



Hamilton

STAFF COMMENTS

HEARING DATE: September 24, 2024

FL/A-22:248 – 394 Old Brock Road, Flamborough

Recommendation:

Development Planning – Approve Variance 1, Deny Variance 2

Proposed Conditions:

Proposed Notes:



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Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS:	79.5 m±	Varies m±	7,415.57 m ² ±
RETAINED LANDS:	344.0 m±	Varies m±	39,400.0 m ² ±

To permit the conveyance of a parcel of land to create a new residential building lot and to retain a parcel of land containing a single detached dwelling, to remain. Staff note that Minor Variance application FL/A-22:248 is a concurrent application to facilitate the proposed severance.

Staff note that a Holding 'H' Provision is in place on the subject lands and a Zoning By-law Amendment (Holding Removal) application will be required to lift this Holding 'H' Provision.

Analysis

Greenbelt Plan

The subject lands are designated as "Hamlet" on Appendix II of the Greenbelt Plan. Section 3.4.4.1 of the Greenbelt Plan permits limited growth through infill and intensification of Hamlets subject to appropriate water and sewage services.

Rural Hamilton Official Plan

The subject lands are designated as "Rural Settlement Area" in Schedule – D Rural Land Use Designations of the Rural Hamilton Official Plan. Policies C.3.4.4, C.5.1, D.5.1, F.1.14.2.1 and F.1.14.2.4, amongst others, are applicable and permit the proposed single detached dwelling. The subject lands are also located within the Greensville Rural Settlement Area and are subject to the policies of the Rural Settlement Area.

Development Planning staff defer to Cultural Heritage Planning staff regarding the conformity of the proposal to the Cultural Heritage and Archaeology policies of the Rural Hamilton Official Plan. Development Planning staff defer to Source Protection Planning staff regarding the conformity of the proposal to the private servicing policies of the Rural Hamilton Official Plan.

Policy F.1.14.2.1 a) i) permits severances for residential uses within a Rural Settlement Area and F.1.14.2.1 c) provides general criteria for the creation of new lots:



“F.1.14.2.1 c) All proposed severances that create a new lot shall:

- vi. comply with the policies of this Plan including a rural settlement area plan where one exists;
- vii. be compatible with and not hinder surrounding agricultural operations
- viii. conform to the Zoning By-law;
- ix. only be permitted when both severed and retained lots have frontage on a public road; and,
- x. meet the requirements of Section C.5.1, Private Water and Wastewater Services.”

Policy F.1.14.2.4 reads as follows:

“F.1.14.2.4 Within designated Rural Settlement Areas all proposed severances that create a new lot and proposed lot additions shall:

- g) comply with the policies of this Plan including a rural settlement area plan where one exists;
- h) be compatible with and not hinder surrounding agricultural operations;
- i) conform to the Zoning By-law;
- j) be permitted only when both severed and retained lots have frontage on a public road;
- k) meet Minimum Distance Separation requirements; and,
- l) meet the requirements of Section C.5.1, Private Water and Wastewater services, except as permitted in F.1.14.2.7 d) (OPA 18)”

Staff note that the proposed severed lot is to have a frontage of 79.5 metres and have an area of 7,415.57 square metres. The proposed retained lot is to have a frontage of 344 metres and an area of 39,400 square metres. The Zoning By-law requires a minimum lot width of 35 metres and a minimum area of 8,000 square metres. The proposed severed lot exceeds the frontage requirement, however,



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does not meet the minimum lot area requirement. The proposed retained lot exceeds these requirements. Both the severed and retained lots would have frontage on Old Brock Road.

Staff further note that Minor Variance application FL/A-22:248 was submitted to address the minimum lot area of the proposed severed lot and to permit a maximum lot coverage of 20%.

Greenville Rural Settlement Area

The subject lands are designated “Settlement Residential” on Map 8a – Greenville Rural Settlement Area Plan. The subject lands are further identified as “Major Development Area A” on Map 8b – Greenville Major Development Areas. Policies 3.5.5.3, 3.5.5.6, 3.5.5.7 and 3.5.13, amongst others, apply and permit the proposed single detached dwelling.

Staff note that Policy 3.5.5.3 states that the predominant form of residential development shall continue to be single detached dwellings. Policy 3.5.5.4 permits infill development by the consent process where it is clear that a Plan of Subdivision is not necessary. Policy 3.5.5.7 requires new residential development to be compatible with the existing residential character of the area, with respect to the scale, massing and height of existing residential uses.

With respect to Variance 2, the applicant is requesting 20% lot coverage for the severed lands as the final proposed built form is not yet decided. Staff have insufficient information to carry out a fulsome review of a potential built form resulting from the requested 20% lot coverage and how it relates to the existing residential character and built form of the area. Therefore, staff are of the opinion that Variance 2 does not meet the intent of Policy 3.5.5.7 regarding.

Staff further note that Policy 3.5.13 provides criteria, in addition to Policy C.5.1 of Volume 1, regarding private servicing requirements for development within the Greenville Rural Settlement Area. Staff defer to Source Protection Planning staff regarding the proposal’s conformity to these policies.

Archaeology

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) In an area of sandy soil in areas of clay or stone;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and
- 3) Along historic transportation routes.



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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.

A Stage 3 archaeological report (P1037-0085-0091-2021) has been submitted to the City of Hamilton and the Ministry of Citizenship and Multiculturalism. The Stage 3 report requires mitigation measures for registered archaeological site AhGx-819, including protective buffers, temporary hoarding and “no-go” instructions for any crews on site conducting work on the proposed lands to be severed for development. Further Stage 4 mitigation is required for site AhGx-819, which is located on the lands to be reattained which are not proposed for development at this time. The report has yet to be signed off by the Ministry for compliance with licensing requirements.

Cultural Heritage

No comments.

Former Town of Flamborough Zoning By-law No. 90-145

The subject lands are zoned Settlement Residential (R2-14-H) Zone, Modified, Holding, in Former Town of Flamborough Zoning By-law No. 90-145. The proposed severed lot is to have a frontage of 79.5 metres and have an area of 7,415.57 square metres. The proposed retained lot is to have a frontage of 344 metres and an area of 39,400 square metres. The Zoning By-law requires a minimum lot width of 35 metres and a minimum area of 8,000 square metres. The proposed severed lot exceeds the frontage requirement but does not meet the minimum lot area requirement. The proposed retained lot exceeds these requirements. Both the severed and retained lots would have frontage on Old Brock Road.

Staff note Minor Variance application FL/A-22:248 was submitted to address the minimum lot area of the proposed severed lot and to permit a maximum lot coverage of 20%. Staff further note that while the proposed single detached dwelling is a permitted use, development is prohibited until the Holding ‘H’ provision in place on the subject lands is lifted.

Holding ‘H’ Provision

Both the proposed severed and retained lands are subject to a Holding ‘H’ Provision. Staff note that while Zoning By-law No. 90-145 does not establish specific criteria that must be met before the Holding may be removed, Development Planning staff have interpreted that it may be lifted once an applicant demonstrates that ‘orderly development’ is achieved. This would include demonstrating adequate private services, access and clearance of any archaeological requirements. Should this



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Consent to Sever Application be approved, staff recommend a condition be added that the applicant must lift the Holding 'H' Provision for the severed portion only.

Based upon review of the above policies and the materials provided in support of this severance application, staff are of the opinion that the proposed severance meets the intent of the Urban Hamilton Official Plan. **Provided approval from Cultural Heritage Planning and Source Protection Planning staff, Development Planning staff recommend the proposed severance be approved, subject to the recommended conditions.**

Variances 1

1. A minimum lot area of 7,415.57 square metres shall be provided for the portion of the lands to be conveyed instead of the minimum required lot area of 8,000 square metres.

The intent of this zoning provision is to ensure that new residential development is compatible in scale and character with existing residential development and that new residential lots are of a sufficient size to sustainably support a private well and septic system. As noted above, Development Planning staff defer to Source Protection Planning staff's comments regarding private servicing.

Staff note that the sizes of existing residential lots along Old Brock Road vary widely in lot area, with some being as small as approximately 1400 square metres and as some as large as approximately 8000 square metres. There are some lots similar in size to the proposed severed lot, at approximately 7,400 square metres in area. Staff are of the opinion that the proposed severed lot is compatible in scale with existing residential lots and is in keeping with the character of the area.

Development Planning staff are of the opinion that, provided Variance 1 receives support from Source Protection Planning staff, the requested variance maintains the intent of the Rural Hamilton Official Plan and Zoning By-law, is desirable for the appropriate development of the lands and is minor in nature.

Variance 2

2. A maximum of 20% lot coverage shall be provided for the portion of the lands to be conveyed instead of the required 10% lot coverage.

The intent of this zoning provision is to prevent the overdevelopment of lots, to maintain a consistent built form and residential character in the area and to ensure sufficient permeable surface is provided to maintain drainage and stormwater infiltration. Development Planning staff defer to Development Engineering staff regarding drainage and stormwater management concerns.



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Staff note that the requested 20% lot coverage would apply as a maximum aggregate limit for all structures or buildings on the property. Staff further note that the proposed lot coverage for the severed lands is 13.2%, but the proposed buildings are conceptual. The applicant is requesting 20% lot coverage for the severed lands as the final proposed built form is not yet decided. Staff have insufficient information to carry out a fulsome review of a potential built form resulting from the requested 20% lot coverage and how it relates to the existing residential character and built form of the area. Therefore, staff are unable to support Variance 2 at this time as staff are concerned that the variance does not maintain the intent of the Rural Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate development of the land and is not minor in nature.

Staff are of the opinion that Variance 1 meets the four tests of a minor variance whereas Variance 2 does not. **Staff recommend approval of Variance 1 and denial of Variance 2.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>1. Please note this application is to be heard in conjunction with Severance Application FL/B-22:72.</p> <p>2. Insufficient information has been provided to determine parking space size and location within proposed Single Detached Dwelling. Should the parking indicated on the site plan, within the building envelope as indicated by the applicant, not meet the requirements of Flamborough Zoning By-Law 90-145z, additional variances may be required.</p> <p>3. Please note this property is located within a holding zone. Under section 4.5 of Flamborough Zoning By-Law 90-145z, where the zone symbol on Schedules A-1 to A-48 inclusive has the suffix (H), no lot shall be used or no building or structure shall be erected, located or used therein except for the following purposes until the suffix (H) has been removed from the zone symbol by a by-law passed pursuant to Sections 34 and 35(4) of the Planning Act, R.S.O. 1983, Chapter 1. As such, regarding the proposed Single Detached Dwelling, no development shall occur until the requirements have been met to remove the holding provision from the lands.</p>
Notes:	

Development Engineering:

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

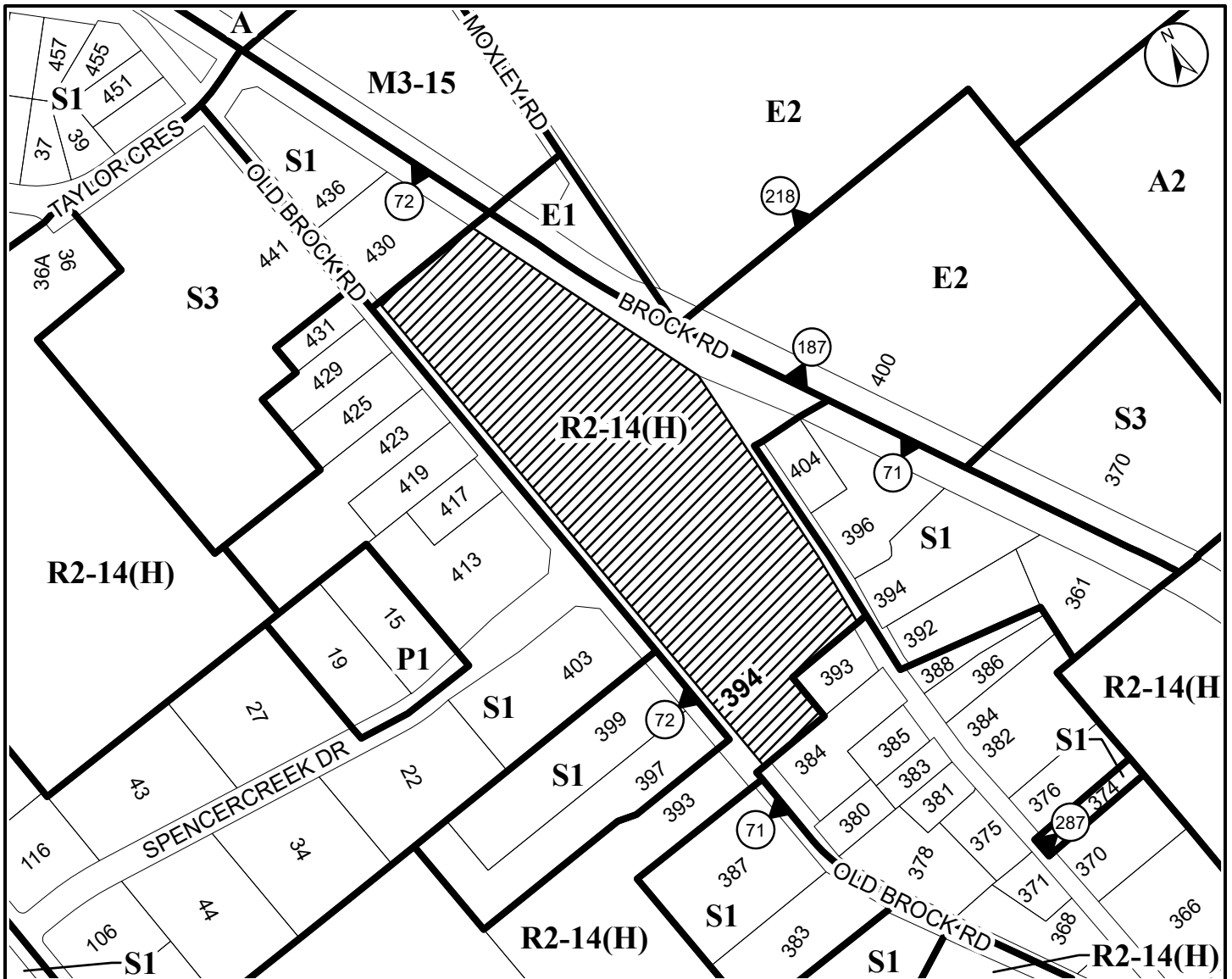
Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the construction of the proposed single detached dwelling.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

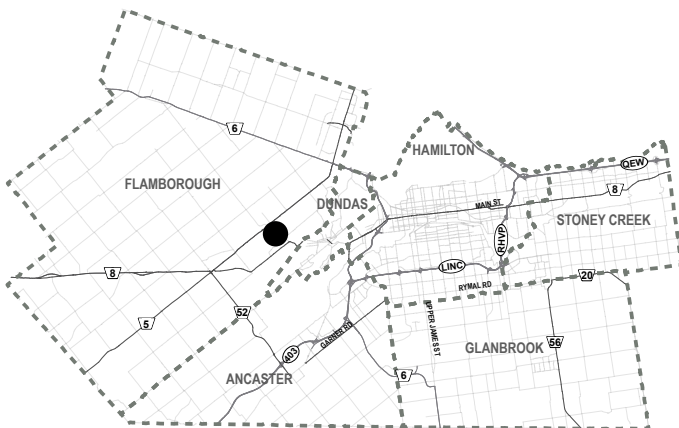
Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

Please Note: Public comment will be posted separately, if applicable.



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



394 Old Brock Road, Flamborough
(Ward 13)

File Name/Number:

FL/A-22:248

Date:

September 13, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department