



Hamilton

**STAFF COMMENTS**

**HEARING DATE: May 29, 2025**

B-24:35 — 14 & 16 Rossmore Avenue, Hamilton

**Recommendation:**

Deny — 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. 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. (Forestry)
5. A Landscape Plan is required by to the Forestry and Horticulture Section, depicting the street tree planting scheme for the proposed development. In some cases, the requirement for a Landscape Plan may be waived. Request for waiver must be made to the Urban Forestry Health Technician. (Forestry)
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 Owner must enter into with the City of Hamilton and register, a Consent Agreement, along with the current administrative fee (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



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services inspections, driveway approaches, relocation of any existing infrastructure/ utilities and any damage during construction (at the Owner's Cost), to the satisfaction of the Director of Development Engineering.

8. That the proponent shall carry out an archaeological assessment of the entire property 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). (Development Planning)

9. The Owner submit a noise and vibration study to the satisfaction of the Director of Development Planning and agree to implement all measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) guidelines. Should a peer review of the report be warranted, all associated costs shall be borne by the Owner and shall be submitted to the satisfaction of the Director of Development Planning.

## **Proposed Notes:**

This Division has no concerns with the proposed application. (Building Engineering)

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)

MCFN's Department of Consultation and Accommodation (DOCA) have no questions or comments for you at this time. This does not indicate a position of support for the project, that the Duty to Consult and Accommodate the MCFN has been met, or that there are no adverse impacts to the MCFN's Indigenous and Treaty Rights.

DOCA expects to be notified of any and all future project updates and/or changes. Additionally, DOCA must be notified of, invited to participate in, and provided the opportunity to review any environmental and/or archaeological assessments. At its discretion, DOCA may request capacity funding from the proponent for its consultation and engagement activities relating to the project. (Mississaugas of the Credit First Nation)



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Separate and independent sewer and water services for severed and retained portion of the lands are required in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235, (Development Engineering)



**Development Planning:**

**Background**

|                        | <b>Frontage</b> | <b>Depth</b> | <b>Area</b>             |
|------------------------|-----------------|--------------|-------------------------|
| <b>SEVERED LANDS:</b>  | 7.163 m±        | 26.962 m±    | 164.44 m <sup>2</sup> ± |
| <b>RETAINED LANDS:</b> | 18.098 m±       | 19.475 m±    | 176.08 m <sup>2</sup> ± |

The purpose of Consent to Sever application B-25:035 is to sever the existing residential lot into two parcels. The severed lands will be a vacant residential building lot, and the retained lands will be a vacant residential building lot, to contain future semi-detached dwellings.

Staff note that the subject property is located within the LRT – Transit Corridor Land 30 metre buffer. Within this area, a Corridor Development Permit is required from Metrolinx to permit the construction of any building or structure.

**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, B.3.6.3.7, B.3.6.3.10, E.3.4.3, and F.1.14.3.1, amongst others, are applicable and permit semi-detached dwellings.

Policy B.3.6.3.7 e) requires a noise feasibility study or detailed noise study be submitted for any development of residential uses within 400 metres of a railway line. Additionally, Policy B.3.6.3.10 requires a vibration study for development on lands within 75 metres of a railway line or railway yard. Staff note that the subject property abuts a railway line. Staff have concerns regarding the proposed severance without the benefit of reviewing a noise and vibration study. The outcome of the study may recommend that greater setbacks be applied, a noise wall be constructed or that a berm be incorporated into the design. These recommendations may impact the feasibility of developing a semi-detached dwelling on the subject property. Therefore, staff are recommending a condition to require a noise and vibration study be completed to the satisfaction of the Director of Development Planning.

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 the established development pattern within the 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;



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

Staff note that the proposed lots will have frontage on a public road and are fully serviced by municipal water and wastewater services. However, staff are of the opinion that the proposed lots do not satisfy Policy F.1.14.3.1 a) as there are health and safety concerns with the proximity of the existing railway.

Additionally, staff note that the Zoning By-law requires all buildings or structures within a Residential Zone or Institutional Zone be setback a minimum of 30 metres from a railway right-of-way. The entirety of the subject property falls within this 30 metre setback. It is staff's opinion that the proposed development is premature without the completion of a noise and vibration study.

Applying for and receiving approval of the appropriate *Planning Act* application will be required to address these and any other zoning non-conformities. Development Planning staff note that Zoning staff will require confirmation that the proposed lots comply with the Zoning By-law.

#### **Kirkendall North Neighbourhood Plan**

The subject lands are identified as “Single and Double” on Map 6803 (Map 2 of 2) of the Kirkendall North Neighbourhood Plan.

#### **Archaeology:**

The subject property meets three (3) 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;
- 2) In areas of pioneer Euro-Canadian settlement; and,
- 3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 4.6.2 of the Provincial Planning Statement apply to the subject application.



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

“That the proponent shall carry out an archaeological assessment of the entire property 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).”

**Cultural Heritage:**

The property known as 14 and 16 Rossmore Avenue is located within the Kirkendall North Established Historical Neighborhood.

Accordingly, sections B.3.4.1.4 and B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes to sever the existing residential lot into two parcels. The severed lands will be a vacant residential building lot, and the retained lands will be a vacant residential building lot.

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 Kirkendall North Established Historical Neighbourhood, staff have reviewed the application and are of the opinion that the cultural heritage value of the landscape will be conserved.

Staff have no further comments on the application as circulated.

Based on the above analysis, Development Planning staff are of the opinion the proposed severance does not maintain the general intent of the Urban Hamilton Official Plan.

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



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

The Zoning By-law requires a minimum lot area of 225 square metres and a minimum lot width of 7.5 metres for each half of a semi-detached dwelling. The proposed severed and retained lands do not meet the required lot area and the severed lands would not meet the required lot width.

Additionally, staff note that the Zoning By-law requires all buildings or structures within a Residential Zone or Institutional Zone be setback a minimum of 30 metres from a railway right-of-way. The entirety of the subject property falls within this 30 metre setback. Applying for and receiving approval of the appropriate *Planning Act* application will be required to address this and any other zoning non-conformities.

Based on the foregoing, **staff recommend denial of the proposed severance.**

**Zoning:**

|                      |   |
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| Recommendation:      | Comments and Conditions/Notes   |
| Proposed Conditions: | 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).  |
| Comments:            | <ul style="list-style-type: none"> <li>• 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.</li> <li>• The appropriate Planning Act approvals for lot area, lot width and yards will be required for zoning compliance of the lands to be conveyed/retained.</li> <li>• Please be advised that Planning Act approvals may be required if a road widening and/or daylight Triangle is required as part of this application.</li> <li>• In order to clear conditions, the owner/applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</li> </ul> |
| Notes:               | N/A   |

**Development Engineering:**

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| Recommendation:      | Approve with Conditions   |
| Proposed Conditions: | That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, along with the current administrative fee (includes |



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|           | 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/ utilities and any damage during construction (at the Owner's Cost), to the satisfaction of the Director of Development Engineering. |
| Comments: | The info in the GIS system shows that there is an existing 300mm combined sewer and a 150mm watermain within Rossmore Avenue available to service the severed and retained portion of the lands.  |
| Notes:    | Separate and independent sewer and water services for severed and retained portion of the lands are required in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235,  |

**Building Engineering:**

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|----------------------|--|
| Recommendation:      | No Comments  |
| Proposed Conditions: |  |
| Comments:            |  |
| Notes:               | This Division has no concerns with the proposed application. |

**Transportation Planning:**

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| Recommendation:      | No Comments |
| Proposed Conditions: |             |
| Comments:            |             |
| Notes:               |             |

**Forestry:**

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| Recommendation:      | Approve with Conditions  |
| Proposed Conditions: | 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.<br><br>A Landscape Plan is required by to the Forestry and Horticulture Section, depicting the street tree planting scheme for the proposed development. In |



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|                  | <p>some cases, the requirement for a Landscape Plan may be waived. Request for waiver must be made to the Urban Forestry Health Technician.</p>   |
| <p>Comments:</p> | <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 <b>Permit</b> 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><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 intensions 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> <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> </ul> |



- ❖ Biological health
- ❖ Structural condition
- ❖ Proposed grade changes within individual driplines {compulsory}
- ❖ Proposed utility construction within individual driplines {compulsory}
- ❖ Proposed removals or relocations
- ❖ Proposed trees to be protected.

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**.

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.

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**.

**A permit will be issued upon approval of the Tree Management Plan and applicable fees.**

#### **LANDSCAPE PLAN**

Clarification to ensure a street tree can be accommodated for each lot needs to be confirmed.

The Forestry & Horticulture Section requires that a detailed Landscape Planting Plan prepared by a **Registered Landscape Architect**, showing the placement of trees on internal/external City property be provided.

All street tree plantings are planted by the City of Hamilton, as approved through the review of a proposed street tree planting plan and shall be identified on plan as 'Trees to be planted by City of Hamilton Forestry Section.

The Landscape Plan should specifically outline 50mm caliper size and the species of trees to be planted as well as identify hard surface and soft surface areas on the site. Individually planted trees in new sidewalk installations shall include a detail showing 21 m<sup>3</sup> of soil, and a grouping of 2 or more trees



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|        | <p>in a soil bed shall include 16m<sup>3</sup> of soil per tree. New sidewalks, paving or asphaltting shall allow 1.5m<sup>2</sup> of breathing space for tree roots.</p> <p>An option to allow forestry to determine tree species is permitted and plan shall reflect that decision by denoting on plan 'City of Hamilton forestry department to determine species. Please note: all private trees on plan shall have species denoted.</p> <p>Tree species selection should take into account cultivars {fruitless etc.} salt and heat tolerance, mature tree size, public visibility and daylight triangles, as well as potential pest concerns. Spacing guidelines for trees are ten 8-10m on centre for larger species and 4-8 meters on center for smaller species.</p> <p>Guidelines for species diversity shall ensure no single species shall make up more than 20% of the total street tree population. No coniferous trees will be permitted on City of Hamilton road allowance. Any identified street tree species on plan will be subject to change at time of planting due to but limited to, on site conditions, in stock availability and compatibility with approved species by City of Hamilton. Although utility conflicts may change specific planting locations, every opportunity will be made to keep with the intent of the design. Trees planted on the road allowance will have a minimum approximate caliper of 50 mm.</p> <p>Urban Forest Health Technician from the Forestry Section shall be notified post construction, when final grade has been achieved, to facilitate the scheduling of the street tree planting(s). Otherwise, all sites will be monitored annually by Forestry to determine when site is suitable for the following planting season.</p> <p>Forestry's mission to increase urban canopy through new development encourages any opportunity for planting locations.</p> |
| Notes: |  |

**Legislative Approvals:**

|                      |   |
|----------------------|---|
| Recommendation:      | Comments and Conditions/Notes   |
| Proposed Conditions: |   |
| Comments:            | <p>The lands to be retained (Part 1) will remain as <b>16 Rossmore Avenue (Hamilton)</b>.</p> <p>The lands to be conveyed (Part 2) will remain as <b>14 Rossmore Avenue (Hamilton)</b>.</p> |



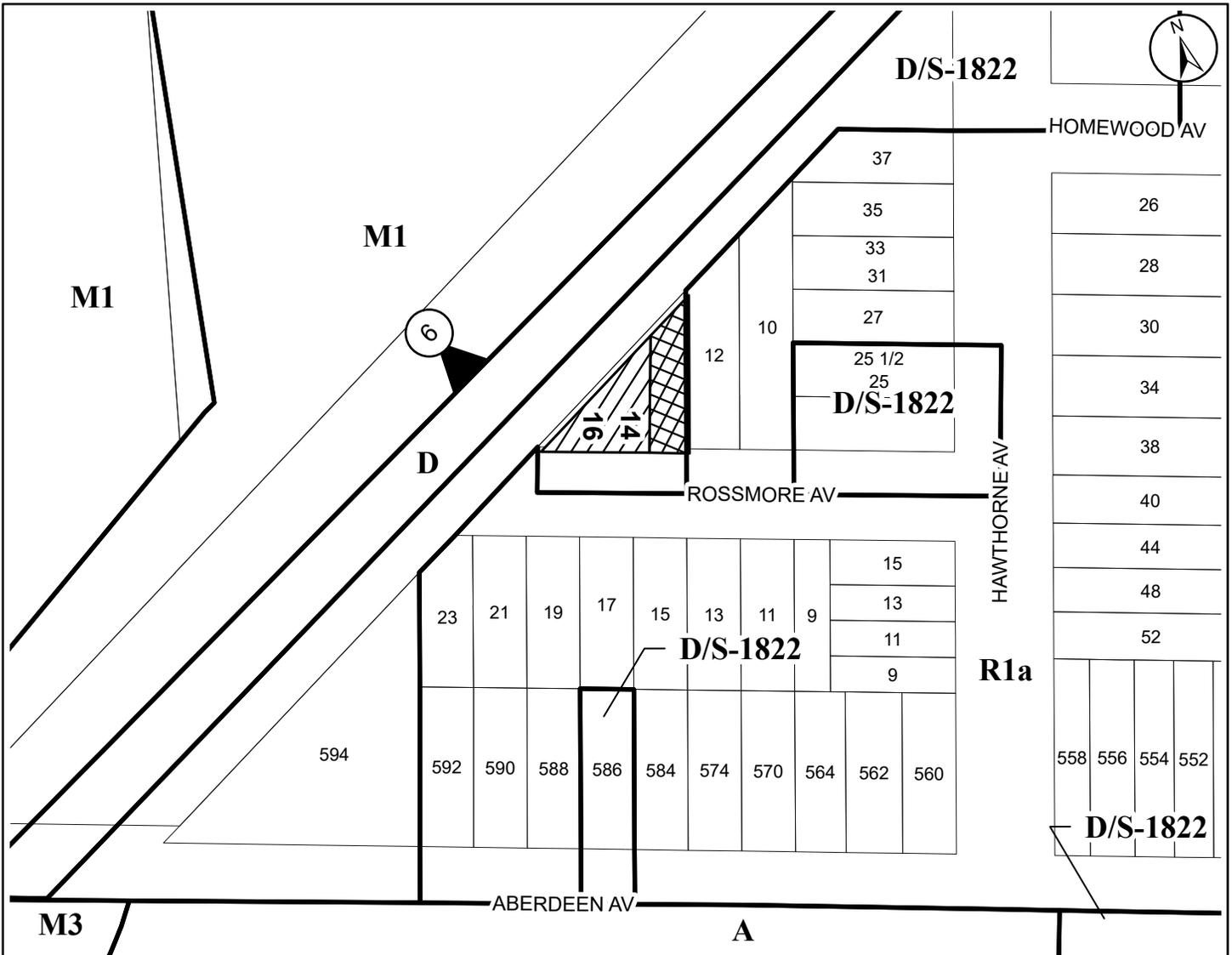
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|        |  |
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| Notes: | We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in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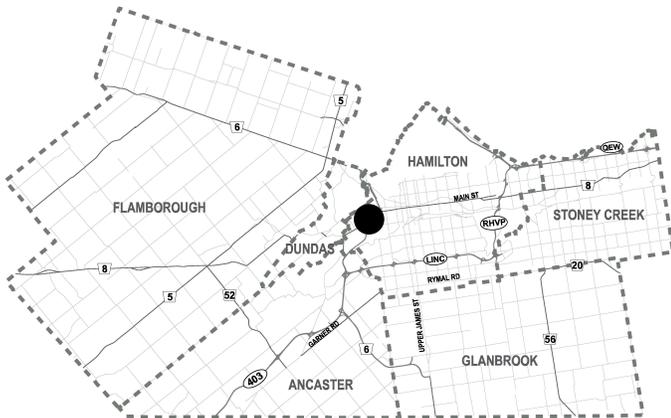
**Mississaugas of the Credit First Nation:**

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| Recommendation:      | No Comments  |
| Proposed Conditions: |  |
| Comments:            |  |
| Notes:               | <p>MCFN's Department of Consultation and Accommodation (DOCA) have no questions or comments for you at this time. This does not indicate a position of support for the project, that the Duty to Consult and Accommodate the MCFN has been met, or that there are no adverse impacts to the MCFN's Indigenous and Treaty Rights.</p> <p>DOCA expects to be notified of any and all future project updates and/or changes. Additionally, DOCA must be notified of, invited to participate in, and provided the opportunity to review any environmental and/or archaeological assessments. At its discretion, DOCA may request capacity funding from the proponent for its consultation and engagement activities relating to the project.</p> |

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



● Site Location



**City of Hamilton**

# Committee of Adjustments

**Subject Property**

14 & 16 Rossmore Avenue, Hamilton (Ward 1)

-  Lands to be retained
-  Lands to be severed

**File Name/Number:**

B-24:35

**Date:**

May 9, 2025

**Technician:**

RS

**Scale:**

N.T.S.

**Appendix "A"**



**Hamilton**