



Hamilton

B-24:17 – 103 Chester Avenue, Hamilton

Recommendation:

- Approve Variances 1, 2 and 3
- Remove Variance 4 and 5
- Approved Consent Application

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 owner shall receive final approval of Minor Variance application A-24:67, to the satisfaction of the Director of Planning and Chief Planner.
5. That the owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line through successfully obtaining a demolition permit, to the satisfaction of the Director of Planning and Chief Planner.
6. That the owner shall investigate the noise levels on the severed and retained lands and 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 acoustical report/brief 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 Planning and Chief Planner.
7. 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.



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8. 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.
9. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
10. 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 Examination Section). May be subject to a demolition permit issued in the normal manner.
11. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
12. 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.
13. A Landscape Plan is required by the Forestry and Horticulture Section, depicting the street tree planting scheme for the proposed development.
14. That the Owner must enter into with the City of Hamilton and register, a combined External Works and Consent Agreement, having an administrative fee of \$5,945.00 (includes grading plan review) to address issues including but not limited to: extension of the municipal sewers, road reconstruction, 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 Director of Development Engineering.
15. That the Owner provide a cash payment to the City for the existing storm and sanitary sewer that may be subject to the City's "Best Effort" provision, to the satisfaction of the City's Director of Development Engineering.



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16. That the Owner pay to the City of Hamilton for the future urbanization costs of Chester Avenue based on the City's "New Road Servicing Rates" for the year that final approval is obtained, to the satisfaction of the City's Director of Development Engineering.

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 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.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036) 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

The application is to sever the existing residential lot into eight parcels, the severed lands will be vacant residential building lots to facilitate townhouses and the retained lands will contain the existing dwelling which is intended to be demolished.

	FRONTAGE	DEPTH	AREA
SEVERED LANDS (LOT 1):	9.0 metres	21.3 metres	191 square metres
RETAINED LANDS:	11.5 metres	21.3 metres	237 square metres
SEVERED LANDS (LOT 2)	9.0 metres	21.3 metres	191 square metres
SEVERED LANDS (LOT 3)	11.0 metres	21.3 metres	234 square metres
SEVERED LANDS (LOT 4)	11.0 metres	21.3 metres	234 square metres
SEVERED LANDS (LOT 5)	9.0 metres	21.3 metres	191 square metres
SEVERED LANDS (LOT 6)	9.0 metres	21.3 metres	191 square metres
SEVERED LANDS (LOT 7)	10.8 metres	21.3 metres	239 square metres

The lands are subject to a Minor Variance Application A-24:67, to facilitate the construction of eight Street Townhouse Dwellings.

The following variances are requested from the original Notice of Public Hearing:

1. A front yard depth of not less than 3.5 metres shall be permitted instead of the required depth of not less than 6.0 metres.
2. A rear yard depth of not less than 7.0 metres shall be permitted instead of the required depth of not less than 7.5 metres.
3. A parking space other than a parallel parking space shall have dimensions of not less than 2.7 metres wide and 5.8 metres long. Instead of the required dimensions of not less than 2.7 metre wide and 6.0 metre long.
4. A width of at least 2.7 metres shall be permitted for an access driveway instead of the required width of at least 2.8 metres.



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5. Where a parking space for a townhouse dwelling is covered and attached to or enclosed within the dwelling unit, the entrance to the parking space shall be permitted to be located not less than 5.8 metres from the entrance to the individual driveway. Instead of the required location of not less than 6.0 metres from the entrance to the individual driveway.

The following **amended variances** are based off of the applicant's revised submission and are discussed in staff comments:

1. A front yard depth of not less than 4.0 metres shall be permitted instead of the required depth of not less than 6.0 metres.
2. A rear yard depth of not less than 6.5 metres shall be permitted instead of the required depth of not less than 7.5 metres.
3. A parking space other than a parallel parking space shall have a length dimension of not less than 5.8 metres. Instead of the required length dimension of not less than 6.0 metres.

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 severance is granted, 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.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036) In the event that human remains are encountered during construction, the proponent should immediately contact both



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MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416- 212-7499).”

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E - Urban Structure and designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). Policies F.1.14.3.1 and E.3.4.3, among others, are applicable and permit the street townhouse dwelling use.

Policy F.1.14.3.1 establishes the criteria that are required to be met for lot creation in the “Neighbourhoods” designation. They include:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.

With respect to F.1.14.3.1 a), the proposed lots comply with the policies of the UHOP, including the uses permitted on the subject lands in accordance with Policy E.3.4.3. As per the Urban Hamilton Official Plan Policy F.1.14.3.1.d), the proposed residential lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and area. The proposed lot area exceeds the minimum established in the Zoning By-law for street townhouses (180 square metres) and the proposed lots are significantly wider (9.0 metres) than the minimum established lot width under the Zoning By-law (6.0 metres). This increase in width, along with the proposed two storey building height will allow the proposal to better reflect the established character of the area. The amended minimum front yard of 4.0 metres, is consistent with design direction given within the City’s newly adopted Neighbourhood Infill Design Guidelines (Section 2.2.12) and is consistent with the minimum under the Council approved amendments to Zoning By-law 05-200 for such a use. The proposed lots are a good example of infill development and residential intensification.

With respect to F.1.14.3.1 b), the subject lands are located within the Gourley Neighbourhood Plan, which identifies the lands as “Single and Double”, which does not permit townhouses. In August 2022, City initiated amendments to the City’s Former Community Zoning By-laws was completed to implement Urban Hamilton Official Plan Amendment No.167 (PED22154). These amendments introduced a number of new land uses within the City’s existing low density residential neighbourhoods, including the addition of street townhouses. Through this report, a recommendation was adopted by Council that included “...that a general text amendment be added to all



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Neighbourhood Plans to add semi-detached dwellings and townhouse dwellings as permitted uses and to allow for the conversions of single detached dwellings and duplex dwellings to all low density residential areas.... Based on this, the proposed townhouse use would have been added to the Gourley Neighbourhood Plan. Accordingly, the proposed lots comply with the existing Neighbourhood Plan.

With respect to F.1.14.3.1 e) and f), the proposed lots are fully serviced by municipal water and wastewater systems and have frontage on a public road (Chester Avenue).

Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned Urban Protected Residential, Etc. "C" District, which permits street townhouse dwellings, subject to the applicable provisions. Staff have included a Condition of Approval that requires the applicant demonstrate zoning conformity prior to lot creation in accordance with F.1.14.3.1 c).

Staff support the severance application subject to the conditions outlined above.

Analysis

Variance 1

The following variances are requested from the original Notice of Public Hearing:

1. A front yard depth of not less than 3.5 metres shall be permitted instead of the required depth of not less than 6.0 metres.

The following **amended variances** are based off of the applicant's revised submission and are discussed in staff comments:

1. A front yard depth of not less than 4.0 metres shall be permitted instead of the required depth of not less than 6.0 metres.

The applicant is proposing a front yard depth minimum of 4.0 metres be permitted instead of the required minimum front yard depth of 6.0 metres. The City's newly adopted Neighbourhood Infill Design Guidelines state that "Streetscape appearance, which shall be achieved by designing front and side yard setbacks that are consistent with the established setbacks along the street" (Guidelines 2.2.12). Staff are of the opinion that the proposed 4.0 metre setback is generally consistent with the established setbacks along Chester Avenue, which vary significantly. It's also worth noting that only a portion of the proposed townhouse structure is setback the minimum 4 metres from the front yard, with the garage portion being setback approximately 6.3 metres from the street. The proponent has also increased the proposed side yard to 2.0 metres, which will help with the transition of the



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proposed townhouses to the adjacent single detached dwelling (85 Chester Avenue) along the streetscape.

It's also important to note that the subject lands are slated to be brought into Zoning By-law No. 05-200 through the Low Density Residential Zoning project. This was approved by Council on April 10th, 2024 (By-law 24-051). This is not yet in force in effect as an appeal was received. Once in-force, the council approved zoning will implement a 4 metre minimum required setback from the front lot line. The proposed 4m front yard setback is consistent with this Council approved by-law.

Staff are satisfied that the proposed 4.0m front yard will not adversely impact the streetscape and is in keeping with the general intent and purpose of the Urban Hamilton Official Plan and Zoning By-law No. 05-200. Staff are of the opinion that the proposed variance is desirable for the development of lands and is minor in nature.

Variance 2

The variance as noted on the Notice of Public Hearing:

A rear yard depth of not less than 7.0 metres shall be permitted instead of the required depth of not less than 7.5 metres.

The variance as amended by the applicant:

*A rear yard depth of not less than **6.5 metres** shall be permitted instead of the required depth of not less than 7.5 metres.*

The applicant is proposing a rear yard depth of not less than 6.5 metres for all eight lots instead of the required depth of not less than 7.5 metres. Staff are of the opinion that a 1.0 metre reduction is minor in nature and will have minimal impact on the rear yard amenity space. The proposed townhouse widths are oversized (9 metres), which will result in a larger rear yard amenity area for the proposed townhouses. The existing rear yard amenity area of the lands adjacent to the south (147 Annabelle Street) are partially screened by an existing detached garage, which will help further mitigate any overlook or privacy concerns.

To ensure that the proposed rear yard reduction will not create any undue adverse impacts on the rear yard amenity area of the neighboring lands to the south, staff recommend adding a condition that imposes a maximum building height of 8.0 metres on the proposed townhouses with the reduced rear yard, which will limit building height on the property to two storeys. This will serve to limit any privacy/overlook impacts on the adjacent lands to the south. Staff are satisfied that no shadow impact will occur as the neighbouring lands are located to the south and shadows are generally cast northward. This limit in building height will establish a general angular plane from the rear lot line to the top of the proposed dwelling in accordance with Guideline 2.2.12 c) of the Neighbourhood Infill Design Guidelines.



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Staff are satisfied that the proposed 6.5 metres rear yard will not adversely impact the function of the rear yard amenity area, nor will it adversely impact the rear yard amenity area of the neighboring lands to the south. In staff’s opinion the variance is in keeping with the general intent and purpose of the Urban Hamilton Official Plan and Zoning By-law No. 05-200, is desirable for the development of lands and is minor in nature.

Variance 3

The variance as noted on the Notice of Public Hearing:

A parking space other than a parallel parking space shall have dimensions of not less than 2.7 metres wide and 5.8 metres long. Instead of the required dimensions of not less than 2.7 metre wide and 6.0 metre long.

The variance as amended by the applicant:

*A parking space other than a parallel parking space shall have dimensions of not less than **2.8 metres** wide and 5.8 metres long. Instead of the required dimensions of not less than 2.7 metre wide and 6.0 metre long.*

Staff are of the opinion that the proposed design of the reduced parking stall size can accommodate a variety of vehicle sizes. Staff also note that this reduction aligns the parking space size in-effect under Zoning By-law No. 05-200. As previously noted, these lands are slated to be brought into Zoning By-law No. 05-200 through a Council approved By-law. In staff’s opinion the variance is in keeping with the general intent and purpose of the Urban Hamilton Official Plan and Zoning By-law No. 05-200, is desirable for the development of lands and is minor in nature.

Variance 4 and 5

These variances are no longer required as stated in the amended materials provided by the applicant.

Zoning:

Recommendation:	See Previous Agenda Comments May 7 th , 2024.
Proposed Conditions:	
Comments:	
Proposed Notes:	

Development Engineering:

Recommendation:	See Previous Agenda Comments May 7 th , 2024.
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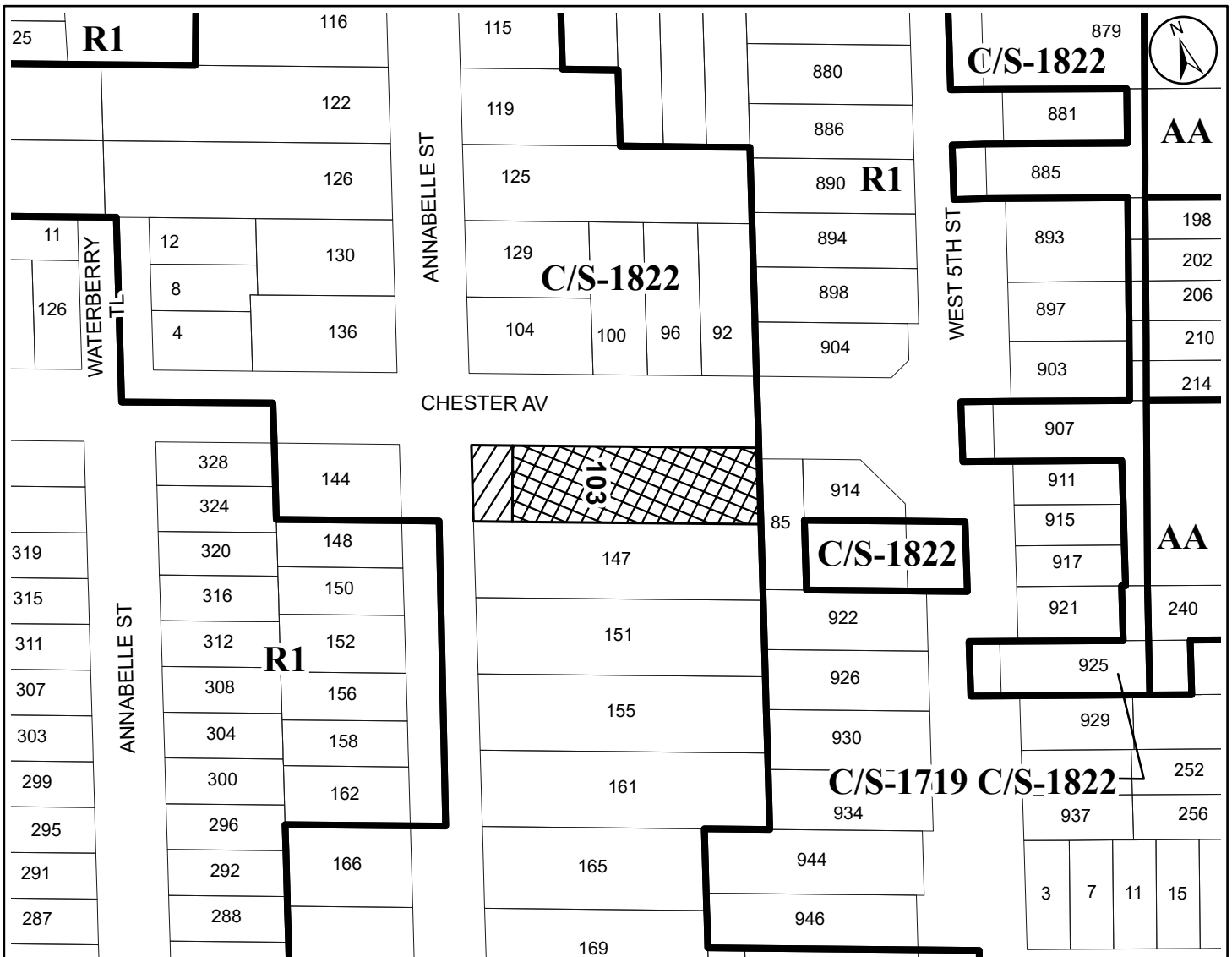
Proposed Conditions:	
Comments:	
Proposed Notes:	

Building Engineering:

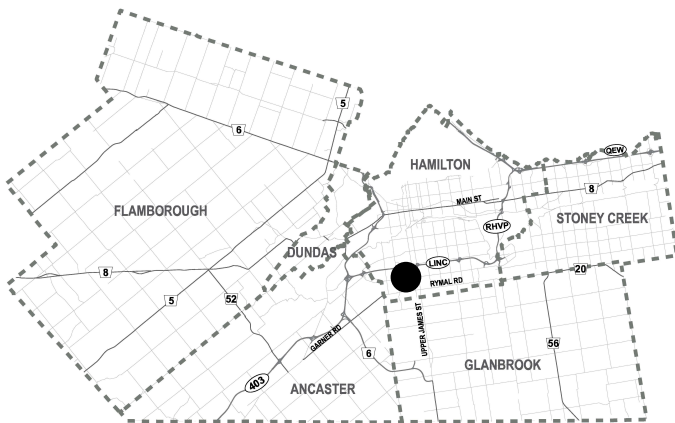
Recommendation:	See Previous Agenda Comments May 7 th , 2024.
Proposed Conditions:	
Comments:	
Proposed Notes:	

Transportation Planning:

Recommendation:	See Previous Agenda Comments May 7 th , 2024.
Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location





City of Hamilton

Committee of Adjustments

Subject Property

103 Chester Avenue, Hamilton (Ward 8)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:

B-24:17

Date:

April 26, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton