

B-25:042 — 40 Church Street, Ancaster

Recommendation:

Deny — Development Engineering
Approve with conditions — 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/applicant shall receive final and binding approval of minor variance application **A-25:133** (Planning Division – Zoning Review Section).
5. 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).
6. That the owner submits and receives approval of a Tree Protection Plan including the review fee as part of the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
7. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.
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



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significant archaeological resources found, to the satisfaction of the Manager of Heritage and Urban Design. 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)

9. 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)
10. 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)

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 Municipal Addressing By-law and Sign By-law, in a manner that is clearly visible from the road. (Legislative Approvals)

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

There are large public tree assets on site that shall be retained. Design solutions for building footprint, driveway, utilities, etc, will be required to ensure most of the public tree assets are adequately protected. (Forestry)

The severance application for the property is deemed pre-mature until completion of Phase 2 of the Ancaster Drainage Study. (Development Engineering)

Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS (Lot 2):	6.99 m±	25.79 m±	180 m ² ±
SEVERED LANDS (Lot 3):	9.79 m±	25.79 m±	252 m ² ±
SEVERED LANDS (Lot 4):	8.02 m±	24.80 m±	198 m ² ±
SEVERED LANDS (Lot 5):	6.99 m±	24.80 m±	173 m ² ±
SEVERED LANDS (Lot 6):	12.35 m±	24.80 m±	258 m ² ±
RETAINED LANDS (Lot 1):	8.01 m±	25.80 m±	206 m ² ±

The purpose of Consent to Sever application B-25:042 is to sever the existing residential lot into six (6) residential lots, to facilitate the development of six (6) street townhouse dwellings contained within two (2) townhouse blocks. The existing duplex dwelling and accessory structures will be removed. Minor Variance application A-25.133 was concurrently submitted to facilitate Consent to Sever application B-25:042.

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 street townhouse 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;



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- 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, are compatible with the character, scale and established development pattern of the area and are fully serviced by municipal water and wastewater services. Lots 1 through 4 and Lot 6 would comply with the requirements of the Zoning By-law. However, Severed Lot 5 would not meet the required minimum lot area. Staff further note that Minor Variance application A-25:133 was concurrently submitted to address this, which is further discussed below.

Ancaster Wilson Street Secondary Plan

The subject lands are designated as “Low Density Residential 1” on Land Use Plan Map B.2.8-1 of the Ancaster Wilson Street Secondary Plan. Policies B.2.8.7.3 and B.1.5 amongst others, are applicable and permit the proposed street townhouse dwellings.

Policy B.1.5 a) of Volume 2 of the Urban Hamilton Official Plan states the following:

“The residential density ranges and permitted built forms of Sections E.3.4, E.3.5 and E.3.6 – Residential Uses of Volume 1 shall apply to new secondary plans. The secondary plan policies and designations of Volume 2 may be more restrictive than the policies and designations contained in Volume 1. (OPA 64)

- a) Notwithstanding Policies B.1.2, B.1.5, and the policies contained in Sections B.2.0 to B.7, and Volume 1 Policy F.1.2.2, for all lands designated Low Density Residential 1, 1 a, 1 b, 2, 2a, 2b, 2e, and 2f on the land use plans appended to each secondary plan area, and for lands designed Low Density Residential 3 on Map B.6.6-1 Strathcona Secondary Plan: Land Use Plan, Policies E.3.4.3, E.3.4.4, and E.3.4.5 of Volume 1 shall apply for the purposes of permitted density ranges, built form, and height. (OPA 202)”.

The intent of this policy is to apply the permitted density ranges, built forms and height of Policies E.3.4.3, E.3.4.4 and E.3.4.5 of Volume 1 to lands designated “Low Density Residential” within the majority of secondary plans. Therefore, it is staff’s opinion that the permissions and requirements found in Policies B.2.4.1.4, 2.4.2.2, E.3.4.3, and F.1.14.3.1 of Volume 1 of the Urban Official Plan are applicable.



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Natural Heritage

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP) and has been identified within the Ancaster Wilson Street Secondary Plan. Based on mapping within the UHOP (Volume 1-Schedule B Natural Heritage System and Volume 2-Ancaster Wilson Street Secondary Plan Land Use Plan Map B.2.8-1), components of the City's Natural Heritage System (Core Areas and Linkages) have not been identified within or adjacent to the property. As a result, it is anticipated that the proposed severance will not further negatively impact the features and functions of the City's Natural Heritage System.

Through aerial photograph interpretation, trees have been identified within the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1). In addition, trees within the subject property may be subject to the Town of Ancaster By-law (By-law 2000-118). Further, through the City's Council adopted Urban Forest Strategy, a canopy cover target of 40 percent by 2050 within the urban area has been identified. The preservation of existing trees will assist in meeting this target. A Tree Protection Plan indicating how trees will be impacted/protected as a result of this development has not been provided with this application. If trees are to be removed, the City requires 1 for 1 compensation to be provided in order to ensure that existing tree cover is maintained.

Archaeology

The subject property meets four (4) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) 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;
- 3) In areas of pioneer Euro-Canadian settlement; and,
- 4) 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.

Cultural Heritage:

The subject property is adjacent to 25 Church Street, Ancaster, a property listed on the City's Inventory of Heritage Properties.

The City recognizes there may be cultural heritage properties that are not yet identified or included in the Municipal Heritage Register, nor designated under the *Ontario Heritage Act*, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated



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but are still worthy of conservation (Urban Hamilton Official Plan, Volume 1, Section B.3.4.2.6 and B.3.4.2.7).

Although not formally recognized under the *Ontario Heritage Act* through registration or designation, the adjacent property is of potential cultural heritage value and staff do have an interest in ensuring any proposed changes are sympathetic to the historic character of the property and are contextually appropriate.

Accordingly, sections B.3.4.1.4 and B.3.4.2.1 (h) of the Urban Hamilton Official Plan, Volume 1, apply.

As well, the following section of the Ancaster Wilson Street Secondary Plan, applies:

2.8.12.1.j (ii):

“The Village Core area, shown on Appendix A - Character Areas and Heritage Features, shall be consistent with the following design considerations:

1. Notwithstanding Policy E.4.3.4 b) of Volume 1, for buildings fronting onto Wilson Street, setbacks may be varied, as per the character of the Village Core area;
2. Buildings within the Village Core should incorporate historical building features and styles in order to encourage a village atmosphere and pleasant pedestrian experience, where feasible;
3. Additional considerations to encourage the historic characteristics of the Village Core, including heritage styled signage and building façades, as described in the Urban Design Guidelines, should be given for any development or redevelopment;
4. The Village Core area should express a strong heritage design character that invites pedestrians and encourages interaction; and,
5. The heritage characteristic of the Village Core area can be strengthened through the use of a public walkway linking buildings and other land uses.”

The proponent proposes to sever the existing residential lot into six (6) residential lots, to facilitate the development of six (6) street townhouse dwellings contained within two (2) townhouse blocks. The existing duplex dwelling and accessory structures will be removed.

Staff strongly encourage that the design of the proposed townhouses follow the intent of the Ancaster Wilson Street Secondary Plan and utilizes massing, height, materials and architectural styles and elements sympathetic and in keeping with the existing historic character of the historic Ancaster Village Core.

Based on the above analysis, staff are of the opinion the proposed severances confirms with the Urban Hamilton Official Plan. **Staff recommend the proposed severances be approved.**

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

The subject lands are zoned Low Density Residential – Large Lot (R2) Zone in City of Hamilton Zoning By-law No. 05-200. Street townhouse dwellings are a permitted use.

The Zoning By-law requires a minimum lot area of 180 square metres and a minimum unit width for each dwelling unit of 6 metres for street townhouse dwellings. Severed Lot 5 would not meet the required minimum lot area. Minor Variance application A-25:133 was submitted to address this, discussed below.

Variance 1

Lot 5

1. A minimum Lot Area of 170.0 square metres shall be permitted instead of the minimum required Lot Area of 180.0 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 with an area of 170 square metres, Lot 5 would only be deficient by 10 square metres. It is staff's opinion that Severed Lot 5 is in keeping with the character and established development pattern of the neighbourhood.

Therefore, 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.

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 with conditions of the proposed severance and requested variance.**

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-25:133 (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. Please note, this application shall be heard in conjunction with Minor Variance application A-25:133. 2. The owner/applicant should obtain an appropriate municipal address for



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	<p>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>3. In order to clear conditions, the owner/applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.</p> <p>4. Please note, insufficient information has been provided to determine Parking requirements as it relates to parking space number, size, location. Furthermore, it is unclear if a garage is proposed; Section 5.3.2 shall apply to any proposed garage. All Parking Spaces and area shall be clearly indicated on the proposed Site Plan or should Parking not be in compliance with Section 5, additional variances may be required.</p> <p>5. In addition to the comment above, insufficient information has been provided to determine the proposed Building Height of the Street Townhouse Dwellings. Should the proposed Dwellings exceed the Maximum Building Height of 10.5 metres, additional variances may be required.</p>
Notes:	

Development Engineering:

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Currently, there is an ongoing study conducted by the City that is intended to provide recommendations how to mitigate the existing flooding issues within the former Town on Ancaster serviced by existing roadside ditches. The Study is not completed yet and the following directions has been provided by the City Council until the Study is completed:</p> <ul style="list-style-type: none">- Compliance with Existing Residential zoning (staff will recommend denial of any variance requests that would affect space available on the property to address on-site drainage requirement, e.g. lot coverage, setbacks);- Stormwater flows up to the 100-year peak flow managed within the site using Low Impact Development techniques;- Submission of detailed engineering, grading and servicing drawings demonstrating:<ul style="list-style-type: none">a) no grading impacts to adjacent properties,b) soil characteristics are conducive to infiltration and sizing of Low Impact Development techniques (e.g. infiltration galleries),c) a suitable emergency overland flow route; and,



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	d) legal right to discharge the flow to the adjacent lands. -A Notice to be registered on Title with the Consent Agreement notifying future Owners of any required on-site stormwater management features
Notes:	The severance application for the property is deemed pre-mature until completion of Phase 2 of the Ancaster Drainage Study.

Building Engineering:

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

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> <p>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.</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>



TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

The Forestry & 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.

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.

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.

- ❖ Species by Botanical and common name
- ❖ Diameter at breast height in centimeters or millimeters
- ❖ Ownership {> 50% @ ground level = ownership}
- ❖ 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 m³ of soil, and a grouping of 2 or more trees in a soil bed shall include 16m³ of soil per tree. New sidewalks, paving or asphaltting shall allow 1.5m² of breathing space for tree roots.

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.

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.

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



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	<p>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:	There are large public tree assets on site that shall be retained. Design solutions for building footprint, driveway, utilities, etc, will be required to ensure most of the public tree assets are adequately protected.

Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	<p>The lands to be retained (Lot 1) will remain as 40 Church Street (Ancaster). The lands to be conveyed (Lots 2 & 3) will be assigned the addresses of 42 and 44 Church Street (Ancaster). The lands to be conveyed (Lots 4, 5 & 6) will be assigned the addresses of 309, 307 & 305 Lodor Street (Ancaster).</p> <p>If at a future date it is discovered that the main entry of the house to be constructed on the conveyed lands (Lot 3) will face Lodor Street, an address change will be required.</p>
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 Municipal Addressing By-law and Sign By-law, in a manner that is clearly visible from the road.</p>

Corporate Real Estate Office:



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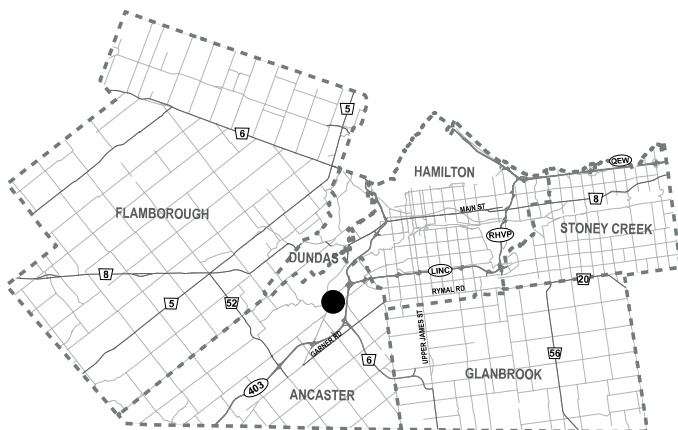
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Recommendation:	Comments Only
Proposed Conditions:	
Comments:	Please be advised the subject property abuts City owned property. Environmental services should be engaged for comment for any reduced set back that may be requested.
Notes:	

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



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property

40 Church Street, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

B-25:042

Date:

August 6, 2025

Technician:

AL

Scale:

N.T.S.

Appendix "A"



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Planning and Economic Development Department