

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 7
COMMITTEE DATE: December 4, 2012	
SUBJECT/REPORT NO: Appeal of the City of Hamilton Committee of Adjustment Decision to Approve Severance Application HM/B-12:01, David and Sharon Almas (Owners), 11 Springside Drive (Hamilton) (PED12229) (Ward 7)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Daniel Barnett (905)-546-2424 Ext.4445
SIGNATURE:	

RECOMMENDATION:

That Council agrees to the following actions, as detailed in Report PED12229, respecting the appeal of City of Hamilton Committee of Adjustment Severance Application HM/B-12:01 (David and Sharon Almas, Owners), 11 Springside Drive (Hamilton) to permit the conveyance of an 850 sq. m. ± parcel of land for residential purposes and to retain a 915 sq. m. ± parcel of land containing an existing single detached dwelling, as shown on Appendix "A" to Report PED12229, approved by the Committee of Adjustment but recommended for denial by the Planning and Economic Development Department:

- (a) That Council of the City of Hamilton proceed with the appeal to the Ontario Municipal Board (OMB) against the decision of the Committee of Adjustment to approve Application HM/B-12:01.
- (b) That Council directs appropriate Legal Services and Planning staff to attend the future Ontario Municipal Board (OMB) Hearing in support of the appeal.

EXECUTIVE SUMMARY

Application HM/B-12:01, to permit the conveyance of an 850 sq. m. parcel for the purpose of creating a new single detached residential lot, and to retain a 915 sq. m. lot for the existing single detached dwelling, was considered by the City of Hamilton Committee of Adjustment on September 13, 2012. Comments to the Committee of Adjustment from the Planning Division did not support the application, as it was the opinion of staff that the proposal was not in conformity with the policies of the City of Hamilton Official Plan, not in conformity with the large lot residential character set out in the Neighbourhood Plan, and contrary to a previous OMB Decision respecting a lot severance in the area (see Appendix "B" - Previous OMB Decision). The Committee of Adjustment approved the severance application for the reasons set out in Appendix "C". Due to the appeal period, Planning and Economic Development staff submitted an appeal letter and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process, subject to Council's approval/ratification.

Alternatives for Consideration - See Page 14.

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

Financial: Planning and Economic Development Department staff has submitted the required fee of \$125.00 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets. Therefore, no additional funds would be required.

Staffing: One representative each from Development Planning and Legal Services would be required for preparation and attendance at an OMB Hearing.

Legal: No legal implications are expected.

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The subject property is located at 11 Springside Drive (Hamilton) (see Appendix "A").

The proposal is to sever 850 sq. m. of land for a new single detached residential lot, and to retain 915 sq. m. of land for an existing residential dwelling (see Appendix "D").

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The application was reviewed against all applicable planning policy documents, which included the Planning Act, the Places to Grow Plan, the Provincial Policy Statement, City of Hamilton Official Plan, Allison Neighbourhood Plan, and City of Hamilton Zoning By-law. Planning staff recommended denial of the application on the basis of non-conformity with the criteria in Section 51(24) of the Planning Act, and non-conformity with the policies of the City of Hamilton Official Plan, as the proposed severance is to establish lots that are not in keeping with the established stable character of the existing neighbourhood.

The Committee of Adjustment, at its meeting of September 13, 2012, approved the Severance application (see Appendix "C").

POLICY IMPLICATIONS

Planning Act

The proposed severance was reviewed with respect to the criteria under Section 51(24) of the Planning Act.

- "53(12) A Council or the Minister, in determining whether a provisional consent is to be given, shall have regard to the matters under Sub-section 51 (24), and has the same powers as the approval authority has under Sub-section 51 (25) with respect to the approval of a plan of subdivision, and Sub-sections 51 (26) and (27) and Section 51.1 apply, with necessary modifications, to the granting of a provisional consent. 1994, c. 23, s. 32.
- 51(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, and welfare of the present and future inhabitants of the municipality and to,
- b) Whether the proposed subdivision is premature or in the public interest;
 - c) Whether the plan conforms to the Official Plan and adjacent plans of subdivision, if any;
 - f) The dimensions and shapes of the proposed lots."

The proposed severance would negatively affect the residential character of the area and, as such, the proposed severance is not in the public interest. If the neighbourhood character is to be changed, it should be undertaken on a comprehensive basis for the whole subdivision rather than through individual developments, therefore, the proposed severance is also considered premature. The proposed severance does not conform to

the policies of the City of Hamilton Official Plan, and is not consistent with the character of the abutting subdivision. The proposed lot areas for the proposed lots are of a size and dimension that is not in keeping with the character of the area and, therefore, the lot shapes and dimensions are not appropriate.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS).

- “1.1.3.1 Settlement areas shall be the focus of growth, and their vitality and regeneration shall be promoted.
- 1.1.3.2 Land use patterns within Settlement Areas shall be based on:
- a. 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,
 - b. 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.”

The proposed severance is located within a Settlement Area; however, the proposed severance does not take into account existing building stock or the character of the existing area. Therefore, it is the opinion of staff that the proposed severance is not consistent with the policies of the Provincial Policy Statement.

Places to Grow Plan

The application has been reviewed with respect to the Places to Grow Plan. The following policies would apply:

- “2.2.2 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.
 - h) Encouraging Cities and Towns to develop as complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space, and easy access to local stores and services.”

The subject property is located within a built-up area; however, the neighbourhood within which the subject property is located is one of a limited number of large lot estate home neighbourhoods remaining within Hamilton and, therefore, the proposed severance does not protect a range of housing types.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban” within the Hamilton-Wentworth Official Plan.

- “C.3.1 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. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:
- Compact urban form, including mixed-use areas;
 - A firm Urban Area boundary;

As the proposal is for the severance of a residential lot within the Urban Area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated as “Residential” within the City of Hamilton Official Plan.

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- “A.2.1.1 The primary uses permitted in the areas designated on Schedule “A” as Residential will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.8 It is the intent of Council that a variety of housing styles, types, and densities be available in all Residential areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing, where practicable. In this regard, Council will be guided by the Housing Policies of Sub-section C.7 and the Neighbourhood Plan Policies of Sub-section D.2.
- A.2.1.13 Plans for redevelopment will, to the satisfaction of Council, ensure that the Residential character of the area will be maintained or enhanced, and that the redevelopment will not burden existing facilities and services.”

The proposed severance does not maintain or enhance the residential character of the area, nor does the proposed severance protect a variety of housing types and densities.

- “C.7.2 Varieties of Residential types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density development will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value.
- C.7.3 Council will encourage a Residential Environment of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:
- iii) Support Residential development such as infilling, redevelopment, and the conversion of non-residential structures that make more efficient use of the existing building stock, and/or physical infrastructure that recognizes and enhances the scale and character of the existing residential area by having regard to natural vegetation, lot frontage and areas, building height, coverage, mass, setback, privacy, and overview.
 - v) Encourage new Residential development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview.

- ix) Support the concept of a Residential community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents.”

The proposed severance does not recognize or enhance the scale and character of the existing residential area; and does not have regard for the large lot sizes that form part of the character of the area. As the neighbourhood is one of the few large estate lot areas remaining in Hamilton, the proposal reduces the diversity of dwelling forms and housing options.

“D.2 The make-up of the Planning Units is designed to reflect the existing development pattern, as well as major physical features and land use concentrations. It is the general intent of the Plan that the identity of the Planning Units will be enhanced, and that all development will be planned in ways which improve this identity.

D.2.2 The detailed planning for the distribution and location of various land uses in each Planning Unit will be determined or reviewed through the preparation of Neighbourhood Plans. In this regard, Council will ensure that all new development and/or redevelopment complies with the provisions of this Plan and the Neighbourhood Plan.”

The development pattern of the neighbourhood (Planning Unit) is that of large estate lot single detached dwellings, and the proposed severance detracts from rather than enhances the identity of the neighbourhood. Accordingly, the proposed development does not comply with the policies of the Neighbourhood Plan.

The proposed lot severance does not maintain or enhance the residential character of the existing residential neighbourhood, nor does the proposed severance have regard to the scale and character of the lot sizes existing in the area. As there are a limited number of residential neighbourhoods with large estate lots left in Hamilton, the proposed severance would have the effect of limiting the range and diversity of residential dwelling types, as well as jeopardizing the stability of the existing established neighbourhood. The proposed severance detracts from, rather than enhances, the residential neighbourhood (Planning Unit), and does not improve the identity of the neighbourhood. Therefore, it is the opinion of staff that the proposed severance does not conform to the policies of the City of Hamilton Official Plan.

Allison Neighbourhood Plan Policies

The subject property is designated “Residential Single and Double” in the Allison Neighbourhood Plan.

“B.i Residential

- The predominate form of land use in the Allison Neighbourhood will be low density residential and related uses.
- Residential development will include:
 - Very large lots in the established housing area with lot sizes of about 12,000 sq. ft. and above;
- Residential development will be encouraged which:
 - Is compatible with the height and density of adjacent development.”

The proposed severance is for a property that is located within the established housing area, and is less than 12,000 sq. ft., with a lot area of approximately 9,150 sq. ft., and is not compatible with the density of adjacent developments, which meets or greatly exceeds the 12,000 sq. ft. lot area requirement. Therefore, the proposal does not conform to the policies of the Neighbourhood Plan. However, approval of the application would not necessitate an amendment to the Neighbourhood Plan.

Urban Hamilton Official Plan

The subject property is designated “Neighbourhoods” in the Urban Hamilton Official Plan.

“E.2.6 Neighbourhoods are where the majority of Hamiltonians live, learn, shop, socialize, and play. A key component of Hamilton’s urban structure, the Neighbourhoods elements is an all-encompassing element representing the concept of complete community at the structural level. Neighbourhoods occupy the greatest proportion of the City, containing a mix of low, medium, and high rise residential areas; various types of roads, parks, open spaces, and commercial areas; and institutions such as schools and places to worship.

E.2.6.2 Neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents. These facilities and services may include parks, schools, trails, recreation centres, places of worship, small retail stores, offices, restaurants, and personal and government services.

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E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context, and shall be permitted in accordance with Sections B.2.4 - Residential Intensification, and E.3.0 - Neighbourhood Designation.”

The unique character and scale of the neighbourhood to which the subject property is located is that of large estate lots, which maintains a great deal of open space and separation between properties. The proposed severance results in establishment of dwellings that are not large estate lots and are not compatible with the existing character of the neighbourhood.

“E.3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods, while at the same time allowing their ongoing evolution.

E.3.1.5 Promote and support residential intensification of appropriate scale, and in appropriate locations throughout the neighbourhoods.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood, in accordance with Section B.2.4 - Residential Intensification and other applicable policies of this Plan.”

The proposed severance establishes non-estate lots for both the lands to be severed and lands to be retained, and reduces the open and spacious look and character of the neighbourhood. The proposed severance does not respect or enhance the character of the existing neighbourhood, and is not of an appropriate scale. Staff does not agree with the position put forward by the applicant, in that the property being on the periphery of the neighbourhood can, therefore, have a different character. It is the opinion of staff that as the subject property is located on the south side of Rymal Road East, the property should reflect the character along the south side of Rymal Road East and should not be based on the character of the development on the north side of Rymal Road East. Furthermore, it is the opinion of staff that the subject property serves as the gateway for the neighbourhood and, thereby, establishes the character of the neighbourhood. Therefore, the proposal is not appropriate.

“B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

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- a) The relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- b) The development's contribution to maintaining and achieving a range of dwelling types and tenures;
- c) The compatible integration of the development with the surrounding area in terms of use, scale, form, and character. In this regard, the City encourages the use of innovative and creative urban design techniques."

The proposed severance does not maintain or enhance the existing neighbourhood character, and does not create a compatible integration with the development in the surrounding area in terms of scale and character. Furthermore, the neighbourhood within which the subject property is located is one of the few large estate lot areas left in Hamilton, and the proposed severance would detract, as opposed to contribute, to the maintenance of a range of dwelling types.

"F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 - Urban Land Use Designation, shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including Secondary Plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law, or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road."

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The proposed severance does not comply with the Neighbourhood Plan, as it does not reflect the general scale and character of the established development pattern in the surrounding area with respect to lot areas.

The subject property fronts onto Rymal Road East, which is identified as a Secondary Corridor in the Urban Hamilton Official Plan.

“E.2.4.10 The built form along the Urban Corridors shall generally consist of low to mid rise forms, but will vary along the length of the corridors with some areas permitted to accommodate high density and high rise built form. The Primary Corridors shall have a greater proportion of the corridor length in retail and mixed-use forms, while the Secondary Corridors shall generally accommodate retail and mixed-use forms in small clusters along the corridors, with medium density housing located between the clusters.

E.2.4.13 Corridor studies or secondary planning shall be undertaken for the Urban Corridors to provide greater direction on mix of uses, heights, densities, built form, and design. Pending the completion of such studies, the land use designations and policies, set out in Chapter E - Urban Systems and Designations, shall provide direction for development proposals.

E.2.4.15 New development shall respect the existing built form of adjacent neighbourhoods, where appropriate, by providing a gradation in building height. New development shall locate and be designed to minimize the effects of shadowing and overview on properties in adjacent neighbourhoods.”

While the proposed development is located along a secondary corridor if higher density development is warranted, it should occur as part of a comprehensive planned development in the form of Corridor Study or Secondary Plan, and should not be undertaken in a piece-meal way with individual, small scale developments.

The proposed severance does not maintain the character of the existing neighbourhood, which is comprised of large estate lots with significant rear yards and large open spaces between dwellings. Therefore, as the proposed severance does not enhance or maintain the existing streetscape character, nor does the proposed severance maintain a range of residential dwelling types, the proposed severance would not conform to the policies of the Urban Hamilton Official Plan.

City of Hamilton Zoning By-law

The subject property is zoned Suburban Agricultural and Residential “B” District in the City of Hamilton Zoning By-law, to which the proposed use complies.

The subject property will comply with the minimum lot frontage requirement of 20m, however, the lands to be severed and lands to be retained will not comply with the minimum lot area requirement of 1,100 sq. m. Furthermore, the existing dwelling on the lands to be retained has a 10.8m front yard setback and, therefore, does not meet the minimum front yard setback of 12m. Consequently, as noted in the comments to the Committee of Adjustment, any consent approval would require a modification to the “B” District Zoning to permit a reduced lot area for both properties. As no concept plan for the dwelling on the lands to be severed has been submitted, staff cannot determine what By-law modifications, other than the reduction in lot area, are required for the lands to be severed.

RELEVANT CONSULTATION

- Legal Services Division.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Roles and Responsibilities of the Committee of Adjustment (PD02116(a))

In December 2002, City Council endorsed a staff Report related to the Roles and Responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an information Report to the Committee of the Whole when an appeal is made to the Ontario Municipal Board, of a decision made of the Committee of Adjustment to deny an application(s) that was supported by staff. In response to such a Report, Council may determine its position on the Committee of Adjustment’s decision, and may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee’s decision, and to retain outside professional(s) accordingly.”

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The situation with the subject Springside Drive application is one in which the Committee of Adjustment “approved” an application that was not supported by staff. What is consistent between the above resolution and the subject application is that the Committee of Adjustment decided against the staff recommendation. As a result, the above application is being brought to the attention of Council for their consideration and direction.

Due to the short appeal time frame regulated through the Planning Act, the prescribed fee and appeal letter were submitted to begin the appeal process, subject to confirmation of this action from Council.

Consent / Land Severance Application HM/B-12:01

The proposed severance is for the conveyance of 850 sq. m. of land for the construction of a new single detached dwelling, and to retain 915 sq. m. of land for the existing single detached dwelling.

The subject property is located within a neighbourhood which is comprised of large estate lots for single detached dwellings, and is one of only a few such neighbourhoods that remain in Hamilton. The proposed severance is not in keeping with the large estate lot character that exists in the neighbourhood, and has the effect of establishing a new standard for the neighbourhood that would jeopardize the stability and existing pattern of development, such that other property owners in the neighbourhood may seek to emulate the new standard, thereby causing further changes and erosion to the character of the neighbourhood.

The Ontario Municipal Board (OMB) made a previous decision on November 12, 2008, (PL070433), for lands located at 80 Lister Avenue, another corner lot in the same neighbourhood, that is similar in size to that of 11 Springside Drive (see Appendix “A”). The OMB turned down the severance, stating that development created as a result of the severance would not be in keeping with the character of the area, and that this is not a mild form of infilling. The Board found that allowing the severance would represent a significant departure from the lot sizes found in the immediate area, and would create a destabilizing effect to the existing stable residential neighbourhood. The Board also found that if intensification is to occur in the area, it should occur as a result of a comprehensive review of its growth strategy and new Official Plan policies in order to implement a more dense form of development for the area.

The applicant’s justification for the proposed severance attempted to demonstrate that the severance for 11 Springside Drive was different from that of 80 Lister Avenue, in that fewer setback modifications were being sought, and that 80 Lister Avenue was in the centre of the neighbourhood, whereas 11 Springside Drive is located on the edge of the neighbourhood (see Appendix “F”). In respect to the location 11 Springside Drive, it

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is located at the corner of Springside Drive and Rymal Road East and is, thereby, on the border of the neighbourhood, with a separate neighbourhood located on the north side of Rymal Road East, which has a different character. The lot fabric on the south side of Rymal Road East is comprised primarily of large lots similar in size to 11 Springside Drive as it exists today, and it is the opinion of staff that the streetscape character can be different on opposite sides of a street. Therefore, the fact smaller lot sizes are present on the north side of Rymal Road East does not justify smaller lot sizes on the south side of Rymal Road East, as it would be out of character with the dwellings on the south side of Rymal Road East. Staff is also of the opinion that lots on the border, particularly adjacent to one of the principle access points for the neighbourhood, act as a gateway to that neighbourhood, and set the tone and character for the neighbourhood. Therefore, staff does not accept the argument that since 11 Springside Drive is located at the edge of the neighbourhood that the character can be fundamentally different.

Staff also notes that while Rymal Road East is classified as a Secondary Corridor in the Urban Hamilton Official Plan, if higher density development is warranted, it should occur through comprehensive planning and not through piece-meal development.

Therefore, the position of staff is that the proposed severance does not meet the criteria under Section 51(24) of the Planning Act, is not consistent with the policies of the Provincial Policy Statement, does not conform to the policies of the Places to Grow Plan, does not conform to the policies of the City of Hamilton Official Plan, does not conform to the policies of the Neighbourhood Plan, and does not meet the intent of the Zoning By-law.

ALTERNATIVES FOR CONSIDERATION:

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

Option 1

Council could proceed with the appeal and direct appropriate Legal Services and Planning staff to attend the OMB Hearing in opposition to the approved variance application, as recommended in this Report.

Option 2

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decision of the Committee of Adjustment, to the OMB. As there are no other appeals, the decision of the Committee of Adjustment would stand, and the severance would be finalized, subject to fulfilment of the conditions set out in Appendix "C".

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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

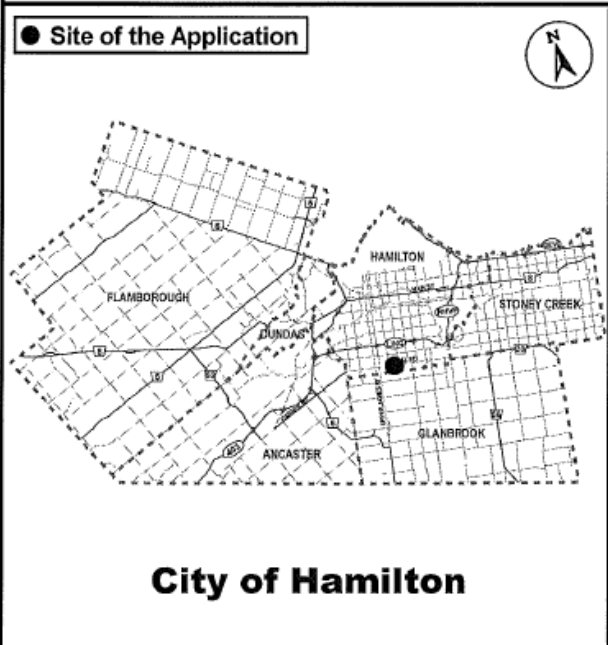
- ◆ Plan and manage the built environment.

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Development Planning Comments
- Appendix "C": HM/B-12:01 Committee of Adjustment Decision
- Appendix "D": Severance Sketch
- Appendix "E": HM/B-12:01 September 13, 2012 Minutes
- Appendix "F": Applicants Justification Letter

DB

Attachs. (6)



Committee of Adjustment

<p>Subject Property 11 Springside Drive</p> <p> Lands to be Conveyed Lands to be Retained </p>	<p>File Name/Number: HM/B-12-01</p> <p>Date: Sept. 5, 2012</p> <p>Technician: AL</p> <p>Map Not to Scale</p> <p style="text-align: center;">Appendix "A"</p> <div style="text-align: center;"> Hamilton </div>
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

September 13th, 2012

**CONSOLIDATION REPORT
SEVERANCES**

The attached comments have been reviewed with regard to Committee of Adjustment Severance File HM/B-12:01 (11 Springside Drive, Hamilton) and the following is submitted:

Should the Committee grant the severance, an approval should 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 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 Ministry of Tourism, Culture and Sport.

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

4. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Services Division).
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).

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6. A variance is required to permit the accessory building to remain on the conveyed lands when no main use/building has been established. Alternatively, the owner shall demolish all buildings located on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Building Services Division). May be subject to a demolition permit issued in the normal manner.
7. The owner shall submit survey evidence that the existing structures located on both the lands to be conveyed and the lands to be retained conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
8. That the Owner enters into and has registered on title a Consent Agreement to the satisfaction of the City of Hamilton to address issues including, but not limited to; grading and drainage, cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
9. That the Owner pay urbanization costs based on the current rates and the frontage and flankage of the subject lands.
10. The owner submit to the Committee of Adjustment office an administration fee of \$15.30 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.
11. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The owner/applicant is advised to orient the new dwelling on the lands to be severed to front onto Rymal Road East and provide any outdoor living area at the rear of the dwelling.
2. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 5 Springside Drive, and that the lands to be retained will remain as 11 Springside Drive.

September 13th, 2012

Re-Scheduled
HM/B-12:01 (11 Springside Drive, Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant is proposing to sever the subject property in order to create one additional lot for the purpose of constructing one additional single detached dwelling.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognises 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 subject lands are to be developed for residential purposes and are located adjacent to **Rymal Road East**. Accordingly, Staff advise the applicant to orient the new dwelling on the lands to be severed to front onto Rymal Road East. By orienting the dwelling towards Rymal Road East and providing an outdoor living area at the rear of the dwelling, the dwelling will function as a means of noise shielding to the outdoor living area associated with this lot. As such, should the Committee approve the subject application, staff require the inclusion of note No. 1 and the fulfilment of condition No. 1, both which are stated below

In addition, Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. Staff note that the subject lands are located within an area of archaeological potential.

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.

However, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites,

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in the review of proposals for development and redevelopment. Where possible these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As noted above, the subject lands are located within an area of archaeological potential.

The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 3) Along historic transportation routes.

These criteria define 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 fulfillment of condition No. 2 stated below, for the conveyed portion of the property.

City of Hamilton Official Plan

The subject property is designated "Residential" in the City of Hamilton Official Plan. Policy A.2.1.1 states "The primary uses permitted in the areas designated on Schedule "A" as Residential will be for dwellings. Various types of dwellings are included within this designation while preference will be given to the locating of similar densities of development together."

Policy A.2.1.8 states "It is the intent of Council that a variety of housing styles, types and densities be available in all Residential areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.

Policy A.2.1.12 states "Plans for redevelopment will to the satisfaction of Council, ensure that the Residential character of the area will be maintained or enhanced and that the redevelopment will not burden existing facilities and services."

Policy C.7.3 states "Council will encourage a Residential Environment of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

- iii) Support Residential development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and/or physical infrastructure that makes more efficient use of the existing building stock

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an/or physical infrastructure that recognizes and enhances the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;

- v) Encourage new Residential development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontage and areas, building height, coverage, mass, setbacks, privacy and overview.

The proposed lots to be established are considered significantly smaller than those existing. The character of the area is typified by large lots with modest homes. The proposed lots would consequently be out of character and appear incongruent within the neighbourhood.

Consequently, as the proposed severance is to establish residential lots that do not recognize and enhance the scale and character of the existing residential area, the proposal does not conform to the policies of the City of Hamilton Official Plan.

City of Hamilton Zoning By-law

The subject property is zoned Suburban Agricultural and Residential "B" District in the City of Hamilton Zoning By-law, to which the proposed use complies.

The subject property will comply with the minimum lot frontage requirement of 20m, however the lands to be severed and lands to be retained will not comply with the minimum lot area requirement of 1,100 sq. m. Furthermore, the existing dwelling on the lands to be retained will not comply with the minimum front yard setback requirement of 12m. Therefore, any consent would be required to receive minor variance approval as a consent.

The Allison Neighbourhood is characterized by very large residential lots; while the subject property is located on the periphery of the Allison Neighbourhood, the lots will be oriented towards Springside Drive, not Rymal Road, and therefore form part of the neighbourhood. The character along Springside Drive is that of large deep open lots and the proposed lots will not conform to the character of the area. With respect to Rymal Road, the lots along the south side of Rymal Road East are also comprise primarily of large lots.

Pervious OMB Decision

There was a previous application for severance within the neighbourhood at 80 Lister Avenue that was similar to the severance proposed for the subject property. The severance application for 80 Lister Avenue was heard before the Ontario Municipal Board (OMB). The findings of the board was that the area is characterized by very large residential lots which create an ambiance of openness for the area and that the changes being proposed would significantly alter the character of the area, and as such, would not be in conformity with the policy direction of the Official Plan.

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The board found that the proposed severance did not maintain and enhance the character of the existing neighbourhood and was not in keeping with the character of the area.

The board also found that the proposed severance would have a destabilizing effect on this area which could result in piecemeal planning.

The board's decision was to deny the severance and the supporting variance applications.

While each application is assessed on its individual merits, and while the lots proposed for the subject application are not identical to those proposed for 80 Lister Avenue, the proposed lots are similar in size and scale and are located in the same neighbourhood and therefore, regard should be had to the findings of the OMB with respect to 80 Lister Avenue.

Recommendation:

It is the opinion of staff that the proposed severance does not conform to the policies of the City of Hamilton Official Plan, and does not comply with the requirements of the City of Hamilton Zoning By-law. Therefore, staff recommends that the proposed severance be **Denied**.

Conditions (To Be Included 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 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 Ministry of Tourism, Culture and Sport.

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

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3. That the applicant receive minor variance approval to the satisfaction of the Manager of Development Planning.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The owner/applicant is advised to orient the new dwelling on the lands to be severed to front onto Rymal Road East and provide any outdoor living area at the rear of the dwelling.
2. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 5 Springside Drive, and that the lands to be retained will remain as 11 Springside Drive.

Building Services Division:

A variance is required to permit the accessory buildings to remain on the conveyed lands when no main use/building has been established. Alternatively, the applicant shall demolish all accessory buildings located on the lands to be conveyed as a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.

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.

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

Variances for lot area for the lands to be conveyed and retained and a variance for the front yard depth for the lands to be retained will be required for zoning compliance of the lands.

CONDITIONAL UPON:

The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Services Division).

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).

A variance is required to permit the accessory building to remain on the conveyed lands when

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no main use/building has been established. Alternatively, the owner shall demolish all buildings located on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Building Services Division). May be subject to a demolition permit issued in the normal manner.

The owner shall submit survey evidence that the existing structures located on both the lands to be conveyed and the lands to be retained conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

Development Engineering – East:

There are public watermains and separate storm and sanitary sewers fronting and flanking the property on Springside Drive and Rymal Road East.

According to our records there are no road allowance widenings currently required from either the frontage or flankage of the property. The Owner should; however, be advised that in accordance with the new City of Hamilton Official Plan, which is currently under appeal, a future road allowance widening may be required along the flankage of the property onto Rymal Road to establish the road at its future designated road allowance width of 45.720 m. These widenings, if required, would be taken as conditions of future development approval or severance applications.

The Owner will be required to pay urbanization costs related to the frontage and flankage of the property onto Springside Drive and Rymal Road East. Based on current urbanization rates, calculated based on the services requiring installation and the frontage and flankage of the lands to be severed the amount owing is estimated at \$18,179.81.

Should these applications be approved we recommend that it be subject to the following condition:

1. That the Owner enters into and has registered on title a Consent Agreement to the satisfaction of the City of Hamilton to address issues including, but not limited to; grading and drainage, cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
2. That the Owner pay urbanization costs based on the current rates and the frontage and flankage of the subject lands.

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Hamilton Municipal Parking System (Parking Services):

No Comment

PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

Access to the severed lands will not be permitted from Rymal Rd and must be outside the daylight triangle.

CORPORATE SERVICES:

Budgets, Taxation & Policy (outstanding taxes):

The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

See attached for additional comments.



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. HM/B-12:01
SUBMISSION NO. B-01/11

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 11 Springside Drive, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent J. Allan Freeman on behalf of the owners David & Sharon Almas, 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 having a frontage of 24.37m± (80'±) and an area of 850m²± (9,149sq.ft.±) containing an existing garage and storage building (both to be removed) for residential purposes, and to retain a parcel of land having a frontage of 27.30m± (89.5'±) and an area of 915m²± (9,849sq.ft.±) containing an existing dwelling for 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 Committee is satisfied that the proposal is consistent with the Provincial Policy Statements.
2. The Committee considers the proposal is in general keeping with the character of the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

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 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 Ministry of Tourism, Culture and Sport.

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

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4. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Services Division).
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. A variance is required to permit the accessory building to remain on the conveyed lands when no main use/building has been established. Alternatively, the owner shall demolish all buildings located on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Building Services Division). May be subject to a demolition permit issued in the normal manner.
7. The owner shall submit survey evidence that the existing structures located on both the lands to be conveyed and the lands to be retained conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
8. That the Owner enters into and has registered on title a Consent Agreement to the satisfaction of the City of Hamilton to address issues including, but not limited to; grading and drainage, cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
9. That the Owner pay urbanization costs based on the current rates and the frontage and flankage of the subject lands.
10. The owner submit to the Committee of Adjustment office an administration fee of \$15.30 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.
11. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 13th day of September, 2012.


M. Dudzic, Chairman


D. Drury


L. Gaddy


D. Serwatak

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS September 20th, 2012.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (September 20th, 2013) 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 October 10th, 2012.

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

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The owner/applicant is advised to orient the new dwelling on the lands to be severed to front onto Rymal Road East and provide any outdoor living area at the rear of the dwelling.
2. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 5 Springside Drive, and that the lands to be retained will remain as 11 Springside Drive.



IN THE
CITY OF HAMILTON
 SCALE 1 IN. = 30 FT.

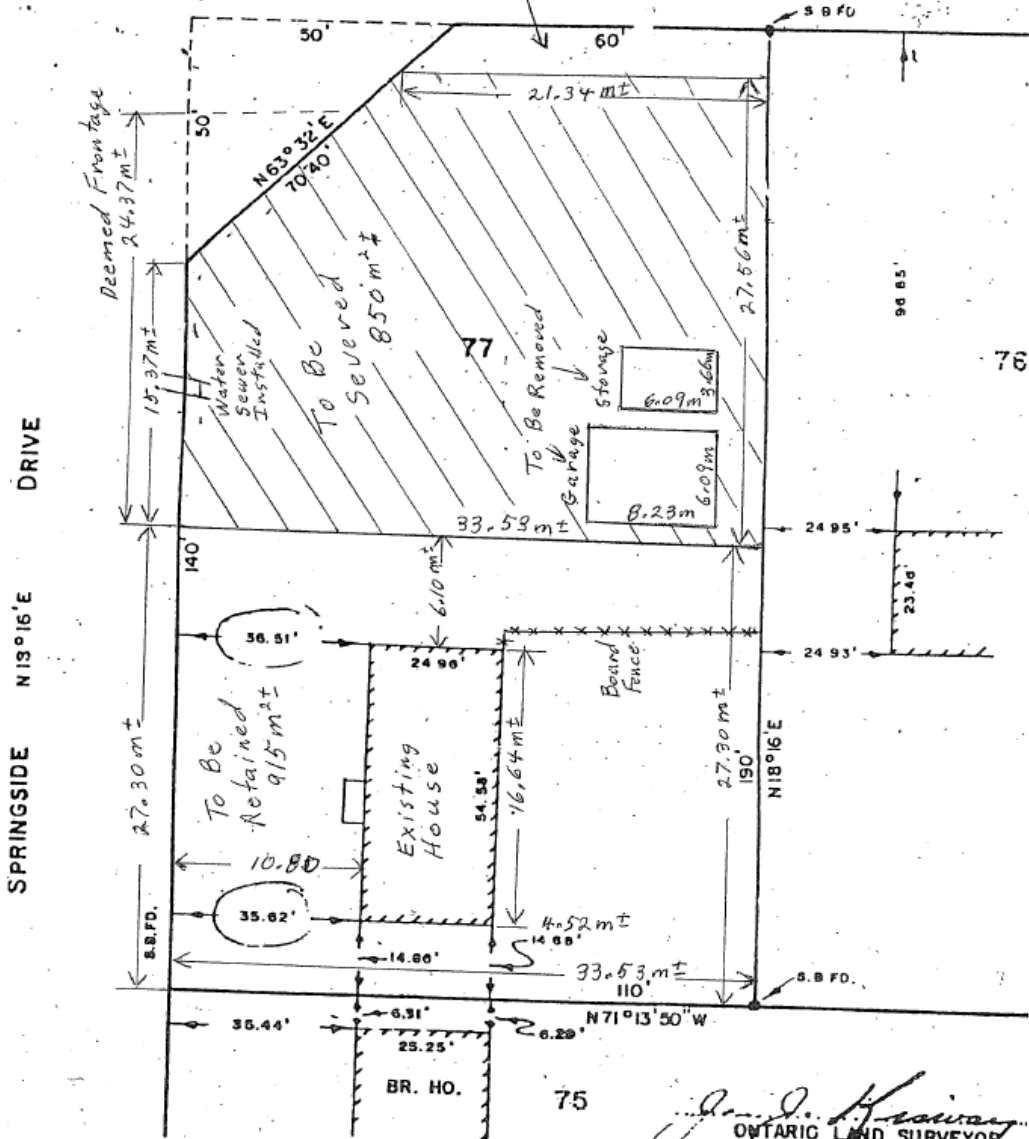
Note -
 Photo copying
 has distorted
 scale

Rymal Road East

THE KING'S HIGHWAY No. 53

3m Road Widening taken
 as in Part #5 Plan C2R-12578

N71°13'50"W



J. D. Fraser
 ONTARIO LAND SURVEYOR
 HAMILTON, ONTARIO
 OCT 16 1964

SKETCH
 NM/B-12-01

September 13th, 2012

HM/B-12:01 David & Sharon Almas
11 Springside Drive, Hamilton

Appearances were: Allan Freeman, agent on behalf of the applicant. Interested parties were: W. Hart, 6 Lister Ave., Hamilton, ON L9B 1C9; A. Devries, 21 Springside Dr., Hamilton, ON L9B 1M5; M. Burnside, 88 Allison Crescent, Hamilton, ON L9B 1E6; R. Millson, 85 Springside Dr., Hamilton, ON L9B 1M5; H. Ciardullo, 30 Springside Dr., Hamilton, ON L9B 1M7

Those members present for the hearing of this application were: M. Dudzic (Chairman), V. Abraham, D. Serwatak
L. Gaddy, D. Drury, K. Audziss.

A summary comment from the Planning and Economic Development Division together with comments from other departments and agencies were entered into the record.

Letters were entered into the record from: nil

- A. Freeman
- up to the 1990's there has been little change in the neighbourhood
 - the owners acquired the property in 1997 and sewers and water mains were installed therefore eliminating the need for large lots
 - it is his opinion that the proposal fits the infill policies
 - if the road widening did not take place both properties would have been the same size
 - the opposition for the application came from outside the circulation area and in the objection reference was made to 80 Lister, the severance application for 80 Lister only met 2 out of the 10 criteria, the application before you today meets 7 out of the 10 criteria
 - the new lot will have very little impact on the neighbourhood
- W. Hart
- read from a prepared statement and submitted it for the record
- A. Devries
- stated that the property in question is in fact part of the Allison Neighbourhood therefore the decision of the OMB for 80 Lister talks about the reasons why a severance should not take place in the Allison Survey

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- (Read from the OMB decision) "If the density regime for this area is to change it should be done by City Council after a comprehensive review of its growth strategy as mandated by the Provincial Places to Grow Legislation, be established in its official Plan and not done in an ad hoc fashion
- she has had flooding issues from water running down the street and into her driveway, there will be an added problem if the severance occurs
- there are no storm sewers, poor drainage and no sidewalks in this area
- there has been an increase in traffic due to development on Twenty Road as well as East of the Allison Survey as Springside is being used as a shortcut

M. Burnside

- read from a prepared statement and submitted it for the record

A. Freeman

- a lot on emphasis is being based on the OMB decision, but at the hearing it was stated by 2 independent planners that this property is one of the properties that would be considered infill
- property would be able to meet the setback of the "B" zone, but cannot because the home is existing
- understand that fear people have of change, but change is happening
- the 2 lots being created are the size of lots that are being created in neighbourhoods today

D. Barnett
(Staff)

- staff is recommending denial because it is staff's opinion that the proposal is not consistent with the neighbourhood and further, regard should be had to the findings of the OMB with respect to 80 Lister Avenue

V. Abraham
(Committee member)

- this is not the process for this application and he is not in support

Following discussion it was moved by Mr. Audziss and seconded by Mr. Abraham that the consent requested be DENIED, but the motion for Denial was defeated

It was moved by Mr. Gaddy and seconded by Mr. Serwatu that the consent requested be **APPROVED** for the following reasons:

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1. The Committee is satisfied that the proposal is consistent with the Provincial Policy Statements.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

The application shall be subject to the conditions as noted in the summary comment of the Planning and Economic Development Department.

The motion for approval was accepted at 3 votes in favour and 2 opposed. Mr. Abraham & Mr. Audziss were opposed to the motion for approval

CARRIED.

Committee of Adjustment
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Further to the tabling of severance application HM/B-12:01, 11 Springside Drive, Hamilton.

In the consolidated severance report dated February, 2012 there were a number of issues that needed to be addressed.

The first two being the requirement for a tree management plan and archeological study. Both items have been resolved to Mr. and Mrs. Almas' satisfaction.

In the report there is some emphasis placed on a previous OMB decision at 80 Lister Avenue.

The application at 80 Lister and 11 Springside are considerably different. 80 Lister was in the center of the Allison neighbourhood whereas 11 Springside is on the very edge of the same Allison neighbourhood. The retained portion of 80 Lister being the larger parcel in that application at 797 m.sq. is smaller than the smaller severed portion at 11 Springside being 850 m. sq. The application at 80 Lister met only two of the ten by-law requirements for severed and retained portions whereas 11 Springside meets seven of the ten by-law requirements. See chart "A".

At the OMB hearing for 80 Lister, Mr. John Ariens representing the appellant and Mr David McKay representing the City of Hamilton, both qualified land use planners, each submitted evidence as to future possible severances in the Allison neighbourhood. Mr. and Mrs. Almas' property is identified on each submission as a possible severance.

Also to be noted strongly, the City has approved the re-development of the Ryckman School site in the Allison neighbourhood into much smaller "C" lots with 11 m. frontage and minimum 430 sq. m.area. Therefore setting the precedence for re-development in the neighbourhood.

The note number one in the report {to be included if approved} requiring the new house to face Rymal with the backyard away from Rymal is directly opposite to the new Townhouse development on the other side of Rymal Road where all the back yards face Rymal. Also the new house would have a driveway and house number on Springside. We request that this item be removed from any approval therefore allowing the new house to face Springside Drive.

Over the summer we have visited as many as possible on the list opposing this application, nearly all of those opposed live beyond the required circulation area and now some twenty plus names originally opposed are no longer opposed. See schedule "B".

We understand the residence desire to keep the neighbourhood the same but the truth is many changes have already taken place, houses redone, houses torn down and replaced with large new houses to name a few. See attached photographs.

Further, the creation of one new lot on the very edge of the neighbourhood will have very little or no impact on the area.

We trust that this additional information is sufficient for the committee to approve Mr. and Mrs. Almas' severance application and subsequent minor variance.

Yours truly,

A handwritten signature in cursive script that reads "J. Allan Freeman".

J, Allan Freeman
Agent

Chart "A"

Notes: Had the City not taken a 3m road widening along Rymal The severed portion at 11 Springside would have been 912m²

	<u>11</u> <u>SPRINGSIDE</u> D.R.		<u>CITY OF</u> <u>HAMILTON</u> <u>BYLAW</u>		<u>80</u> <u>LISTER</u>	
	<u>SEVERED</u> <small>BEFORE RA 9/12/02</small>	<u>RETAINED</u>			<u>SEVERED</u>	<u>RETAINED</u>
<u>LOT</u> <u>AREA</u>	<u>850m²</u>	<u>915m²</u>	<u>1100m²</u>		<u>694m²</u>	<u>797m²</u>
<u>LOT</u> <u>FRONTAGE</u>	<u>24m^{1/2}</u>	<u>27m^{1/2}</u>	<u>20m</u>		<u>20m</u>	<u>30m</u>
<u>FRONT</u> <u>YARD</u>	<u>12m</u>	<u>10.8m</u>	<u>12m</u>		<u>9.7m</u>	<u>9.7m</u>
<u>REAR</u> <u>YARD</u>	<u>9m</u>	<u>14.8m</u>	<u>9m</u>		<u>7.7m</u>	<u>2.2m</u>
<u>SIDE</u> <u>YARD</u>	<u>3m</u>	<u>4.5m</u> <u>6.1m</u>	<u>3m</u>		<u>2.2m</u>	<u>7.7m</u> <u>6.8m</u>
<u>WATER</u> <u>SEWER</u> <u>INSTALLED</u>	<u>YES</u> <u>1997</u>	<u>YES</u> <u>1997</u>			<u>NO</u>	<u>YES</u>
<u>LOT</u> <u>DEPTH</u>	<u>33.5m</u>	<u>33.5m</u>			<u>37/32m</u>	<u>21/25m</u>