



Hamilton

HM/A-24:39 – 10 Robins Avenue, Hamilton

Recommendation:

- Approve Variance 1, 2, 3, 4, and 5 Subject to Conditions
- Deny Variance 6

Proposed Conditions:

1. That the owner ensure that the proposed eaves or gutters do not encroach onto the abutting properties, to the satisfaction of the Director of Planning and Chief Planner.
2. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
3. 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.
4. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
5. 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:

“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



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STAFF COMMENTS

HEARING DATE: June 11, 2024

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).”

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (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 purpose of this application is to facilitate the construction of a single detached dwelling containing an additional dwelling unit.

The following variances are requested:

1. A minimum setback of 3.0 metres shall be permitted to the front lot line, instead of the minimum 4.0 metre setback required; [as per Section 15.2.2.1(c) and amending By-law No. 24-051, not final and binding].
2. A minimum setback of 0.80 metres shall be permitted to the southerly interior side lot line, instead of the minimum 1.2 metre setback required [as per Section 15.2.2.1(d)].
3. A maximum building height of 10.60 metres shall be permitted, instead of the maximum permitted building height of 10.5 metres.
4. An eave or gutter shall be permitted to project 0.80 metres into the required northerly interior side yard, 0.65 metres into the required rear yard, and shall be permitted to project the full width of the southerly interior side yard and be as close as 0.0 metres from the lot line, instead of the maximum 0.6 metre projection permitted [as per Section 4.6(a)].
5. One (1) parking space shall be permitted, instead of the two (2) parking spaces required [as per Section 5.5(c)].
6. No electric vehicle parking spaces shall be provided, instead of the requirement that all parking spaces are to be provided as electric vehicle parking spaces [as per Section 5.7.4(a) and amending By-law No. 24-052, not final and binding].

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, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of



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Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (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).”

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.

Natural Heritage

1. 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.
2. Through aerial photograph interpretation and the site plan provided, trees have been identified within and adjacent to the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1).

The proposal may impact the trees within and adjacent to the subject property. To ensure that trees are considered in the design of the proposed development, it is recommended that a Tree Protection Plan (TPP) be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City’s Council adopted Tree Protection Guidelines (revised October 2010).

To ensure existing tree cover is maintained, the City requires 1 for 1 compensation for any tree (10 cm DBH or greater) that is proposed to be removed. If trees are to be removed, it is recommended that a Landscape Plan (showing the required compensation) be provided.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Low Density – Small Lot Residential “R1a” District, which permits a single detached dwelling and an additional dwelling unit.



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Analysis

Variance 1

The applicant is proposing a minimum setback of 3.0 metres shall be permitted to the front lot line, instead of the minimum 4.0 metre setback required; [as per Section 15.2.2.1(c) and amending By-law No. 24-051, not final and binding]. The lands are subject to Zoning By-law 05-200 and the modified performances standards through the Low Density Residential Zoning project. This was approved by Council on April 10th, 2024 (By-law 24-051). Once in-force, the council approved zoning will implement a 4 metre minimum required setback from the front lot line.

Staff are of the opinion that the proposed 3.0 metre setback is generally consistent with the established setbacks along Robins Avenue, which have similar frontages including adjacent lots 8, 12, 14, 16 & 18 Robins Avenue. It should also be noted that Council approved By-law No. 24-051 amends the front yard provision in the R1a Zone to notwithstanding the 4m front yard requirement and allow a dwelling within 10 percent of the average setback from the front lot line or flankage lot line of the two adjacent dwellings for lands located in the area identified in Special Figure 36. The lands are located within the area identified on Special Figure 36 and accordingly the setback of within 10% of the adjacent dwellings would apply. The setbacks of adjacent dwellings have not been provided to evaluate this provision; accordingly, a variance is still sought and staff are satisfied that the proposed 3m setback is appropriate. Staff support this variance.

Variance 2

The applicant is proposing a minimum side yard setback of 0.8 metres on the southerly side yard, whereas the Zoning By-law requires a minimum side yard setback of 1.2metres. Planning staff defer any drainage or grading concerns to Development Engineering Approvals. The applicant is providing a 1.2 metre side yard setback on the northerly side yard and 0.8 metres on the southerly side yard to ensure sufficient space on both sides. Staff are of the opinion that a 0.8 metre side yard setback is sufficient space for access the rear yard or for future maintenance within the side yard. It should also be noted that the existing southerly side yard is identified as 0.07 metres and the existing northerly side yard is identified as 0.43 metres. The proposed side yards represent a significant improvement when compared to what currently exists on the property.

In Staff's opinion, the variance is minor and meets the intent of the Zoning By-law. Staff support this variance.

Variance 3

The applicant is proposing a maximum building height of 10.6 metres instead of the maximum 10.5 metre building height permitted. Staff are of the opinion that a 0.1metre increase in height will not



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impose any negative impacts on surrounding neighbours or the streetscape. Staff support this variance as its is minor and meets the intent of the Zoning By-law.

Variance 4

The applicant is proposing eaves or gutters to project 0.80 metres into the required northerly interior side yard, 0.65 metres into the required rear yard, and be permitted to project the full width of the southerly interior side yard and be as close as 0.0 metres to the lot line, whereas the Zoning By-law permits a maximum 0.6m setback projection. Planning staff defer any drainage or grading concerns to Development Engineering Approvals. Staff have concerns that a 0.0m setback from the southerly side lot line for the eaves or gutters may permit a scenario where the eaves encroach onto the abutting neighbour's property. Accordingly, staff recommend Committee add a condition that the proposed eaves or gutters do not encroach onto the abutting properties, to the satisfaction of the Director of Planning and Chief Planner.

Variance 5

The applicant is proposing one parking space for the single detached dwelling and no parking spaces for the attached additional dwelling unit, instead of the minimum requirement of one space for the single detached dwelling and one space for the additional dwelling unit. Staff would like to note that Council approved By-law No. 24-052 removed the parking requirement for secondary dwelling units in the urban area. This by-law was appealed and is not in force and effect. Once final and binding, no parking would be required for the additional dwelling unit and this variance would not be required. Furthermore, the subject property is in close proximity to the Kenilworth Avenue and Cannon Street HSR bus routes. Staff recommend approval of this variance as it meets the intent of the Zoning By-law and Official Plan and is minor in nature.

Variance 6

The applicant is proposing no electric vehicle parking spaces be provided, instead of the requirement that all parking spaces are to be provided as electric vehicle parking spaces [as per Section 5.7.4(a) and amending By-law No. 24-052, not final and binding]. This provision has been added through a City Initiative approved by Planning Committee and Council through By-law No. 24-052. The intent of the provision is to require new development to provide the necessary components to ensure it is ready for an electric vehicle to charge in the future if needed. Staff do not support this variance as the components for a charging station can be provided without any difficulty or hardship. Staff recommend denying this variance.

Based on the foregoing, the variances 1, 2, 3, 4 and 5 maintain the general intent and purpose of the Urban Hamilton Official Plan and City of Hamilton Zoning By-law No. 05-200. The variances are considered to be minor in nature and desirable for the appropriate use of the property and should be approved.



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Variance 6 is does not maintain the general intent of Zoning By-law No.05-200 and is not considered minor in nature. This variance is recommended to be denied.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>i. Please note that the submitted application indicates that the proposed development contains two dwelling units; note that a Dwelling Unit is defined as “a room or suite of rooms used or intended to be used by one or more persons living together as one household, in which cooking and sanitary facilities are provided for the exclusive use of the household, and to which an independent entrance is provided from outside the building or from a common interior hallway, vestibule or stairway”. Based on the floor plans provided, it appears only one set of cooking facilities are being proposed within the basement level. However, as the submitted application indicates two dwelling units are being proposed, the proposed development has been reviewed as a Single Detached Dwelling with an Additional Dwelling Unit, as indicated in the application. Should the use be other than a Single Detached Dwelling with an Additional Dwelling Unit additional variances may be required.</p> <p>ii. Be advised that By-law No. 24-051 was recently approved, which modified sections of the “R1a” Zone regulations, including Section 15.2.2.1(c) applicable to the minimum setback from the front lot line. Note that the approved regulation establishes a minimum setback of 4.0 metres from the front lot line, unless the lot is identified on Figure 36 of Schedule “F” – Special Figures that a building may be erected within 10 percent of the average setback from the front lot line of the two adjacent dwellings. The subject lot is identified on Figure 36 of Schedule “F” – Special Figures, however, insufficient information was provided to confirm compliance. Therefore, a variance to the approved regulation has been added i.e. Variance No.1, which was not indicated in the applicants submission materials.</p> <p>iii. Please note that Section 15.2.2.1(h)(i) as per amending By-law No. 24-051, indicates a minimum landscaped area of 30% shall be provided. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 15.2.2.1(h)(i) cannot be achieved.</p>



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Proposed Notes:	<p>iv. Should the variance requested to Section 15.2.2.1(d) to permit a minimum southerly side yard of 0.80 metres, the proposed eaves/troughs shall be permitted to project a maximum of 0.4 metres into the side yard. Therefore, a variance to Section 4.6(a) for the southerly side yard has been included as the eaves/troughs are indicated to extend the full width of the southerly side yard i.e. 0.80 metres.</p> <p>v. Please note that Section 4.35(a) indicates that on a lot containing a single detached dwelling, a minimum of 50% landscaped area shall be provided in the front yard. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 4.35(a) cannot be achieved.</p> <p>vi. Please note that the submitted Site Plan indicates one (1) parking space is to be provided in an attached garage. However, the Floor Plan drawings do not appear to indicate an attached garage is being proposed. Please note that Section 5.1(b)(viii) indicates that for a dwelling with an attached garage, the finished floor level of the garage shall be a minimum 0.3 metres above grade. Insufficient information was provided to confirm compliance. Additional variances may be required if compliance with Section 5.1(b)(viii) cannot be achieved. Further, variance No. 5 has been written as requested by the applicant, as it is unclear if a parking space is being proposed within an attached garage.</p> <p>vii. Be advised that By-law No. 24-052 was recently approved which repealed and replaced Section 5: Parking, of Hamilton Zoning By-law No. 05-200. As By-law No. 24-052 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. Therefore, Variance No.6, which was not indicated in the applicants submission materials, was added to Section 5.7.4(a) as per amending By-law No. 24-052, as the Site Plan indicates one (1) parking space is being provided on the lot.</p>
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Cultural Heritage:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>Archaeology:</p> <p>The subject property meets the criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological</p>



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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, 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](tel: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).”

Cultural Heritage:

The subject property is located within the Crown Point East Established Historic Neighbourhood. Accordingly, section B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, applies.

Staff have reviewed the application and would strongly encourage the massing be reduced and that the attached front garage be reconsidered. In addition, staff recommend reducing the length of the building and considering more sympathetic cladding to be more in keeping with the character of the area.

Staff have no further comments on the application as circulated.



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Proposed Notes:	
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Natural Heritage:

Recommendation:	Approve with Conditions
Proposed Conditions:	<ol style="list-style-type: none"> 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, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City’s Council adopted Tree Protection Guidelines (revised October 2010). 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.
Comments:	<ol style="list-style-type: none"> 1. 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. 2. Through aerial photograph interpretation and the site plan provided, trees have been identified within and adjacent to the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1). <p>The proposal may impact the trees within and adjacent to the subject property. To ensure that trees are considered in the design of the proposed development, it is recommended that a Tree Protection Plan (TPP) be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City’s Council adopted Tree Protection Guidelines (revised October 2010).</p>



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	To ensure existing tree cover is maintained, the City requires 1 for 1 compensation for any tree (10 cm DBH or greater) that is proposed to be removed. If trees are to be removed, it is recommended that a Landscape Plan (showing the required compensation) be provided.
Proposed Notes:	

Development Engineering:

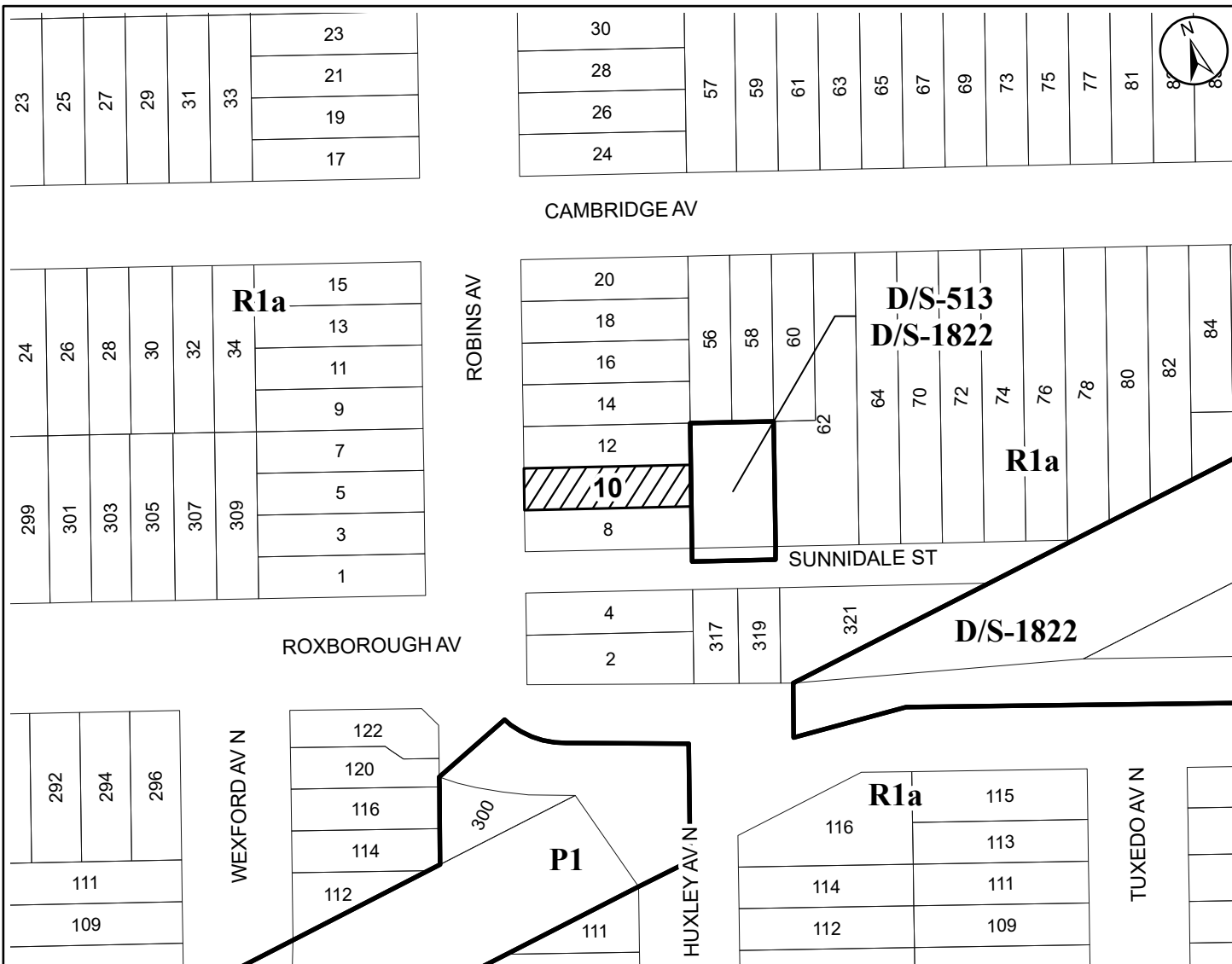
Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Proposed Notes:	

Building Engineering:

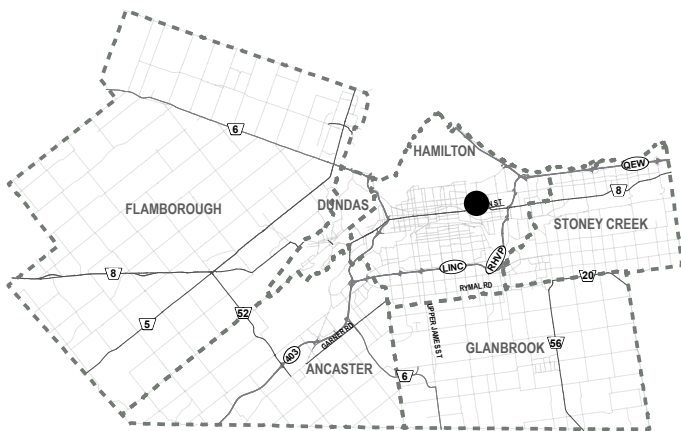
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	<p>Building Permit # 23 134167, issued on August 24, 2023, for alterations to the interior of the two-family dwelling to include foundation and framing repairs as per the engineered drawings remains not finalized.</p> <p>A building permit is required for the construction of the proposed a Single Detached Dwelling containing an Additional Dwelling Unit.</p> <p>Order to Comply 20 146431, dated August 22, 2022 remains outstanding.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location




City of Hamilton

Committee of Adjustments

Subject Property

10 Robins Avenue, Hamilton (Ward 4)

 Lands to be retained

File Name/Number:

HM/A-24:39

Date:

May 28, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



Hamilton