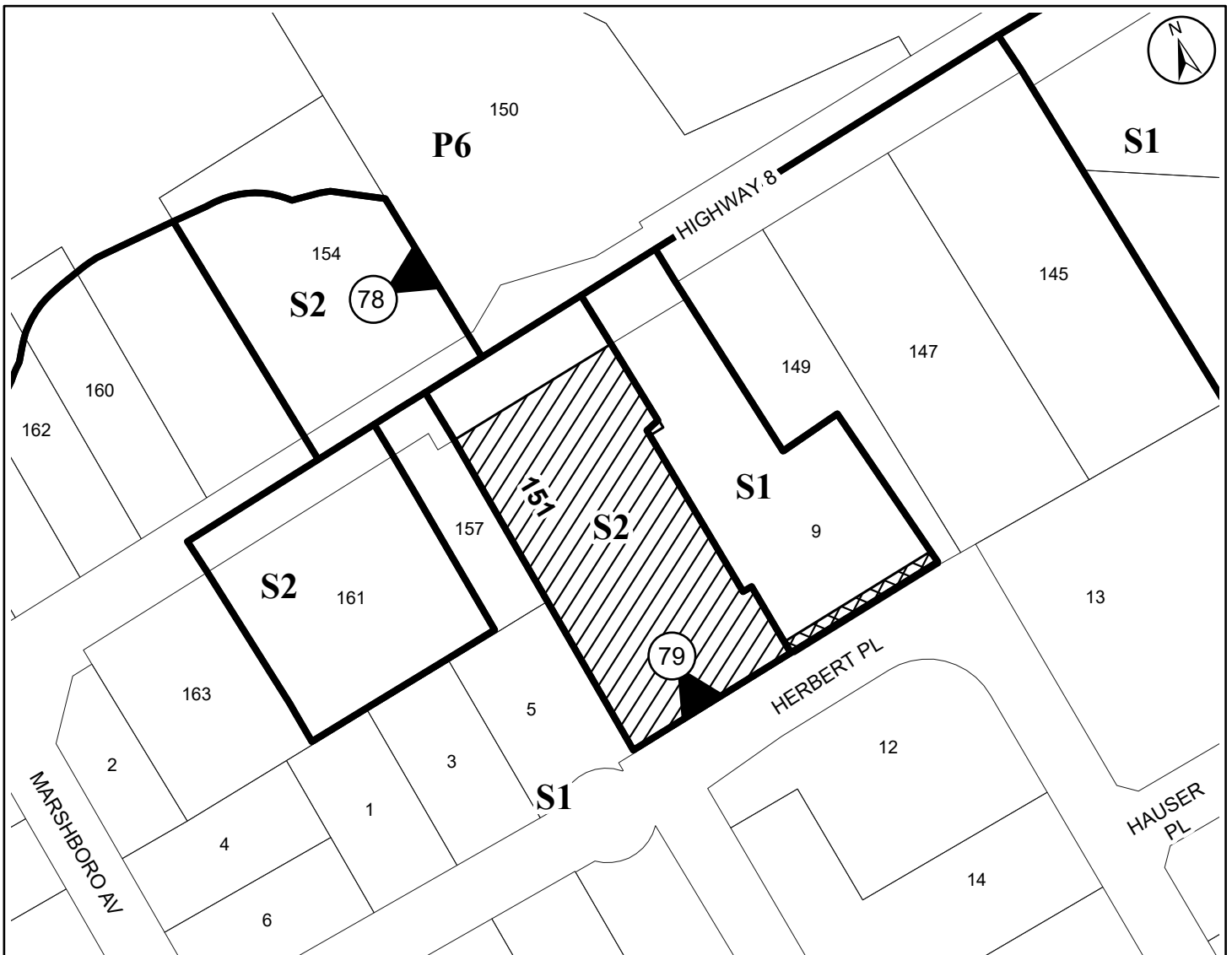
Email: Sam.Brush@hamilton.ca

**File
Number:** FL/B-24:06

Address: 151 Highway 8, Flamborough

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

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

151 Highway 8, Flamborough (Ward 13)



Lands to be Retained



Lands to be Severed

File Name/Number:

FL/B-24:06

Date:

February 29, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department