



Hamilton

STAFF COMMENTS

HEARING DATE: May 7, 2024

AN/B-23:47 – 376 Philip Place, Ancaster

Recommendation:

Development Planning - Deny

Development Engineering - Deny

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. The owner shall 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).
5. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section). May be subject to a demolition permit issued in the normal manner.
6. The owner 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 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).
7. A Permit to injure or remove municipal trees is a requirement of this application. A Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.
8. That the owner shall investigate the noise levels on the severed lands to determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) recommended sound level limits. An



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acoustical report prepared by a qualified Professional Engineer containing the recommended noise control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner and shall be submitted to the satisfaction of the City of Hamilton, Director of Development Planning.

9. That final and binding approval of Minor Variance application AN/A-23:170 or a Zoning By-law amendment be received, to the satisfaction of the Director of Development Planning.

10. 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, landscape architect), to the satisfaction of the Manager of Heritage and Urban Design.

11. 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.

12. That the owner demolish the existing single detached dwelling, to the satisfaction of the Director of Development Planning.

Proposed Notes:

The lands to be retained (Lot B) will remain as 376 Phillip Place (Ancaster).

The lands to be conveyed (Lot A) will be assigned 382 Massey Drive (Ancaster).

If at a future date it is discovered that the main entry of the unit to be constructed on the retained lands will face Massey Drive, an address change will be required.

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:

Background

	Frontage	Depth	Area
SEVERED LANDS (LOT B):	22.24 m±	30.67 m±	663.07 m ² ±
RETAINED LANDS (LOT A):	18.45 m±	36.06 m±	604.04 m ² ±

To permit the conveyance of a parcel of land to create a new residential building lot, fronting on to Massey Drive. The existing dwelling will be demolished to facilitate this application. Staff note that Consent Application AN/B-23:47 and Minor Variance Application AN/A-23:170 were originally heard at the July 27, 2023 Committee of Adjustment Hearing and were tabled at that time.

Staff note that a motion was approved by City Council on December 14, 2016 that requested that consent applications for single detached dwelling lots in the urban area for lands that have rurally serviced drainage and are zoned Existing Residential (ER) Zone in Zoning By-law No. 87-57 be denied until Phase 2 of the Detailed Drainage Assessment Study is completed and presented to the Public Works Committee. Staff further note that a staff report (PW16100(a)/PED24032) regarding this was presented to the Public Works Committee on February 20, 2024. In that report, recommendation c) was that approvals continue to be deferred for all lot severances in rural cross section drainage neighbourhoods until Phase 3 of the study is completed.

City Council approved Public Works Committee Report 24-003, which included amendments to the recommendations regarding Detailed Drainage Assessment Study (Phase 2) of Rurally Serviced Existing Residential Neighbourhoods in Ancaster (PW16100(a)/PED24032). The amended recommendations 8 (c) and (d) direct staff to resume consideration and potential recommendation of approval for lot severance applications in the Rurally Serviced Existing Residential Neighbourhoods of Ancaster and to recommend that the Committee of Adjustment implement the citywide Enhanced Interim Conditions identified in Report PW16100(a)/PED24032 for approved consent applications. Development Engineering is to provided the necessary Enhanced Interim Conditions required to facilitate the proposed development. Amended recommendation 8 (e) directs staff to file an appeal with the Ontario Land Tribunal for any Committee of Adjustment approval where the Enhanced Interim Conditions are removed.

Staff note that the subject property is included as part of the proposed Residential Zones Project which is part of a citywide project to amend the Urban Hamilton Official Plan and City of Hamilton Zoning By-law No. 05-200 by implementing changes and additions to the Low Density Residential



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zones. As part of this project, the subject property is proposed to be added to Zoning By-law No. 05-200 within the Low Density Residential (R2) Zone.

Analysis

Niagara Escarpment Plan

The subject lands are designated as “Urban Area” under the Niagara Escarpment Plan. Per Section 2.4 of the Niagara Escarpment Plan, lot creation must conform with official plans and/or secondary plans, and zoning by-laws. Similarly, per Section 1.7.5, new lots within the “Urban Area” shall not encroach into Escarpment Natural, Escarpment Protection, Escarpment Rural or Mineral Resource Extraction Areas. The subject lands are not adjacent to any of the above areas.

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.3.6.3.7, and C.5.4.11, amongst others, are applicable. The proposed single detached dwellings are permitted uses.

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, Wilson Street East is classified as a major arterial road and the subject lands are within 400 metres of Wilson Street East. Therefore, an acoustical report investigating the noise levels on the subject lands shall be required.

Policy F.1.14.3.1 outlines that 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, the lots must be fully serviced by municipal water and wastewater services and must front on to public roads.

The proposed severance must also 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. Based upon the above policies, staff are of the opinion that the proposed severed and retained lands are not compatible with the existing neighbourhood in terms of scale, built form or the character of the existing neighbourhood. The prevailing lot fabric of the neighbourhood is



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of a larger size than the proposed severed and retained lots. The proposed severed and retained lots are not of a sufficient size to ensure a consistent development pattern within the neighbourhood.

Similarly, Section C.5.4.11 states the following:

- “C.5.4.11 All land designated on Schedule E-1 – Urban Land use Designations shall meet the following conditions:
- a) Development and/or redevelopment shall be connected to, or serviced by, a storm water drainage system or other appropriate system such as ditches, or any other techniques acceptable to the City, Conservation Authorities, or the Province and/or detailed in a Storm Water Master Plan or other relevant study;
 - b) Development shall be in accordance with the system capacity for drainage and storm water management and where relevant, will conform to storm water management plans, a Storm Water Master Plan, site plans and/to other relevant studies, guidelines or regulations; and,
 - c) Storm water systems shall be designed and constructed, in accordance with the City’s standards and guidelines, provincial guidelines, storm water master plans, master drainage plans and any other relevant study or legislation.”

Development Planning staff defers to Development Engineering to confirm that the policies above can be satisfied.

Archaeology

No comment.

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, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural areas that ecologically connect Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development will not further negatively impact the features and functions of the City’s Natural Heritage System.



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Through aerial photograph interpretation, trees have been identified within and adjacent to the subject property. The City recognizes the importance of trees to the overall health of a community and encourages the protection and restoration of trees (policy C.2.11.1). In addition, the Town of Ancaster By-law (By-law 2000-118) regarding the injury and removal of trees may apply.

The proposed severance may impact the trees within the subject property. To ensure that trees are considered in the design of the development, it is recommended that a Tree Protection Plan (TPP) be prepared in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010). In addition, to ensure that existing tree cover is maintained, it is recommended that a Landscape Plan (showing the required compensation) be prepared. This can be addressed through the following conditions.

1. 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, landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
2. 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.

In summary, based upon the above policies and recommendation 8 (d) of the Detailed Drainage Assessment Study (Phase 2), staff cannot support the proposed severance at this time as the proposed severance does not comply with the policies found in B.2.4.1.4 and C.5.4.11 of the Urban Hamilton Official Plan.

Former Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned Existing Residential "ER" Zone in Town of Ancaster Zoning By-law No. 87-57. The proposed single detached dwellings are permitted. The proposed severed lots (Lots A and B), do not meet the minimum lot area requirement of 695 square metres. Additionally, Lot B does not meet the minimum frontage requirement of 18 metres and the minimum rear yard depth requirement of 25% of the lot depth or no less than 7.5 metres. Staff note that Minor Variance Application AN/A-23:170 was originally submitted concurrently with this application to address these non-conformities, however, was not included on the Committee of Adjustment agenda for May 7, 2024.



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Zoning:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	<ol style="list-style-type: none"> 1. The owner shall 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). 2. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section). May be subject to a demolition permit issued in the normal manner. 3. The owner 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 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).
Comments:	<ol style="list-style-type: none"> 1. The 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. 2. Demolition of all or an appropriate portion of the building straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner. 3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees. 4. Please note dimensions indicated on the drawing No. “A-100”, titled “Overall Site Plan” prepared by Phillip Place Development and dated May 17th, 2023, are not legible and detailed drawings of the two (2) proposed Single Family Dwellings have not been provided; therefore a full zoning compliance review could not be completed. 5. From the materials provided, the following appropriate Planning Act approvals have been identified for zoning compliance for the “ER” Zone pursuant to Ancaster Zoning By-law No. 87-57:



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	<p>i. minimum lot area for the portion of the lands to be retained/conveyed (Lot “A” indicated as 604.04 square metres and Lot “B” indicated as 663.07 square metres, whereas 695 square metres is required);</p> <p>ii. minimum lot frontage for the portion of the lands to be conveyed (Lot “B” indicated as 12.06 metres whereas 18 metres is required); and,</p> <p>iii. rear yard setback for the portion of the lands to be conveyed (Lot “B” indicated as 2.0 metres whereas a minimum of 25% of the lot depth and no less than 7.5 metres is required].</p> <p>6. From the materials provided, the following appropriate Planning Act approvals have been identified for zoning compliance for the “R2” Zone pursuant to Hamilton Zoning By-law No. 05-200 (amending By-law No. 24-051 which is not yet final):</p> <p>i. minimum lot area for the portion of the lands to be retained (Lot “A” indicated as 604.04 square metres, whereas 630 square metres is required);</p> <p>ii. minimum lot width for the portion of the lands to be conveyed (Lot Frontage for Lot “B” indicated as 12.06 metres whereas 18 metres is required); and,</p> <p>iii. rear yard setback for the portion of the lands to be conveyed (Lot “B” indicated as 2.0 metres whereas 7.5 metres is required].</p>
Proposed Notes:	<p>i. The subject lands are presently zoned “ER” (Existing Residential) according to Ancaster Zoning By-law No. 87-57. Be advised that By-law No. 24-051 was approved on April 10th, 2024 and changed the zoning of the subject lands to “R2” (Low Density Residential – Large Lot) Zone pursuant to Hamilton Zoning By-law No. 05-200. However, as By-law No. 24-051 is not yet final, at present, all proposed development is reviewed under both the existing and proposed Zoning By-laws regulations with the more restrictive zoning regulations being applied, with the exception of building permits, which are reviewed under the former existing zoning until such time that By-law No. 24-051 comes into force.</p>

Development Engineering:

Recommendation:	Deny
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Proposed Conditions:	
Comments:	The approvals continue to be deferred for lot severances in all rural cross section drainage neighbourhoods in Ancaster until the Phase 3 drainage study is complete, and implementation measures are in place to mitigate the impacts of lot redevelopment.
Proposed Notes:	

Building Engineering:

Recommendation:	No comments.
Proposed Conditions:	
Comments:	
Proposed Notes:	This division has no concerns with the proposed application.

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	

Forestry:

Recommendation:	Approve with Conditions
Proposed Conditions:	A Permit to injure or remove municipal trees is a requirement of this application. A Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.
Comments:	<p>Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees.</p> <p>An assessment of the information provided shows that there are potential conflicts with publicly owned trees or trees that may become city assets through right of way widening.</p> <p>Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Public Tree Permit to injure or remove municipal trees is required.</p> <p>Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the</p>



	<p>applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.</p> <p>No Landscape plan required.</p> <p>TREE MANAGEMENT</p> <p>Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.</p> <p>The Forestry & Horticulture Section requires that a Tree Management Plan be prepared by a MTCU Qualified Arborist, or ISA Certified Arborist, or a Registered Landscape Architect. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intensions regarding retention or removal.</p> <p>It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.</p> <p>The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree.</p> <ul style="list-style-type: none">• Species by Botanical and common name• Diameter at breast height in centimeters or millimeters• Ownership {> 50% @ ground level = ownership}• Biological health• Structural condition• Proposed grade changes within individual driplines {compulsory}• Proposed utility construction within individual driplines {compulsory}• Proposed removals or relocations• Proposed trees to be protected. <p>If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the Public Tree Preservation and Sustainability Policy.</p>
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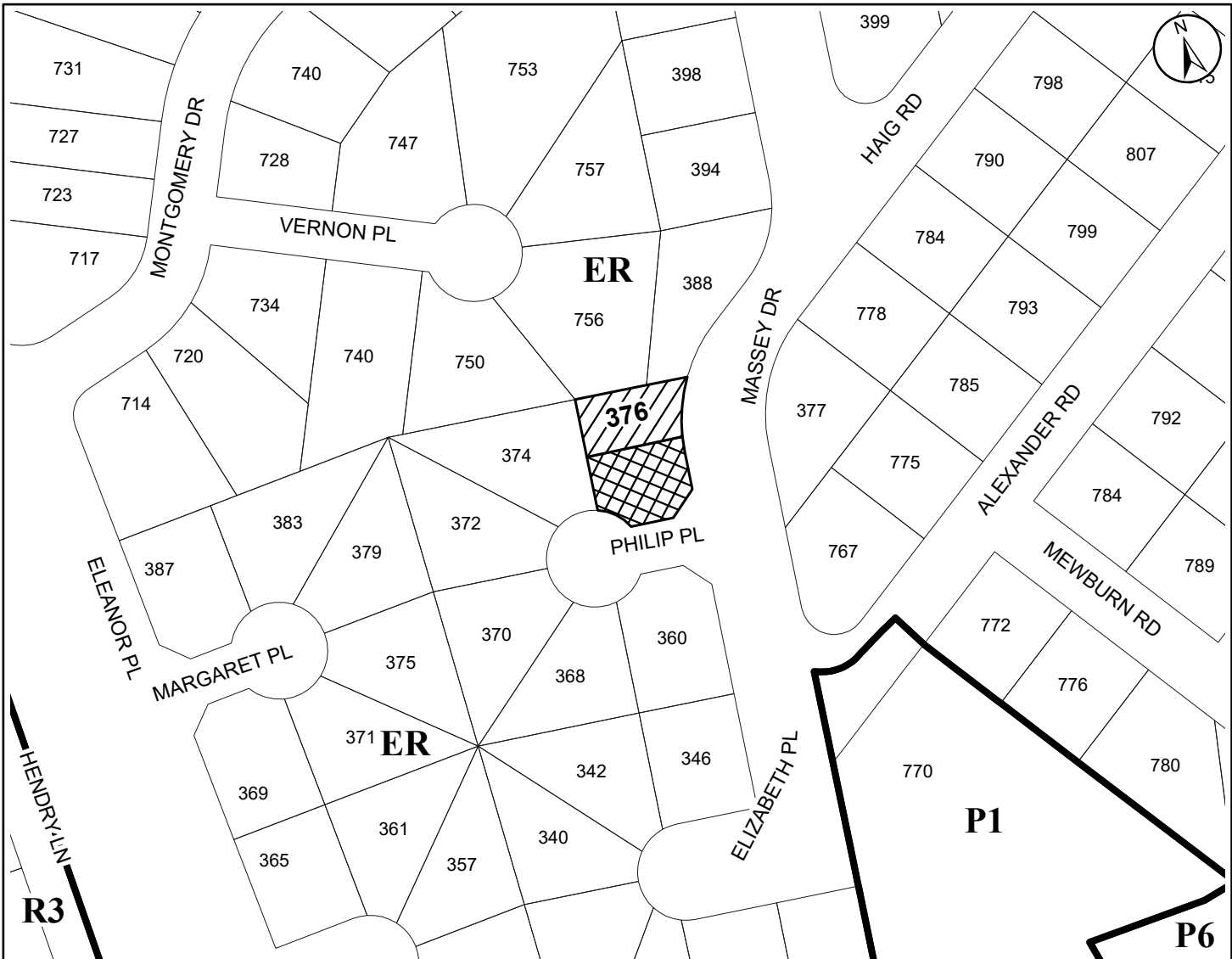


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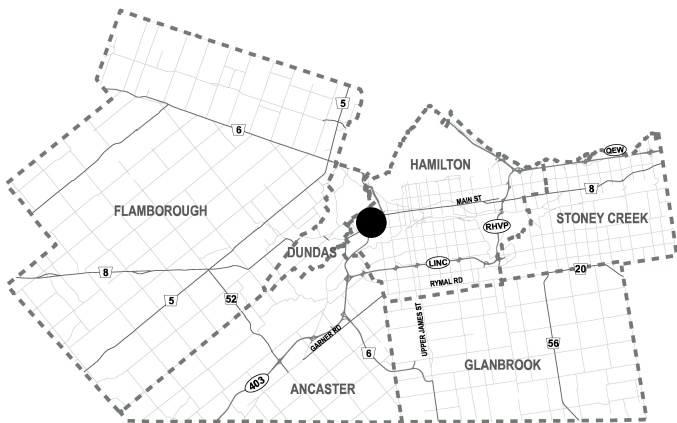
	<p>The determination of ownership of all trees is the responsibility of the applicant and any civil issues which may exist or arise between property owners with respect to trees, must be resolved by the applicant. The ownership of each individual tree inventoried must be clearly stated as municipal or private.</p> <p>All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the Public Tree Preservation and Sustainability Policy in conjunction with By-Law 15-125.</p> <p>A permit will be issued upon approval of the Tree Management Plan and applicable fees.</p>
Proposed Notes:	There are large stately public tree assets on site that shall be retained. Design solutions for building footprint, driveway, utilities, etc, will be required to ensure all public tree assets are adequately protected.

Legislative Approvals:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>The lands to be retained (Lot B) will remain as 376 Phillip Place (Ancaster).</p> <p>The lands to be conveyed (Lot A) will be assigned 382 Massey Drive (Ancaster).</p> <p>If at a future date it is discovered that the main entry of the unit to be constructed on the retained lands will face Massey Drive, an address change will be required.</p> <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>
Proposed Notes:	



● Site Location





City of Hamilton

Committee of Adjustments

Subject Property

376 Philip Place, Ancaster (Ward 12)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:

AN/B-23:47

Date:

April 26, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



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