

B-24:42 – 1248 Concession 6 West, Flamborough

Recommendation:

Table

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 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).
5. 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).
6. Transportation Planning can support the Severance if the following right-of-way dedication is provided to the City of Hamilton:

Concession 6 West is a Collector Road and require a right-of-way of 36 metres. The Council Approved Rural Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads shall be 36 metres. The existing right-of-way is approximately 20 metres and approximately ± 8 metres are to be dedicated to the right-of-way on Concession 6 West.

a. 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.

- b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.
 - c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
7. The applicant shall submit a Scoped Hydrogeological Report to the satisfaction of Director, Hamilton Water completed by a qualified professional (P.Eng., P.Geo.).
 8. The Owner shall apply for and receive final approval to rezone the farm parcel (retained lands) to prohibit the construction of a dwelling unit, to the satisfaction of the Director of Development Planning.
 9. 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).
 10. 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, 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).

Proposed Notes:

1. 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.
2. Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.
3. Variances written as requested by the applicant.

Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS:	50.71 m±	171.2 m±	1 ha±
RETAINED LANDS:	300 m±	715 m±	28.58 ha±

The purpose of Consent application B-24:42 is to permit the conveyance of a surplus farm dwelling lot containing an existing dwelling for residential purposes and to retain a parcel of land for agricultural purposes. Staff note that Minor Variance application A-24:171 is a concurrent application to facilitate the proposed severance.

Analysis

Greenbelt Plan

The subject lands are designated as “Protected Countryside” and “Greenbelt Natural Heritage System” under the Greenbelt Plan. Section 4.6.1 f) of the Greenbelt Plan states the following:

- f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.

Rural Hamilton Official Plan

The subject lands are designated “Agriculture” in Schedule D - Rural Land Use Designations of the Rural Hamilton Official Plan. The subject lands are identified as “Protected Countryside” in Schedule A – Provincial Plans of the Rural Hamilton Official Plan. The subject lands are further identified as “Greenbelt Protected Countryside” and “Greenbelt Natural Heritage System”, and Core Areas have been identified on and adjacent to the subject lands on Schedule B – Natural Heritage System of the Rural Hamilton Official Plan. These Core Areas have been identified as significant woodlands and wetland. Policies C.1.2.3, C.5.1, D.2.1, F.1.14.2.1 and F.1.14.2.8, amongst others, are applicable and permit the existing agricultural use.

Staff defer to Natural Heritage staff regarding Natural Heritage concerns and to Source Protection staff regarding the private servicing requirements of Section C.5.1.

Policy F.1.14.2.8 a) and c) state the following:

"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:

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.

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 Speciality 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 Speciality Crop in 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;
- iv. 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. If the land owner grants a restrictive covenant in favour to the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

Staff note that the proposed severed lands exceed the required minimum 0.4 hectare lot size for the surplus farm dwelling lot and also exceed the 122 metre depth identified in Policy F.1.14.2.8 a) vi).

Staff further note that a Minimum Distance Separation (MDS) Report prepared by Soil Solutions Plus was submitted in support of this application. In this report, Soil Solutions Plus notes that the existing small brick shed, which serves as a small chicken coop, is below 10 square metres in size and the capacity of the structure is below the flock size of Poultry Quota requirements and below the 5 Nutrient Unit minimum for the *Nutrient Management Act*. In discussing the existing barn structure, the report is generally of the opinion that due to the barn's poor state of repair and the cost and infeasibility of repair, the structure is no longer structurally or reasonably capable for housing livestock and is not subject to MDS requirements. The report also notes that it is currently used for storage purposes. Further discussions are required with the applicant regarding the existing coop as modifications or demolition of the building may be required

Per Policy F.1.14.2.1 e), all proposed severances and lot additions are required to meet Minimum Distance Separation requirements in accordance with Section F.1.16, Minimum Distance Separation I and II and the Zoning By-law. In discussing neighbouring livestock operations, the report states that 1182 and 1199 Concession 6 West warranted MDS I calculations, whereas 1251, 1279 and 1288 Concession 6 West did not. The included MDS I sketch attached to the report shows that the subject

lands (1248 Concession 6 West) are well outside of any setback concerns from the active livestock operations at 1182 and 1199 Concession 6 West. Therefore, staff are of the opinion that the conclusions of the report demonstrate that the RHOP policies are satisfied.

However, staff note that Policy F.1.14.2.8 a) vii) does not permit the severed farm dwelling lot to include agricultural buildings or retain agricultural structures as accessory structures and Policy F.1.14.2.8 a) viii) states that staff may require any such farm buildings nearby the dwelling to be demolished or removed.

As discussed in the Planning Justification Report prepared by The Angrist Group submitted with this application, the subject surplus farm dwelling was constructed in 1878 and photographs depicting the livable conditions of the dwelling are shown in Figure 7 of the Planning Justification Report.

Staff note that this application is the result of a non-abutting farm consolidation, where the non-abutting lands are approximately 39 hectares in size and the proposed retained lands are 28.58 hectares in size. This exceeds the minimum required lot areas identified in Policy F.1.14.2.8 c) where an overall minimum size of 38.4 hectares for the consolidated farm operation and a minimum of 16.2 hectares for the proposed retained lands is achieved.

Policy F.1.14.2.8 c) iv) requires that prior to granting of final consent, either a restrictive covenant be granted in favour of the City or that the land owner apply for and receive final approval of a Zoning By-law Amendment to prohibit the construction of a dwelling unit. Staff are recommending a condition of approval that a Zoning By-law Amendment be applied for and receive final approval, in accordance with F.1.14.2.8 c) iv) 1.

In summary, staff have concerns regarding the size and depth of the surplus farm dwelling lot and the inclusion of farm buildings on the lot. Staff cannot support this severance application at this time and request revisions to the proposal to address staff's concerns.

Based upon review of the above policies and the materials provided in support of this severance application, staff are requesting this consent application be tabled to provide staff an opportunity to work with the applicant to address staff's concerns. **Staff recommend the proposed severance be tabled.**

Natural Heritage

The subject property is located within the boundaries of the Rural Hamilton Official Plan and has been identified within the Greenbelt Protected Countryside. Core Areas have been identified within and adjacent to the subject property. These areas have been identified as Significant Woodlands and wetland.

Based on Policy C.2.3.3 of the Rural Hamilton Official Plan, any development or site alteration within or adjacent to Core Areas shall not negatively impact their environmental features or ecological

functions. Since the proposed severance will not fragment the Core Areas, it is anticipated that there will be no further negative impacts.

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

The subject lands are zoned Agriculture (A1) Zone and Conservation/Hazard Land – Rural (P6) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and agricultural uses are permitted. The severed lands are proposed to have a frontage of 50.71 metres and an area of 1 hectare. The retained lands are proposed to have a frontage of 300 metres and an area of 28.58 hectares. The proposed severed lands would exceed the 30-metre frontage and 0.4 hectare minimum size requirements for a single detached dwelling. The proposed retained lands would not meet the minimum required lot size of 40.4 hectares for agricultural uses. Staff note Minor Variance application A-24:171 was submitted to address this non-conformity.

Variance 1

1. A minimum lot area of 28 hectares shall be permitted instead of the 40.4 hectares required.

The intent of this provision is to ensure agricultural lots are of a minimum size for farm operations to be economically viable.

Staff note that the proposed severance is the result of a non-abutting farm consolidation with the non-abutting lands being approximately 39 hectares in size, in addition to the 28.58 hectares of the proposed retained lands.

Staff recommend this minor variance application be tabled until such time that staff concerns regarding Consent Application B-24:42 are addressed. **Staff recommend this application be tabled.**

Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none"> 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). 2. 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, 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:	<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. No dimensions for the existing parking have been shown on the submitted survey; therefore, this Division cannot confirm zoning compliance.</p> <p>3. The appropriate Planning Act approvals [lot area] will be required for zoning compliance of the lands to be conveyed/retained.</p> <p>4. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</p>
Proposed Notes:	<p>i) Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.</p> <p>ii) Variances written as requested by the applicant.</p>

Development Engineering:

Recommendation:	Comments Only
Proposed Conditions:	N/A
Comments:	Provided there are no proposed alterations or additions with respect to servicing, buildings / structures or foundations and the existing drainage patterns are maintained with no adverse impacts to the adjacent lands, then Development Engineering has no comments regarding the Consent Application as proposed.
Proposed Notes:	N/A

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 –Plan Examination Section).

	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).
Comments:	
Proposed Notes:	<p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p> <p>The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with The Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed/retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.</p>

Transportation Planning:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>Transportation Planning can support the Severance if the following right-of-way dedication is provided to the City of Hamilton:</p> <p>Concession 6 West is a Collector Road and require a right-of-way of 36 metres. The Council Approved Rural Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads shall be 36 metres. The existing right-of-way is approximately 20 metres and approximately ±8 metres are to be dedicated to the right-of-way on Concession 6 West.</p> <ol style="list-style-type: none"> a. 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. b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements. c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
Comments:	
Proposed Notes:	

Forestry:

Recommendation:	Approve
Proposed Conditions:	No conditions required.
Comments:	There are no public tree assets impacted by the proposed conveyance.
Proposed Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be conveyed (Part 1) will remain as 1248 Concession 6 West (Flamborough). The lands to be retained will be assigned the address of 1256 Concession 6 West (Flamborough).
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.

Watershed Management:

Recommendation:	Approve with Conditions
Proposed Conditions:	
Comments:	Source Protection Planning understands the applicant is seeking to sever the lands at 1248 Concession 6 West, with the severed lot being 1 ha to be used as a surplus farm dwelling, and the retained lot being 28.58 ha for agricultural purposes. We also understand that the applicant does not include the construction of any new dwellings or increase the size of the existing dwelling on each parcel at this time. Given the proposed severance is 1 ha for one residential dwelling, Source Protection Planning has no concerns on the proposed severance. As a result, as a condition of approval to the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report to the satisfaction of Director, Hamilton Water completed by a qualified professional (P.Eng., P.Geo.). This Scoped Hydrogeological Report would focus on the sustainability of the applicant's private water supply. It should consider all the uses proposed on-site and will need to be completed in accordance with the City of Hamilton Guideline for Hydrogeological Studies and Technical Standards for Private Servicing

	<p>(link: https://www.hamilton.ca/sites/default/files/2022-09/pedpolicies-guidelines-hydrogeological-studies.pdf).</p> <p>Scope of work would include but not necessarily limited to:</p> <ol style="list-style-type: none">1. It is understood that a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record cannot be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: https://www.ontario.ca/page/find-licenced-well-contractors2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: https://www.ontario.ca/page/list-licensed-laboratories3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.
Proposed Notes:	

August 20, 2024 - CoA - HCA Comments for B-24:42 and A-24:171 for 1248 Concession 6 W, Flamborough

Jeff Tweedle <jtweedle@conservationhamilton.ca>

Tue 8/13/2024 10:26 AM

To:Committee of adjustment <cofa@hamilton.ca>

External Email: Use caution with links and attachments

Good morning,

The Hamilton Conservation Authority (HCA) has reviewed the Committee of Adjustment Agenda for August 30, 2024 in accordance with HCA's responsibilities under the *Conservation Authorities Act* relating to provincial interests for natural hazards and offer the following comments for B-24:42 and A-24:171 for 1248 Concession 6 W, Flamborough.

B-24:42 & A-24:171 – 1248 Concession 6 W, Flamborough

The subject property is approximately 29.46 ha (72.79 ac) in size and located within the Upper Spencer Creek and Westover Creek sub-watersheds, which form part of the larger Spencer Creek watershed and drain to Cootes Paradise. A wetland feature is located in the north-east corner of the subject property and on the adjacent lands to the east. This wetland feature forms the headwaters of a tributary of Upper Spencer Creek.

Based on a review of the submitted materials the lands to be severed are located entirely outside of the wetland feature and away from any natural hazard areas. Further, no site alteration or construction are proposed as part of the consent and minor variance application. HCA is satisfied the application is consistent with the natural hazard policies of the PPS and staff have no objections to the municipality granting the requested consent and minor variance.

The north-east portion of the property is regulated by HCA pursuant to the *Conservation Authorities Act* and *Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits)*. The regulated area is associated with the potential flooding and erosion hazards produced by the wetland feature and tributary of Upper Spencer Creek. The requested consent and associated minor variance do not meet the definition of development under the *Conservation Authorities Act* and do not require written permission from HCA. Any future development or site alteration in the north-east portion of the subject site may required written permission from HCA.

Please contact the undersigned if there are any questions regarding the provided comments.

The will be no fee for HCA's comments on this file.

Regards,

Jeff Tweedle

Conservation Planner

Hamilton Conservation Authority

838 Mineral Springs Road, P.O. Box 81067

Ancaster, ON L9G 4X1

Phone: 905-525-2181 Ext. 164

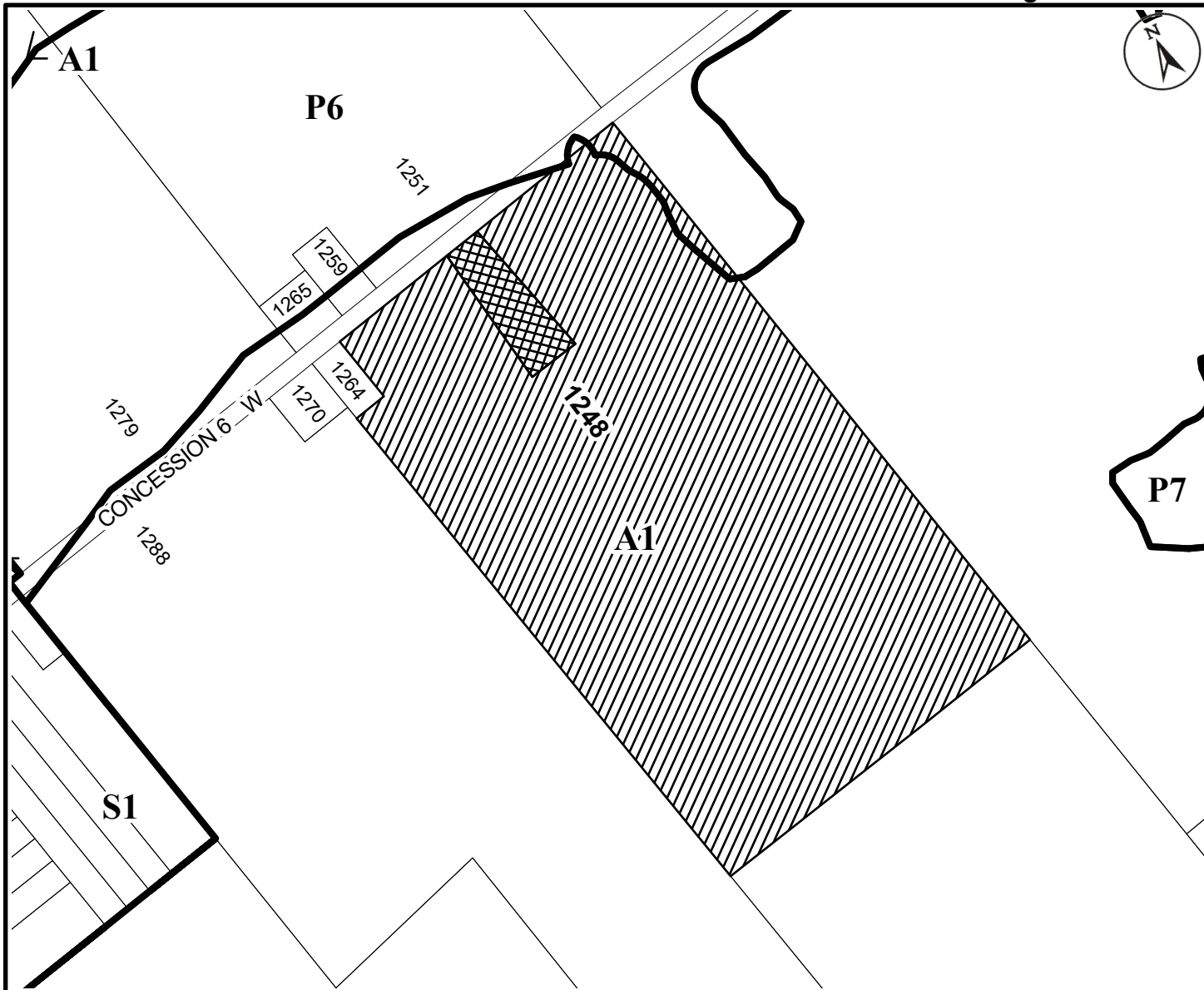
Email: jtweedle@conservationhamilton.ca

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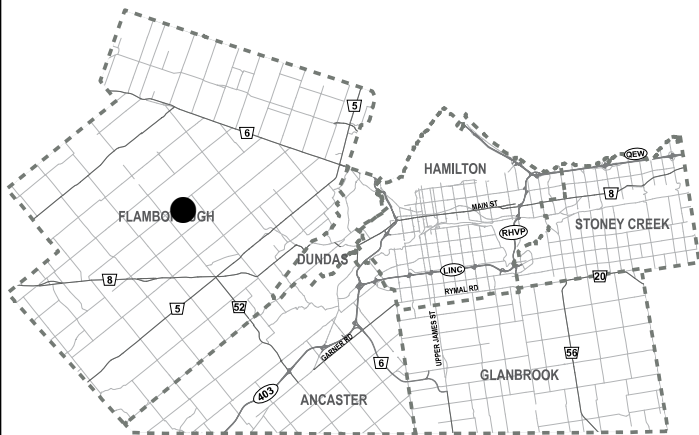


A Healthy Watershed for Everyone

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● Site Location





City of Hamilton

Committee of Adjustment

Subject Property

1248 Concession 6 West, Flamborough (Ward 13)

-  Lands to be Retained
-  Lands to be Severed

File Name/Number:
B-24:42

Date:
August 9, 2024

Technician:
NB

Map Not To Scale

Appendix "A"



Hamilton