



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**NOTICE OF PUBLIC HEARING**  
**Consent/Land Severance**

**You are receiving this notice because you are either:**

- Assessed owner of a property located within 60 metres of the subject property
- Applicant/agent on file, or
- Person likely to be interested in this application

<b>APPLICATION NO.:</b>	<b>B-24:25</b>	<b>SUBJECT PROPERTY:</b>	238 Mountain Park Avenue, Hamilton
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**APPLICANTS:** Owner: M. Berman Homes Inc. – Mark Berman  
Agent: Landwise – Edward John

**PURPOSE & EFFECT:** To permit the conveyance of one half of a semi-detached dwelling and to retain one half of a semi-detached dwelling.

	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>
<b>SEVERED LANDS:</b>	7.62 m <sup>±</sup>	30.48 m <sup>±</sup>	215.49 m <sup>2</sup> <sup>±</sup>
<b>RETAINED LANDS:</b>	7.62 m <sup>±</sup>	30.48 m <sup>±</sup>	215.49 m <sup>2</sup> <sup>±</sup>

Associated Planning Act File(s): A-24:98

**This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.**

This application will be heard by the Committee as shown below:

<b>DATE:</b>	<b>Tuesday, June 11, 2024</b>
<b>TIME:</b>	<b>2:40 p.m.</b>
<b>PLACE:</b>	<b>City Hall Council Chambers (71 Main St. W., Hamilton)</b>
	<b>To be streamed (viewing only) at</b> <b><a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a></b>

For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

## **B-24:25**

- Call 905-546-CITY (2489) or 905-546-2424 extension 4221

## **PUBLIC INPUT**

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than noon **June 7, 2024**

**Orally:** If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than noon **June 10, 2024**

## **FURTHER NOTIFICATION**

If you wish to be notified of future Public Hearings, if applicable, regarding B-24:25, you must submit a written request to [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided the Notice of Decision of the proposed consent, you must make a written request to the Secretary-Treasurer of The City of Hamilton Committee of Adjustment by email at [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mail through City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5.



 **Subject Lands**

**DATED: May 23, 2024**

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**Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment**

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

If a person or public body that files an appeal of a decision of The City of Hamilton Committee of Adjustment in respect of the proposed consent does not make written submissions to The City of Hamilton Committee of Adjustment before it gives or refuses to give a provisional consent, the Ontario Land Tribunal may dismiss the appeal.



Hamilton

## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

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## PARTICIPATION PROCEDURES

### Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.**

Comments are available the Friday prior to the Hearing and are available on our website: [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)

### Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

#### 1. Virtual Oral Submissions

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing** to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email [cofa@hamilton.ca](mailto:cofa@hamilton.ca). The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

#### 2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email [cofa@hamilton.ca](mailto:cofa@hamilton.ca) or by phone at 905-977-1654.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.

# ZONING CHART

THE CITY OF HAMILTON ZONING BY-LAW 05-200

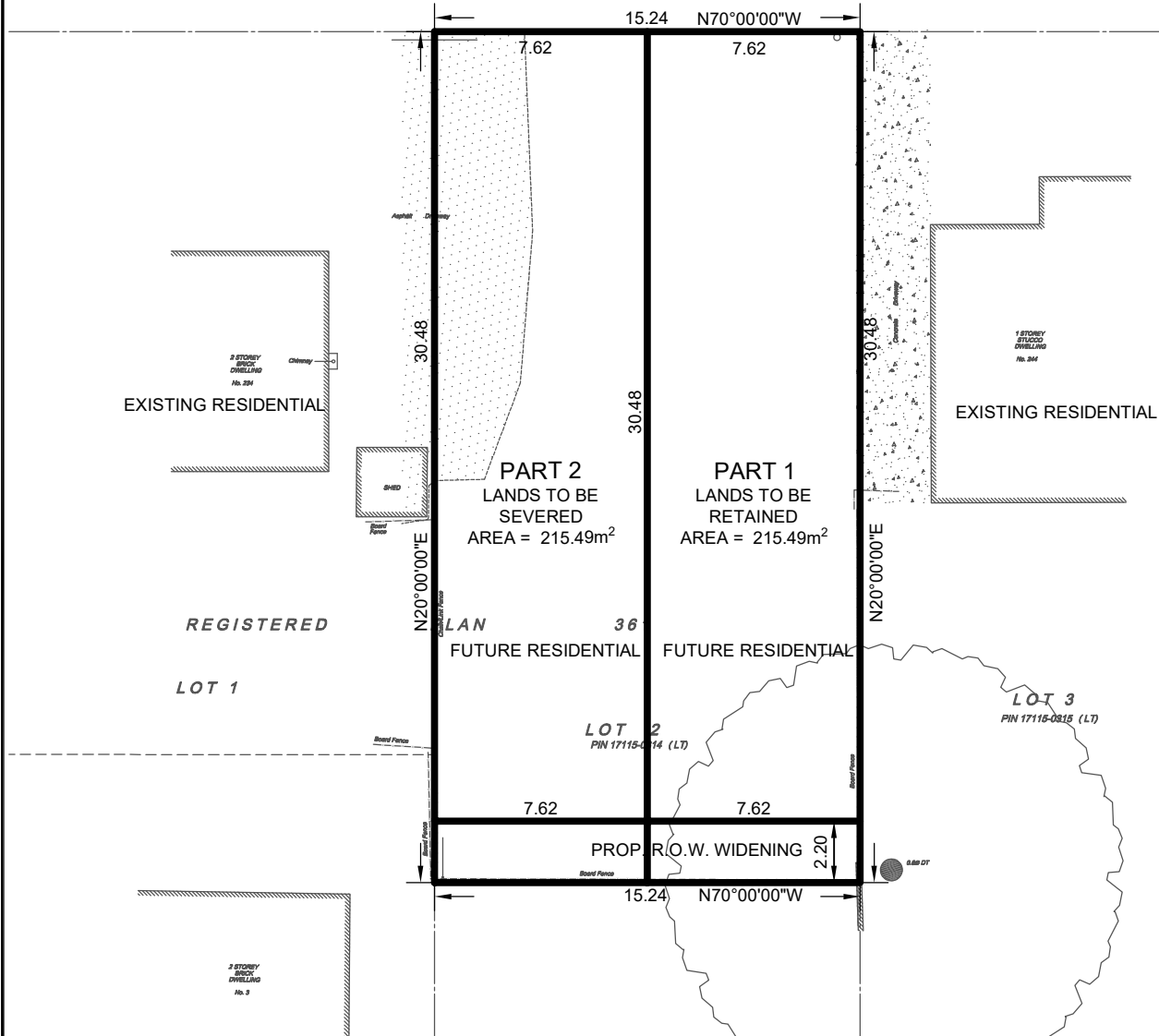
ZONE: RESIDENTIAL "R1" ZONE

ZONING REVIEW APPLIES TO LANDS TO BE RETAINED AND LANDS TO BE SEVERED

DESCRIPTION	REQUIRED	PROPOSED (WITHOUT R.O.W. WIDENING)	CONFORMITY (WITHOUT R.O.W. WIDENING)	PROPOSED (WITH R.O.W. WIDENING)	CONFORMITY (WITH R.O.W. WIDENING)
MIN. LOT AREA	270.00m <sup>2</sup>	232.26m <sup>2</sup>	NO	215.49m <sup>2</sup>	NO
MIN. LOT FRONTAGE	9.0m	7.62m	NO	7.62m	NO
MIN. FRONT YARD	6.0m	6.00m	YES	3.80m	NO
MIN. SIDE YARD	1.20m	1.72m	YES	1.72m	YES
MIN. REAR YARD	7.50m	7.56m	YES	7.56m	YES



## MOUNTAIN PARK AVENUE



**NOTES:**

1. DIMENSIONS ARE SHOWN IN METERS.
2. FINAL LOT AREA AND FRONTAGE TO BE DETERMINED VIA FINAL SURVEY PLAN.
3. DIMENSIONS SHOWN ARE BASED ON A SURVEY CONDUCTED IN 2023 BY BARICH GRENKIE SURVEYING LTD.
4. THIS DRAWING IS FOR ILLUSTRATIVE PURPOSES ONLY.
5. ALL BUILDING DESIGN TO BE VERIFIED BY A QUALIFIED PROFESSIONAL.
6. DESIGN SUBJECT TO CHANGE THROUGH PLANNING APPROVAL PROCESS.

<p>DISCLAIMER</p> <p>THIS DRAWING IS THE INTELLECTUAL PROPERTY OF T. JOHNS CONSULTING GROUP LTD. AND IS PROTECTED UNDER COPYRIGHT.</p> <p>ANY DISCREPANCIES SHALL BE REPORTED TO T. JOHNS CONSULTING GROUP LTD. PRIOR TO THE START OF CONSTRUCTION.</p> <p>THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION UNLESS OTHERWISE INDICATED.</p>	<p>310 LIMERIDGE ROAD WEST, SUITE 6 HAMILTON, ONTARIO, L9C 2V2</p> <p>P 905-574-1993 F 905-527-9559</p>	<p>PROJECT TITLE</p> <p>238 MOUNTAIN PARK AVENUE</p> <p>HAMILTON, ONTARIO</p>	<p>DRAWING TITLE</p> <p>CONSENT SKETCH</p>	<p>DRAWN BY</p> <p>HN</p>	<p>DESIGNED BY</p> <p>HN</p>
				<p>PRINT DATE</p> <p>17-APR-2024</p>	<p>PROJECT NUMBER</p>
				<p>REVISION</p> <p>A</p>	<p>DRAWING NUMBER</p> <p>CS1-1</p>
				<p>SCALE</p> <p>1:250</p>	

Plotted by: Justin Sordo; 17-APR-2024; 1:29PM

April 17, 2024

*Via Digital Submission*

**ATTN:** Jamila Sheffield, Secretary-Treasurer

Committee of Adjustment  
City of Hamilton  
Planning and Economic Development Department  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON L8P 4Y5

**RE: 238 Mountain Park Avenue, Hamilton  
Minor Variance & Consent to Sever Applications**

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**Landwise** (formerly T. Johns Consulting Group Ltd.) was retained by the landowner of 238 Mountain Park Avenue, Hamilton (“subject lands”) to submit the enclosed Minor Variance and Consent to Sever applications on their behalf.

**Site Description**

238 Mountain Park Avenue is located in the Eastmount neighbourhood in Hamilton’s central mountain area. The subject lands are legally described as Part of Lot 2 of Registered Plan 361 in the City of Hamilton. The subject lands are a rectangular-shaped interior lot, with an area of approximately  $\pm 464.52\text{m}^2$  ( $\pm 0.05\text{ha}/0.11\text{ac}$ ),  $\pm 15.24\text{m}$  ( $\pm 50\text{ft}$ ) of frontage on Mountain Park Avenue, and a depth of  $\pm 30.48\text{m}$  ( $\pm 100\text{ft}$ ). The subject property was occupied by a single detached dwelling, which has since been demolished sometime between 2021 and 2022.

**Planning Status**

The *Urban Hamilton Official Plan Volume 1* designates the subject lands “Neighbourhoods” which permits a range of residential uses and forms, including semi-detached dwellings.

The *City of Hamilton Zoning By-law No. 05-200* zones the subject lands “Low Density Residential (R1) Zone”, which permits semi-detached dwellings.

**Proposed Development**

The application for Consent to Sever is to create one (1) new lot fronting Mountain Park Avenue to accommodate two (2) new semi-detached dwellings. A right-of-way widening of 2.2 m will be acquired by the City and is reflected in these Minor Variance and Consent to Sever applications.

As demonstrated in the submitted Consent Sketch, PART 1 (lands to be retained) and PART 2 (lands to be severed) is proposed to be developed with a semi-detached dwelling, each with an additional dwelling unit within the principal dwelling, and one (1) parking space. Each unit is proposed to have a lot area of  $\pm 215\text{m}^2$  and lot frontage of  $\pm 7.62\text{m}$ .

The application for Minor Variance is to request relief from the R1 Zone of the *City of Hamilton Zoning By-law No. 05-200* for lot area, lot frontage, and front yard setback. Additionally, a variance

is being sought for a reduction in parking for an additional dwelling unit, should it be applicable at the time of the Committee of Adjustment hearing.

Please refer to the Site Plan, Consent Sketch, and Planning Rationale for additional details.

Landwise requests the circulation of this letter along with the enclosed documents to all relevant departments in support of the Minor Variance and Consent to Sever applications.

Please find the enclosed:

- This Cover Letter;
- Minor Variance application with signatures;
- Consent to Sever application with signatures;
- Copy of the cheque (#000287) in the amount of \$7,260.00 to satisfy the Minor Variance (\$3,900.00) and Consent to Sever (\$3,360.00) application fee, made payable to the City of Hamilton;
- Survey Plan;
- Site Plan;
- Floor Plans;
- Consent Sketch, and;
- Planning Rationale dated April 15, 2024.

Should you have any questions or require additional information, please do not hesitate to contact Katelyn Gillis at 905-574-1993 ext. 207.

Respectfully submitted,

**LANDWISE**



**Katelyn Gillis, BA**  
Senior Planner



**Edward John, MRTPI**  
Partner/Principal Planner



Landwise (formerly T. Johns Consulting Group) has prepared the following Planning Rationale in support of the Consent and Minor Variance applications for 238 Mountain Park Avenue in Hamilton.

**Description of Subject Lands**

The subject lands are legally described as *Part of Lot 2, Registered Plan 361 in the City of Hamilton*, and municipally known as 238 Mountain Park Avenue, Hamilton (refer to **Figure 1 - Site Location**). The lot is rectangular in shape with an area of approximately  $\pm 464.50\text{m}^2$  (0.05ha/0.11ac) and  $\pm 15.24\text{m}$  (50ft) of frontage along Mountain Park Avenue. The subject lands are currently vacant after the demolition of the previous single detached dwelling in 2021.

*Figure 1 - Site Location*





**Description of Surrounding Community**

The surrounding area consists of various land uses and housing types including multiple dwellings, places of worship, educational establishments, and Juravinksi Hospital including the Juravinksi Cancer Centre (refer to Figure 2 - Community Context). Concession Street is a commercial district approximately 150m south of the subject lands that caters to the daily and weekly needs of residents by providing a variety of retail, professional, and health care services.

*Figure 2 - Community Context*



### Planning Status

The *Urban Hamilton Official Plan, Volume 1* (“UHOP”) designates the subject lands as “Neighbourhoods” in both *Schedule E - Urban Structure* and *Schedule E-1 - Urban Land Use Designations*. Neighbourhoods, as outlined in Chapter E.3.1, are intended to provide compact, mixed-use development with a range of housing types and densities including semi-detached dwellings and affordable housing. New development should be designed to enhance and respect the character of existing neighbourhoods while allowing for their ongoing evolution. Residential intensification of appropriate scale and location is encouraged. As illustrated on Schedule F - Cultural Heritage Resources, Mountain Park Boulevard is not a “cultural heritage landscape”.

The *City of Hamilton Zoning By-law No. 05-200* zones the subject lands “Low Residential (R1) Zone”, which permits semi-detached dwellings and additional dwelling units.

### Previous Proposed Development

Minor Variance (HM/A-23:299) and Consent to Sever (HM/B-23:740) applications were submitted in October 2023 to create one (1) additional lot to facilitate the development of two (2) 3-storey single-detached dwellings, each with one (1) additional dwelling unit (“ADU”) and two (2) parking spaces. Minor variances were requested to reduce the lot area, lot frontage, side yard setback for the upper levels, and parking requirements for ADUs.

The Committee of Adjustment hearing was held on December 7<sup>th</sup>, 2023. At that time, Planning Staff were supportive of reduced side yard setbacks and on-site parking for an ADU. However, Planning Staff were unsupportive of reduced lot area and frontage for single detached dwellings and recommended that a Zoning By-law Amendment would be more appropriate.

Several members of the public requested to speak at the hearing. The primary concerns were that the proposal was not in keeping with neighbourhood character, adverse impacts to the Mountain Park Avenue streetscape, the introduction of rental units within the neighbourhood, and privacy issues. Further discussion of how the revised proposal addresses the relevant land use planning concerns is provided below.

### Revised Proposed Development

The revised proposed development is to create one (1) new residential lot for the development of a semi-detached dwelling. Each semi-detached dwelling unit is proposed to have an ADU and be supported by a total of 1 parking space in the attached garage. Both the retained lot (Part 1) and severed lot (Part 2) are proposed to have frontage on Mountain Park Avenue (**refer to the submitted Consent Sketch**).

**Response to Public Concerns**

COMMENT	RESPONSE
<p>Not in-keeping within the neighbourhood character.</p>	<p>The existing neighbourhood is made up of a mix of land uses and built forms with frontage onto Mountain Park Avenue. The neighbourhood is characterized by varying residential built-forms including low-rise and mid-rise multiple dwellings, 1-, 2- and 3-storey single detached dwellings, places of worship, and a major hospital. The materiality of the buildings include vinyl siding, stucco, clay brick, stone veneer, and wood.</p> <p>The proposed semi-detached dwelling will add to the existing mix and form of buildings existing on Mountain Park Avenue. The proposed materiality of brick and wood draws from the surrounding neighbourhood and ties in the new construction with more established buildings.</p>
<p>Adverse impacts to the cultural heritage of the Mountain Park Avenue streetscape.</p>	<p>The UHOP does not recognize Mountain Park Avenue as a cultural heritage landscape however, the Mountain Park Avenue streetscape is an important component to the City’s identity. The proposed semi-detached dwelling is a permitted use and the lot fabric will not adversely impact the streetscape.</p>
<p>Overlook and privacy concerns.</p>	<p>The proposed semi-detached dwellings will conform with the required 1.2 metre side yard and 7.5 metre rear yard building setbacks. Window openings on the dwellings will be dictated by the Ontario Building Code.</p>

While the previously proposed lot area and lot frontage are maintained within the revised proposal, the proposed end-use is for a semi-detached dwelling which is a material change to the previous proposal. A concern raised in the previous Minor Variance application was that the widths of the single-detached dwellings would not be in keeping with the surrounding neighbourhood fabric. The revised semi-detached dwelling design will address this concern by providing a wider dwelling width by removing an interior side yard.

**Nature and Extent of Relief Applied For:**

Four (4) Minor Variances are being sought from the *City of Hamilton Zoning By-law 05-200* Low Density Residential (R1) Zone to facilitate the proposed semi-detached dwelling. The requested Minor Variances are as follows:

City of Hamilton Zoning By-law 05-200		
	Section	Purpose
1	15.1.2.2 a)	To allow a minimum lot area of 210.0m <sup>2</sup> , whereas a minimum of 270.0m <sup>2</sup> is required.
2	15.1.2.2 b)	To allow a minimum lot frontage of 7.6m, whereas a minimum of 9.0m is required.
3	15.1.2.2 c)	To allow a minimum front yard of 3.8m, whereas a minimum of 6.0m is required.
4	5.6.Table c)	To allow a minimum of zero (0) parking spaces per additional dwelling unit, whereas a minimum of one (1) parking space per additional dwelling unit is required.

**PLANNING RATIONALE**

**Overall Conformity to the *Urban Hamilton Official Plan***

The UHOP designates the subject lands as “Neighbourhoods” on *Schedule E - Urban Structure* and *Schedule E-1 - Urban Land Use Designations*, which permits a range of residential uses (E.3.2.3). The subject lands are situated south of Mountain Park Avenue, which is identified as a local road on *Schedule C - Functional Road Classification*. Mountain Park Avenue is not an identified Cultural Heritage Landscape (*Schedule F*).

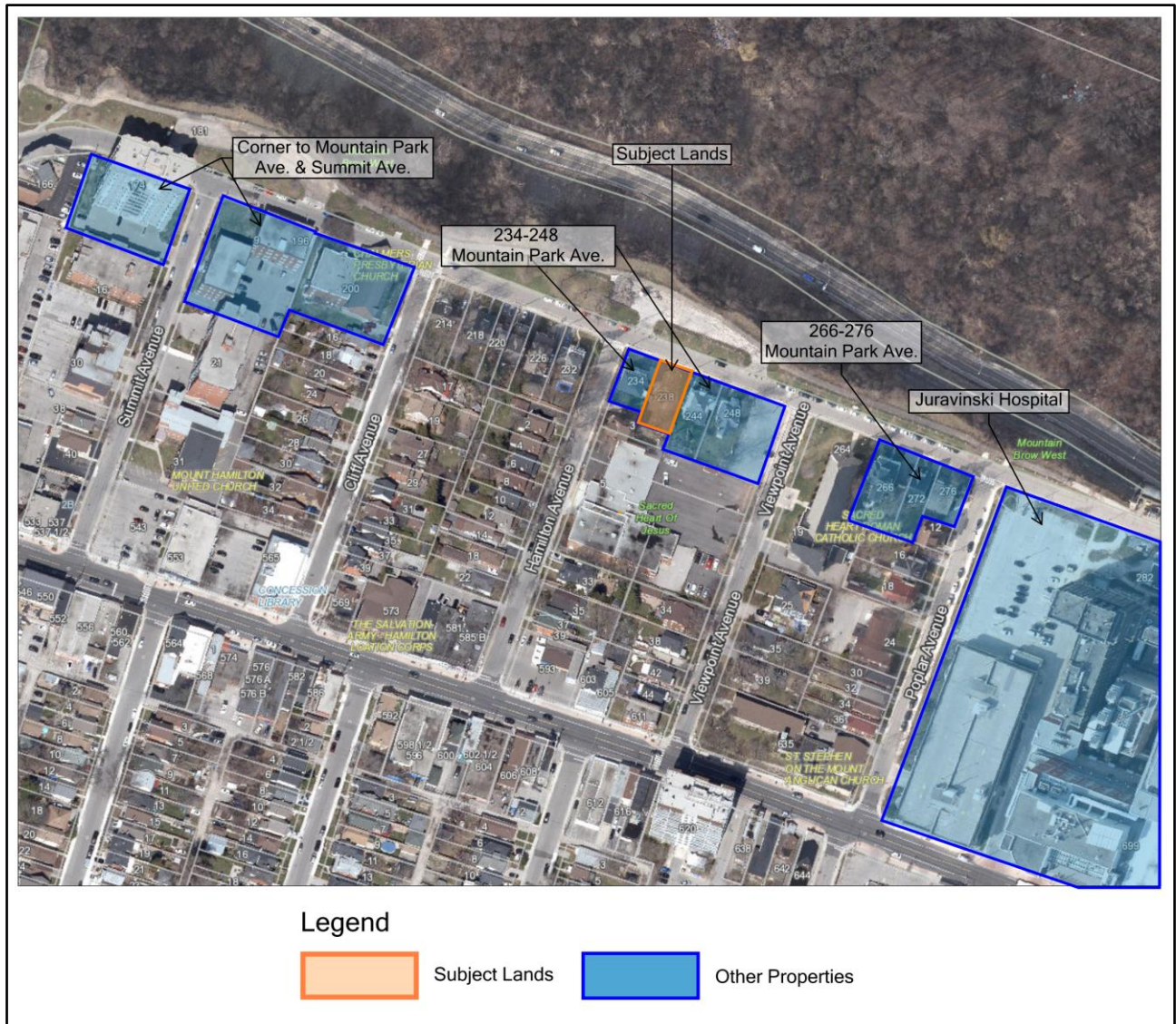
Residential intensification within established neighbourhoods shall enhance and be compatible with the scale and character of the existing neighbourhood (E.3.2.4). A mix of lot widths and sizes compatible with streetscape character and a mix of dwelling unit types and sizes compatible in exterior design are encouraged (E.3.4.6.c). Compatible is defined within the UHOP to mean “*land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. Compatibility or compatible should not be narrowly interpreted to mean “the same as” or even as “being similar to”.*

The existing built form surrounding the subject lands primarily features 1- to 2.5-storey single detached dwellings, low-rise and mid-rise multiple dwellings, and institutional uses, such as places of worship and Juravinski Hospital. The lots on Mountain Park Avenue range in width from approximately  $\pm 6.7\text{m}$  to  $\pm 48.0\text{m}$ . The proposed 3-storey semi-detached dwelling is a permitted use and scale (E.3.4.3, E.3.4.5) and will contribute to the mix of residential dwelling options within the neighbourhood. The dwelling will have a compatible low-rise built form with front yard landscaping and materials that draw from the surrounding buildings (**Refer to Figure 4**).

The proposed creation of one (1) additional lot and requested variances to facilitate a semi-detached dwelling aligns with the Residential Intensification and Neighbourhoods UHOP policies and gently contributes to the City’s intensification targets. The proposed variances maintain the intent of the UHOP.



Figure 4 - Various Built Forms and Corresponding Addresses





**Streetview of Other Properties with Various Built Forms**

*Juravinski Hospital*



*276-266 Mountain Park Ave*

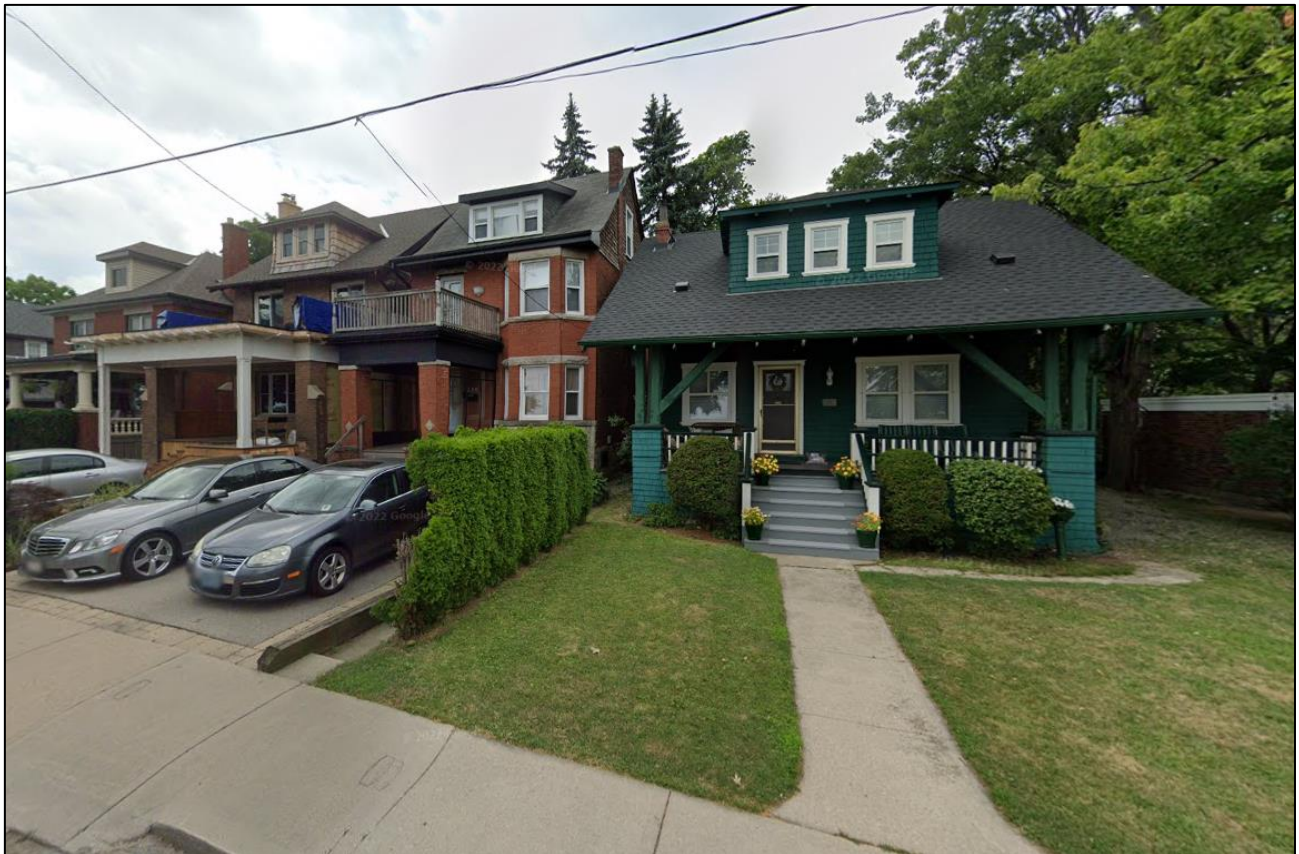




*234-248 Mountain Park Ave (Immediately adjacent to subject lands)*



*218-226 Mountain Park Ave*





*Corner of Mountain Park Ave and Summit Ave*



*Corner to Mountain Park Ave and Summit Ave*



**VARIANCE 1. To allow a minimum lot area of 210.0m<sup>2</sup>, whereas a minimum of 270.0m<sup>2</sup> is required.**

*Why is it not possible to comply with the provision of the by-law?*

The subject lands have an approximate lot area of 464.5m<sup>2</sup> and thus cannot accommodate a minimum lot area of 270.0m<sup>2</sup> when divided in half. The proposed lot area of 210.0m<sup>2</sup> is appropriately sized to accommodate liveable, semi-detached dwelling units with ADUs, on-site parking, and amenity area while complying to required setbacks.

The reduced lot area to 210.0m<sup>2</sup> accounts for the required ±2.2m road widening. Should the road be widened along the entire street, each existing lot would be reduced by a similar area and as such, is not considered to have a material impact on character, functionality, or streetscape.

1. Conformity to the Intent of the Zoning By-law

The R1 Zone permits semi-detached dwellings on lots with a minimum area of 270.0m<sup>2</sup>. The intent of the lot area regulation is to ensure sufficient space for the functionality of the dwelling, landscaping, and on-site parking while implementing a consistent lot size along the streetscape. As discussed, the streetscape includes a range of uses and lot fabrics. The proposed reduction of lot area is not anticipated to adversely impact the character of the street and maintains the intent of the Zoning By-law.

2. Is the Variance Minor?

The requested reduction in lot area from 270.0m<sup>2</sup> to 210.0m<sup>2</sup> is in keeping with the existing lot fabric and low density built form of the neighbourhood, while promoting gentle residential intensification on serviced urban lands. The proposed lot area provides sufficient space to support semi-detached dwelling units that will comply with required side and rear yard setbacks. The requested variance is minor.

3. Is the Variance Desirable for the development of the property?

The requested variance is desirable as it will facilitate additional housing units on existing urban lands and contribute to the City of Hamilton's housing supply.

**VARIANCE 2. To allow a minimum lot frontage of 7.6 m, whereas a minimum of 9.0 m is required.**

*Why is it not possible to comply with the provision of the by-law?*

The subject lands have an overall lot width of ±15.2m and cannot accommodate two (2) lots with a minimum width of 9.0m.

1. Conformity to the Intent of the Zoning By-law

The R1 Zone permits semi-detached dwellings on lots with a minimum lot frontage of 9.0 m. The intent of the lot width provision is to ensure adequate access to the property from a public road

and sufficient width for a feasible dwelling footprint with appropriate setbacks. Further, the R1 Zone establishes lot widths to facilitate consistent parcel fabric within an area. The existing lot widths within the immediate neighbourhood range from  $\pm 6.7\text{m}$  to  $\pm 48.0\text{m}$ . The proposed lot frontage of  $7.6\text{m}$  is sufficient to provide a driveway for on-site vehicle parking, a minimum of 50% front yard landscaped area, minimum yard setbacks, and a liveable dwelling footprint. The proposed lot width of  $7.6\text{m}$  maintains the intent of the *Zoning By-law No. 05-200* R1 Zone.

2. Is the Variance Minor?

The requested lot frontage of  $7.6\text{m}$  is minor as it is within the range of varied lot frontages within the neighbourhood. The requested reduction will facilitate the redevelopment of a vacant residential lot that complies to all other regulations of the by-law, except front yard setback, lot area, and parking for ADUs.

3. Is the Variance Desirable for the development of the property?

The requested variance is desirable as it will facilitate gentle residential intensification within a walkable neighbourhood without adversely impacting the character of the streetscape.

**VARIANCE 3. To allow a minimum front yard of  $3.8\text{m}$ , whereas a minimum of  $6.0\text{m}$  is required.**

*Why is it not possible to comply with the provision of the by-law?*

A right-of-way widening of  $2.2\text{m}$  is required, therefore a reduced  $3.8\text{m}$  front yard setback is proposed.

1. Conformity to the Intent of the Zoning By-law

The front yard setback is intended to ensure a uniform setback along the street and sufficient space for front yard landscaping and parking requirements. Each residential dwelling unit within the proposed semi-detached dwelling will be supported by one (1) parking space provided within the proposed garage, meeting the requirements in Section 5: Parking Regulations in *Zoning By-law No. 05-200*.

2. Is the Variance Minor?

The requested front yard setback reduction ensures the continuity of the existing streetscape by aligning with the front yard setbacks of neighbouring properties, thereby preserving the established neighbourhood character. Given that it will take some time for the City to acquire lands for a R.O.W. widening along Mountain Park Avenue, the front yard may be used temporarily for parking without impacting the existing public road and sidewalk. The intent of the Zoning By-law will be maintained and is therefore considered minor.

3. Is the Variance Desirable for the development of the property?

The requested variance will facilitate the residential infill development of two residential units in the form of a semi-detached dwelling. Establishing a  $6.0\text{m}$  front yard setback from the determined R.O.W. widening would result in the proposed semi-detached dwelling being noticeably farther from the street compared to adjacent properties. A  $6.0\text{m}$  front yard setback would also reduce the rear

yard setback and compromise the use of the private amenity space. Therefore, the variance is desirable for the development of the property in order to provide a liveable building footprint with sufficient rear yard space.

**VARIANCE 4. To allow zero (0) parking spaces per ADU, whereas a minimum of one (1) parking space per ADU is required.**

*Why is it not possible to comply with the provision of the by-law?*

The proposed development proposes one (1) parking space in the garage for each dwelling unit. A tandem parking space would not provide an adequate parking space for the proposed ADUs as it must be unobstructed. Given the infill nature of the proposed development and the requirement to provide a minimum of 50% front yard landscape area, a double width driveway is not feasible, resulting in no proposed parking space for the internal ADUs.

Note that on April 10, 2024, Council approved an amendment to *Zoning By-law 05-200* that implements Parking Rate Areas throughout the City and reduces required parking for Residential Zones. The subject lands are within Parking Rate Area 2, which requires no parking spaces for an ADU. At the time of submission, the amendment was in the appeal period and therefore not in force and effect. Should the amendment become final and binding, this variance will no longer be required.

4. Conformity to the Intent of the Zoning By-law

The minimum parking requirement is to ensure sufficient on-site parking for the use of the lands. The proposed reduction to allow for no on-site parking for the ADU units is appropriate for the residential use of the subject lands as they are located within a highly accessible area of the City indicated by a 91 point “Walk Score”. Additionally, the subject lands have convenient access to existing transit and bike infrastructure. Notably, two (2) HSR Transit routes service Concession Street, where the closest bus stop is a 3-minute walk from the subject lands.

5. Is the Variance Minor?

The proposed variance is minor as the subject lands are within a highly walkable area of the City with access to daily and weekly needs by alternative transportation methods including walking, public transit, and biking. The proposed parking reduction will not adversely impact the neighbourhood’s road network.

6. Is the Variance Desirable for the development of the property?

The requested variance is desirable as it will contribute to the City’s housing intensification and environmental sustainability goals.

**Conclusion**

The proposed redevelopment of 238 Mountain Park Avenue for two (2) residential lots for a semi-detached dwelling will establish a lot fabric and use that is appropriately scaled with the neighbourhood. The development of underutilized urban lands will contribute to the City’s housing supply within a complete community. The requested variances maintain the intent of the *Urban*

*Hamilton Official Plan* and the *City of Hamilton Zoning By-law 05-200*, are minor in nature, are desirable for the redevelopment of the property, and represent good land use planning.

Respectfully Submitted,

**LANDWISE**



**Katelyn Gillis, BA**  
Senior Planner



**Edward John, BA, MA, MRTPI**  
Partner / Principal Planner





Hamilton

**Committee of Adjustment**

City Hall, 5<sup>th</sup> Floor,  
71 Main St. W.,  
Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221

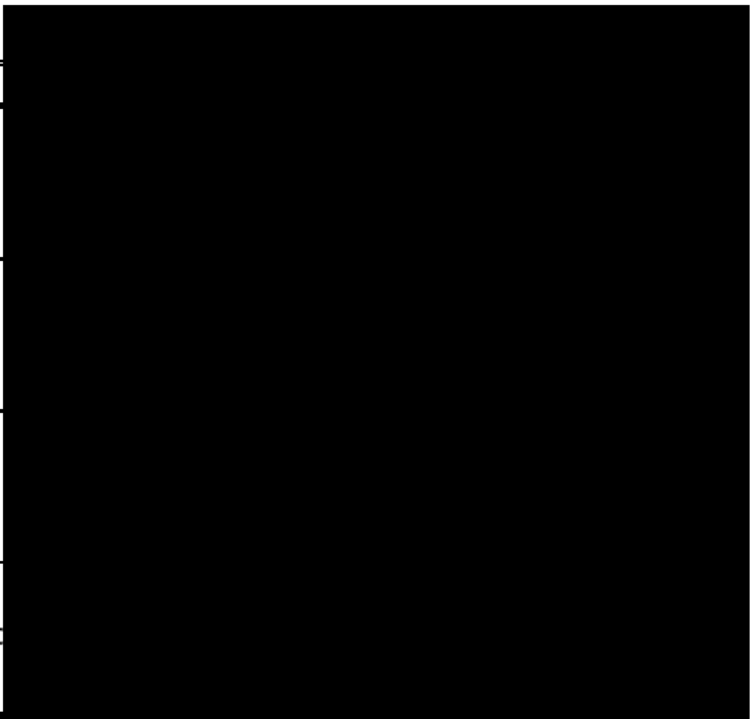
Email: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**APPLICATION FOR CONSENT TO SEVER LAND  
and VALIDATION OF TITLE  
UNDER SECTION 53 & 57 OF THE PLANNING ACT**

Please see additional information regarding how to submit an application, requirements for the required sketch and general information in the Submission Requirements and Information.

**1. APPLICANT INFORMATION**

	NAME
<b>Purchaser*</b>	N/A
<b>Registered Owners(s)</b>	M. Berman Homes Inc. c/o Mark Berman
<b>Applicant(s)**</b>	Same as Registered Owner
<b>Agent or Solicitor</b>	Landwise (formerly T. Johns Consulting Group) c/o Edward John



\*Purchaser must provide a copy of the portion of the agreement of purchase and sale that authorizes the purchaser to make the application in respect of the land that is the subject of the application.

\*\* Owner's authorisation required if the applicant is not the owner or purchaser.

1.2 Primary contact  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.3 Sign should be sent to  Purchaser  Owner  
 Applicant  Agent/Solicitor

1.4 Request for digital copy of sign  Yes\*  No

If YES, provide email address where sign is to be sent

1.5 All correspondence may be sent by email  Yes\*  No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

1.6 Payment type

In person  
 Cheque

Credit over phone\*

\*Must provide number above

## 2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	238 Mountain Park Avenue, Hamilton		
Assessment Roll Number			
Former Municipality	Hamilton		
Lot	Part of Lot 2	Concession	
Registered Plan Number	361	Lot(s)	
Reference Plan Number (s)		Part(s)	

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes  No

If YES, describe the easement or covenant and its effect:

## 3 PURPOSE OF THE APPLICATION

3.1 Type and purpose of proposed transaction: (check appropriate box)

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> creation of a new lot(s)  | <input type="checkbox"/> concurrent new lot(s) |
| <input type="checkbox"/> addition to a lot  | <input type="checkbox"/> a lease               |
| <input type="checkbox"/> an easement  | <input type="checkbox"/> a correction of title |
| <input type="checkbox"/> validation of title (must also complete section 8)   | <input type="checkbox"/> a charge              |
| <input type="checkbox"/> cancellation (must also complete section 9)  |  |
| <input type="checkbox"/> creation of a new non-farm parcel (must also complete section 10)<br>( i.e. a lot containing a surplus farm dwelling<br>resulting from a farm consolidation) |  |

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

TBD

3.3 If a lot addition, identify the lands to which the parcel will be added:

3.4 Certificate Request for Retained Lands:  Yes\*

\* If yes, a statement from an Ontario solicitor in good standing that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act. (O. Reg. 786/21)

#### 4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

##### 4.1 Description of subject land:

All dimensions to be provided in metric (m, m<sup>2</sup> or ha), attach additional sheets as necessary.

	Retained (remainder)	Parcel 1	Parcel 2	Parcel 3*	Parcel 4*
Identified on Sketch as:	PART 1	PART 2			
Type of Transfer	N/A				
Frontage	7.62m	7.62m			
Depth	30.48m	30.48m			
Area	215.49m <sup>2</sup>	215.49m <sup>2</sup>			
Existing Use	Vacant	Vacant			
Proposed Use	Residential	Residential			
Existing Buildings/ Structures	None	None			
Proposed Buildings/ Structures	Semi-detached w/ Additional Dwelling Unit	Semi-detached w/ Additional Dwelling Unit			
Buildings/ Structures to be Removed	None	None			

\* Additional fees apply.

##### 4.2 Subject Land Servicing

a) Type of access: (check appropriate box)

- provincial highway  
 municipal road, seasonally maintained  
 municipal road, maintained all year

- right of way  
 other public road

b) Type of water supply proposed: (check appropriate box)

- publicly owned and operated piped water system  
 privately owned and operated individual well

- lake or other water body  
 other means (specify) \_\_\_\_\_

c) Type of sewage disposal proposed: (check appropriate box)

- publicly owned and operated sanitary sewage system  
 privately owned and operated individual septic system  
 other means (specify) \_\_\_\_\_

##### 4.3 Other Services: (check if the service is available)

- electricity     
  telephone     
  school bussing     
  garbage collection

#### 5 CURRENT LAND USE

##### 5.1 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): \_\_\_\_\_

Rural Settlement Area: \_\_\_\_\_

Urban Hamilton Official Plan designation (if applicable) Neighbourhoods

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

The proposed consent will facilitate the creation of one (1) new lot to develop a semi-detached dwelling totaling 2 units, each with an Additional Dwelling Unit, on existing urban lands. See attached Rationale Report for additional details.

5.2 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval?

Yes  No  Unknown

If YES, and known, provide the appropriate file number and status of the application.

\_\_\_\_\_

5.3 What is the existing zoning of the subject land? Low Density Residential (R1) Zone

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number?

\_\_\_\_\_

5.4 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?

Yes  No  Unknown

If YES, and known, provide the appropriate file number and status of the application.

Minor Variance application submitted for concurrent review.

\_\_\_\_\_

5.5 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

Use or Feature	On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
<b>An agricultural operation, including livestock facility or stockyard</b> * Submit Minimum Distance Separation Formulae (MDS) if applicable	<input type="checkbox"/>	
<b>A land fill</b>	<input type="checkbox"/>	
<b>A sewage treatment plant or waste stabilization plant</b>	<input type="checkbox"/>	
<b>A provincially significant wetland</b>	<input type="checkbox"/>	
<b>A provincially significant wetland within 120 metres</b>	<input type="checkbox"/>	
<b>A flood plain</b>	<input type="checkbox"/>	
<b>An industrial or commercial use, and specify the use(s)</b>	<input checked="" type="checkbox"/>	100m to retail
<b>An active railway line</b>	<input type="checkbox"/>	
<b>A municipal or federal airport</b>	<input type="checkbox"/>	

## 6 HISTORY OF THE SUBJECT LAND

6.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the *Planning Act*?

Yes  No  Unknown

If YES, and known, provide the appropriate application file number and the decision made on the application.

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6.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.

The last consent application was for a single-detached dwelling and this submission is for a semi-detached dwelling.

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6.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land?

Yes  No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

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6.4 How long has the applicant owned the subject land?

Since September 25, 2023

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6.5 Does the applicant own any other land in the City?  Yes  No

If YES, describe the lands below or attach a separate page.

27 Wood Street East, Hamilton

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## 7 PROVINCIAL POLICY

7.1 Is this application consistent with the Policy Statements issued under Section 3 of the *Planning Act*?

Yes  No (Provide explanation)

Yes; the subject lands are located in an urban area and are outside of Greenbelt and the Niagara Escarpment lands.

---

7.2 Is this application consistent with the Provincial Policy Statement (PPS)?

Yes  No (Provide explanation)

Yes; the proposed development will make efficient use of existing urban lands which are supported by municipal services and infrastructure. Please refer to Planning Rationale for further information.

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7.3 Does this application conform to the Growth Plan for the Greater Golden Horseshoe?

Yes  No (Provide explanation)

Yes; the proposed development will provide increase the housing supply and provide intensification.

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7.4 Are the subject lands subject to the Niagara Escarpment Plan?

Yes  No (Provide explanation)

The subject lands are not subject to the NEP.

---

7.5 Are the subject lands subject to the Parkway Belt West Plan?

Yes  No (Provide explanation)

The subject lands are not subject to the Parkway Belt West Plan.

7.6 Are the subject lands subject to the Greenbelt Plan?

Yes  No (Provide explanation)

The subject lands are not subject to the Greenbelt Plan.

7.7 Are the subject lands within an area of land designated under any other provincial plan or plans?

Yes  No (Provide explanation)

## 8 ADDITIONAL INFORMATION - VALIDATION

8.1 Did the previous owner retain any interest in the subject land?

Yes  No (Provide explanation)

8.2 Does the current owner have any interest in any abutting land?

Yes  No (Provide explanation and details on plan)

8.3 Why do you consider your title may require validation? (attach additional sheets as necessary)

## 9 ADDITIONAL INFORMATION - CANCELLATION

9.1 Did the previous owner retain any interest in the subject land?

Yes  No (Provide explanation)

9.2 Does the current owner have any interest in any abutting land?

Yes  No (Provide explanation and details on plan)

9.3 Why do you require cancellation of a previous consent? (attach additional sheets as necessary)



**10 ADDITIONAL INFORMATION - FARM CONSOLIDATION**

10.1 Purpose of the Application (Farm Consolidation)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate if the consolidation is for:

- Surplus Farm Dwelling Severance from an Abutting Farm Consolidation
- Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation

10.2 Location of farm consolidation property:

Municipal Address			
Assessment Roll Number			
Former Municipality			
Lot		Concession	
Registered Plan Number		Lot(s)	
Reference Plan Number (s)		Part(s)	

10.3

Rural Hamilton Official Plan Designation(s)

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm consolidation property.

10.4

Description of farm consolidation property:

Frontage (m):	Area (m <sup>2</sup> or ha):
---------------	------------------------------

Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

10.5

Description of abutting consolidated farm (excluding lands intended to be severed for the surplus dwelling)

Frontage (m):	Area (m <sup>2</sup> or ha):
---------------	------------------------------

10.6

Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

10.7

Description of surplus dwelling lands proposed to be severed:

Frontage (m): (from Section 4.1)	Area (m <sup>2</sup> or ha): (from Section 4.1)
----------------------------------	---

Front yard set back: \_\_\_\_\_

a) Date of construction:

- Prior to December 16, 2004
- After December 16, 2004

b) Condition:

- Habitable
- Non-Habitable

## 11 COMPLETE APPLICATION REQUIREMENTS

### 11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application Form
- Signatures Sheet

### 11.2 Validation of Title

- All information documents in Section 11.1
- Detailed history of why a Validation of Title is required
- All supporting materials indicating the contravention of the Planning Act, including PIN documents and other items deemed necessary.

### 11.3 Cancellation

- All information documents in Section 11.1
- Detailed history of when the previous consent took place.
- All supporting materials indicating the cancellation subject lands and any neighbouring lands owned in the same name, including PIN documents and other items deemed necessary.

### 11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
- Minimum Distance Separation Formulae (data sheet available upon request)
- Hydrogeological Assessment
- Septic Assessment
- Archeological Assessment
- Noise Study
- Parking Study

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