

B-25:039 — 65 Mohawk Road East, Hamilton

Recommendation:

Deny both applications — 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.25.119 (Planning Division – Zoning Review Section)
5. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, 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. 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).
7. That the owner shall investigate the noise levels on the severed lands and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended noise control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all



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associated costs shall be borne by the owner and shall be submitted to the satisfaction of the City of Hamilton, Director of Development Planning.

8. The owner shall demolish the existing structures, subject to a demolition permit issued in the normal manner, to the satisfaction of the Director of Development Planning.
9. 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).
10. 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.
11. 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 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.

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)

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (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



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and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

There are existing 300mm dia. watermain, 450mm dia. storm sewer and 250mm dia. sanitary sewer within Mohawk Road East ROW adjacent to the property. (Development Engineering)

Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS (Part 1):	8.54 m±	76.2 m±	649.80 m ² ±
RETAINED LANDS (Part 2):	9.75 m±	76.2 m±	743.50 m ² ±
EASEMENT:	1.22 m±	45.75 m±	55.81 m ² ±

The purpose of Consent to Sever application B-25:039 is to sever the subject lands to create one additional lot, new single detached dwellings are to be built on the retained and severed lands. The proposed easement is for access purposes, in favour of the severed lands over the retained lands. The existing dwelling is to be removed. Minor Variance application A-25.119 was concurrently submitted to facilitate Consent to Sever application B-25:039.

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, E.3.4.3, and F.1.14.3.1, amongst others, are applicable and permit the proposed single detached dwellings.

Policy B.3.6.3.7 b) requires a noise feasibility study, detailed noise study or both for residential developments within 400 metres of a major arterial road, as identified on Schedule C – Functional Road Classification. The subject lands front onto Mohawk Road East, which is identified as a major arterial road on Schedule C – Functional Road Classification of the Urban Hamilton Official Plan. Therefore, staff are recommending a condition requiring a noise study be provided to confirm conformity with the policies regarding sensitive land use developments.

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. The proposed lots and built form, including setbacks, are inconsistent with the existing lot fabric and streetscape along Mohawk Road East.

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 and are fully serviced by municipal water and wastewater services. However, the proposed lots and built form are not compatible with the character, scale and established development pattern of the area. The retained lands and severed lands would meet the minimum required lot area but not the minimum required lot width of the Zoning By-law. Minor Variance application A-25:119 was concurrently submitted to address these and other non-conformities, which is further discussed below.

Additionally, the application proposes an access easement to facilitate the single detached dwellings and a minor variance to permit a setback of 0.0 metres from an interior lot line for the severed lands. This condition is not typical along Mohawk Road East, and would be inconsistent with the established development pattern of the area.

Development Planning staff note that Zoning staff will require confirmation that the proposed lots comply with the Zoning By-law.

Archaeology:

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 2) Along historic transportation routes.

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

As criteria one (1) only applies to a small previously disturbed portion of the subject property, staff are of the opinion that the archaeological potential of the property is limited.

If this consent is approved, the proponent must be advised by the Committee of Adjustment as follows:



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“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Citizenship and Multiculturalism (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

No comments.

Natural Heritage

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the Urban Hamilton Official Plan, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural areas that are ecologically connected to Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development 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, through the City’s Council adopted Urban Forest Strategy a canopy 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 the 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.

If the Committee of Adjustment approves this application, the following conditions should be considered.

- 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).



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- 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.

Based on the above analysis, staff are of the opinion the proposed severance does not fully conform to the current policy framework. **Therefore, staff recommend denial.**

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

The subject lands are zoned Low Density Residential (R1) Zone in City of Hamilton Zoning By-law No. 05-200. Single detached dwellings are a permitted use.

The Zoning By-law requires a minimum lot area of 360 square metres and a minimum lot width of 12 metres for single detached dwellings. As proposed, the proposed retained and severed lands do not meet the minimum required lot width. Minor Variance application A-25:119 was submitted to address this and another zoning non-conformity, discussed below.

Variances for Severed Lands

1. A minimum lot width of 8.5 metres shall be permitted instead of the minimum required 12.0 metres.
2. A minimum 0.0 metre easterly side yard setback shall be permitted instead of the minimum required 1.2 metres.

The intent of these provisions is to ensure lots are large enough to be viable building lots, to ensure a consistent lot fabric and development pattern and to maintain sufficient separation between buildings. Side lot line setbacks ensure there is adequate space for access, maintenance and drainage purposes. Staff defer any drainage or grading concerns to Development Engineering staff.

Staff note that the typical lot width along Mohawk Road East is approximately 18 or 19 metres for older, larger lots. Newer lots have a typical width of approximately 15 metres. Adjacent local roads, such as Terrace Drive, have typical widths of approximately 12 to 14 metres. Additionally, side yard setbacks for single detached dwellings are typically 1.2 metres.

Staff are of the opinion that the proposed severed parcel is incompatible with the established lot pattern of the area. Further, staff are of the opinion that a 0.0 metre easterly side yard setback is inconsistent with the established built form of the area and is insufficient for access and maintenance purposes. The proposed easement to address this lack of a side yard, is not a suitable solution. Staff are concerned that future conflicts could arise regarding access or maintenance to the eastern side of a future dwelling.

Therefore, it is staff's opinion that Variances 1 and 2 do not maintain the intent of the Urban Hamilton Official Plan and Zoning By-law, are not desirable for the appropriate use or development of the land and are not minor in nature. Staff do not support the variances.



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Variance for Retained Lands

3. A minimum lot width of 8.5 metres shall be permitted instead of the minimum required lot width of 12.0 metres.

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

Staff note that the typical lot width along Mohawk Road East is approximately 18 or 19 metres for older, larger lots. Newer lots have a typical width of 15 metres. Adjacent local roads, such as Terrace Drive, have typical widths of approximately 12 to 14 metres. Staff are of the opinion that the proposed severed parcel is incompatible with the established lot pattern of the area.

Therefore, it is staff's opinion that Variance 3 does not maintain the intent of the Urban Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate use or development of the land and is not minor in nature. Staff do not support the variance.

In conclusion, staff are of the opinion the requested variances do not meet the four tests of a minor variance. **Therefore, staff recommend the minor variance application be denied.**

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.25.119 (Planning Division – Zoning Review Section)2. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, 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)3. 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. The applicant is proposing to sever the subject lands into two (2) individual lots, with the intent of building a two storey detached dwelling on each lot



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	<p>2. It is noted that this application will be heard in conjunction with minor variance application A.25.119, variances for lot width and side yard setback have been requested</p> <p>3. 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.</p> <p>4. All or an appropriate portion of the building straddling the proposed property line shall be demolished in order to achieve zoning compliance, or the owner/applicant shall receive final approval of the appropriate Planning Act application.</p> <p>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.</p>
Notes:	

Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	1. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, 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 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:	
Notes:	There are existing 300mm dia. watermain, 450mm dia. storm sewer and 250mm dia. sanitary sewer within Mohawk Road East ROW adjacent to the property. (Development Engineering)

Building Engineering:

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

Forestry:

Recommendation:	Comments Only
Proposed Conditions:	No conditions required.
Comments:	<p>There are no public tree assets impacted by the proposed conveyance, nor sufficient space in the setback for new municipal trees to be planted. No Tree Management Plan or Landscape Plan required.</p> <p>There are two very large, mature private trees that appear to be on or near the property line with the neighbour to the east. It is my due diligence as an arborist to inform the applicant that substantial changes made to the grade of the subject property could have severe impacts on these large trees. Per <i>Trees and the Law in Canada</i> and Case Law precedent, construction activities cannot cause significant damage or injury to any part of a neighbouring tree that would cause the tree to decline, die, and/or become unsafe to retain in the landscape. If the trees are within the subject property, it is recommended to contract a certified arborist to consult on the possibility of their retention. If the trees are on the boundary line or adjacent property, removal of or injury to these trees could result in a civil court case if neighbour permission is not attained, in writing, prior to. In accordance with By-law 07-170, any person pruning, assessing, or removing trees within the City of Hamilton must be certified with the International Society of Arboriculture and hold a valid City of Hamilton Tree Cutting Service License.</p>
Notes:	

Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be conveyed (Part 1) will remain as 65 Mohawk Road East (Hamilton) .



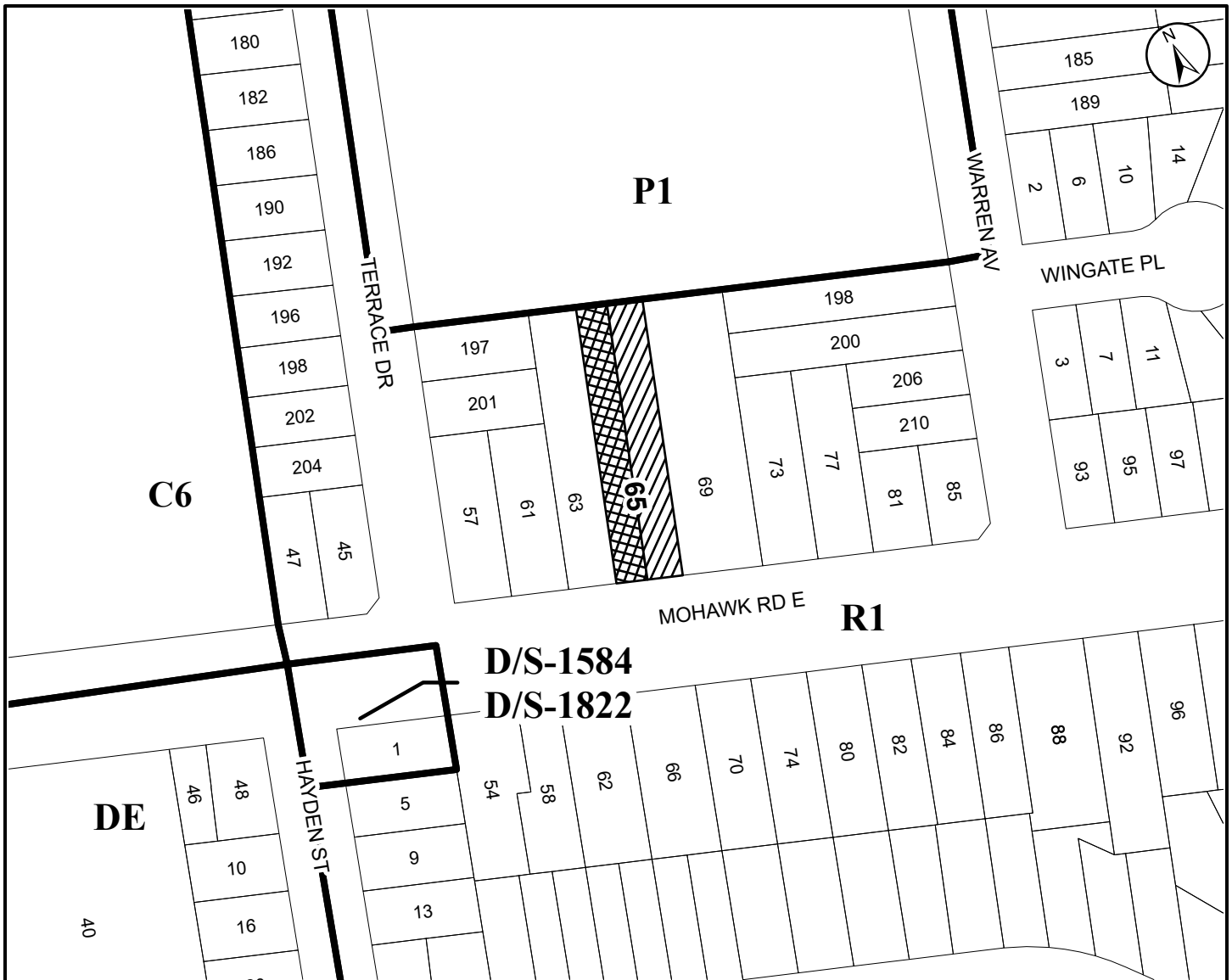
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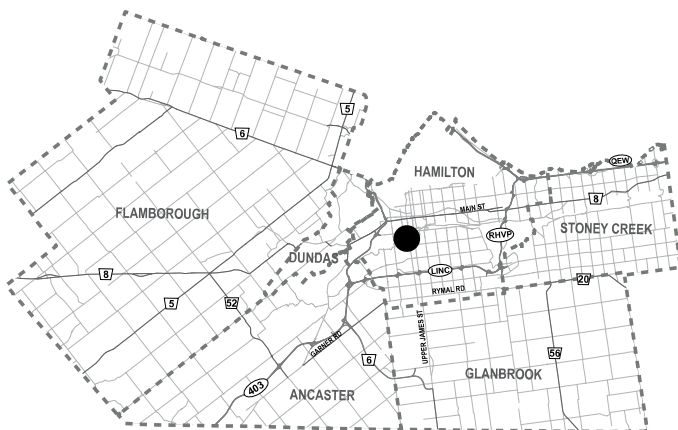
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	The lands to be retained (Part 2 & 3) will be assigned the address of 67 Mohawk Road East (Hamilton) .
Notes:	We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Municipal Addressing By-law and Sign By-law, in a manner that is clearly visible from the road.

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



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property

65 Mohawk Road East, Hamilton (Ward 8)



Lands to be Retained



Lands to be Severed

File Name/Number:

B-25:039

Date:

July 24, 2025

Technician:

RS

Scale:

N.T.S.

Appendix "A"



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Planning and Economic Development Department