

A-25:119 — 65 Mohawk Road East, Hamilton

**Recommendation:**

Deny both applications — Development Planning

**Proposed Conditions:**

1. 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 associated costs shall be borne by the owner and shall be submitted to the satisfaction of the City of Hamilton, Director of Development Planning.
2. 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.
3. 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).
4. 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.

**Proposed Notes:**

Building permits are required for the construction of the proposed single detached dwellings. (Building Engineering)

Be advised that Ontario Building Code regulations may require specific setback and construction types. (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



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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)."

**Development Planning:**

**Background**

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

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 Only
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"><li>1. These variances are necessary to facilitate consent application B.25.039.</li><li>2. The appropriate agreement(s) shall be in place for the proposed Easement between Lot A (the "Lot to be Severed") and Lot B (the "Lot to be Retained").</li><li>3. The submitted Minor Variance Sketch indicates a lot width of 9.75 metres for Lot B (the "Lot to be Retained / Easterly Lot"). However, as per the applicant's request, a reduced lot width of 8.5 metres is being sought instead of the minimum required 12.0 metres.</li><li>4. Each proposed lot shall provide landscaping in accordance with Section 4.35 (Landscaping Requirements) of Hamilton Zoning By-law 05-200. Insufficient information has been provided at this time. Further variances will be required if zoning compliance cannot be achieved.</li><li>5. Please be advised that insufficient information was provided to determine zoning compliance with Section 4.6 (Permitted Yard</li></ol>



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	<p>Encroachments) of Hamilton Zoning By-law 05-200. Further variances will be required if zoning compliance cannot be achieved.</p> <p>6. Please be advised that details of parking conditions have not been provided. The applicant shall ensure that the proposed parking conditions complies with Section 5 of Hamilton Zoning By-law 05-200 (Parking Regulations). Further variances will be required if Zoning compliance cannot be achieved.</p> <p>7. Please be advised that the Electric Vehicle Parking Requirements are under appeal and are not covered under Section 1.12 of the “Transitional Provisions” of Hamilton Zoning By-law 05-200. At present, a review of the Electric Parking requirements has not been included. If the remaining portions of By-law 24-052 become final before the issuance of a building permit, the Electric Vehicle Parking requirements may be applicable upon review of such building permit.</p>
Notes:	

**Development Engineering:**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

**Building Engineering:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	<p>Building permits are required for the construction of the proposed single detached dwellings.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

**Transportation Planning:**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	



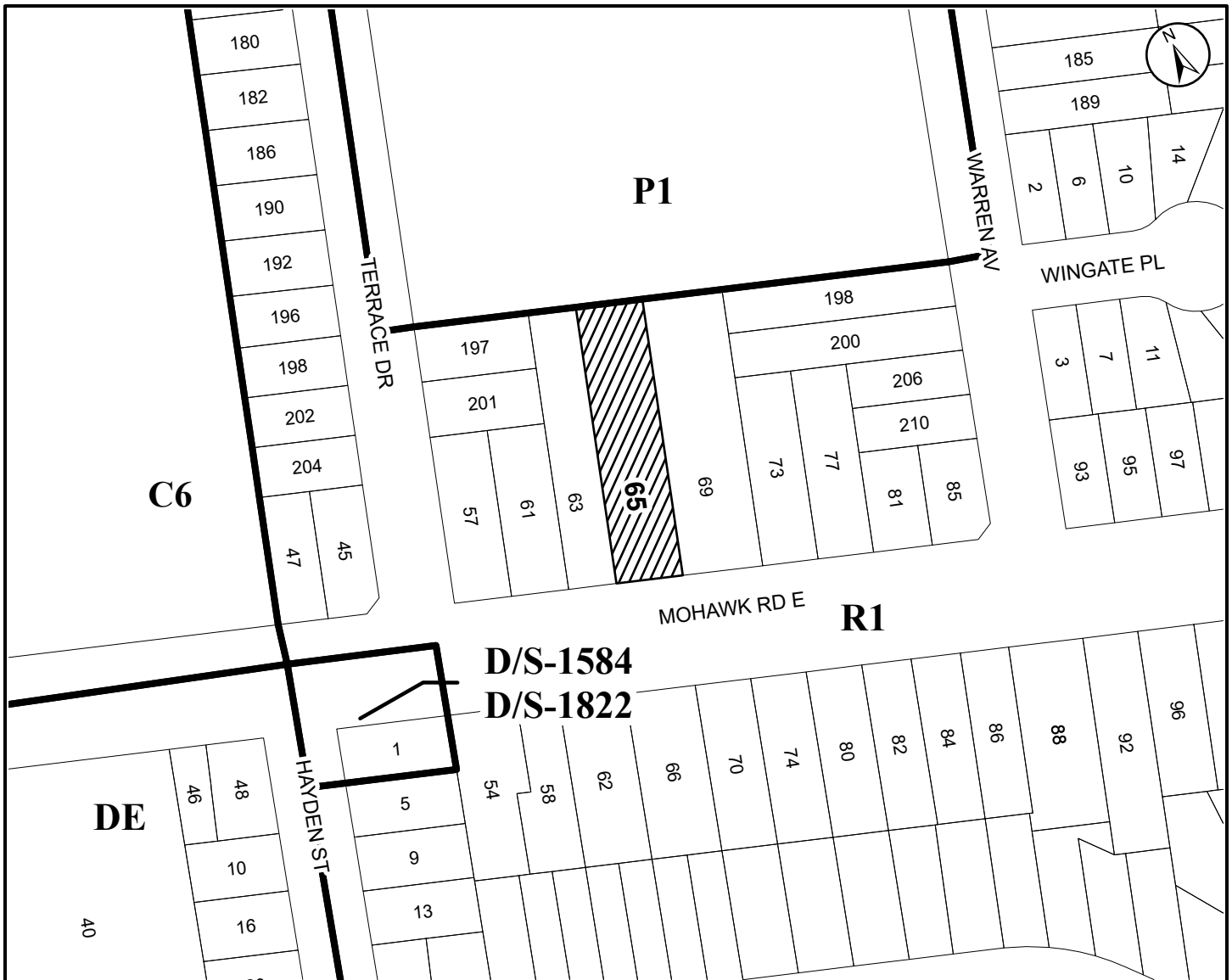


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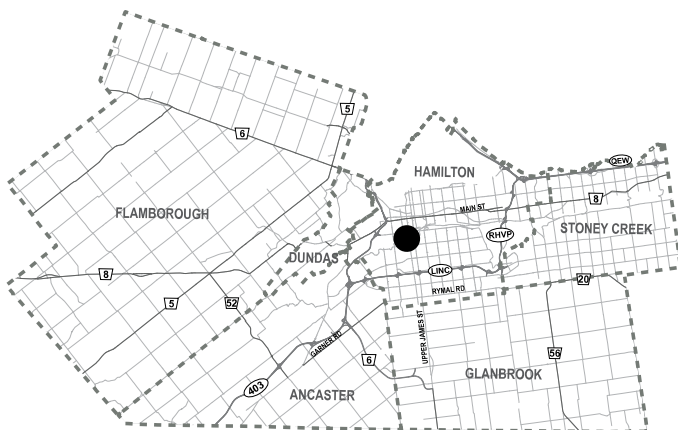
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Please Note: Public comment will be posted separately, if applicable.



# ● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property



65 Mohawk Road East, Hamilton  
(Ward 8)

File Name/Number:

A-25:119

Date:

July 24, 2025

Technician:

RS

Scale:

N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department