



Hamilton

**STAFF COMMENTS**

**HEARING DATE: July 2, 2024**

**B-24:38 – 501 Alberton Road, Ancaster**

Recommendation:

Deny – Development Planning

Approve with Conditions – Development Engineering

Deny – Source Protection Planning

Approve with Conditions – Transportation Planning

Proposed Conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. The Owner/Applicant submit an Applicable Law Review to determine that the existing residential dwellings were not farm labor residences, to the satisfaction of the Director of Planning and Chief Planner.
5. The Owner/Applicant submit and receive final approval of a Zoning By-law Amendment application for the retained lands to prohibit a residential dwelling as a permitted use, to the satisfaction of the Director of Planning and Chief Planner.
6. That the Owner/Applicant demolish the existing barn on the retained lands, to the satisfaction of the Director of Planning and Chief Planner.
7. The owner/applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the Agriculture A1 Zone or alternatively apply for and receive final approval of the appropriate Planning Act application in order to permit the intended use (Planning Division – Zoning Review Section).



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8. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
9. The owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping to conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
10. That, the owner submits a Hydrogeological Report prepared by a qualified professional in support of the proposed severance to the satisfaction of City's Source Protection Section and the Manager of Development Engineering.
11. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
12. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division - Plan Examination Section).
13. Alberton Road is to be 36 metres. The existing right-of-way at the subject property is approximately  $\pm 20$  metres. Approximately  $\pm 8$  metres are to be dedicated to the right-of-way on Alberton Road, as per the Council Approved Urban Official Plan: Chapter C – City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads. Subject to the satisfaction and approval of the Manager, Transportation Planning.
  - A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening. Subject to the satisfaction and approval of the Manager, Transportation Planning.
  - The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements. Subject to the satisfaction and approval of the Manager, Transportation Planning.

Proposed Notes:

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



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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

To permit the conveyance of a parcel of land to create a new surplus dwelling lot. The retained lands are intended to remain for agricultural use where the existing Barn / Garage will be demolished to facilitate this application.

	Frontage	Depth	Area
Severed Lands	54.0 m	106.2 m	4539.9 m <sup>2</sup> ±
Retained Lands	644.85 m	414 m	266474.2 m <sup>2</sup> ±

### Analysis

#### Rural Hamilton Official Plan

The subject site is designated “Agricultural” within Schedule D of the Rural Hamilton Official Plan. The following policies, amongst others, apply to the application:

**F.1.14.2.1** The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (OPA 18)

a) Severances that create a new lot for the following purposes shall be prohibited:

i) Residential uses except in accordance with:

1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation;

iii) Severance of a lot for a farm labour residence or an existing dwelling that was permitted in a previous official plan and zoning by-law as a farm labour residence, farm help house, or help house;

b) Severances that create a new lot(s) may be permitted for only the following purposes:

iii) Severance of a surplus farm dwelling made surplus as a result of a farm consolidation in accordance with Policies F.1.14.2.1 and F.1.14.2.8;

**F.1.14.2.8** An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:



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**All Lands**

- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
- i) The farm consolidation shall have been completed prior to the time of application.
  - ii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.
  - iii) The proposed surplus farm dwelling:
    - 1) shall have been built on or before December 16, 2004; and,
    - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
  - iv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
  - v) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
  - vi) The shape and dimensions of the surplus farm dwelling lot shall:
    - 1. not impair agricultural operations on the retained land; and
    - 2. generally not exceed a depth of 122 metres (400 feet);
  - vii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.
  - viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.



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**Lands Not Merged in Title**

c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:

i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation;

ii) The parcels of land comprising the consolidated farm operation shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture and Rural designations and 14.2 hectares (35 acres) in the Specialty Crop designation; (OPA 30)

iii) The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D – Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations;

v) Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:

1. The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or

2. The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit.

Staff defers any concerns regarding the size and servicing of the severed lands to Source Protection Planning staff.

Staff note that the applicant has provided information that the subject lands will be part of an existing farming operation. However, the applicant has not demonstrated how the consent application will meet several of the above noted Rural Hamilton Official Plan policies, including but not limited to, that the owner maintains an existing dwelling on lands that is also part of the farming operation and the total land size of the farming operations. As such, staff are of the opinion that the consent application does not maintain the policies of the Rural Hamilton Official Plan and that the application shall be denied.

If the application should be approved, staff recommend a condition be applied that the Owner/Applicant submit and receive confirmation through an Applicable Law Review that the existing dwellings being severed are not a farm labour residence or an existing dwelling that was permitted in a previous Official Plan and Zoning By-law as a farm labour residence, farm help house, or help house, as per Policy F.1.14.2.1 iii.



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Furthermore, staff recommend that a condition of approval be added that the Owner/Applicant apply for and receive final approval of a Zoning By-law Amendment application to ensure that no dwelling can be constructed on the retained lands.

## **Hamilton Zoning By-law No. 05-200**

The subject lands are zoned Agriculture (A1) Zone which permits the use.

Based on the foregoing, staff recommend the application be **denied**. If the application is approved, staff recommend that the following conditions be applied:

1. The Owner/Applicant submit an Applicable Law Review to determine that the existing residential dwellings were not farm labor residences, to the satisfaction of the Director of Planning and Chief Planner.
2. The Owner/Applicant submit and receive final approval of a Zoning By-law Amendment application for the retained lands to prohibit a residential dwelling as a permitted use, to the satisfaction of the Director of Planning and Chief Planner.
3. That the Owner/Applicant demolish the existing barn on the retained lands, to the satisfaction of the Director of Planning and Chief Planner.

Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none"> <li>1. The owner/applicant shall provide confirmation of the existing uses on the lands to be retained/conveyed in order to determine compliance with the permitted uses of the Agriculture A1 Zone or alternatively apply for and receive final approval of the appropriate Planning Act application in order to permit the intended use (Planning Division – Zoning Review Section).</li> <li>2. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).</li> <li>3. The owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any</li> </ol>



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	existing structure(s), parking and landscaping to conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
Comments:	<ol style="list-style-type: none"> <li>1. The existing Metal Clad Building located in the rear yard must be at least 1.0 metres from the proposed side and rear property lines.</li> <li>2. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Legislated Approvals and Staging of Development Section of the Planning and Economic Development Department prior to the issuance of a building permit.</li> <li>3. All or an appropriate portion of the building straddling the proposed property line shall be demolished in order to achieve zoning compliance, or the applicant shall receive final approval of the required minor variances.</li> <li>4. There appears to be a existing Agriculture building straddling the proposed property lines on the lands to be retained, as the details of this building are not provided on the site plan zoning is unable to determine compliance a minor variance may be required.</li> <li>5. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</li> <li>6. Please be advised that a portion of this property is regulated by the <b>Grand River Conservation Authority</b>. Please contact <b>Grand River Conservation Authority</b> at <b>519-621-2761</b> for further information.</li> </ol>
Proposed Notes:	N/A

Cultural Heritage:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	





<p>Comments:</p>	<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 potential. These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the <i>Planning Act</i> and Section 2.6.2 of the <i>Provincial Policy Statement</i> apply to the subject application.</p> <p>Cultural Heritage:</p> <p>The subject property comprises 501 Alberton Road, a property listed on the City of Hamilton’s Inventory of Heritage Properties.</p> <p>Accordingly, section B.3.4.1.4 and B.3.4.2.1(g) of the Urban Hamilton Official Plan, Volume 1, apply.</p> <p>The proponent proposes to permit the conveyance of a parcel of land to create a new surplus dwelling lot where the existing Barn/Garage will be demolished to facilitate this application.</p> <p>Staff have reviewed the application and are of the opinion that the existing detached barn structure may be of historic value and interest. Since B.3.4.1.4 and B.3.4.2.1(g) of the Urban Hamilton Official Plan state that site alterations must maintain the integrity of all on-site cultural heritage resources through conservation and protection, staff do recommend that the existing Barn/Garage be preserved in the creation of a new dwelling lot.</p> <p>Staff have no further comments on the application as circulated.</p>
<p>Proposed Notes:</p>	<p>If this variance is granted, the proponent <b>must be advised in writing</b> by the Committee of Adjustment as follows:</p> <p>“<b>Caution:</b> 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 (<a href="tel:416-212-0036">416-212-0036</a>). In the event that human remains are encountered during construction, the proponent should immediately</p>



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	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 Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	1. That, the owner submits a Hydrogeological Report prepared by a qualified professional in support of the proposed severance to the satisfaction of City’s Source Protection Section and the Manager of Development Engineering.
Comments:	The subject property is located within the rural part of the City of Hamilton that relies on the private services. Therefore, the proponent shall submit a Hydrogeological report prepared by qualified professional to demonstrate that the size of lot is sufficient to support the existing private services in accordance with the current City Criteria as a condition of approval.
Proposed Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Building Engineering:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<p>The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – <b>Plan Examination Section</b>).</p> <p>The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction</p>



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	of the Planning and Economic Development Department (Building Division - <b>Plan Examination Section</b> ).
Comments:	
Proposed Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Source Protection Planning:

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Source Protection Planning understands the applicant is seeking to sever the lands at 501 Alberton Road, with the severed lot being 0.45 ha in size, and the retained lot being 26.65 ha in size. We understand the severed lot will be used to create a new surplus dwelling lot, and the retained lot will remain for agricultural use.</p> <p>Hamilton Water cannot support the proposed severance of 0.45 ha at this time, as it would not meet the sustainable servicing policies within Chapter C.5.1 of the Rural Hamilton Official Plan. While the RHOP states that no newly created lot shall be less than 1 acre, other considerations (such as local soils, impervious surfaces, background nitrate concentrations, etc) within Chapter C.5.1 often require this minimum lot size to be larger. The applicant bears the responsibility of engaging a qualified professional to verify the minimum sustainable lot size in accordance with the City of Hamilton Guideline for Hydrogeological Studies and Technical Standards for Private Servicing (2023, <a href="https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf">https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf</a>).</p>
Proposed Notes:	



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**Transportation Planning:**

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>Transportation Planning has no objection to the severance if the following right-of-way is dedicated to the City of Hamilton:</p> <p>Alberton Road is to be 36 metres. The existing right-of-way at the subject property is approximately <math>\pm 20</math> metres. Approximately <math>\pm 8</math> metres are to be dedicated to the right-of-way on Alberton Road, as per the Council Approved Urban Official Plan: Chapter C – City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads.</p> <p>A survey conducted by an Ontario Land Surveyor and at the Applicant’s expense will determine the ultimate dimensions for the right-of-way widening.</p> <p>The Applicant’s surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.</p> <p>Subject to the satisfaction and approval of the Manager, Transportation Planning.</p>
Comments:	
Proposed Notes:	

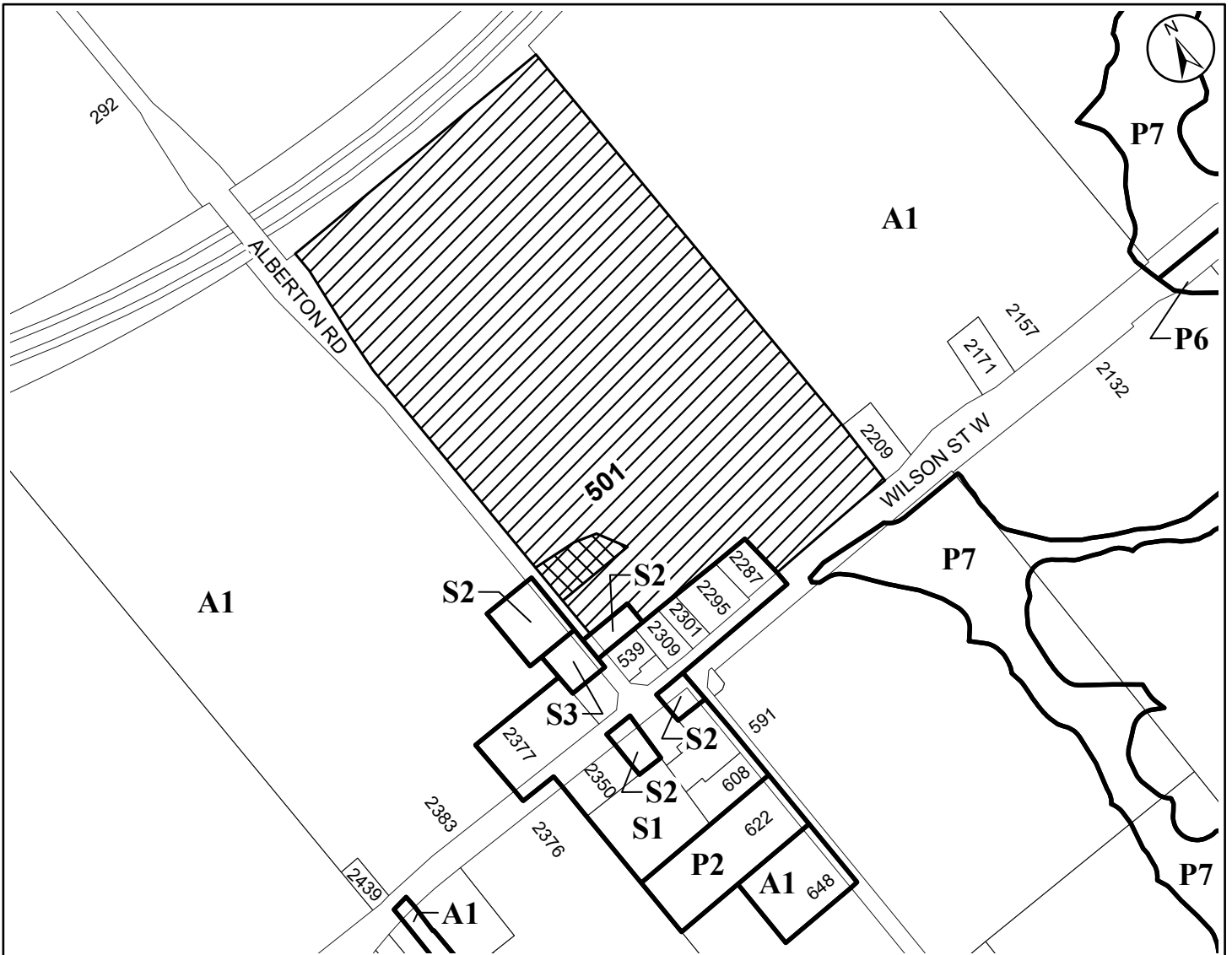
**Forestry:**

Recommendation:	Approve
Proposed Conditions:	No conditions required.
Comments:	

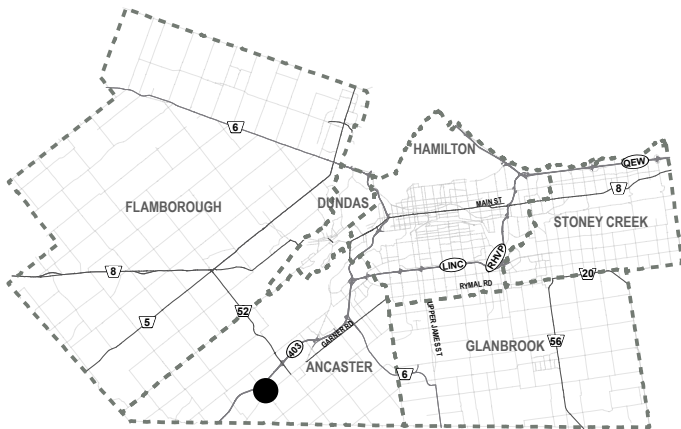


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	<p>There are public tree assets located within the property limits, although no impacts are anticipated with the proposed severance.</p>
<p>Proposed Notes:</p>	<p>If any work is proposed within the dripline of a municipal tree, a public tree permit is required. Please contact <a href="mailto:urbanforest@hamilton.ca">urbanforest@hamilton.ca</a> for additional information.</p>



● Site Location





**City of Hamilton**

# Committee of Adjustments

**Subject Property**

501 Alberton Road, Ancaster (Ward 12)

-  Lands to be retained
-  Lands to be severed

**File Name/Number:**

B-24:38

**Date:**

June 18, 2024

**Technician:**

SH

**Scale:**

N.T.S.

**Appendix "A"**



**Hamilton**

Planning and Economic Development Department