



Hamilton

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

NOTICE OF DECISION **Consent/Land Severance**

APPLICATION NO.:	B-24:17	SUBJECT PROPERTY:	103 Chester Avenue, Hamilton
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APPLICANTS: Owner: Paresh Patel
Applicant: **GSP Group Inc (c/o Elizabeth Farrugia)**

PURPOSE & EFFECT: 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 m [±]	21.3 m [±]	191 m ² [±]
RETAINED LANDS:	11.5 m [±]	21.3 m [±]	237 m ² [±]
SEVERED LANDS (Lot 2):	9.0 m [±]	21.3 m [±]	191 m ² [±]
SEVERED LANDS (Lot 3):	11.0 m [±]	21.3 m [±]	234 m ² [±]
SEVERED LANDS (Lot 4):	11.0 m [±]	21.3 m [±]	234 m ² [±]
SEVERED LANDS (Lot 5):	9.0 m [±]	21.3 m [±]	191 m ² [±]
SEVERED LANDS (Lot 6):	9.0 m [±]	21.3 m [±]	191 m ² [±]
SEVERED LANDS (Lot 7):	10.8 m [±]	21.3 m [±]	239 m ² [±]

Associated Planning Act File(s): A-24:67

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out above, Approved as Amended with Conditions, for the following reasons:

1. The proposal does not conflict with the intent of the Urban/Rural Hamilton Official Plan.
2. The proposal does not contravene Zoning By-law requirements.

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3. The Committee considers the proposal to be in keeping with development in the area.
4. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
5. The submissions made regarding this matter affected the decision by supporting the granting of the application, with amendments.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following condition(s):

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.
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.

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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.
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.

DATED AT HAMILTON, May 21, 2024.

M. Switzer (Acting Chairman)	R. Reid
D. Lord	S. Rybarczyk

The date of the giving of this Notice of Decision is **May 24, 2024**. Above noted conditions **MUST** be fulfilled within **TWO (2) YEARS** of the date of this Notice of Decision (May 24, 2026) or the application shall be deemed to be REFUSED (Planning Act, 53(41)).

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **June 13, 2024** A Notice of Appeal must be filed with the Secretary-treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information Consents/Severances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



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APPEAL INFORMATION – CONSENTS/SEVERANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment or Consent Authority?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 53(19) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 53(19) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and any “public body” (as defined by Planning Act 1(1)).

2. When must an appeal be received to be considered?

Planning Act Section 53(19) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the giving of Notice of the Decision. Please see Notice of Decision for exact date.

3. Where must the appeal be filed to be considered?

Planning Act Section 53(19) appeals must be received either by hardcopy or electronic copy. Please see below for more information:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to cofa@hamilton.ca. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact cofa@hamilton.ca in advance to request a file sharing link.

4. What information must be submitted for the appeal to be considered?

Planning Act Section 53(19) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5th floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;

- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form;
- All other information as required by the Appeal Form.

Questions or Information:
Contact Committee of Adjustment Staff (cofa@hamilton.ca)