

B-25:046 — 245 Garner Road West, Ancaster

**Recommendation:**

Table — Development Planning

**Proposed Conditions:**

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the city corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division –**Building Engineering Section**).
5. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed 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).

6. That the Owner must enter into with the City of Hamilton and register, a Development Agreement, along with the current administrative fee (includes grading plan review) to address



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issues including but not limited to: extension of municipal sanitary sewer, 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.

7. That the Owner submits a cash payment to the City for the future urbanization of Garner Road West based on the "New Roads Servicing Rates" and the frontage of the property to the satisfaction of the City's Director of Development Engineering.
8. That the owner demonstrate that an adequate storm outlet exist to support the proposed intensification to the satisfaction of the City's 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)

In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees. (Building Engineering)

There is an existing 400mm dia. watermain within the Garner Road West ROW adjacent to the property. There are no municipal sewers on this section of the street at this time. (Development Engineering)

## Development Planning:

### Background

	Frontage	Depth	Area
<b>SEVERED LANDS (Part 2):</b>	12 m±	55.6 m±	668 m <sup>2</sup> ±
<b>SEVERED LANDS (Part 3):</b>	12 m±	55.6 m±	668 m <sup>2</sup> ±
<b>RETAINED LANDS (Part 1):</b>	31.4 m±	55.6 m±	1900 m <sup>2</sup> ±
<b>EASEMENT (Part 4):</b>	2.25 m±	21.7 m±	48.8 m <sup>2</sup> ±
<b>EASEMENT (Part 5):</b>	2.25 m±	21.7 m±	48.8 m <sup>2</sup> ±

The purpose of Consent Application B-25:046 is to sever the existing lot into three parcels. Parts 2 and 3 will be vacant lots for future residential development and the retained lands (Part 1) will contain the existing private educational establishment, which is to remain. The creation of two easements for mutual access purposes is also proposed.

Staff note the subject lands are designated under the *Ontario Heritage Act*, and a Heritage Permit is required prior to permit the proposed severance.

### Analysis

#### Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and are designated “Institutional” on Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policies B.2.4.1.4, B.2.4.2.2, B.3.6.3.7, and E.3.4. 3 and E.6.2.4, amongst others, are applicable and permits the existing educational establishment and 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 along Garner Road West, which is identified as a major arterial road on Schedule C – Functional Road Classification of the Urban Hamilton Official Plan.

Policy E.6.2.4 permits residential uses ancillary to institutional uses, and E.6.2.4 b) states residential uses shall be developed in accordance with Section E.3.4 or E.3.5. Based on the proposed built form of single detached dwellings, the policies of Section E.3.4 are applicable.

#### Shaver Neighbourhood Secondary Plan

The subject lands are designated “Institutional” and “Site Specific Policy – Area A” on Map B.2.2-1 – Land Use Plan of the Shaver Neighbourhood Secondary Plan. Policies B.2.2.1.3 and B.2.2.5.1, amongst others, are applicable and permit the existing educational establishment and proposed single detached dwellings.



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### Archaeology

The subject property meets five (5) 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 an area of sandy soil in areas of clay or stone;
- 3) In the vicinity of distinctive or unusual landforms;
- 4) Along historic transportation routes; and
- 5) Within a property designated under the *Ontario Heritage Act*.

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.

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

**“Condition:** That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed 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 subject property comprises of the Marshall House, a property designated under Part IV of the *Ontario Heritage Act* and a “protected heritage property” under the *Provincial Policy Statement*. The designated features include all façades, entranceways, windows, and chimneys, together with construction materials of stone, wood and glazing, building techniques, specific interior features and landscape features. This further includes the front and side yards with grassy open space, as well as the existing grades and topography.



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Accordingly, Section 4.6.1 of the *Provincial Planning Statement* applies, as follows:

*Protected heritage property*, which may contain *built heritage resources* or *cultural heritage landscapes*, shall be *conserved*.

Accordingly, the following sections of the Urban Hamilton Official Plan, Volume 1, apply:

B.3.4.1.4 Ensure that all new *development*, *site alterations*, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or *adjacent cultural heritage resources*.

B.3.4.1.5 Encourage the rehabilitation, renovation, and restoration of built heritage resources in order that they remain in active use.

B.3.4.2.1(g) Ensure the conservation and protection of *cultural heritage resources* in planning and development matters subject to the *Planning Act* either through appropriate planning and design measures or as conditions of development approvals.

The proponent proposes to sever the existing institutional lot into three (3) parcels. The retained institutional lot will contain the existing private school within the converted heritage-designated dwelling which is intended to remain. The severed lots will be vacant residential building lots with a proposed single-detached dwelling.

Under the *Ontario Heritage Act*, a Heritage Permit is required for any alterations that are likely to affect the Heritage Attributes defined by the designation By-law (By-law #04-065). As Staff consider that the proposed severance will affect the Heritage Attributes, a Heritage Permit will be required to implement the proposal. Therefore, **staff are of the opinion that the application is premature until a Heritage Permit has been approved for the proposed work**

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

The subject lands are zoned Community Institutional (I2) Zone in City of Hamilton Zoning By-law No. 05-200. The existing educational establishment and proposed single detached dwellings are permitted.

Staff note that the Zoning By-law requires a lot width of 12 metres and a lot area of 360 square metres for single detached dwellings. The Zoning By-law does not require a minimum lot width or area for educational establishments.

Staff are of the opinion that the proposed severance is premature as a Heritage Permit is required to permit the severance. Therefore, **staff recommend the proposed be tabled until a Heritage Permit is obtained.**

#### **Zoning:**



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**STAFF COMMENTS**

**HEARING DATE: August 14, 2025**

Recommendation:	Comments Only
Proposed Conditions:	None.
Comments:	<p>i. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.</p> <p>ii. This Division has no concerns with the proposed application.</p> <p>iii. All parking proposed for the new dwellings is required to comply with the regulations of Section 5 of Hamilton Zoning By-law 05-200.</p> <p>iv. Please be advised that should a future road widening be required as apart of this application, a minor variance application may be required for the front yard setbacks and lot area.</p>
Notes:	

**Development Engineering:**

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>1. That the Owner must enter into with the City of Hamilton and register, a Development Agreement, along with the current administrative fee (includes grading plan review) to address issues including but not limited to: extension of municipal sanitary sewer, 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.</p> <p>2. That the Owner submits a cash payment to the City for the future urbanization of Garner Road West based on the "New Roads Servicing Rates" and the frontage of the property to the satisfaction of the City's Director of Development Engineering.</p>



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	3. That the owner demonstrate that an adequate storm outlet exist to support the proposed intensification to the satisfaction of the City's Director of Development Engineering.
Comments:	Garner Road West has a rural cross section adjacent to the property. Therefore, the owner should provide a cash payment for the future urbanization of the street as a condition of approval. The Owner will be required to obtain required approvals and enter into a Development Agreement with the City to extend the municipal sanitary sewer from the intersection of Panabaker Drive and Garner Road West to the east limit of the property at 100% their costs.
Notes:	There is an existing 400mm dia. watermain within the Garner Road West ROW adjacent to the property. There are no municipal sewers on this section of the street at this time.

**Building Engineering:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – <b>Building Engineering Section</b> ).
Comments:	
Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

**Forestry:**

Recommendation:	Approve
Proposed Conditions:	
Comments:	There are no Municipal Tree Assets on site. No public tree permit is required.  No Landscape plan required.  Forestry has no concerns or conditions regarding this application.  For questions please contact: <a href="mailto:urbanforest@hamilton.ca">urbanforest@hamilton.ca</a>
Notes:	

**Transportation Planning:**

Recommendation:	No Comments
Proposed Conditions:	



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Comments:	
Notes:	

**Legislative Approvals:**

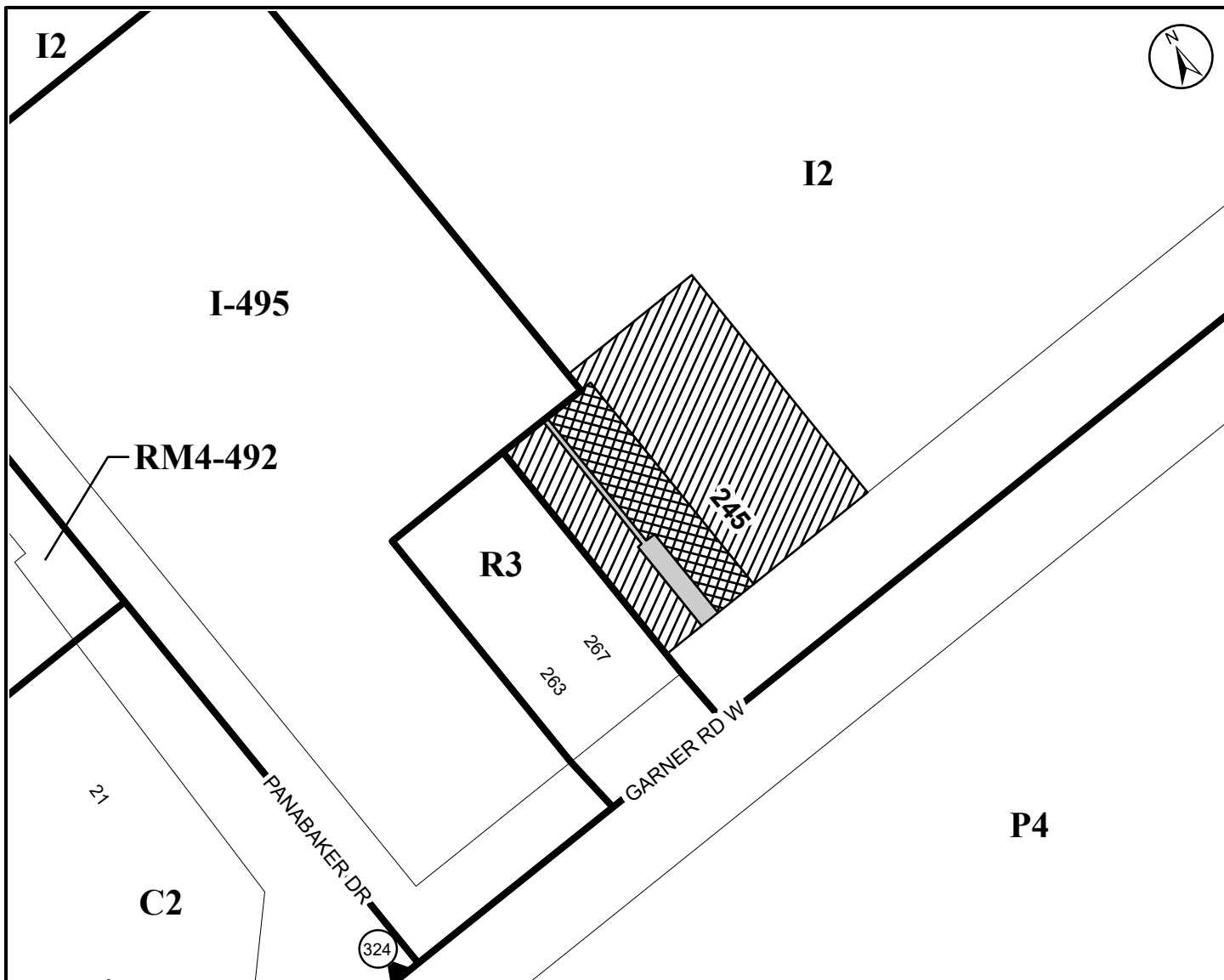
Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be retained (Part 1) will remain as <b>245 Garner Road West (Ancaster)</b> . The lands to be retained (Part 2 & 3) will be assigned the address of <b>253 &amp; 257 Garner Road West (Ancaster)</b> .
Notes:	We ask 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.

**Corporate Real Estate Office:**

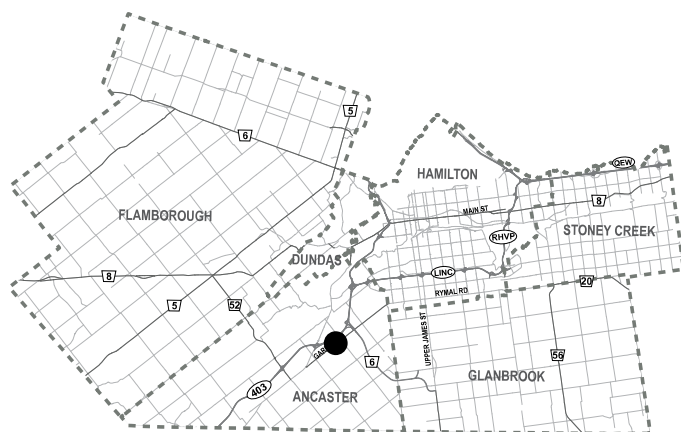
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	Easement (WE221348) over the subject property is in favour of the City for the purpose of grading and drainage and must be complied with. Please seek comment/advice from the relevant groups (eg. Hamilton Water) to assess the impact (if any) of this request in relation to the easement.
Notes:	

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





● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

245 Garner Road West, Ancaster (Ward 12)



Lands to be Retained



Lands to be Severed



Lands for Easement

File Name/Number:

B-25:046

Date:

August 6, 2025

Technician:

AL

Scale:

N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department