



## City of Hamilton

# Report for Information

**To:** Chair and Members  
Planning Committee

**Date:** May 5, 2026

**Report No:** PED26095

**Subject/Title:** Request for Direction to Proceed with Appeal of Committee of Adjustment Decision to Approve Consent to Sever Application B-25:087 for Lands Located at 117 Lowden Avenue, Ancaster

**Ward(s) Affected:** Ward 12

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## Recommendations

- 1) That Council gives approval to the following actions, as detailed in Report PED26095, respecting Committee of Adjustment Consent to Sever Application B-25:087 submitted by Mark Patrick Harris, on behalf of Mark Patrick Harris and James Rodway Harris (owners), for the lands located at 117 Lowden Avenue, Ancaster, as shown in Appendix "A" attached to Report PED26095, approved by the Committee of Adjustment without recommended conditions proposed by the Planning and Economic Development Department:

- (a) That Council of the City of Hamilton proceed with the appeal to the Ontario Land Tribunal against the decision of the Committee of Adjustment to approve Consent to Sever application B-25:087; and,
- (b) That Council directs appropriate Legal Services, Planning, and Development Engineering staff to attend the future Ontario Land Tribunal hearing in opposition to the decision of the Committee of Adjustment to approve Consent to Sever application B-25:087.

## Key Facts

- The purpose of the application is to sever a parcel of land with an area of 870 square metres and 53.86 metres of frontage. The retained lands are proposed to have an area of 929.35 square metres and 19.09 metres of frontage.
- The property is zoned Low Density Residential – Large Lot (R2) Zone in Zoning By-law No. 05-200.
- Report PW16100(a)/PED24032 recommended onsite source controls as the preferred method to mitigate impacts from new lot creation and redevelopment in areas of Ancaster with rural cross sections.
- The Committee of Adjustment decision to approve Consent to Sever application B-25:087 excluded three conditions recommended by staff including the requirement for a consent agreement, a stormwater management brief, and an acoustical report.
- Staff appealed the decision to approve Consent to Sever application B-25:087 on February 9, 2026, because the conditions to require a consent agreement, stormwater management brief, and an acoustical report were excluded by the Committee of Adjustment. Staff recommend proceeding with the appeal to the Ontario Land Tribunal against the decision of the Committee of Adjustment.

## **Financial Considerations**

Planning staff have submitted the required \$400.00 fee to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs of the Hearing is covered by the respective Departmental Work Programs/Budgets. One representative each from Legal Services, Development Planning and Development Engineering would be required for the preparation and attendance at the Ontario Land Tribunal hearing.

## **Analysis**

The subject lands are irregular in shape and have an area of 1,799.35 square metres with 72.98 metres of frontage along the east side of Lowden Avenue. The severed lands are proposed to have an area of 870.0 square metres and a frontage of 53.86 metres. The retained lands are proposed to have an area of 929.35 square metres and a frontage of 19.09 metres. The subject lands contain a single detached dwelling, which is proposed to be demolished. Surrounding land uses are primarily low density residential, with the Ancaster Radial Right of Way trail abutting the subject lands to the south.

On September 16, 2013, Public Works Committee (Report 13-011, Item #9) directed staff to determine if future requests for lot severances should be permitted in the developed communities of Old Ancaster without storm sewers, due to potential downstream flooding. This work was completed as a Phase 1 Pilot Study for a portion of Ancaster and brought to the Public Works Committee on November 14, 2016 (Report PW16100). The recommendations of this report were approved, and staff were directed to undertake Phase 2 of the Detailed Drainage Assessment Study, examining all existing residential neighbourhoods in Ancaster with rural drainage servicing to determine the threshold capacity and breakpoint of the existing drainage networks. It was further recommended that approval of lot severances in these areas was to be deferred until completion of Phase 2 of the study.

Phase 2 of the Detailed Drainage Assessment Study was completed and brought to the Public Works Committee on February 20, 2024 (Report PW16100(a)/PED24032).

Phase 2 of the study identified private source controls, including low impact development techniques on private property, as the preferred method to mitigate impacts of lot redevelopment and lot creation. The Report recommended specific conditions be applied through the consent to sever process to mitigate against the drainage concerns. Additionally, the Report recommended that staff appeal any decision of the Committee of Adjustment that omitted the conditions from the approval.

Consent to Sever application B-25:087 was originally heard at the January 20, 2026, Committee of Adjustment meeting. Staff recommended approval of the application, subject to conditions. Development Engineer staff recommended conditions to address stormwater management including lot grading, drainage, and servicing, and the need for a consent agreement. The stormwater management brief is necessary to ensure adequate mitigation measures are implemented on the subject lands in accordance with the recommendations of Report PW16100(a)/PED24032.

Planning staff recommended a condition requiring the submission of an acoustical report to investigate if noise control measures are needed to ensure noise levels on the severed lands, produced by traffic along Mohawk Road, meet City of Hamilton and Ministry of Environment, Conservation and Parks recommended sound level limits.

The applicant requested that the conditions requiring a consent agreement, stormwater management brief and an acoustical report be removed, and the Committee of Adjustment approved the application without the conditions.

Staff comments regarding Consent to Sever application B-25:087 are included in Appendix "B" attached to Report PED26095, the Committee of Adjustment Decision is included in Appendix "C", and the severance sketch is in Appendix "D". Staff filed the appeal of the Committee of Adjustment decision with the Ontario Land Tribunal on February 9, 2026.

A full review of applicable *Planning Act* sections, Provincial Planning Statement (2024), and Urban Hamilton Official Plan policies are included in Appendix “F”.

### *Planning Act*

Staff are of the opinion that the Committee’s decision to approve Consent to Sever application B-25:087 excluding the recommended conditions for a consent agreement, stormwater management brief and acoustical study, does not have sufficient regard for the subdivision of land criteria found in Section 51(24) or matters of provincial interest found in Section 2 of the *Planning Act*. These include the adequate provision, and efficient use of municipal services, the orderly development of safe and healthy communities, the resolution of planning conflicts involving public and private interests, and the protection of public health and safety.

### *Provincial Planning Statement (2024)*

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Planning Statement (2024). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Planning Statement (2024).

The proposal represents intensification within the settlement area where infrastructure and public service facilities are available, however the removal of the recommended conditions does not allow for proper planning for stormwater management or servicing. The approval of Consent to Sever application B-25:087 without these conditions is not consistent with the Provincial Planning Statement (2024).

### *Urban Hamilton Official Plan*

The subject lands are designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Infill development and gentle

residential intensification are intended to occur within the “Neighbourhoods” designation in accordance with lot creation policies of the Urban Hamilton Official Plan.

Conditions requiring a consent agreement, stormwater management brief and acoustical study were excluded from the approval of Consent to Sever application B-25:087. As these conditions were excluded, the proposal does not comply with the applicable Official Plan policies regarding servicing, drainage, stormwater management, and noise mitigation.

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

The current zoning on the property is Low Density Residential – Large Lot (R2) Zone. The Low Density Residential – Large Lot (R2) Zone permits low density residential uses such as single detached, semi-detached, triplex, fourplex and street townhouse dwellings. Appendix “A” attached identifies the current zoning of the subject lands and the surrounding area.

### *Rationale For Recommendation*

1. The Committee of Adjustment’s decision to approve Consent to Sever application B-25:087 without the recommended conditions should be appealed for the following reasons:
  - (i) It has insufficient regard for Section 2 and Section 51(24) of the *Planning Act*, and,
  - (ii) It is not consistent with the Provincial Planning Statement (2024), nor does it comply with the general intent and purpose of the Urban Hamilton Official Plan as staff concerns regarding servicing, drainage, grading, stormwater management and noise impacts have not been addressed.

Staff recommend proceeding with the appeal of the Committee of Adjustment decision to approve Consent to Sever application B-25:087.

## **Alternatives**

Council may direct staff to withdraw the appeal letter filed by staff against the decision of the Committee of Adjustment to the Ontario Land Tribunal. This option would allow the Committee of Adjustment's decision to permit the Consent to Sever application without the inclusion of the recommended conditions.

## **Relationship to Council Strategic Priorities**

1. Sustainable Economic & Ecological Development
  - 1.2. Facilitate the growth of key sectors.
2. Safe & Thriving Neighbourhoods
  - 2.1. Increase the supply of affordable and supportive housing and reduce chronic homelessness.

## **Consultation**

In consultation with Development Engineering staff, Development Planning staff appealed the decision to approve Consent to Sever application B-25:087 due to concerns regarding servicing, drainage, grading, stormwater management and noise impacts. The application was circulated to internal departments and external agencies as part of the Committee of Adjustment application process. The staff comment consolidation is provided in Appendix "B".

## **Appendices and Schedules Attached**

Appendix A: Location Map

Appendix B: Staff Comments for B-25:087

Appendix C: Severance Sketch

Appendix D: B-25:087 Committee of Adjustment Decision

Appendix E: B-25:087 Consent to Sever Application

Appendix F: Summary of Policy Review

### **Prepared by:**

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### **Submitted and Recommended by:**

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Planning and Economic Development Department