

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 12
<b>COMMITTEE DATE:</b> July 10, 2012	
<b>SUBJECT/REPORT NO:</b> Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 433 Hamilton Drive (Ancaster) (PED12124) (Ward 12)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Daniel Barnett (905) 546-2424 Ext. 4445
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

That approval be given to **Amended Zoning Application ZAR-11-074, by Grace Simonji (Owner)**, for a change in zoning from the Agricultural “A-216” Zone to the Residential “R3-652” Zone, with a Special Exception, to facilitate the creation of two single detached dwelling lots, on lands located at 433 Howard Boulevard (Ancaster), as shown on Appendix “A” to Report PED12124, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12124, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law be added to Section 34 of Zoning By-law No 87-57 as “R3-652”.
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement, conforms to the Places to Grow Plan, and is in conformity with the Hamilton-Wentworth Official Plan, the Town of Ancaster Official Plan, and New Urban Hamilton Official Plan.

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**EXECUTIVE SUMMARY**

The purpose of this application is for a change in zoning to facilitate a condition of severance required through approval of Application AN/B-08:33, which sought to divide the existing lot in order to create one additional lot for a new single detached residential dwelling (see Appendix “D”).

The proposal has merit and can be supported, as it is consistent with the Provincial Policy Statement, and conforms to the Places to Grow Plan, the Hamilton-Wentworth Official Plan, and the Town of Ancaster Official Plan. The proposed rezoning is considered to be compatible with existing development in the surrounding area.

In order to address the concerns of neighbouring residents, the Traffic Engineering and Operations Section (Public Works Department) and the Grand River Conservation Authority staff are establishing a site-specific Residential “R3” Zone to increase the minimum side yard setback requirements, increase the minimum rear yard setback requirements, and increase the minimum number of on-site parking spaces.

*Alternatives for Consideration - See Page 16.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

**Financial:** None.

**Staffing:** None.

**Legal:** As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

**HISTORICAL BACKGROUND (Chronology of events)**

Severance Application AN/B-08:33:

On March 18, 2008, the applicant submitted an application for severance in order to divide the lands located at 433 Hamilton Drive (Ancaster), into two lots for single detached dwellings. The application was tabled to address traffic issues with respect to a future nearby intersection and the impact of the lots on the design of the intersection. Through the review of the severance application, it was noted that the proposed lots would not comply with the By-law requirements of the Agricultural “A-216” Zone with respect to minimum lot frontage and lot area for both the lands to be severed and lands to be retained. As a consequence, given the nature and scale of the required modifications to the existing performance standards, and as the proposal is to establish residential lots, staff required, as a condition of consent approval, that the applicant

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apply for and receive formal approval of an application for rezoning. The severance application was brought back before the Committee of Adjustment on October 27, 2011, and was approved, subject to conditions, including among others, that the applicant apply for and receive rezoning approval (see Appendix "C" - Condition 4).

**Proposal**

The subject property is zoned Agricultural "A-216" Zone, Modified. The subject property has a lot frontage of 38.1 metres on Hamilton Drive, and has a lot area of 1,524 sq. m. The lands to be severed (Part 1) and the lands to be retained (Part 2) will both have a lot frontage of 19.05m and a lot area of 762 sq. m. (see Appendix "D").

The site-specific modifications for side yard setback and rear yard setback are required by staff to maintain the existing setback requirements of the Agricultural "A-216" Zone. The site-specific modification for parking is required to address a future intersection, which may eliminate on-street parking in the vicinity of the subject property.

Finally, it should be noted that the lands to the rear of the proposed severance were assembled with adjacent lands (431 Hamilton Drive) under a previous Consent Application AN/B-08:32. Frontage for these lands has, therefore, been secured through previous consent, as illustrated in Appendix "A".

**Chronology**

March 17, 2008: The applicant applied for two severance applications to sever the rear lands (Part 3 on Appendix "D") and add the lands to 431 Hamilton Drive, and to sever the remaining lands at 433 Hamilton Drive in order to create 1 additional single detached residential dwelling lot.

April 17, 2008: The applications were brought before the Committee of Adjustment. Staff recommended that the applications be tabled until the final design of the intersection of Hamilton Drive and Braithwaite Avenue had been determined. The Committee of Adjustment tabled the applications.

March 18, 2010: The application to sever the rear lands (Part 3 on Appendix "D") was brought back before the Committee of Adjustment. Staff recommended approval and the application was approved by the Committee of Adjustment.

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- October 27, 2011: The application to sever the retained lands at 433 Hamilton Drive (Parts 1 and 2 on Appendix "D") was brought back before the Committee of Adjustment. Staff continued to recommend that the application be tabled until the final design of the intersection of Hamilton Drive and Braithwaite Avenue had been determined; however, the Committee of Adjustment Approved the application, subject to conditions.
- December 8, 2011: The applicant submitted an application for rezoning in order to facilitate a condition of Severance Application AN/B-08:033.
- January 5, 2012: The application for rezoning was deemed to be complete.
- January 17, 2012: A notice of complete application was mailed to all residents within 120m of the subject property.
- January 18, 2012: The public notice sign was posted on the subject property.
- June 22, 2012: Notice of Public Meeting mailed out.

**Details of Submitted Application**

**Location:** 433 Hamilton Drive (Ancaster)  
**Owner:** Grace Simonji  
**Applicant:** Stephen Fraser, A.J. Clarke and Associates Ltd.

**Property Description:**            Frontage: 38.1m  
   Lot Depth: 40m  
   Area: 1,524 sq. m.

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Single Detached Residential Dwelling (to be demolished)	Agricultural "A-216" Zone
<b><u>Surrounding Lands:</u></b>		
<b>West</b>	Single Detached Residential Dwelling	Agricultural "A-216" Zone

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<b>North</b>	Single Detached Residential Dwelling	Agricultural "A-216" Zone
<b>East</b>	Vacant Lands	Agricultural "A-216" Zone
<b>South</b>	Vacant Lands	Agricultural "A-216" Zone

**POLICY IMPLICATIONS**

Provincial Growth Plan for the Greater Golden Horseshoe

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow).

"2.2.2 Managing Growth

1. Population and Employment growth will be accommodated by:
  - a) directing a significant portion of new growth to the built-up areas of the community through intensification.
  - c) building compact, transit-supportive communities in designated Greenfield areas.
  - j) directing major growth to Settlement Areas that offer municipal water and wastewater systems, and limiting growth in Settlement Areas that are serviced by other forms of water and wastewater services.

2.2.3 General Intensification

1. By the year 2015, and for each year thereafter, a minimum of 40 percent of all residential development occurring annually within each upper and single tier municipality will be within the built-up area."

As the proposed rezoning is to facilitate a condition of severance to establish an in-fill lot with full municipal services within the Urban Area, the proposal conforms to the policies of the Places to Grow Plan.

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Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS) policies that contribute to the development of healthy, liveable, and safe communities, as contained in Section 1.1.1. The subject lands are considered to be within a Settlement Area, as defined by the PPS. As such, the application is consistent with Policy 1.1.3.1 with respect to focusing growth and regeneration within existing Settlement Areas.

“1.1.3.2 “Land use patterns within Settlement Areas shall be based on:

b. densities and a mix of land uses which:

1. efficiently use land and resources;
2. are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; and,
3. minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with Policy 1.8; and,

c. a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in Policy 1.1.3.3.

1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated, taking into account existing building stock or areas, including Brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.”

As the proposal is to facilitate a severance for the creation of one additional single detached residential dwelling within the Urban Area, the proposal is consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, determined through area municipal Official Plans and based on full municipal services, will be concentrated in the Urban Area. Policy 3.1.1 encourages compact, mixed-use to ensure people are close to shopping and their workplace, and that growth can be accommodated within the existing Urban Area.

As the proposal is to facilitate a severance for the creation of one additional single detached residential dwelling within the Urban Area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Town of Ancaster Official Plan

The subject property is designated “Residential” in the Town of Ancaster Official Plan, which permits single detached residential dwellings.

“4.4.1 The predominant use of lands designated Residential on Schedule B shall be for dwellings in areas which will be supplied with urban services (sanitary and storm sewers and watermains).

4.4.2 Types of residential development permitted in the Residential designation shall be single detached dwellings, semi-detached dwellings, town housing, low-rise apartments, and innovative forms of attached housing.”

As the proposal is to establish residential zoning to facilitate the establishment of two single detached residential dwelling lots that are on full municipal services, the proposal conforms to Policies 4.4.1 and 4.4.2 of the Town of Ancaster Official Plan.

“4.4.4 Certain lands designated Residential by this Plan in the Urban Area shall be developed by integrating road systems, accommodating the community requirements of the residents, assuring compatibility of dwelling types and other uses, and such other matters deemed necessary in order to achieve an orderly and integrated growth of the Urban Area.

4.4.5 Each Secondary Plan Area shall be developed in accordance with urban design concepts (including design, integration of roads, both existing and proposed, landscaping of development, underground provision of utilities, variation in front yard setbacks of neighbouring dwellings, etc.).”

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The subject property is located in close proximity to a future intersection where a potential roundabout may be established, however, no roundabout was included in the road pattern of the secondary plan, and road allowance requirements to accommodate a roundabout have not been included in the Town of Ancaster Official Plan (see Condition 12 of Severance Application - Appendix "C").

It is considered that given the proposed lots and potential building envelopes, any required road improvements for the intersection of Hamilton Drive and Braithwaite Avenue, including the establishment of a roundabout, would not be prejudiced by the subject application. Furthermore, comments from the City's Traffic Section indicate support for the application, subject to warning clauses being included in all purchase and sale agreements, regarding potential for future driveway limitations. This will be placed as a condition of the Consent Agreement.

"4.4.13 In Residential areas, great care shall be taken to preserve mature vegetation growth. Existing trees will be preserved, wherever possible, and the planting of trees in new subdivisions shall be a requirement in any Subdivision Agreement. The preservation of vegetation and natural drainage patterns shall be an essential consideration in the design and layout of the road system in all development proposals."

There is a significant amount of vegetation on the property, and the proposed 3m westerly side yard setback, 9m rear yard setback, and 35% lot coverage will help to preserve a sufficient amount of the existing vegetation. As part of the consent agreement for Severance Application AN/B-08:33, a Tree Management Plan is required.

"4.4.14 The subdivision of land, in the area designated Residential by this Plan, shall be predominately by means of a Registered Plan of Subdivision in accordance with the Planning Act. However, the creation of new Residential lots by means of "metes and bounds" conveyances, through the Consent of the Regional Land Division Committee may be considered provided:

- i) The proposal does not involve more than the minor extension of an existing road;
- ii) The proposal will not prejudice the future development or the location of future roads or services;
- iii) The proposal is in compliance with the Zoning By-law and the Secondary Plan, where such a Plan exists at the time when this Plan is approved;
- iv) Full municipal services are available;



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- v) The proposed lots are of a shape consistent with the existing lots in the general area;
- vi) The proposed lots are of a size consistent with the existing lots in the general area and in accordance with the appropriate regulations of the Zoning By-law; and,
- vii) The proposed lots are not within lands that are the subject of a subdivision application before the municipality.

7.7.1.2 When considering any application for Consent for the division of land for any purpose, conformity with the following provisions are required:

- i) No consent shall be permitted unless the proposal is in compliance with the policies of this Plan, the Regional Official Plan, the Niagara Escarpment Plan, approved settlement capability studies, the requirements of the Planning Act and the Minimum Distance Separation Formula of the Agricultural Code of Practice.
- ii) No Consent shall be finalized unless the proposal is in conformity with the Zoning By-law.
- iii) That the lot to be retained and the lot to be severed must have frontage on, and have direct access to, an open, improved, public road, which is maintained on a year-round basis.
- iv) No lot shall be created which would access onto a road where a traffic hazard would be created due to limited sight lines on curves or grades.
- vi) Severances within the Urban Area Boundary shall be permitted only where the proposed development is serviced by municipal sewer and water systems, or the services have been committed to be extended.
- viii) No consent shall be permitted if the result of such a severance would be to undermine the objectives or prevent the achievement of a development scheme proposed in any approved secondary plan.”

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As the proposed rezoning is to facilitate a severance application to establish one additional single detached residential dwelling lot that has access to full municipal services, has a lot size and shape that is consistent with the area, and as the proposal will not prejudice the future road pattern which has been outlined in the approved Secondary Plan, the proposal conforms to the policies of the Town of Ancaster Official Plan.

Shaver Neighbourhood Secondary Plan

The subject property is designated “Low Density Residential” in the Shaver Neighbourhood Secondary Plan.

“6.2.5.1 Residential Policies

- l) Low Density Residential
  - i) Low Density Residential areas shall include single detached dwelling units on minimum 10.7m to 18.3m or larger frontage lots. The residential density in Low Density Residential areas shall not exceed 20 dwelling units per gross/net residential hectare.
  - p) The residential lots in the Low Density Residential designation in the Hamilton Drive area shall have a minimum frontage of 15.2m to ensure compatibility with existing adjacent residences and future single detached housing in the Shaver Neighbourhood.

6.2.6.4 Design Policies

- a) Wherever possible, existing trees, significant vegetation, and distinctive site views, such as to the Big Creek valleylands and wooded areas, shall be protected and preserved through sensitive subdivision design.
- e) Building and site design, setbacks, landscaping, screening, and buffering techniques shall be applied to minimize potential conflicts between new residential development in the Shaver Neighbourhood and existing residential land uses located both within and adjacent to the neighbourhood.”

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As the proposal is to facilitate the creation of one additional single detached dwelling lot, with a minimum lot frontage of 19m and a density of 10.5 units per gross/net hectare, and as the proposal will maintain significant vegetation, setbacks, landscaping, and other design techniques, the proposal conforms to the policies of the Garner Neighbourhood Secondary Plan.

**RELEVANT CONSULTATION**

**Agencies/Departments Having No Comment or Objections**

- Forestry and Horticulture Section, Public Works Department.
- Recreation Division, Community Services Department.
- Hamilton Municipal Parking System.

**Traffic Engineering and Operations Section (Public Works Department)**

Comments from Traffic Engineering and Operations staff noted that the applicant should be advised that driveway access to the two lots may be restricted in the future due to the construction of a roundabout and associated splitter islands; and that the lots may be restricted to a right-in/right-out only situation. Traffic Engineering staff indicated that the potential driveway restrictions should be contained as a warning clause of any purchase and sale agreement. This will be placed as a condition of the Consent Agreement.

Traffic Engineering staff comments noted that future improvements to the road, such as the construction of a roundabout, have the potential to restrict the availability of on-street parking and, therefore, double driveways should be maintained in order to locate parking on-site. To achieve this, staff is requiring that the parking requirements for the proposed lands to be severed and lands to be retained be increased from 2 on-site parking spaces to 4 on-site parking spaces, in which 2 spaces can be tandem. This would require the applicant to establish a double driveway, with two vehicles located in a double car garage and two located in front of the garage.

This has been included as a provision within the amending By-law (see Appendix "B").

**Grand River Conservation Authority**

Comments from the Grand River Conservation Authority identified that the rear of the subject property is within the regulated area of the Grand River Conservation Authority. As a suitable building envelope can be obtained outside the regulated area, the Conservation Authority does not object to the proposed rezoning application.

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In respect to the change in By-law restrictions of the Agricultural "A-216" Zone, which requires a minimum 9m rear yard setback, and the Residential "R3" Zone, which requires a minimum 7.5m rear yard setback, the position of the Conservation Authority is to maintain the 9m rear yard setback in the new Site-Specific Zoning By-law Amendment. Staff has discussed this with the applicant, who is willing to accept the 9m rear yard setback restriction. This has been included in the amending By-law (see Appendix "B").

The issue of an accessory building in the rear yard was raised in discussions with the Grand River Conservation Authority, and whether a restriction on an accessory building should be required. The existing Town of Ancaster Zoning By-law provisions on accessory buildings prohibit an accessory building greater than 12 sq. m. from being located within the minimum rear yard setback requirement for a dwelling. In this situation, a 9m setback would be required for an accessory building greater than 12 sq. m. Furthermore, as the lands are within the regulated area of the Grand River Conservation Authority, a permit will be required for any accessory building. Therefore, any accessory building less than 12 sq. m. in size, which the Zoning By-law would permit to be located within 0.75m from the rear lot line, would be subject to review by the Conservation Authority.

Finally, it should be noted that as the subject property is located partially within the regulated area of the Grand River Conservation Authority, a permit from the Conservation Authority will be required prior to any building permit being issued.

**Public Consultation**

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities.

The subject rezoning application is part of the implementation of Consent Application FL/B-09:96, which was approved by the Committee of Adjustment on October 27, 2011. Therefore, preliminary circulation was not required. One resident made representation in respect to the consent application, and expressed concerns about protecting trees and vegetation, that Hamilton Drive is unique for its large lots, future road connection of Braithwaite/Tollgate to Hamilton Drive, and the potential impact the proposed lot severance will have on these issues. These issues have been addressed in the Analysis/Rationale for Recommendation section of this Report.

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Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands, and posting a Public Notice sign on the property. The same local resident/property owner who made representation at the Committee of Adjustment meeting wrote to the Department raising issues with the proposed rezoning application. The issued raised was with respect to the request to reduce the side yard setback requirements from 3m to 1.5m, and the effects that this reduction would have on existing vegetation, streetscape character, privacy, and drainage (see Appendix “F”). These issues have been highlighted and addressed in the Analysis/Rationale for Recommendation section of this Report.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
  - i) It is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan, Hamilton-Wentworth Official Plan, Town of Ancaster Official Plan, and New Urban Hamilton Official Plan.
  - ii) It is compatible with the type and form of development in the surrounding neighbourhood.
  - iii) It implements a condition of approval for Severance Application AN/B-08:33 (see Appendix “C” - Condition 4).
  
2. The subject property is located in the Urban Area of Ancaster, on the south side of Hamilton Drive, north of Garner Road, and south of the 403. There is an existing single detached dwelling on the subject property that will be demolished as a condition of Consent Approval (see Appendix “C” - Condition 6).

Requested By-law Modifications:

<u>Agricultural “A-216” Zone:</u>	<u>Standard “R3” Zone:</u>	<u>Recommended Site-Specific “R3” Zone:</u>
i) <u>Rear Yard Setback:</u> 9m (minimum)	i) <u>Rear Yard Setback:</u> 7.5m (minimum)	i) <u>Rear Yard Setback:</u> 9m (minimum)
ii) <u>Side Yard Setback:</u> 3m (minimum)	ii) <u>Side Yard Setback:</u> 1.5m (minimum)	ii) <u>Side Yard Setback:</u> 3m westerly side yard and 1.5m easterly side yard (minimum)

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iii) Parking:  
2 spaces (minimum)

iii) Parking:  
2 spaces (minimum)

iii) Parking:  
4 spaces in which two  
can be tandem  
(minimum)

The site-specific modifications to the “R3-652” Zone will be discussed in the following section:

Rear Yard Setback:

Section 11.1.2 f) of the Town of Ancaster Zoning By-law 87-57 states that a minimum rear yard setback of 7.5m is required. The intent and purpose of requiring a minimum rear yard setback is to provide adequate rear yard private amenity space and adequate buffering for abutting uses. The existing Agricultural “A-216” Zone requires a minimum rear yard setback of 9m and, therefore, applying the standard “R3” Zoning provisions would reduce the rear yard setback by 1.5m. In consultation with the Grand River Conservation Authority, it was suggested that the larger 9m rear yard setback should be maintained to provide adequate buffering from the environmentally sensitive lands located on the property to the rear of the subject lands. The applicant has advised that the proposed 9m rear yard setback is acceptable. Therefore, the proposed modification is to increase the rear yard setback, which will increase the amount of rear yard private amenity area and maintain adequate space for buffering.

Side Yard Setback:

Section 11.3.2 c) of the Town of Ancaster Zoning By-law 87-57 states that a minimum side yard setback of 1.5m is required. The intent and purpose of requiring a minimum side yard setback is to maintain streetscape character and provide adequate space for access, maintenance, and drainage. The character of the area is defined by large separations between dwellings, and the existing zoning provisions require a minimum side yard setback of 3m. There is only one neighbouring dwelling located immediately adjacent to the subject property. The neighbouring dwelling is located to the west of the subject property. In order to reflect the character of the existing residential lot fabric, a minimum westerly side yard setback of 3m should be maintained. In discussions with staff, the applicant is willing to maintain a 3m westerly side yard setback, but wishes to maintain a 1.5m easterly side yard setback. The proposed 3m westerly side yard setback would apply to both the lands to be severed and lands to be retained and, therefore, a minimum separation of 4.5m (14.8ft) would be maintained between the dwellings, which while not identical to the 6m (19.7ft.) that the Agricultural “A-216” Zone requires, is compatible with the general character of the area. The 3m westerly side yard setback and 1.5m easterly side yard setback will maintain

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adequate space for access to the rear yard, and will provide adequate space for maintenance and drainage.

The proposed increase will also help to address the concerns raised in the letter of objection.

Parking:

Section 7.14 b) i) a) of the Town of Ancaster Zoning By-law 87-57 states that a minimum of 2 on-site parking spaces are required for a single detached dwelling. The intent and purpose of requiring a minimum of 2 on-site parking spaces is to ensure that the parking needs of the property are met and do not contribute to spill-over parking. Typically, in a residential neighbourhood, on-street parking is available in front of or in close proximity to a residential dwelling that can accommodate the visitor parking needs of the property. However, as Hamilton Drive is a collector road and there is the potential that a roundabout may be located in front of the subject property, on-street parking may be extremely limited, if not unavailable. Therefore, all visitor parking will be required to be accommodated on-site. To this effect, staff is requiring that the minimum on-site parking requirements be increased from 2 spaces to 4 spaces. In order to permit the accommodation of 4 on-site parking spaces, 2 of the parking spaces can be tandem parking spaces. Consequently, a double car garage with 2 parking spaces in the garage, and 2 more spaces in the driveway in front of the garage, would satisfy this By-law provision. Staff has discussed the proposed modification with the applicant who has advised that they accept the proposed By-law modification for increased parking.

3. There is an existing municipal watermain and sanitary sewer within the Hamilton Drive right-of-way that will provide adequate municipal services. As a condition of consent, the owner will be required to enter into and allow to be registered on title, a Consent Agreement with the City of Hamilton to accommodate the grading and drainage of the subject lands (see Appendix "C" - Condition 9). The owner is also required, as a condition of consent approval, to pay for the future urbanization of Hamilton Drive based on the New Road Servicing Rate (see Appendix "C" - Condition 8). As the existing road allowance of Hamilton Drive is 20.12m (66ft.), no additional lands are required for road widening purposes.
4. Following the notice of complete application, staff received one letter of objection. The letter of objection (see Appendix "F") is in respect to the reduction in the side yard setback from 3m to 1.5m, which the change in zoning from the Agricultural "A-216" Zone to the Residential "R3" Zone would permit. The concern with respect to the reduction in the side yard setback was based on compatibility with the existing character of the neighbourhood, effect of the reduced setback on existing vegetation, loss of privacy, and drainage and erosion concerns.

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In regard to compatibility with the existing character of the neighbourhood, the neighbourhood is comprised of large separation between dwellings and, as such, the reduced side yard setback of lots with the “R3” Zone would not be generally consistent with the existing neighbourhood. The applicant is prepared to maintain the 3m minimum side yard setback for the westerly side yard of both properties which will, therefore, maintain a large 6m (19.7ft.) separation between the existing dwelling to the west and the dwelling on Lot 1, as well as maintain a compatible 4.5m (14.8ft.) separation between the dwelling on Lot 1 and the dwelling on Lot 2. It is considered that these required setbacks in the amending By-law will maintain compatibility with the existing character of the neighbourhood.

In regard to the reduced setback on existing vegetation, the Site-Specific Zoning By-law will require a minimum 3m side yard setback between the dwelling located on Lot 1 and the property line shared with the residential property to the west. Maintaining the existing 3m westerly side yard setback will protect the existing vegetation that is located between the existing dwelling on the abutting property and the proposed dwelling on Lot 1.

In regard to a loss of privacy for the abutting residence, the maintenance of the existing 3m westerly side yard setback will protect the existing vegetation and provide greater separation between the new dwelling located on Lot 1 and the existing residential property located to the west.

In regard to the concerns regarding drainage and erosion, the proposed lots will be required to demonstrate that the properties can be appropriately drained and that no erosion will occur as part of the consent agreement, which is required as a condition of consent approval. As a 3m westerly side yard setback will be maintained between the dwelling on Lot 1 and the neighbouring lot to the west, adequate space will be maintained to ensure adequate drainage and to prevent erosion.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

If the proposed rezoning application is not approved, the applicant would not be able to finalize Severance Application AN/B-08:33, and could continue to utilize the property for residential purposes in the form of one single detached dwelling.



**SUBJECT: Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 433 Hamilton Drive (Ancaster) (PED12124) (Ward 12) - Page 17 of 17**

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**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

**Financial Sustainability**

- ◆ Effective and sustainable Growth Management.

**Social Development**

- ◆ Everyone has a home they can afford that is well maintained and safe.

**Environmental Stewardship**

- ◆ Reduced impact of City activities on the environment.

**Healthy Community**

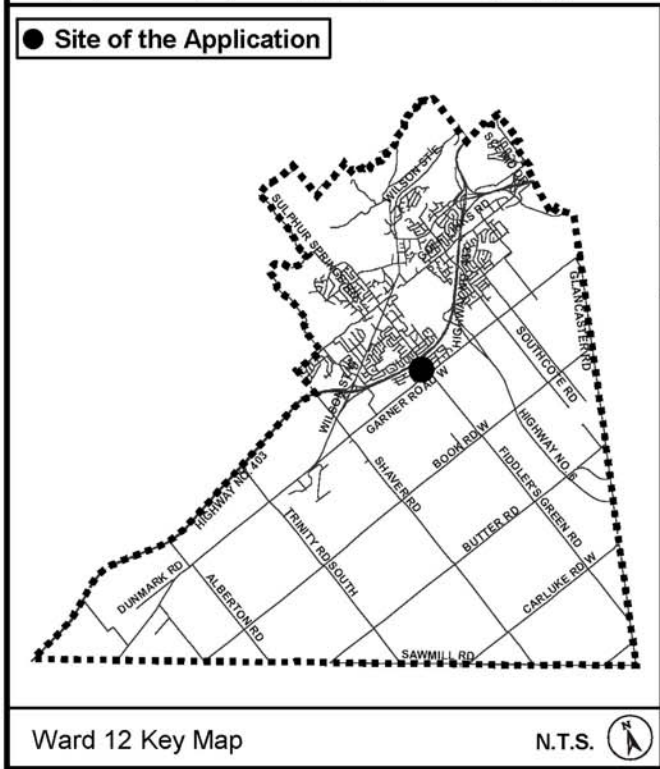
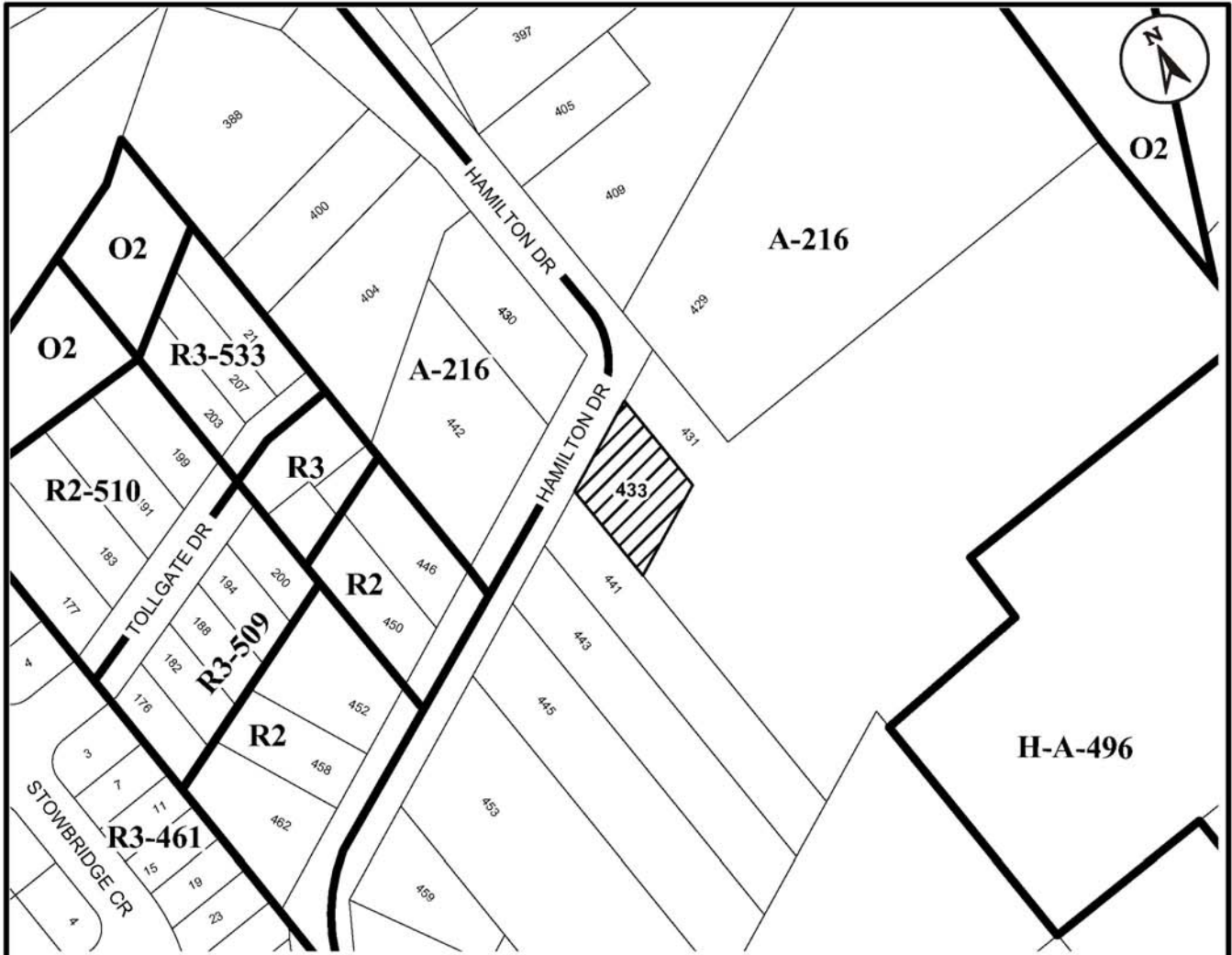
- ◆ Plan and manage the built environment.

**APPENDICES / SCHEDULES**


- Appendix "A": Location Map
- Appendix "B": Draft By-law and Schedule A Map
- Appendix "C": Decision for Severance Application AN/B-08:33
- Appendix "D": Concept/Survey Plan
- Appendix "E": Staff Comments for Severance Application AN/B-08:33
- Appendix "F": Letter of Objection

:DB

Attachs. (6)




## Location Map

  
**Hamilton**

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-11-074	Date: January 4, 2012
Appendix "A"	Scale: N.T.S.
Planner/Technician: DB / MB	

**Subject Property**

 433 Hamilton Drive

**Authority:** Item [REDACTED]  
Planning Committee  
Report: 12-[REDACTED] (PED12124)  
CM: [REDACTED]

**Bill No.** [REDACTED]

## CITY OF HAMILTON

### BY-LAW NO. [REDACTED]

#### To Amend Zoning By-law No. 87-57, Respecting Lands Located at 433 Hamilton Drive, in the former Town of Ancaster, now in the City of Hamilton

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as the "The Corporation of the Town of Ancaster" and is the successor to the former Regional Municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 87-57 (Ancaster) was enacted on the 22<sup>nd</sup> day of June 1987, and approved by the Ontario Municipal Board on the 23<sup>rd</sup> day of January, 1989;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 87-57, be amended as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Ancaster).

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Map 1 of Schedule "B" of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing the zoning from the Agricultural "A-216" Zone to the Residential "R3-652" Zone, on the lands the extent and boundaries of which are shown on a Plan hereto annexed as Schedule 'A'.
2. That Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following Sub-section:

**R3-652** That notwithstanding the provisions of Paragraph (c) of Sub-section 11.3.2 "Regulations" and Paragraph (f) of Sub-section 11.1.2 of Section 11: Residential "R3" Zone, Schedule "C", and the provisions of Paragraph b) Sub-section 7.14 "Parking and Loading", the following special provisions shall apply to the lands zoned "R3-652":

Development Regulations:

- |    |  |   |
|----|--|---|
| a) | Minimum Side Yard:                                       | 3 metres westerly side yard and 1.5m easterly side yard, except on an interior lot where no attached carport or attached garage is provided, the side yard on one side shall be 4.5 metres. |
| b) | Minimum Rear Yard:                                       | 9 metres.   |
| c) | Minimum Number of Parking Spaces:                        | 4 Parking Spaces per Dwelling Unit of which not more than two spaces can be tandem parking spaces.  |
| d) | All other provisions of the Residential "R3" Zone apply. |   |
3. That the amending By-law be added to Map 1 of Schedule B of Ancaster Zoning By-law No. 87-57.
  4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

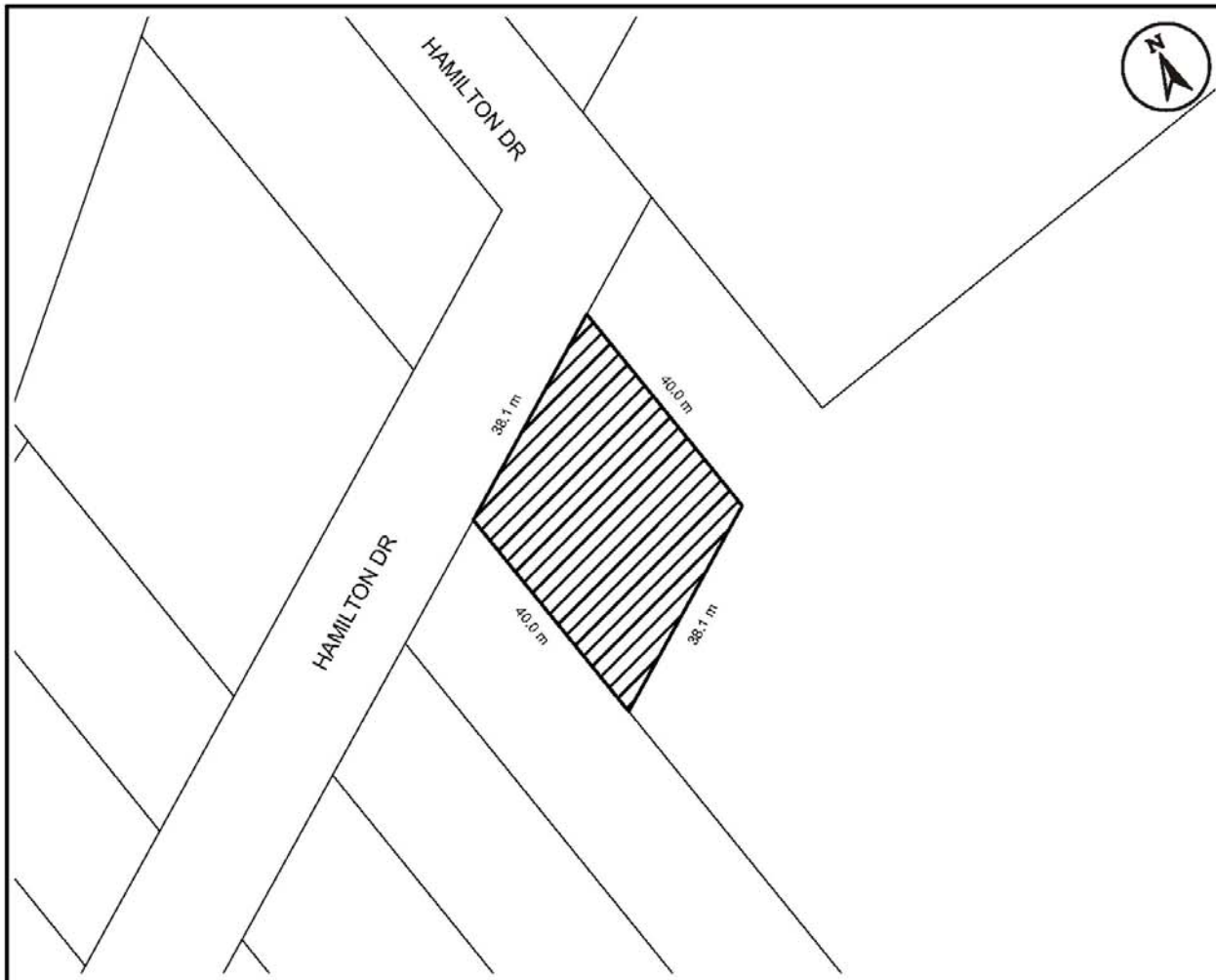
**PASSED and ENACTED** this [ ] day of [ ], 2012.

---

R. Bratina  
Mayor

---

Rose Caterini  
Clerk



This is Schedule "A" to By-Law No. 12-

Passed the ..... day of ....., 2012

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Mayor

-----  
Clerk

## Schedule "A"

Map Forming Part of  
By-Law No. 12-\_\_\_\_\_

to Amend By-law No. 87-57

### Subject Property

433 Hamilton Drive



Change in Zoning from the Agricultural "A-216" Zone to the Residential "R3-652" Zone.

Scale:  
N.T.S.

File Name/Number:  
ZAR-11-074

Date:  
June 6, 2012

Planner/Technician:  
DB / AL



**Hamilton**

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT



Committee of Adjustment  
Hamilton City Centre  
4<sup>th</sup> floor, Suite 400, 77 James St. N.  
Hamilton, ON L8R 2K3  
Telephone (905) 546-2424, ext. 4221  
Fax (905) 546-4202

**COMMITTEE OF ADJUSTMENT**  
**NOTICE OF DECISION**

**APPLICATION FOR CONSENTLAND SEVERANCE**

**APPLICATION NO. AN/B-08:33**  
**SUBMISSION NO. B-33/08**

**IN THE MATTER OF** The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

**AND IN THE MATTER OF** the Premises known as Municipal number 433 Hamilton Drive, formerly in the Town of Ancaster, now in the City of Hamilton;

**AND IN THE MATTER OF AN APPLICATION** by the agent A.J. Clarke and Associates Ltd. (Stephen Fraser) on behalf of the owner Grace Simonji, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 19.05m± (62.5'±) x 40.0m± (131.2'±) containing a portion of an existing single family dwelling (to be demolished) for single family residential purposes, and to retain a parcel of land measuring 19.05m± (62.5'±) x 40.0m± (131.2'±) containing a portion of an existing single family dwelling (to be demolished) for single family residential purposes.

**THE DECISION OF THE COMMITTEE IS:**

That the said application, as set out in paragraph three above, **IS APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Ancaster Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

**Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following 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.
2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

3. 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 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 and the Ministry of Tourism and Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

CERTIFIED A TRUE COPY  
*[Signature]*  
12  
SECRETARY TO THE COMMITTEE

AN/B-08:33  
Page 2

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

4. That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.
5. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
6. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Services Division). Such demolition is subject to the issuance of a demolition permit from this Division in the normal manner.
7. The owner/applicant apply for and receive any required building/demolition permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Services Division).
8. That the Owner pays to the City of Hamilton the future urbanization costs of Hamilton Drive based on the New Road Servicing Rate for the year that final approval is obtained.
9. That the Owner enters into, and allows to be registered on title of the lands, a Consent Agreement with the City of Hamilton to deal with the grading and drainage of the subject lands. The applicant shall demonstrate to the satisfaction of the Manager of Engineering Design and Construction that all drainage from the site shall be taken to suitable outlet.
10. That the owner/applicant apply for and receive in the normal manner an access permit for each lot, to the satisfaction of the Manager of Traffic Engineering.
11. That the owner/applicant restore any abandoned access at 433 Hamilton Drive to the satisfaction of the Manager of Engineering Design and Construction.
12. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:  
  
"That driveway access may be restricted in the future due to the construction of a roundabout and associated splitter islands. Restrictions may include right-in/right-out access only."
13. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
14. The owner submit to the Committee of Adjustment office an administration fee of \$30.60 (\$15.30 per lot) payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 27th day of October 2011.

\_\_\_\_\_  
M. Dudzic, Chairman

\_\_\_\_\_  
L. Gaddy

\_\_\_\_\_  
W. Pearce

\_\_\_\_\_  
D. Serwatak

\_\_\_\_\_  
D. Smith

\_\_\_\_\_  
D. Drury



Appendix "C" to Report PED12124 (Page 3 of 3)

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS November 3rd, 2011.  
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (November 3rd, 2012) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

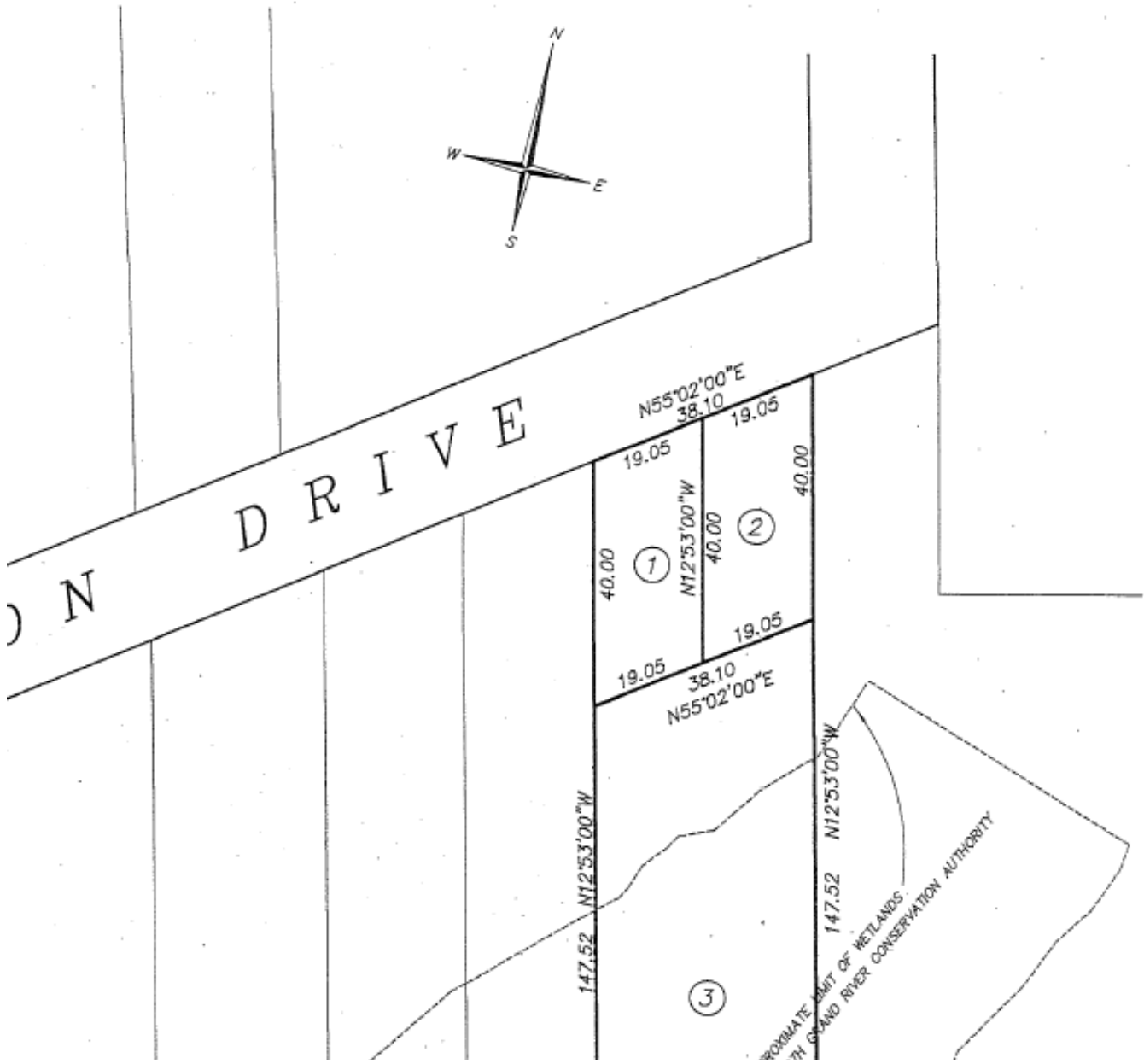
NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS November 23rd, 2011.

**NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.**

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that due to an address spacing issue, the municipal address of 433 Hamilton Drive will be retired and no longer used. The lands to be conveyed (Part 1) will be assigned the municipal address of 439 Hamilton Drive, and that the lands to be retained (Part 2) will be assigned the municipal address of 437 Hamilton Drive.

Concept Plan



October 13th, 2011

**Re-scheduled**  
**AN/B-08:33 (433 Hamilton Drive, Ancaster)**

**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT**

**Development Planning – West:**

The applicant is proposing to sever the existing lot in order to create two (2) single detached residential dwelling lots.

**Provincial Policy Statement (PPS)**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note that the lands to be severed contain an existing dwelling that is to be used for residential purposes which is located within approximately 234 m from **Highway No. 403**. As such, should the Committee approve the subject applications, staff require the fulfilment of condition No. 1 stated below.

**Hamilton-Wentworth Official Plan**

The subject property is designated as "**Urban Area**" within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The subject property meets one of the ten criteria used by the City of Hamilton and Ministry of Tourism and Culture 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.

This criterion defines the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, staff require the fulfilment of condition No. 2 stated below.

The subject property is located within a **Core Area** and **Linkage** in the Natural Heritage System in the Urban Hamilton Official Plan. Development and site alteration are not permitted within or

.../2

AN/B-08:33

Page 2

adjacent to Core Areas unless it can be shown, through an Environmental Impact Statement, that there will be no negative impacts on the ecological features and functions of the Core Area. Since development or site alterations are not proposed at this time, staff do not have any comments. However, if, in the future, development or site alterations are proposed, an Environmental Impact Statement will be required to the satisfaction of the City and Conservation Authority. In addition, the lands may be subject to Site Plan Control.

#### The Town of Ancaster Official Plan

The subject property is designated "Residential" in the Town of Ancaster Official Plan. Policy 4.4.1 states "The predominant use of lands designated Residential on Schedule B shall be for dwellings in areas which will be supplied with urban services (sanitary and storm sewers and watermains)."

Policy 7.7.1.1 states "Land development will occur primarily by Registered Plan of Subdivision pursuant to the Planning Act. Where it is clearly not necessary nor in the public interest that development of land proceed by means of a Registered Plan, the division of land by Consent of the Land Division Committee may be considered."

Policy 7.7.1.2 states "When considering any application for consent for the division of land for any purpose, conformity with the following provisions is required:

- i) No consent shall be permitted unless the proposal is in compliance with the policies of this Plan, the Regional Official Plan, Niagara Escarpment Plan, approved settlement capability studies, the requirements of the Planning Act and the Minimum Distance Separation Formula of the Agricultural Code of Practice.
- ii) No Consent shall be finalized unless the proposal is in conformity with the Zoning By-law.
- iii) That the lot to be retained and the lot to be severed must have frontage on and have direct access to an open, improved public road which is maintained on a year-round basis.
- iv) No lot shall be created which would access onto a road where a traffic hazard would be created due to limited sight lines on curves or grades.
- vi) Severances within the Urban Area Boundary shall be permitted only where the proposed development is serviced by Municipal sewer and water systems or the services have been committed to be extended.
- viii) No consent shall be permitted if the result of such a severance would be to undermine the objectives or prevent the achievement of a development scheme proposed in any approved secondary plan."

AN/B-08:33  
Page 3

The subject property is located at a proposed T-intersection which has been identified in the Shaver Neighbourhood Secondary Plan and the proposed lots have the potential to prevent the orderly development of the proposed T-intersection. Therefore, until it can be determined that the proposed lots will not prejudice the proposed development of the intersection, the proposal does not conform to the policies of the Town of Ancaster Official Plan.

Shaver Neighbourhood Secondary Plan

The subject lands are located within the Shaver Neighbourhood Secondary Plan. The northern portion is designated "Low Density Residential", policy 6.2.5.1 l) i) states "Low Density Residential areas shall include single detached dwelling units on minimum 10.7m to 18.3m or larger frontage lots. The residential density in Low Density Residential areas shall not exceed 20 dwelling units per gross net residential hectare." The proposed lots will have a lot frontage of 19m and a density of 14 units per net hectare and therefore, the proposed lots will comply with the residential policies of the Shaver Neighbourhood Secondary Plan.

It should be noted that the Shaver Neighbourhood Secondary Plan identifies the future connection of Braithwaite Avenue and Hamilton Drive. Since the proposed severances are in close proximity to the proposed intersection the Committee should be advised that the Traffic Engineering and Operations section is proposing a roundabout or a T intersection here, which may impact on the future road widenings and frontage of the proposed lots. Comments from the Traffic Engineering and Operations section should be considered.

Town of Ancaster Zoning By-law

The subject property is zoned Agricultural "A-216" Zone in the Town of Ancaster Zoning By-law, to which the proposed use complies.

The proposed lands to be severed and lands to be retained will have a lot frontage of 19m and a lot area of 706 sq. m. and will therefore not meet the minimum lot area requirement of 1,850 sq. m. and will not meet the minimum lot frontage requirement of 30m. Therefore should the severance application be approved a condition of rezoning will be required.

It should be noted that staff consider the proposed application to be premature until the final design of the future connection of Hamilton Drive and Braithwaite Avenue has been determined and approved by the City's Traffic Engineering and Operations Section.

Recommendation:

Therefore, staff recommends that the proposed severance application be **Tabled**. If the applicant wishes to proceed with severance at this time staff would recommend that the proposed severance be **Denied**.

AN/B-08:33

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Conditions (If Approved):

1. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

2. 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 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 and the Ministry of Tourism and Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

3. That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that due to an address spacing issue, the municipal address of 433 Hamilton Drive will be retired and no longer used. The lands to be conveyed (Part 1) will be assigned the municipal address of 439 Hamilton Drive, and that the lands to be retained (Part 2) will be assigned the municipal address of 437 Hamilton Drive.

AN/B-08:33

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**Building Services Division:**

The applicant should obtain an appropriate municipal address for the proposed parcels from the Development Section of the Planning and Economic Development Department prior to the issuance of a building permit.

Demolition of the existing single family dwelling should be a condition of consent. Such demolition is subject to the issuance of a demolition permit from this Division in the normal manner.

Variances for lot area and lot frontage will be required for zoning compliance of both the lands to be conveyed and the lands to be retained.

**Conditional Upon:**

The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Services Division). Such demolition is subject to the issuance of a demolition permit from this Division in the normal manner.

The owner/applicant apply for and receive any required building/demolition permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Services Division).

**Development Engineering – West:**

**Information:**

1. For the information of the Committee, the secondary plan for the Shaver Neighbourhood shows that Braithwaite Avenue is to be extended westerly to intersect Hamilton Drive in order to facilitate orderly future development of the adjacent lands.
2. Our records indicate that this section of Hamilton Drive is constructed to a rural cross-section. As a condition of development approval the applicant will be required to pay their proportionate share for the future urbanization of Hamilton Drive based on the City's New Roads Servicing Rate for the year that final approval is granted.
3. There is an existing sanitary sewer within the Hamilton Drive Road allowance available to service the subject lands. As a condition of approval the Owner will be required to address all outstanding servicing costs related to the sanitary sewer.

AN/B-08:33

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4. There is an existing municipal watermain within the Hamilton Drive road allowance available to service the subject lands.
5. The City's topographical data indicates that this property slopes significantly to the south, away from Hamilton Drive. As a condition of development approval the applicant will be required to demonstrate that all drainage can be taken to a suitable outlet.

**Recommendation:**

1. Staff views this application as pre-mature and recommends that it **be tabled** until such time as the future geometric design of the proposed intersection of Braithwaite Avenue and Hamilton Drive is determined and staff is able to evaluate the effects of said design on the subject lands. Once the impact of the future intersection on the subject lands has been determined, staff will provide conditions of Consent to deal with outstanding servicing costs including road urbanization, storm drainage and the requirement for a consent agreement.

**Hamilton Municipal Parking System (Parking Services):**

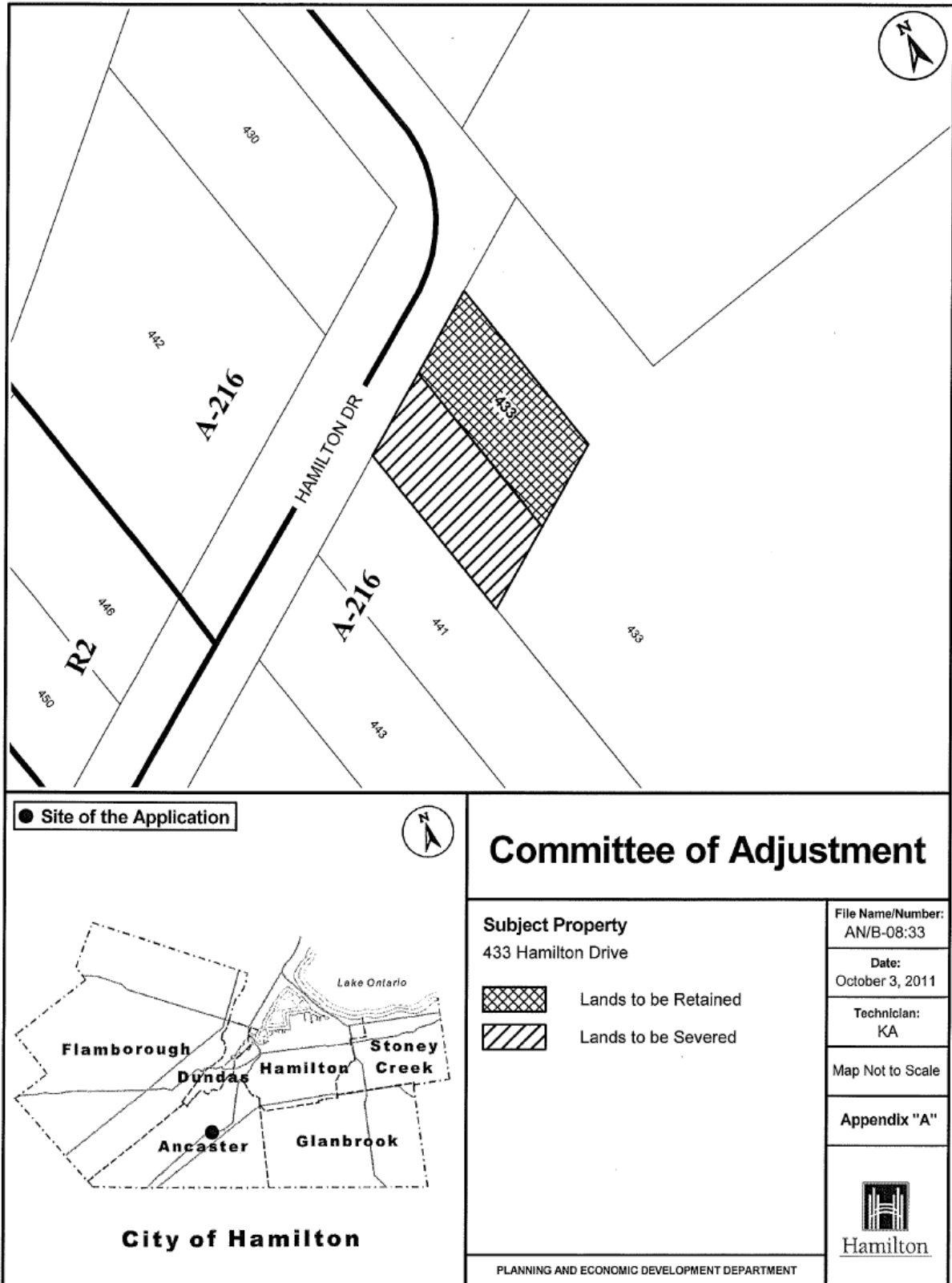
No Comment

**PUBLIC WORKS DEPARTMENT**

**Traffic, Engineering and Operations Division:**

The final alignment of the Hamilton Dr/Braithwaite intersection has not yet been determined. As this property is adjacent to the proposed intersection it is unclear what impact the final alignment will have on this property. In this regard, we request that this application be tabled until the Hamilton Dr/Braithwaite intersection has been determined.





● Site of the Application



### Committee of Adjustment

**Subject Property**

433 Hamilton Drive

- Lands to be Retained
- Lands to be Severed

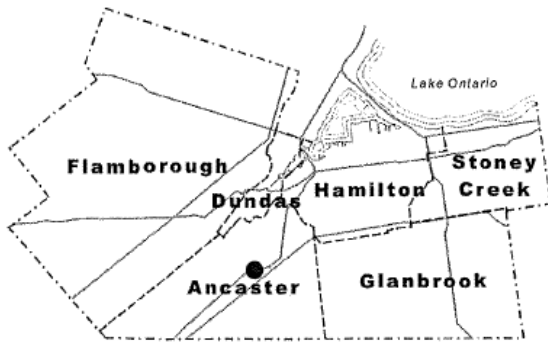
File Name/Number:  
AN/B-08:33

Date:  
October 3, 2011

Technician:  
KA

Map Not to Scale

Appendix "A"



**City of Hamilton**



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

MAR 21 2012

Attn: Daniel Barnett, Planning  
71 Main St. W, 5<sup>th</sup> floor  
Hamilton, ON  
L8P 4Y5

March 12, 2012

To Mr. Barnett,

Re: Application for reduction of side allowance at 433 Hamilton Dr.

Let it be noted that, initially, we looked forward to the new build on this adjacent land to our property as it increases property values and revitalizes the neighbourhood. In point of fact, when the severance issue emerged for public consultation last year we supported the prospect of new construction. At that time, however, *the notion of reducing the side allowance was not raised and we assumed that the 3m side allowance would not change.* We are concerned about potential negative impacts to our own property encompassing several key issues.

The current side allowance for this area is 3 m but this application is requesting a reduction to 1.5 m. We, the owners of 441 Hamilton Dr., will be directly affected and we put forth the following concerns in response to this request.

Our objections address several issues. First, this adjustment for 'minor variance' is not compatible with the existing character of this neighbourhood where homes adhere to or, in most cases, exceed the 3 m allowance. Indeed, our own home lies 16.9' (5.1 m) on the east side and 13.15' (4 m) on the west side from the existing property lines. And although change and development is inevitable it would be preferable to maintain the sense of space characteristic of this community. The new, high density suburbs, where monstrous homes virtually cover the entire lot, may have 1.5 m allowances but this unique, 'cottage feel' area is not a high density area. It is a shame to lose the almost pastoral ambiance of the street.

Additionally, eight large, mature black walnuts grace the east side of our property, six grow on our side, one is shared and one grows just off the line to the east. Although black walnuts characteristically have deep tap roots, they also have wide spreading lateral root systems. (Ex. In one university study a nine year old walnut tree had lateral roots extending 8' from the long tap root). Our walnut trees' vintage easily exceeds 5x that of the study tree. In digging a foundation so close to our property line, and with heavy machinery compacting the soil, 30-40% of the lateral root system is at risk of severance and damage which could easily harm or destroy these trees. If a dying tree, compromised by construction, falls and causes damage, who is liable? If a tree dies as a result of lateral root damage, what will be done in compensation? Will another 60-80 year old tree be planted in its place? I don't think that's possible. In addition, a rare and endangered Carolinian Paw Paw tree, of fruit bearing size, grows very near the property line. I am currently actively searching for a certified arborist to safely move this tree out of harm's way. Ironically, I expect a principle selling feature of a home built on this adjacent lot would be the lush, mature trees. However, if the side allowance is reduced to such an extent, their very survival is at risk and the qualities that make the lot so appealing will be diminished.

Our property is certified as a nature habitat by the Canadian Wildlife Federation. The loss of the 3m side allowance, in addition to encroaching on our personal privacy and quality of living, would also create a large area of 'deep, dead shade' in an area abundant with native Carolinian flora. We, personally, intend to salvage what plants we can by replanting them farther west. However, most of the plants require dappled sunlight and spring sunshine before the trees have leafed. A building constructed so close to the property line completely blocks sunlight, creating a dead shade zone. Carolinian species such as: Canada anemone, foam flower, trout lily, spring beauty, Northern monkshood, green and gold, bee balm, monarda, false sunflower etc. could decline and possibly die.

We have additional concerns regarding the potential for increased drainage run-off between homes which becomes a larger issue the closer they are together.

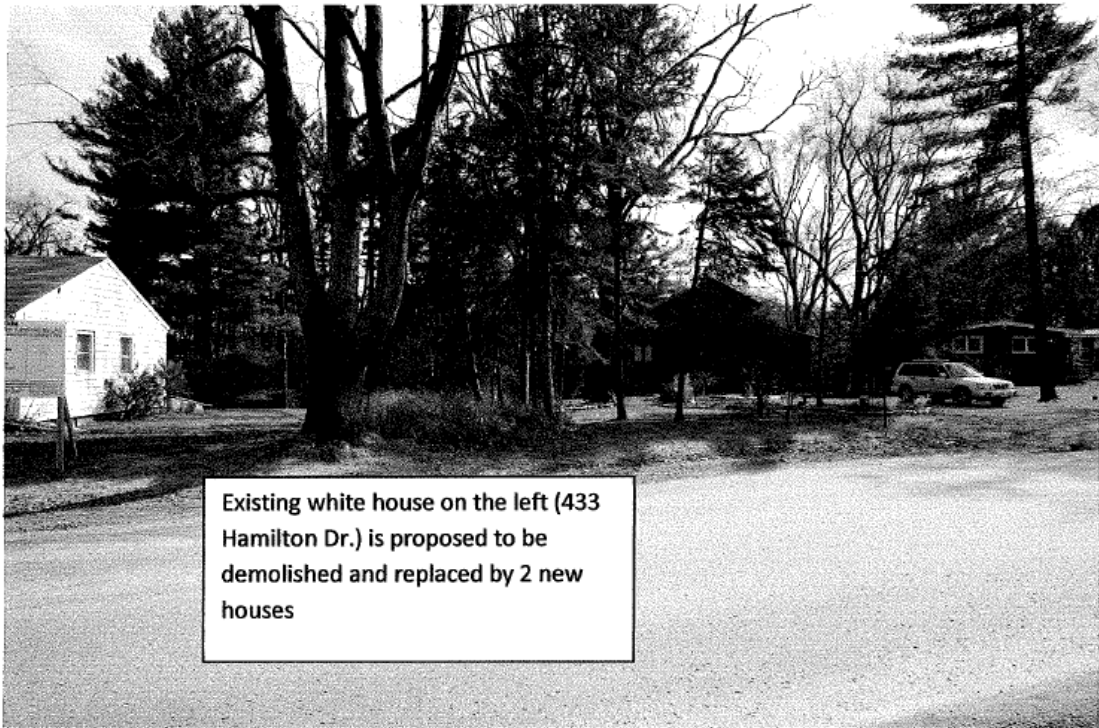
This is additionally worrying as the properties slope into a beautiful ravine setting creating conditions conducive to erosion and flooding.

To summarize:

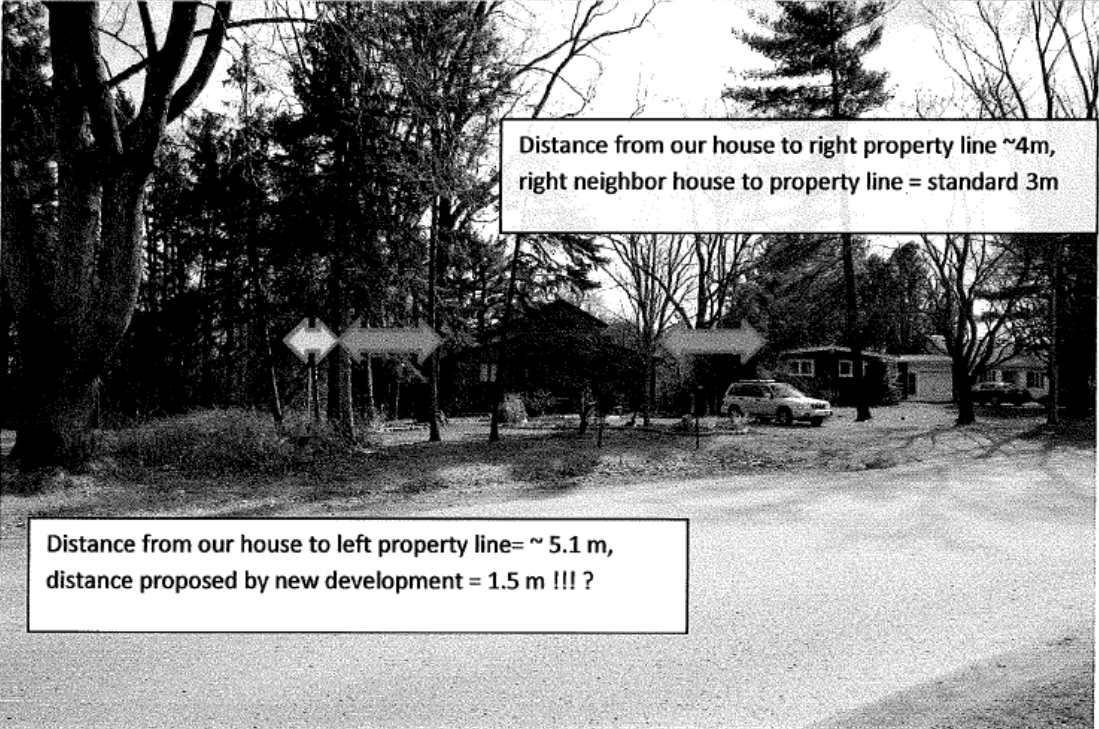
- A) This reduction of the side allowance is not compatible with the character of the existing neighbourhood (see attached photos)
- B) Large, mature trees and significant root systems are at serious risk.
- C) Carolinian flora is threatened
- D) Personal privacy forfeiture and encroachment on our property line significantly affects our quality of living
- E) Drainage and erosion concerns are raised

In conclusion, ideally we would like to maintain the status quo of a three metre allowance, but we recognize that may be unrealistic for the developer to maximize his profits. We would reluctantly consider a compromise of 2.5 m, with serious concerns and reservations remaining regarding the survival of the native species, especially the black walnuts, and uncomfortable encroachment on our personal space. The long ranging impacts of this variance adjustment are hardly 'minor' but would impact the immediate vicinity considerably.

The Mori Family  
441 Hamilton Dr.



Existing white house on the left (433 Hamilton Dr.) is proposed to be demolished and replaced by 2 new houses



Distance from our house to right property line ~4m, right neighbor house to property line = standard 3m

Distance from our house to left property line= ~ 5.1 m, distance proposed by new development = 1.5 m !!! ?

