



Hamilton

**STAFF COMMENTS**

**HEARING DATE: June 11, 2024**

**A-24:98 – 238 Mountain Park Avenue, Hamilton**

**Recommendation:**

- Approve Minor Variance with Conditions
- Approve Consent with Conditions

**Proposed Conditions:**

1. That the approved Minor Variances of application A-24:98 apply to a semi-detached dwelling use only.

**Proposed Notes:**



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## Development Planning:

### Background

The purpose of this application is to permit the conveyance of one half of a semi-detached dwelling and to retain one half of a semi-detached dwelling.

	Frontage	Depth	Area
<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>

To facilitate the creation of two (2) lots (Part 1 and Part 2) for semi-detached dwelling purposes together with an additional dwelling unit, the following variances are requested:

1. To allow a minimum lot area of 210 square metres whereas 270 square metres is required.
2. To allow a minimum lot frontage of 7.6 metres whereas 9.0 metres is required.
3. To allow a minimum front yard of 3.8 metres whereas a minimum of 6.0 metres is required.
4. To allow a minimum of zero parking spaces per additional dwelling unit, whereas a minimum of one parking space per additional dwelling unit is required.

### Site History

On December 7, 2023, the applicant had applied for a severance to convey two residential building lots for single detached dwellings. Committee of Adjustment denied the Consent application HM/B-23:74 and the associated Minor Variance application HM/A-23:299.

### 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), which permits a semi-detached dwelling.

New lots for residential uses in the “Neighbourhoods” designation are permitted when they meet the Urban Hamilton Official Plan criteria of F.1.14.3.1 (Volume 1). The proposal is defined as Residential Intensification, and accordingly, must be evaluated based on the residential intensification policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1).

All new lot creations must meet the following criteria within the Urban Hamilton Official Plan:



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“F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use Designation, shall be permitted provided the following conditions are met:

- g) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- h) The lots comply with existing Neighbourhood Plans;
- i) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- j) 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;
- k) The lots are fully serviced by municipal water and wastewater systems; and,
- l) The lots have frontage on a public road.”

Lot creation for ‘Residential Intensification’ in the “Neighbourhoods” designation is permitted if the lots meet the criteria of F.1.14.3.1 (UHOP Volume 1). The proposed lots are fully serviced by municipal water and wastewater systems and have frontage on a public road. Staff supports the proposed severance as it reflects 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. It is the opinion of staff that the proposed development is compatible with the surrounding area in terms of use and scale. The proposed lots will integrate well with the lot pattern of the neighbourhood and are of an adequate size to support a building footprint for the intended use of semi-detached dwellings. Staff note that all setbacks within the Zoning By-law are being complied with, with the exception of the front yard setback, which was only triggered as a result of the requested road widening conveyance.

Please note that the lands are not within a Neighbourhood Plan per Policy F.1.14.3.1 b).

A Minor Variance Application (A-24:98) has been concurrently submitted in order to address Policy F.1.14.3.1 c). A condition of approval has been recommended to ensure that the Applicant receive final approval of Minor Variance Application A-21:98 prior to lot creation occurring.

The proposal has also been evaluated with respect to Urban Hamilton Official Plan policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1) with respect to residential intensification and has been deemed to conform.



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### Noise

The Sherman Access is identified as a “Major Arterial” and Concession Street is identified as a “Minor Arterial” on Schedule C – Functional Road Classification in the UHOP.

The proposed consent is for residential purposes, which is a sensitive land use and the subject property is located within 400 metres of a major arterial road and 100 metres of a minor arterial road. Therefore, a noise feasibility study is required to be submitted for review and approval in order to conform to Policy B.3.6.3.7 Road and Railway Traffic Noise and Vibration of the Urban Hamilton Official Plan.

### Natural Heritage

3. 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.
4. Through aerial photograph interpretation and the site plan provided, trees have been identified 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). In addition, it is recognized that neighbouring trees should not be impacted by development.

The proposed development 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 that existing tree cover is maintained, 1 for 1 compensation is required 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 Residential “R1” Zone, which permits semi-detached dwellings, subject to the applicable provisions.



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**Analysis**

Variance 1 and 2 (Lot Area and Lot Width)

The applicant is proposing a minimum lot area of 215.49m<sup>2</sup> instead of the minimum 270.0m<sup>2</sup> lot area required and a minimum lot width of 7.6m instead of the minimum 9.0m lot width required.

The applicant is proposing lots to have a minimum lot width of 7.6 metres and minimum lot area of 215.49 square metres instead of the required minimum lot width of 9.0 metres and a minimum lot area of 270 square metres. It is important to note that the variance related to lot area would be for ±232 square metres; however, Transportation Planning has requested a 2.2 metre road widening, which reduces the lot area to ±215 square metres. The intent of the lot area and frontage provisions is to ensure each lot can support a building envelope, parking space, access, sufficient amenity area and landscaped area for drainage and grading. Furthermore, these provisions ensure that new lots are generally consistent with the scale and character of the neighbourhood. There are a variety of lot widths within the immediate neighborhood along Mountain Park Avenue, including some with a similar lot width to the proposed. Staff support the semi-detached dwellings as they are appropriate for the lots and allow for an opportunity to implement compatible residential intensification in accordance with the City's Zoning By-law No. 05-200 and the Urban Hamilton Official Plan. The additional proposed Additional Dwelling Units contribute to small-scale intensification and provide additional housing stock in close proximity to major employers, public service facilities, and commercial amenities. Staff would encourage the proponent to design the proposed dwellings in accordance with the City's Neighbourhood Infill Design Guidelines at the Building Permit stage. Staff support Variances 1 and 2.

Variance 3

The applicant is proposing to allow a minimum front yard of 3.8 metres whereas a minimum of 6.0 metres is required for each semi-detached dwelling. 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). It's also important to note that the performance standards applicable to the subject lands are slated to be modified through the Low Density Residential Zoning project. This was approved by Council on April 10<sup>th</sup>, 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. Finally, the reduction in the required front yard to 3.8 metres is only required as a result of a 2.2 metre road widening being requested to be conveyed by Transportation Planning. Accordingly, the distance of the proposed dwelling from the road will be identical to that of a building with a 6 metre front yard setback where no widening was conveyed.

Staff are of the opinion that the proposed 3.8 metre setback is generally consistent with the established setbacks along Mountain Park Avenue and is similar to existing setbacks provided by the dwellings on either side. Staff support this variance.



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## Variance 4

The applicant is proposing no parking spaces for an Additional Dwelling Unit instead of the minimum one parking space required. Staff would like to note that there is a City Initiative approved by City Council on April 10<sup>th</sup>, 2024 (By-law 24-051) to modify and update the parking requirements within Hamilton Zoning By-law No. 05-200. Through these amendments, parking will not be required for Additional Dwelling Units within the urban area.

Furthermore, there is a public transportation readily available within the area. The HSR bus stop is located 220 metres away from the subject lands on Concession Street. Staff also note that the proposal is in proximity to several commercial use and large employers (Juravinsky Hospital), which increases the likelihood of trips to be taken through active modes of transportation and reduces the need for additional parking. Staff do not anticipate that the reduced parking will adversely impact the streetscape and character of the neighbourhood, or have an undue adverse impact on parking in the neighbourhood. Therefore, Staff support the variance.

Having regard for the matters under subsection 45(1) of the Planning Act, staff are satisfied that the requested variances maintain the purpose and intent of the Urban Hamilton Official Plan and the Zoning By-law, are minor in nature and desirable for the appropriate development of the land. Staff recommends that the requested variances as outlined in the Notice of Hearing, be **approved subject to the conditions outlined in this report.**

Having regard for the matters under subsection 51(24) of the Planning Act, staff is satisfied that the proposed lots are suitable for the use, the proper and orderly development of the land, and conform to the Official Plan. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Approved subject to the conditions outlined in this report.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	No comment.
Proposed Notes:	<p>ii. Minor Variances are to facilitate severance application B.24.25.</p> <p>“Please note that these lands may be:</p> <ul style="list-style-type: none"> <li>- Regulated by a Conservation Authority;</li> <li>- Located within or adjacent to an Environmentally Sensitive Area (ESA);</li> <li>- Designated under the Ontario Heritage Act;</li> <li>- Listed in the City of Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest; and/or,</li> <li>- Included in the City of Hamilton’s Register of Property of Cultural Heritage Value or Interest.</li> </ul>



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	Staff cannot confirm this information at this time and the applicant should make the appropriate inquiries in order to determine what other regulations may be applicable to the subject property.”
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Cultural Heritage:

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

Natural Heritage:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	As per application B-24:25, a tree appears to be located adjacent to the subject property. In order to facilitate the creation of a new lot, this tree may be impacted. As a result, a Tree Protection Plan and Landscape Plan have been identified to be submitted. This information is to be used in the design of the building envelope.
Proposed Notes:	

Development Engineering:

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

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	A building permit is required for the construction of the proposed semi-detached dwelling and additional dwelling unit.  Be advised that Ontario Building Code regulations may require specific setback and construction types.



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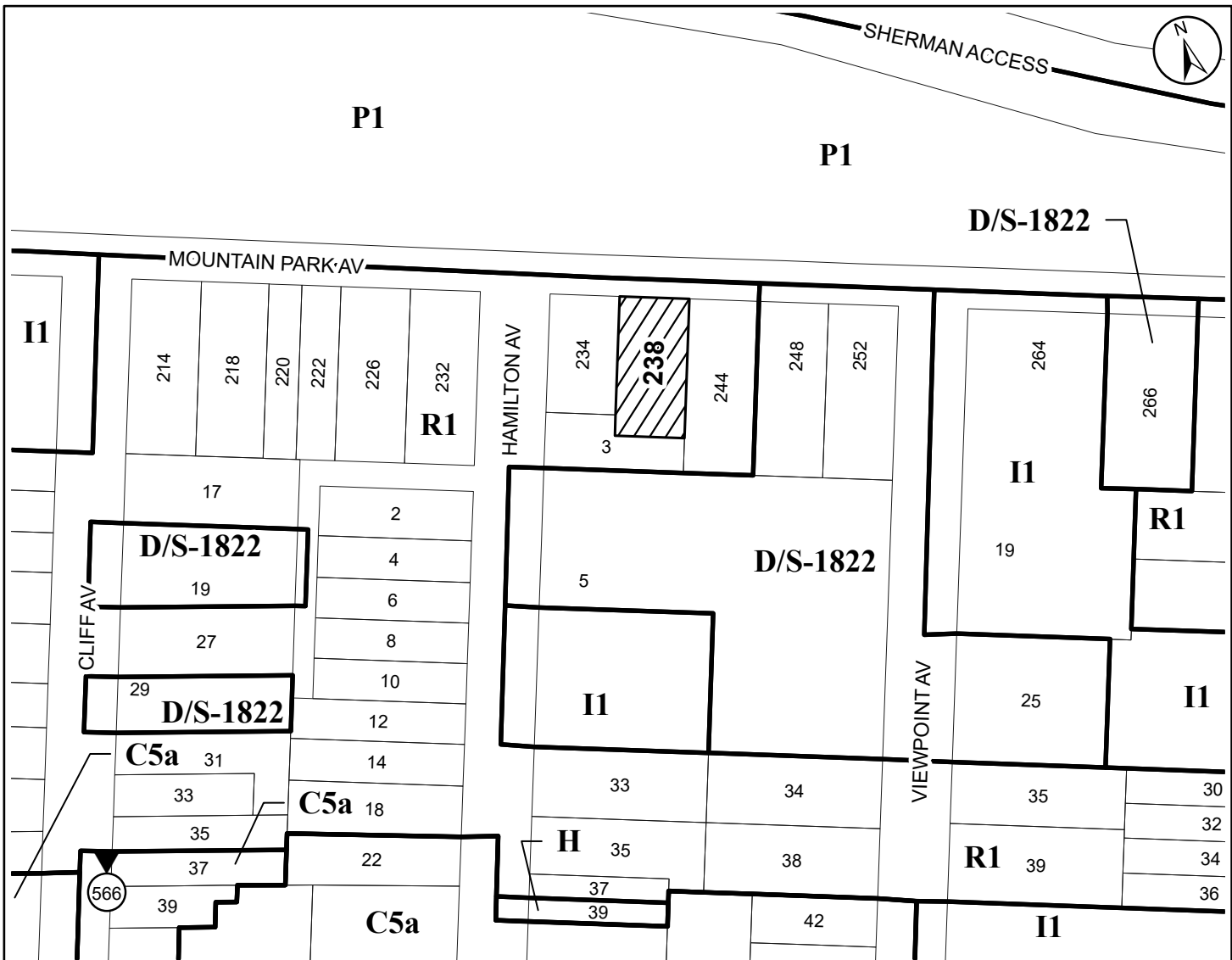
**STAFF COMMENTS**

**HEARING DATE: June 11, 2024**

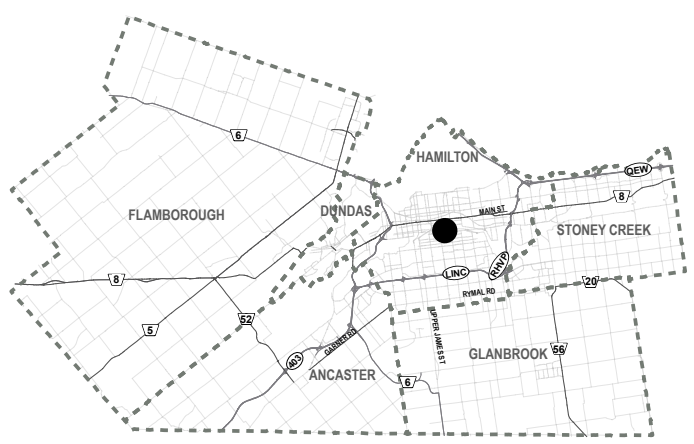
Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	





● Site Location



**City of Hamilton**

# Committee of Adjustments

**Subject Property**



238 Mountain Park Avenue, Hamilton (Ward 7)

**File Name/Number:**

A-24:98

**Date:**

May 27, 2024

**Technician:**

SH

**Scale:**

N.T.S.

**Appendix "A"**



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