



Hamilton

**STAFF COMMENTS**

**HEARING DATE: November 12, 2024**

HM/B-23:66 – 2 Caprice Court, Hamilton

**Recommendation:**

Development Planning: Deny

**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. Transportation Planning has no objection to the severance as long as the Applicant/Owner provides the appropriate parking space size as per zoning by-law 05-200.
5. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.
6. The owner/applicant shall 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).
7. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation,



# Hamilton

adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (MCM).

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416212-0036).

8. 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).

### **Proposed Notes:**

We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.



**Development Planning:**

**Background**

	Frontage	Depth	Area
<b>SEVERED LANDS:</b>	12.10 m±	18.30 m±	221.43 m²±
<b>RETAINED LANDS:</b>	18.30 m±	20.7 m±	378.81 m²±

The purpose of Consent Sever application HM/B-23:66 is to sever the existing residential lot into two parcels. The severed lands are to be a vacant residential building lot and the retained lands will contain the existing dwelling which is to remain.

Staff note that HM/B-23:66 and associated Minor Variance application HM/A-23:267 were originally heard at the November 2, 2023 Committee of Adjustment hearing, with only HM/B-23:66 being considered again at this time. In the original proposal of HM/B-23:66, the severed lands had a proposed lot width of 10.59 metres and a lot area of 193.69 square metres. The proposal has been revised, with the severed lands now having a proposed lot width of 12.10 metres and lot area of 221.43 square metres.

**Analysis**

**Urban Hamilton Official Plan**

The subject lands are identified as “Neighbourhoods” in Schedule E – Urban Structure and are designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policies B.2.4.1.4, 2.4.2.2, E.3.4.3, and F.1.14.3.1, amongst others, are applicable and permits the existing and proposed single detached dwellings.

The proposal is considered residential intensification and has been evaluated against the criteria found in Policies B.2.4.1.4 and B.2.4.2.2. Staff are of the opinion that the proposed severed lot does not reflect the existing general scale and character of the neighbourhood and is not consistent with the existing lot size and fabric of the surrounding area.

Policy F.1.14.3.1 permits new lots for residential uses in the “Neighbourhoods” designation subject to the following criteria:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;



Hamilton

**STAFF COMMENTS**

**HEARING DATE: November 12, 2024**

- d) 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;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.

While the proposed severed lands will be serviced by municipal services and have frontage onto a public road, staff are of the opinion that the proposed severed lot will not be sufficient in lot area to build an appropriate dwelling and does not meet the minimum lot requirement of the Low Density Residential (R1) Zone and is not similar in scale or character to the established development pattern of the area. The surrounding lot sizes vary from approximately 400 to 600 square metres, with the subject property being approximately 590 square metres in size. While Minor Variance application HM/A-23:267 is not being heard at this time, staff note that the required minimum lot area in the Low Density Residential (R1) Zone is 360.0 square metres, and the proposed area of the severed lands is below the required minimum lot size, with a proposed area of 221.43 square metres.

Further, the minimum required setback from the rear lot line in the Low Density Residential (R1) Zone is 7.5 metres, and the proposed rear yard setbacks is 6.0 metres for the severed and retained lands. Staff note that without further consideration of the variances required to facilitate the proposed severance, a comprehensive review cannot be provided by Planning staff. As such, staff are unable to determine the impacts the proposal will have on the proposed retained lands and surrounding area.

Based on the above, staff are of the opinion the proposed severance does not meet the policies of the Urban Hamilton Official Plan regarding lot creation within the “Neighbourhoods” designation. **Staff recommend the proposed severance be denied.**

### **Rolston Neighbourhood Plan**

The subject lands are identified as “Single and Double” on Map 7103 of the Rolston Neighbourhood Plan. The proposed residential uses are consistent with the vision of the Neighbourhood Plan.

### **Archaeology**

The subject property meets one (1) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) 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.

This criterion defines the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application.



If this severance is granted, **Staff require that the Committee of Adjustment attach the following condition to the application for the severed portion of the lot:**

**“Condition:** That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ontario Ministry of Citizenship and Multiculturalism (MCM).

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416212-0036).

**Cultural Heritage**

No comments.

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

The subject lands are zoned Low Density Residential (R1) Zone in the City of Hamilton Zoning By-law No. 05-200. Single detached dwellings are a permitted use.

Staff note that the minimum required lot area and width for a single detached dwelling in the R1 Zone is 360 square metres and 12 metres. The severed lands would have a lot area of 221.43 square metres and a frontage of 12.10 metres. The retained lands would have a lot area of 378.81 square metres and a frontage of 18.30 metres. The proposed severed lands do not meet the minimum required lot area. Staff further note that the existing dwelling on the retained lands and the proposed dwelling on the severed lands would not meet the minimum required 7.5 metre rear yard setback; appropriate relief from these provisions of the Zoning By-law would be required. As noted above, associated Minor Variance application HM/A-23:267 is not being heard at this time.

**Zoning:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	1. The owner/applicant shall 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).



Hamilton

Comments:	<p>1. 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.</p> <p>2. The appropriate Planning Act approvals (lot width and lot area for the lands to be severed) will be required for zoning compliance of the lands to be conveyed.</p> <p>In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</p>
Notes:	N/A

**Development Engineering:**

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>1. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.</p>
Comments:	<p>According to our records, the existing municipal infrastructure fronting the subject property summarized as follows:</p> <p>Caprice Court:</p> <ul style="list-style-type: none"> <li>• 100mm ø CISP Watermain</li> <li>• 300mm ø Storm Sewer @ 0.5%</li> <li>• 250mm ø Sanitary Sewer @ 0.5%</li> </ul> <p>Montcalm Drive:</p> <ul style="list-style-type: none"> <li>• 200mm ø CISP Watermain</li> </ul>



Hamilton

	<ul style="list-style-type: none"> <li>• 750mm ø Storm Sewer @ 1.6%</li> <li>• 250mm ø Sanitary Sewer @ 1.6%</li> </ul> <p>Separate and independent services shall be provided for each dwelling constructed within each parcel of land in accordance with the current Sewer and Water By-laws.</p>
Notes:	

**Building Engineering:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	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> ).
Comments:	
Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

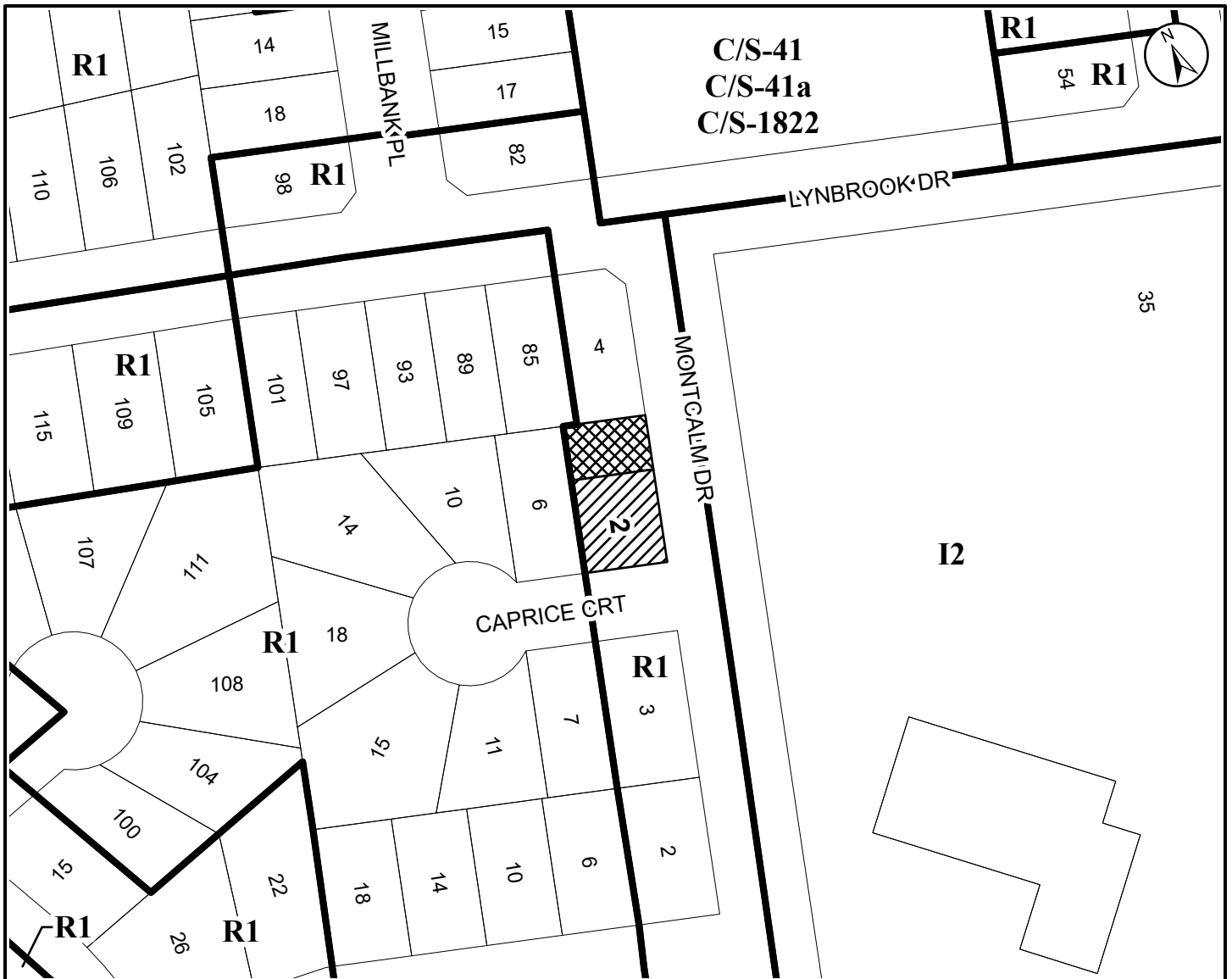
**Transportation Planning:**

Recommendation:	Approve with Conditions
Proposed Conditions:	Transportation Planning has no objection to the severance as long as the Applicant/Owner provides the appropriate parking space size as per zoning by-law 05-200.
Comments:	
Notes:	

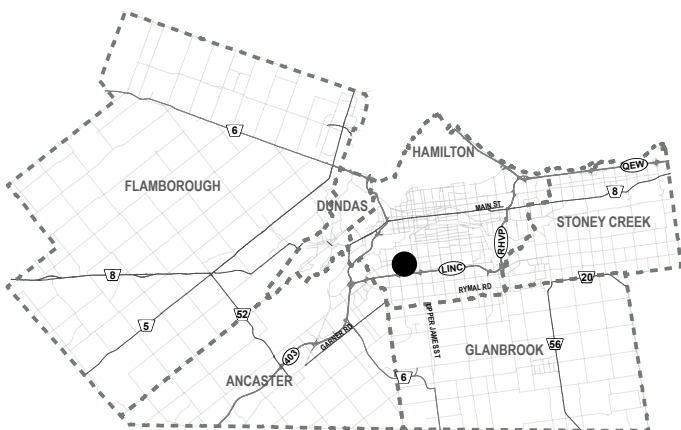
**Legislative Approvals:**

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	
Notes:	We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City’s Sign By-law, in a manner that is clearly visible from the road.

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



● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

2 Caprice Court, Hamilton (Ward 8)



Lands to be retained



Lands to be severed

File Name/Number:

HM/B-23:66

Date:

October 31, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department