



Hamilton

STAFF COMMENTS

HEARING DATE: February 13, 2025

B-24:65 — 28 Oak Avenue, Hamilton

Recommendation:

Approve — Development 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 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. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,215.00 (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. That the Owner demonstrate or provide proof of separate and independent sewer and water services for each parcel of land in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235, to the satisfaction of the City's Director of Development Engineering.



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7. The owner/applicant shall receive final and binding approval of minor variance application A-24:232 (Planning Division – Zoning Review Section).
8. 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:

New developments on site will require trees to be planted. Contact urbanforest@hamilton.ca to arrange. (Urban Forestry)

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. (Legislative Approvals)



Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS:	6.21 m±	29.53 m±	193.80 m ² ±
RETAINED LANDS:	9.02 m±	29.48 m±	269.20 m ² ±

The purpose of Consent to Sever application B-24:65 is to sever the existing residential lot into two parcels. The severed lands will be a vacant residential parcel and the retained lands will contain the existing single detached dwelling, which is intended to remain.

Staff note that related Minor Variance application A-24:232 was concurrently submitted to facilitate Consent to Sever application B-24:65.

Analysis

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and are designated “Neighbourhoods” on 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 permit the 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 proposal is similar to and compatible with the built form, uses and established development pattern within the area. The proposed lots are consistent with the existing lot fabric and the development will maintain as well as enhance the existing streetscape.

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;



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- 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.

Staff note that the proposed lots will have frontage on a public road, are similar to the character, scale and established development pattern of the area and are fully serviced by municipal water and wastewater services. The retained land would comply with the minimum required lot width of the Zoning By-law. However, the retained land does not meet the minimum required lot area and the severed land does not meet either requirement. Staff further note that Minor Variance application A-24:232 was concurrently submitted to address these and other non-conformities, which is further discussed below.

Landsdale Neighbourhood Plan

The subject lands are identified as “Single and Double” on Map 6608 (Map 1 of 2) of the Landsdale Neighbourhood Plan. The proposed residential uses are consistent with the vision of the Neighbourhood Plan.

Archaeological:

No comments.

Cultural Heritage:

The property known as 28 Oak Avenue is located within the Landsdale Established Historical Neighborhood.

The proponent proposes to sever the existing lot into two parcels to facilitate the construction of a new structure.

Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Notwithstanding that the subject property is within the Landsdale Established Historical Neighbourhood, staff have reviewed the application and are of the opinion that the cultural heritage



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value of the landscape will be conserved. Staff have no further comments on the application as circulated.

Therefore, staff are of the opinion the proposed severance maintains the general intent of the Urban Hamilton Official Plan. **Staff recommend the proposed severance be approved.**

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

The subject lands are zoned Low Density Residential – Small Lot (R1a) Zone in City of Hamilton Zoning By-law No. 05-200. Single detached dwellings are a permitted use.

Both the retained and severed lands require a minimum lot area of 270 square metres and a minimum lot width of 9 metres.. The severed lands would not meet the required minimum required lot area or width. Minor Variance application A-24:232 was submitted to address these and other zoning non-conformities, discussed below.

Lands to be Retained

Variance 1

1. A minimum lot area of 269.2 square metres shall be permitted instead of the required lot area of 270 square metres.

The intent of this provision is to ensure lots are large enough to be viable building lots and to ensure a consistent lot fabric and development pattern.

Staff note that properties in the neighbourhood range in size from approximately 200 square metres to approximately 450 square metres in area. The proposed retained lands, being 269.2 square metres, would fall within this range. Additionally, with an area of 269.2 square metres, the retained lands would only be deficient by 0.8 square metres. Therefore, it is staff's opinion that the proposed retained lot is in keeping with the character and established development pattern of the neighbourhood and is a viable building lot.

The requested variance maintains the intent of the Urban 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 minimum setback to the southerly lot line of 0.9 metres shall be permitted instead of the required minimum setback to a side lot line of 1.2 metres.



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The intent of this provision is to ensure there is sufficient space between a building and the side lot line for access, maintenance and stormwater management and drainage purposes. Staff defer to Development Engineering staff regarding drainage and stormwater management concerns.

Staff are of the opinion that the proposed 0.9 metre southerly side yard setback would maintain sufficient space for access and maintenance purposes and is generally in character with the neighbourhood. The requested variance maintains the intent of the Urban Hamilton Official Plan and Zoning By-law, is minor in nature and is desirable for the appropriate development of the land. Provided Development Engineering staff have no concerns regarding drainage and stormwater management, Development Planning staff support the variance.

Lands to be Severed

Variances 1 and 2

1. A minimum lot area of 193.8 square metres shall be permitted instead of the required minimum lot area of 270 square metres.
2. A minimum lot width of 6.2 metres shall be permitted instead of the required minimum lot width of 9.0 metres.

The intent of these provisions is to ensure lots are large enough to be viable building lots and to ensure a consistent lot fabric and development pattern.

Staff note that lots in the neighbourhood range in size from approximately 200 square metres to approximately 450 square metres in area and lot widths range from approximately 7 metres to approximately 16 metres. The proposed severed lands, being 193.8 square metres in area and 6.2 metres in width, are slightly below these ranges.

It is staff's opinion that the severed lands, while slightly below the typical sizes of the neighbourhood, are compatible in terms of scale and character with the neighbourhood. Additionally, the proposed development accommodates 0.9 metre side yard setbacks on the proposed severed lands. Based on this analysis, it is staff's opinion that the proposed severed lot is in keeping with the character and established development pattern of the neighbourhood and is a viable building lot. Therefore, the requested variances maintain the intent of the Urban Hamilton Official Plan and Zoning By-law, is desirable for the appropriate development of the lands and is minor in nature.



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Variance 3

3. A minimum setback to the side lot line of 0.9 metres shall be permitted instead of the required minimum setback to a side lot line of 1.2 metres.

The intent of this provision is to ensure there is sufficient space between a building and the side lot line for access, maintenance and stormwater management and drainage purposes. Staff defer to Development Engineering staff regarding drainage and stormwater management concerns.

Staff are of the opinion that the proposed 0.9 metre side yard setback would maintain sufficient space for access and maintenance purposes and is generally in character with the neighbourhood. The requested variance maintains the intent of the Urban Hamilton Official Plan and Zoning By-law, and is desirable for the appropriate development of the land and is minor in nature. Provided Development Engineering staff have no concerns regarding drainage and stormwater management, Development Planning staff support the variance.

Variance 4

4. A minimum front yard setback of 2.0 metres shall be permitted instead of the minimum front yard setback of within 10% of the average setback from the front lot line of the two adjacent dwellings.

The intent of this provision is to preserve the existing character of the neighbourhood by maintaining a consistent built form and streetscape.

Staff note that the existing dwelling on the retained lands has a front yard setback of 1.93 metres. Additionally, front yard setbacks along Oak Avenue range from approximately 0 metres to approximately 4 metres. The proposed 2 metre front yard setback is similar to the existing dwelling on the retained lands and is generally consistent with the neighbourhood and streetscape overall.

Staff are of the opinion that the requested variance maintains the intent of the Urban Hamilton Official Plan and Zoning By-law, is minor in nature and is desirable for the appropriate development of the land.

In conclusion, staff are of the opinion the requested variances meet the four tests of a minor variance. Based on the foregoing, **staff recommend approval of the proposed severance and requested variances.**



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Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none"> 1. The owner/applicant shall receive final and binding approval of minor variance application A-24:232 (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:	<ol style="list-style-type: none"> 1. This application shall be heard in conjunction with Minor Variance application A-24:232 2. Please note that specific details regarding the proposed Dwelling on the lot to be conveyed have not been provided as it relates to Landscaped Area, Yard Encroachments or other applicable requirements. As such, a complete review cannot be provided at this time. Should the proposed building not comply with all applicable provisions of the By-law, additional variances may be required. 3. Please note, variance #2, as it relates to the lot to be retained has been written as it relates to the new setback created as a result of severance. Be advised that the 0.46 metre setback to the northerly side lot line is an existing condition and is deemed to be in compliance. 4. The owner/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. 5. In order to clear conditions, the owner/applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
Notes:	



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Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	<ol style="list-style-type: none"> 1. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,215.00 (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. 2. That the Owner demonstrate or provide proof of separate and independent sewer and water services for each parcel of land in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235, to the satisfaction of the City’s Director of Development Engineering.
Comments:	<ul style="list-style-type: none"> • According to our GIS records, the existing municipal infrastructure fronting the subject property is summarized as follows: Oak Avenue: <ul style="list-style-type: none"> ➢ 300mm Combined Sewer @ ±1.0% ➢ 150mm Watermain • Separate and independent services are required for each parcel of land in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235.
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 – Plan Examination Section).
Comments:	



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Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
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Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

Urban Forestry:

Recommendation:	Approve
Proposed Conditions:	No conditions required.
Comments:	There are no public tree assets impacted by the proposed conveyance.
Notes:	New developments on site will require trees to be planted. Contact urbanforest@hamilton.ca to arrange.

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be retained will remain as 28 Oak Avenue (Hamilton) The lands to be severed will be assigned the address of 26 Oak Avenue (Hamilton) .
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.



Hamilton - 28 Oak Avenue - B-24:65

From LANDUSEPLANNING <LandUsePlanning@HydroOne.com>

Date Wed 2/5/2025 10:57 AM

To Committee of adjustment <cofa@hamilton.ca>

External Email: Use caution with links and attachments

Hello,

We are in receipt of your Application for Consent, B-24:65 dated 2025-01-27. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One’s 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' the Owner/Applicant should consult their local area Distribution Supplier. Where Hydro One is the local supplier the Owner/Applicant must contact the Hydro subdivision group at subdivision@Hydroone.com or 1-866-272-3330.

To confirm if Hydro One is your local distributor please follow the following link: [Stormcentre \(hydroone.com\)](https://stormcentre.hydroone.com).

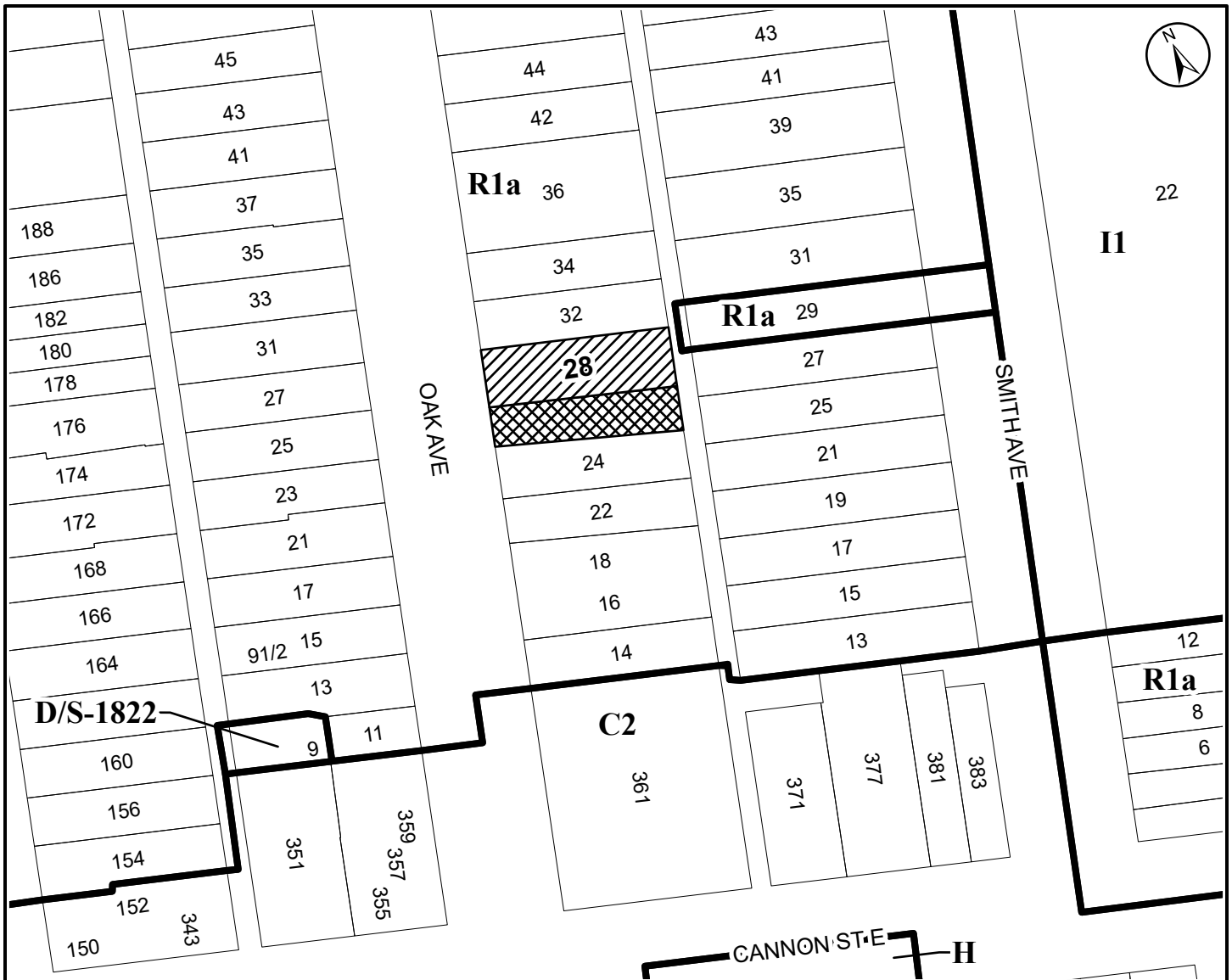
Please select "Search" and locate the address in question by entering the address or by zooming in and out of the map.

If you have any further questions or inquiries, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

If you have any questions please feel free to contact myself.

Thank you,

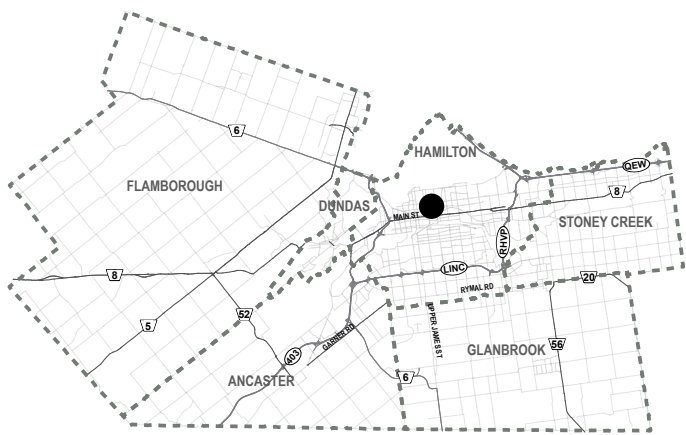
Dennis De Rango
Specialized Services Team Lead,
Real Estate Department
Hydro One Networks Inc.
Tel: (905)946-6237
Email: Dennis.DeRango@HydroOne.com



● Site Location



Committee of Adjustments



City of Hamilton

Subject Property

28 Oak Avenue, Hamilton (Ward 3)

- Lands to be retained
- Lands to be severed

File Name/Number:
B-24:65

Date:
February 6, 2025

Technician:
DR

Scale:
N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department