

**B-24:74 (168 Sulphur Springs Rd., Ancaster)**

**Recommendation**

- Table

**Proposed Conditions**

12. That the severed parcel from Consent to Sever application B-24:74 be merged on title with the severed parcel from Consent to Sever application B-24:73, to the satisfaction of the Director of Development Planning.
13. The owner shall receive final approval of the appropriate *Planning Act* application in order to seek relief from the requirements of the Zoning By-law.
14. That the owner, through their environment consultant, complete an Environmental Impact Statement in accordance with the City's Council adopted Guidelines (revised March 2015) to the satisfaction of the Manager of Heritage and Urban Design.
15. That the owner implement the mitigation measures outlined in the Environmental Impact Statement to the satisfaction of the Manager of Heritage and Urban Design.
16. That the owner (through their environmental consultant) is to stake the boundaries of the Significant Woodland to the satisfaction of the Manager of Heritage and Urban Design. This staking is to be completed in consultation with Natural Heritage Planning staff.
17. That the owner shall prepare and implement a Vegetation Protection Zone Planting Plan to the satisfaction of the Manager of Heritage and Urban Design. The Vegetation Protection Zone Planting Plan is to be prepared by a certified Landscape Architect in consultation with an ecologist. All plantings within the Vegetation Protection Zone shall use non-invasive plant species native to Hamilton.
18. That the owner shall prepare and implement an Invasive Species Management Plan to the satisfaction of the Manager of Heritage and Urban Design.
19. That the owner submits and receives approval of a Tree Protection Plan for both the severed and retained lands, including the review fee as per the effective Schedule of Rates and Fees), prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
20. That the owner submits and receives approval of a Landscape Plan for both the severed and retained lands prepared by a certified Landscape Architect to the satisfaction of the Manager



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of Heritage and Urban Design. This Plan is to include compensation for any tree (10 cm DBH or greater) that is proposed to be removed.

10. 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 (416-212-8886). 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).

### **Proposed Notes**

N/A

### **Development Planning: Background**

	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>
<b>SEVERED LANDS:</b>	18.73 m±	58.23 m±	910.4 m <sup>2</sup> ±
<b>RETAINED LANDS:</b>	12.84 m±	176 m±	6350 m <sup>2</sup> ±

The purpose of Consent to Sever Application B-24:74 is to sever a parcel of land to be merged with the severed lands from a concurrently submitted Consent to Sever application B-24:73 at 166 Sulphur Springs Road. The merged severed parcels would create a vacant residential building lot and the retained lands will contain an existing dwelling which is to remain.

Staff note that 166 & 168 Sulphur Springs Road are subject to easements for driveway access and utilities. However, these easements are not shown on the submitted severance sketch, prepared by Barich Grenkie Surveying Ltd. Development Planning staff are requesting that the submitted severance sketch be updated to include the existing easements on the subject lands.

### **Analysis Niagara Escarpment Plan**



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The subject lands are designated “Urban Area” under the Niagara Escarpment Plan.

**Urban Hamilton Official Plan**

The subject lands are identified as “Niagara Escarpment Urban Area” on Schedule A – Provincial Plans and are identified as “Neighbourhoods” in Schedule E – Urban Structure and are designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policies B.2.4.1.4, B.2.4.2.2, F.1.14.3.1 and E.3.2.3, amongst others, is applicable and permits the single detached dwellings.

Per Schedule B – Natural Heritage System of the Urban Hamilton Official Plan, Core Areas are identified on the subject lands and on adjacent lands. These Core Areas are Significant Woodlands. Development Planning staff defer to Natural Heritage Planning staff regarding natural heritage concerns.

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 proposal is similar to and compatible with the built form, uses and established development pattern within the area. The proposed new residential lot is consistent with the existing lot fabric and the development will maintain and enhance the existing streetscape. However, the frontage of the retained lands (being 12.84 metres) is not consistent with the frontages of the existing lot fabric along Sulphur Springs Road.

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;
- 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,



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f) The lots have frontage on a public road.”

The proposed new residential lot would exceed the minimum frontage and area requirements of the Zoning By-law, would have frontage on a public road, and is similar in character, scale and the established development pattern of the area and is fully serviced by municipal water and wastewater services. However, the proposed retained land would not meet the minimum frontage requirement of the Zoning By-law, being 30 metres, and would not be consistent with the established development pattern of the area.

Based upon review of the above noted policies and the materials provided in support of this severance application, staff are of the opinion that the proposed severance does not meet the intent of the Urban Hamilton Official Plan.

### **Archaeology**

The subject property meets two (2) 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; and
2. Along historic transportation routes.

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.

If this severance is granted, Staff require that the Committee of Adjustment attach the following condition to the application:

**“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).



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Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). 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)."

### **Cultural Heritage**

The subject property is located near a concentration of properties of cultural heritage value or interest listed on the City's Inventory of Heritage Properties, including:

- 166 Sulphur Springs Road
- 211 Sulphur Springs Road
- 189 Lovers Lane

Accordingly, section B.3.4.1.3 of the Urban Hamilton Official Plan, Volume 1, applies.

The proponent proposes to facilitate the conveyance of a parcel of land to be merged with the severed lands from concurrently submitted consent for 166 Sulphur Springs Rd (B-24:73) to create a vacant residential building lot and the retained lands will contain the existing dwelling which is intended to remain.

Notwithstanding that the adjacent properties are listed on the Inventory of Heritage Properties, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the adjacent cultural heritage resources will be conserved. Staff have no further comments on the application as circulated.

### **Natural Heritage**

The subject properties are located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the Urban Hamilton Official Plan, a Core Area has been identified within the subject properties. This Core Area has been identified as a Significant Woodland. It is important to note that there may be other Core Areas (i.e., Significant Habitat for Threatened and Endangered Species, Significant Wildlife Habitat, Significant Valley Lands, Seeps/Springs) that have not been mapped within the subject properties.

It is important to note that Core Areas have been identified on adjacent properties (140 and 164 Sulphur Springs Road). These features include Significant Woodland, Unevaluated Wetland, Significant Wildlife Habitat (Eastern Wood Pewee, Bat Maternity Colony Habitat) and Habitat for Threatened and Endangered Species (Butternut). In addition. Significant Woodland, locally



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significant wetland, spring, a headwater tributary to Sulphur Creek and Dundas Valley Environmentally Significant Areas) have been identified on adjacent properties to the north of Sulphur Springs Road.

Based on policies within the Urban Hamilton Official Plan, any development or site alteration within or adjacent to Core Areas shall not negatively impact their natural features or their ecological functions (policy C.2.3). Development, as defined within the Urban Hamilton Official Plan, includes the creation of a new lot. In addition, to ensure this protection, an appropriate Vegetation Protection Zone shall be applied to all Core Areas (policy C.2.3.3). The Vegetation Protection Zone is a vegetated buffer that protects the features and their functions from the proposed change.

When development has the potential to negatively impact a Core Area's features and functions, an Environmental Impact Statement is to be prepared to the satisfaction of the City. An Environmental Impact Statement has been prepared by Pinchin September 10, 2024. Based on review of this report, there is concern that the intent of the Provincial Planning Statement and UHOP has not been met. At this time, the **Environmental Impact Statement has not been approved**.

Since development and site alteration is proposed within the Significant Woodland, this feature and its functions will be negatively impacted. This does not meet the intent of policies within the UHOP (specifically C.2.3, C.2.3.3, C.2.5.4, C.2.5.5, C.2.5.8, C.2.5.9, C.2.5.10, C.2.5.11, and C.2.5.12). **It is recommended by Natural Heritage Planning staff that this application be TABLED.** Overall, the Environmental Impact Statement has not been completed as per the City's requirements.

While Natural Heritage Planning staff cannot support these applications at this time, if the severances are approved, the following conditions are required.

- Condition 1 - Environmental Impact Statement: That the owner (through their environment consultant) complete an Environmental Impact Statement in accordance with the City's Council adopted Guidelines (revised March 2015) to the satisfaction of the Manager of Heritage and Urban Design.
- Condition 2 - Implementation of Mitigation Measures: That the owner implement the mitigation measures outlined in the Environmental Impact Statement to the satisfaction of the Manager of Heritage and Urban Design.
- Condition 3 - Significant Woodland Staking: That the owner (through their environmental consultant) is to stake the boundaries of the Significant Woodland to the satisfaction of



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the Manager of Heritage and Urban Design. This staking is to be completed in consultation with Natural Heritage Planning staff.

- Condition 4 - Vegetation Protection Zone Planting Plan: That the owner shall prepare and implement a Vegetation Protection Zone Planting Plan to the satisfaction of the Manager of Heritage and Urban Design. The Vegetation Protection Zone Planting Plan is to be prepared by a certified Landscape Architect in consultation with an ecologist. All plantings within the Vegetation Protection Zone shall use non-invasive plant species native to Hamilton.
- Condition 5 - Invasive Species Management: That the owner shall prepare and implement an Invasive Species Management Plan to the satisfaction of the Manager of Heritage and Urban Design.
- Condition 6 - Tree Protection Plan: That the owner submits and receives approval of a Tree Protection Plan for both the severed and retained lands, including the review fee as per the effective Schedule of Rates and Fees), prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) to the satisfaction of the Manager of Heritage and Urban Design.
- Condition 7 - Landscape Plan: That the owner submits and receives approval of a Landscape Plan for both the severed and retained lands prepared by a certified Landscape Architect to the satisfaction of the Manager of Heritage and Urban Design. This Plan is to include compensation for any tree (10 cm DBH or greater) that is proposed to be removed.

**Former Town of Ancaster Zoning By-law No. 87-57**

The subject lands are zoned Residential “R1-212” Zone, Modified in Former Town of Ancaster Zoning By-law No. 87-57. Single detached dwellings are a permitted use.

The minimum required lot area is 1,100 square metres and the minimum required lot frontage is 30 metres. The retained lands exceed the required lot area but do not meet the required frontage, with 12.84 metres of frontage. Staff note that the severed lands, when merged with the severed lands from B-24:73, would have a lot area of 1,720.5 square metres and a frontage of 37.46 metres.

**Staff recommend the proposed severance be tabled to allow for the supporting materials to be revised in accordance with staff comments.**





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**STAFF COMMENTS**

**HEARING DATE: November 26, 2024**

**Zoning:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none"><li>3. 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).</li><li>4. If a Condition for a road widening and/or daylight triangle dedication is required, the owner/applicant shall submit survey evidence that the lands to be severed and the lands to be retained, including the lot width, lot area, the location of any existing structure(s), parking and landscaping [enter any other regulations which may be applicable for determining zoning compliance], 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)</li></ol>
Comments:	<ol style="list-style-type: none"><li>4. 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>5. The appropriate Planning Act approvals for lot width (30.0m required as per R1-212) and lot area (1,100m<sup>2</sup> required as per R1-212) will be required for zoning compliance of the lands to be conveyed/retained.</li><li>6. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</li></ol>
Proposed Notes:	N/A

**Development Engineering:**

Recommendation:	Approve with Conditions
Proposed Conditions:	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





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HEARING DATE: November 26, 2024

	<p>damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.</p> <p>2. That the Owner pay to the City of Hamilton for the future urbanization costs of Sulphur Springs based on the New Road Servicing Rate for the year that final approval is obtained, 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>Springbrook:</p> <ul style="list-style-type: none"> <li>• 200mm ø Ductile Watermain</li> <li>• 375mm ø Sanitary Sewer @ 0.4%</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>
Proposed Notes:	

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

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	



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**STAFF COMMENTS**

**HEARING DATE: November 26, 2024**

Forestry:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>A Permit to injure or remove municipal trees is a requirement of this application. A Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.</p>
Comments:	<p>Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees.</p> <p>An assessment of the information provided shows that there are potential conflicts with publicly owned trees or trees that may become city assets through right of way widening.</p> <p>Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Public Tree Permit to injure or remove municipal trees is required.</p> <p>Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.</p> <p>No Landscape plan required.</p> <p><b>TREE MANAGEMENT</b></p> <p>Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades &amp; Residential Improvements.</p> <p>The Forestry &amp; Horticulture Section requires that a Tree Management Plan be prepared by a MTCU Qualified Arborist, or ISA Certified Arborist, or a Registered Landscape Architect. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intentions regarding retention or removal.</p> <p>It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.</p>



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## STAFF COMMENTS

HEARING DATE: November 26, 2024

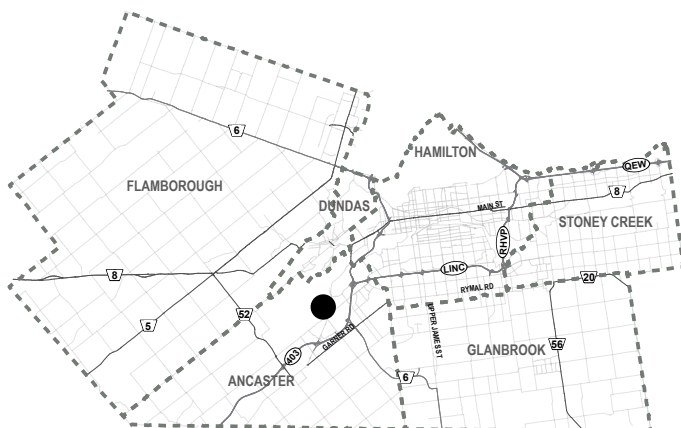
	<p>The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree.</p> <ul style="list-style-type: none"> <li>• Species by Botanical and common name</li> <li>• Diameter at breast height in centimeters or millimeters</li> <li>• Ownership {&gt; 50% @ ground level = ownership}</li> <li>• Biological health</li> <li>• Structural condition</li> <li>• Proposed grade changes within individual driplines {compulsory}</li> <li>• Proposed utility construction within individual driplines {compulsory}</li> <li>• Proposed removals or relocations</li> <li>• Proposed trees to be protected.</li> </ul> <p>If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the Public Tree Preservation and Sustainability Policy.</p> <p>The determination of ownership of all trees is the responsibility of the applicant and any civil issues which may exist or arise between property owners with respect to trees, must be resolved by the applicant. The ownership of each individual tree inventoried must be clearly stated as municipal or private.</p> <p>All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the Public Tree Preservation and Sustainability Policy in conjunction with By-Law 15-125.</p> <p><b>A permit will be issued upon approval of the Tree Management Plan and applicable fees.</b></p>
Proposed Notes:	<p><b>There are large stately public tree assets on site that shall be retained. Design solutions for building footprint, driveway, utilities, etc, will be required to ensure all public tree assets are adequately protected.</b></p>

### Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	<p>The lands to be retained will be assigned the address of <b>172 Sulphur Springs Road (Ancaster) &amp; 184 Sulphur Springs Road (Ancaster)</b>.</p> <p>The lands to be severed will be assigned the address of <b>176 Sulphur Springs Road (Ancaster) &amp; 180 Sulphur Springs Road (Ancaster)</b>.</p> <p>The municipal addresses of 166 and 168 Sulphur Springs Road will be retired.</p>
Proposed Notes:	<p>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.</p>



● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

168 Sulphur Springs Road, Ancaster  
(Ward 12)



Lands to be retained



Lands to be severed and conveyed

File Name/Number:

B-24:74

Date:

November 15, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department