



Hamilton

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BRING FORWARD WITH A1

November 23, 2023

Andrej Obradovic
Niagara Escarpment Commission
232 Guelph Street
Georgetown, ON L7G 4B1

Dear Mr. Obradovic,

Re: Request for Comments
NEC Development Permit Application
W/R/2022-2023/664
957 Governors Road
(Former) Town of Dundas, City of Hamilton

The applicant is proposing to undertake a severance, resulting in a new ± 0.6 ha (1.49 ac) building lot, and a ± 1.74 ha (4.29 ac) retained lot, from an existing 2.34 ha (5.78 ac) lot that supports a single dwelling, agricultural uses, municipal water servicing, and private septic servicing.

Rural Hamilton Official Plan

The subject lands are designated "Rural" in Schedule "D" of the Rural Hamilton Official Plan. The subject lands are also located within the Greenbelt Natural Heritage System and the Niagara Escarpment Protection Area.

F.1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D- Rural Land Use Designations : (OPA 18)

- a) Severances that create a new lot for the following purposes shall be prohibited:

Residential uses except in accordance with:

- 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,

- 2) Policies F.1.14.2.1 b) iv) and F1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;

F.1.14.2.1 c) All proposed severances that create a new lot shall:

- i. Comply with the policies of this Plan including a rural settlement area plan where one exists;
- ii. Be compatible with and not hinder surrounding agricultural operations;
- iii. Conform to the Zoning By-law;
- iv. Only be permitted when both severed and retained lots have frontage on a public road; and,
- v. Meet the requirements of Section C.5.1, Private Water and Wastewater Services

F.1.14.2.3 In the Rural Designation, severances that create a new lot, except surplus farm dwelling severances, may be considered only for agricultural uses, agriculture-related uses, existing rural resource-based commercial uses, existing rural resource-based industrial uses, and existing rural institutional uses, provided all of the relevant conditions of Section D.4.1 and the following conditions are met:

- a) New lots for agricultural uses and agriculture-related uses shall demonstrate by a report prepared by an accredited professional knowledgeable in farm economics, such as an agrologist or agronomist, that the proposed agricultural lot(s) is(are) of sufficient size and nature to be reasonably expected to: i) sustain a commercially viable farm operation; ii) allow farm operators the flexibility to change the existing and proposed farm operation in the event of business failure; iii) allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture; and,
- b) The City may request comments on the report required in F.1.14.2.3 a) from the Province, or an independent peer reviewer, at the expense of the applicant, prior to consideration of the new lot for severance approval.

The proposal is for the creation of a new lot (being approximately 0.6 ha) for residential purposes with a retained lot (being approx. 1.74 ha) to also retain the existing single detached dwelling, serviced by municipal water services and private septic services.

As the subject lands are not located within a Rural Settlement Area nor is the proposed severance the result of a farm consolidation, the proposed lot creation for residential

purposes **does not conform with the above noted policies of the Rural Hamilton Official Plan.**

The subject lands are designated under Part IV of the *Ontario Heritage Act*, by municipal By-law Number 04-267 as a property of cultural heritage value, Development Planning staff defer to Cultural Heritage comments regarding this. Development Planning staff defer to Natural Heritage and Source Water comments with respect to the proposal's conformity with the Rural Hamilton Official Plan's natural heritage and sustainable servicing policies.

Archaeology:

The subject property meets three (3) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) In areas of pioneer Euro-Canadian settlement; and,
- 3) Along historic transportation routes.
- 4) Within a property designated under the Ontario Heritage Act.

These criteria define the property as having archaeological potential. Accordingly, Section 2.10 of the *Niagara Escarpment Plan* states:

- 1) *Development shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources are conserved.*
- 2) *Where proposed development is likely to impact cultural heritage resources or areas of archaeological potential, the proponent shall undertake a heritage impact assessment and/or archaeological assessment. The proponent must demonstrate that heritage attributes will be conserved through implementation of proposed mitigative measures and/or alternative development approaches.*

If this application is approved, the NEC must attach a condition to the approval as follows:

“Condition: That the proponent shall carry out a scoped archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, associated driveway and any associated landscape alterations or soil disturbance, in addition to any areas impacted by the installation of services, such as water, electricity, septic beds or ground-source heat pumps. The proponent shall 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 should take place on the subject property prior to the approval of the Director of Planning, the Niagara Escarpment Commission, and the Ontario Ministry of Citizenship and Multiculturalism (MCM) confirming that all archaeological resource concerns have met

licensing and resource conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499)."

Built Heritage/Cultural Heritage Landscapes:

The subject property is comprised of the Regency Farmhouse, a property designated under Part IV of the *Ontario Heritage Act* and a "protected heritage property" under the *Provincial Policy Statement*. The designated features include the surrounding 2.34-hectare property together with the existing open spaces and topography, coniferous and deciduous trees, and unpaved driveway.

Accordingly, the following sections of the Rural Hamilton Official Plan, Volume 1, applies:

- B.3.4.1.3 "Ensure that all new *development, site alterations*, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or *adjacent cultural heritage resources*."
- B.3.4.2.1(g) "Ensure the conservation and protection of *cultural heritage resources* in planning and development matters subject to the *Planning Act* either through appropriate planning and design measures or as conditions of development approvals." and,
- B.3.4.2.1(h) "Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and *cultural heritage landscapes*, by encouraging those land uses, *development* and *site alteration* activities that protect, maintain and enhance these areas within the City."

The applicant is proposing to sever the existing lot, resulting in a new \pm 0.6 ha (1.49 ac) building lot, and a \pm 1.74 ha (4.29 ac) retained lot, from an existing 2.34 ha (5.78 ac) lot that supports a single dwelling and agricultural uses serviced by municipal water servicing and private septic servicing.

Heritage Permit:

Under the *Ontario Heritage Act*, a Heritage Permit is required for any alterations that are likely to affect the Reasons for Designation and/or Description of Heritage Attributes defined by the designation By-law 04-267. The proposed severance would create a new building lot. The construction of a new home on the lot to be severed would require a Heritage Permit approval to implement since it would impact the designated surrounding landscape.

Staff Comments:

Staff note that the new conveyed lot will remain subject to designation By-law No. 04-267, unless amended. Should the new building lot be subject to the designation By-law, a Heritage Permit will be required to facilitate the construction of any new structure.

Staff would be happy to further discuss options regarding the amendment to the designation By-law or considerations for future heritage permit applications.

Staff have no further comments on the application, as circulated.

Development Engineering Approvals:

Erosion and Sedimentation Control:

No Erosion and Sedimentation Control Plan or details for erosion and sediment control have been provided. As part of the future severance application, an Erosion & Sediment Control Plan is required to be submitted to our office for review. The following courtesy comments have been provided for incorporation within the Erosion and Sediment Control Plan:

1. The proposed silt fencing detail is OPSD 219.130. The silt fence must enclose all grading work. At openings within the silt fence returns must be provided on either end to reduce the potential for silt laden run-off spill over.
2. The following additional standard notes respecting erosion and siltation control must be included on the plan.

“The siltation and erosion control measures illustrated on this plan are considered to be the minimum requirement. Conditions may require additional measures which will be identified by the engineer during construction”

“All erosion and siltation control devices should be as per the “Greater Golden Horseshoe Area Conservation Authorities”, “Erosion and Sediment Control Guideline for Urban Construction”.

“The Owner is responsible for the removal of all mud and debris that are tracked onto the roadways from vehicles entering or leaving the construction site. The Owner shall, upon verbal and/or written request by the City, immediately proceed with clean-up operations at their expense. Should the Owner fail to maintain the road as directed, the City will have the cleaning carried out, and draw on the Owner’s security for costs and/or lay charges.”

3. If trees are to be removed from private property, an arborist report may be required along with consultation with the City of Hamilton Natural Heritage Department.

Please include tree removal and protection details as found in Appendix 8 of <https://www.hamilton.ca/develop-property/policies-guidelines/site-plan-guidelines>.

Grading and Drainage:

No Grading and Drainage details have been provided. As part of the future severance application, a Grading Plan is required to be submitted to our office for review. As such, the following courtesy comments have been provided to aid the preparation of the Grading Plan:

1. All drawings must be stamped and sealed by a Professional Engineer or qualified professional.
2. In the title block, please note "Grading Plan" or similar.
3. Should import fill be required for grading, a Site Alteration Permit from the Legislative Approvals will be required.
4. Show roof drain outlets with splash pads.
5. Driveways are to have a slope of 2-7%.
6. Please indicate the Basement floor, Top of Foundation, Underside of Footing elevations in addition to the Finished floor elevation.
7. For your information, external drainage should be accounted for. The lot should be independently drained meaning no overland sheet flow or swale is allowed to outlet through an adjacent property.
8. The elevations on the plan to be based on geodetic datum and a description of the geodetic benchmark used to establish these elevations must be included on the plan.
9. Please include general grading notes applicable to the site. Please refer to the Lot Grading Engineering Guidelines here: <http://www2.hamilton.ca/Hamilton.Portal/Inc/PortalPDFs/engineeringGuidelines/HamiltonEngineeringGuidelines-Appendix2.pdf>
10. Please note that a 3:1 slope is required to match existing grades.
11. Provide cross sections of swale and any retaining walls.
12. Please clarify the existing and proposed inverts of any culverts on the site.

Source Water Protection Comments:

Source Protection Planning understands that the that property is proposed to be severed into a 0.6 ha lot that will be used for residential purposes and the retained property will be 1.74 ha in size. Staff understand the proposed lot to be severed will be serviced municipally for water, and privately for sewage. Based on review of topographic mapping of the area, the direction of shallow groundwater flow is expected to be southward. We note that all properties in the area, including towards the south, are connected to the municipal system for water.

Our comments are as follows:

1. With the information available, the proposal would not meet the full definition of the sustainable servicing principles of the Rural Hamilton Official Plan, as the local soils

and lot size would not adequately reduce nitrate concentrations below 10 mg/L at the property boundary. However, the overall risk associated with this proposal is reduced due to the following aspects of the development:

- Wastewater effluent is expected to flow towards properties supplied with municipal water
- All other properties nearby utilize municipal water services

It should also be noted that outside of NEC development control area, rural single family dwellings are not reviewed against sustainable servicing policies in the Official Plan.

2. If PED decides to grant approval, we would request a revised site plan which demonstrates the septic system can meet the minimum clearance distances of Ontario Building Code Part 8, and also delineates a reserve bed area as per Rural Hamilton Official Plan requirements. A reserve area bed is simply a duplication of the proposed leaching bed area placed elsewhere on the property in case it needs to be relocated in the future.

For any inquiries, please contact me at 905-546-2424 x2059 or by email at Matthew.Gula@hamilton.ca

Forestry

SCOPE

An assessment of the information provided shows that there are potential conflicts with publicly owned trees or trees that may become city assets through right of way widening. Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician.

Where ownership of trees in proximity to the boundary between public and private land is un-certain, the subject trees must be surveyed by the applicant to confirm ownership. Ownership is as per By-law 15-125. Ownership must be clearly identified on the Tree Management Plan as either municipal or private.

A **Permit** to injure or remove municipal trees is a requirement of this application. Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.

If public street trees are proposed for removal, a **Landscape Plan** is required by the Forestry and Horticulture Section, depicting the street tree planting scheme for the proposed development.

Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees and payments.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

The Forestry & Horticulture Section requires that a Tree Management Plan be prepared by a MTCU Qualified Arborist, or ISA Certified Arborist, or a Registered Landscape Architect. All trees within this proposed development area must be surveyed, identified and accurately plotted on the plan to determine ownership, including intensions regarding retention or removal.

It is compulsory that all proposed surface treatment changes within individual tree driplines as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads be accurately depicted on the submission.

The Tree Inventory Analysis Table on the Tree Management Plan shall not be considered complete without the following data and recommended action for each tree.

- ❖ Species by Botanical and common name
- ❖ Diameter at breast height in centimeters or millimeters
- ❖ Ownership {> 50% @ ground level = ownership}
- ❖ Biological health
- ❖ Structural condition
- ❖ Proposed grade changes within individual driplines {compulsory}
- ❖ Proposed utility construction within individual driplines {compulsory}
- ❖ Proposed removals or relocations
- ❖ Proposed trees to be protected

If it is determined and verified that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission as per the **Public Tree Preservation and Sustainability Policy**.

The determination of ownership of all trees is the responsibility of the applicant and any civil issues which may exist or arise between property owners with respect to trees, must be resolved by the applicant. The ownership of each individual tree inventoried must be clearly stated as municipal or private.

All Healthy trees on municipal property which are found to be in conflict with this proposed development and do not meet our criteria for removal are subject to a replacement fee as outlined in the **Public Tree Preservation and Sustainability Policy** in conjunction with **By-Law No. 15-125**.

A permit will be issued upon approval of the Tree Management Plan and applicable fees.

LANDSCAPE PLAN

The Forestry & Horticulture Section requires that a detailed Landscape Planting Plan prepared by a **Registered Landscape Architect**, showing the placement of trees on internal/external City property be provided.

The City of Hamilton's Public Tree Preservation and Sustainability Policy in conjunction with the Tree By-Law 15-125 requires new developments to provide payment of \$695.79 plus HST per tree for road allowance street trees. All street tree plantings shall be planted by the City of Hamilton, as approved through the review of a proposed street tree planting scheme. All trees shown on municipal road allowance shall be identified as 'Trees to be planted by City of Hamilton Forestry Section.

Urban Forest Health Technician from the Forestry Section shall be notified post construction, when final grade has been achieved, to facilitate the scheduling of the street tree planting(s). Otherwise, all sites will be monitored annually by Forestry to determine when site is suitable for the following planting season.

The Landscape Plan should specifically outline 50mm caliper size and the species of trees to be planted as well as identify hard surface and soft surface areas on the site. Individually planted trees in new sidewalk installations shall include a detail showing 21 m³ of soil, and a grouping of 2 or more trees in a soil bed shall include 16m³ of soil per tree. New sidewalks, paving or asphaltting shall allow 1.5m² of breathing space for tree roots.

An option to allow forestry to determine tree species is permitted and plan shall reflect that decision by denoting on plan 'City of Hamilton forestry department to determine species'. Please note; all private trees on plan shall have species denoted.

Tree species selection should take into account cultivars {fruitless etc.} salt and heat tolerance, mature tree size, public visibility and daylight triangles, as well as potential pest concerns. Spacing guidelines for trees are 8-10 metres on centre for larger species and 4-7 metres on centre for smaller species.

Guidelines for species diversity shall ensure no single species shall make up more than

20% of the total street tree population. No coniferous trees will be permitted on City of Hamilton road allowance. Any identified street tree species on plan will be subject to change at time of planting due to but limited to; on site conditions, in stock availability and compatibility with approved species by City of Hamilton. Although utility conflicts may change specific planting locations, every opportunity will be made to keep with the intent of the design. Trees planted on the road allowance will have a minimum approximate caliper of 50 mm.

Forestry's mission to increase urban canopy through new development encourages any opportunity for planting locations. The City's goal is to plant trees for many reasons including replacement of canopy loss due to development. Forestry's mandate is to increase canopy coverage across the City to promote a robust green infrastructure, and therefore, a healthy community for all residents of Hamilton.

SUMMARY

- An assessment of the information provided shows that there are potential conflicts with existing public trees or trees that will become publicly owned trees through right of way widening.
- A **Permit** to injure or remove municipal trees is a requirement of this application.
Therefore, a **Tree Management Plan** must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.
- **A permit will be issued upon approval of the Tree Management Plan and applicable fees.**
- Landscape Plan required if existing city trees are proposed to be removed.
- The Forestry & Horticulture Section requires that a detailed Landscape Planting Plan prepared by a **Registered Landscape Architect**, showing the placement of trees on internal/external City property be provided.
- The City of Hamilton's Public Tree Preservation and Sustainability Policy in conjunction with the Tree By-Law 15-125 requires new developments to provide payment of \$695.79 plus HST per tree for road allowance street trees. All street tree plantings shall be planted by the City of Hamilton, as approved through the review of a proposed street tree planting scheme. All trees shown on municipal road allowance shall be identified as 'Trees to be planted by City of Hamilton Forestry Section.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546-2424 Ext. 7375.

Natural Heritage

The subject lands are located within the Rural Hamilton Official Plan area and per Volume 1, Schedule B are within the Greenbelt Natural Heritage System in addition to the Niagara Escarpment Protected area.

The proposed development is to undertake a severance, resulting in a new ± 0.6 ha (1.49 ac) building lot, and a ± 1.74 ha (4.29 ac) retained lot, from an existing 2.34 ha (5.78 ac) lot that supports a single dwelling, agricultural uses, municipal water servicing, and private septic servicing.

Natural Heritage Comments:

The subject lands are bordering on a Significant Woodland to the north of the property, as well as a wetland pocket to the north, and another wetland pocket to the west of the property. The proposed severance is within an area of the lands that are generally disturbed and are outside of the vegetated protection zone area for Significant Woodlands and Wetlands. There are several trees located on the subject lands, tree conservation is important to the City of Hamilton per the recently passed Biodiversity Plan and RHOP C.2.10.1.

It is unclear to Natural Heritage planning staff if there is a new barn and re-grading proposed as indicated in the site plan that was provided separately to the NEC circulation. Please provide clarification. The above comments apply to the severance ONLY.

It appears that trees will be required to be removed to facilitate the severance. As such a tree protection plan using the City of Hamilton's Tree Protection Guidelines (2010) and a landscape plan indicating compensation at a 1:1 ratio. There is a \$685.00 fee associated with the review of Tree Protection Plans.

- **Condition #1: *Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the applicant shall submit for the approval of the City of Hamilton, Manager of Heritage and Urban Design, a Tree Protection Plan is required to be prepared by a Tree Management Professional (Certified Arborist, Registered Professional Forester, or Landscape Architect.***
- **Condition #2: *Prior to the issuance of a Development Permit by the Niagara Escarpment Commission, the applicant shall submit for the approval of the City of Hamilton, Manager of Heritage and Urban Design, a Landscape Plan to be prepared by an OALA in good professional standing.***

Zoning

1. The subject property falls within the Niagara Escarpment Commission's Development Control Area. As such, the Niagara Escarpment Commission regulates development and the provisions contained within the former Hamilton Zoning By-law 05-200 do not apply.

The following comments are based on the regulations of the underlying "P6" zone and are for information purposes only.

2. The applicant is proposing a severance of the existing lot to create a new parcel fronting along Wiers Lane for the use of a new single detached dwelling.
3. This property is designated under Part IV of the *Ontario Heritage Act*, by municipal By-law Number 04-267 as a property of cultural heritage value. A Heritage Permit may be required for alterations or changes to the property. Please contact a Cultural Heritage Planner at culturalheritageplanning@hamilton.ca for further information.
4. Be advised that a portion of this property is under Conservation Management. Please contact Hamilton Conservation Authority prior to any development.
5. The proposed development has been reviewed and compared to the standards of the "P6" zone as indicated in the following charts:

RETAINED LANDS:

**Please be advised that the underlying "P6" zone contains separate zoning regulations for lots containing either a single detached dwelling only or an agricultural use. Based on the description of the proposed development as provided on the submitted memorandum, it appears the existing lot contains both an agricultural use and a single detached dwelling. As such, the following review of the retained lot is based on the agricultural use being maintained. Otherwise the regulations of Section 7.6.2.3 shall apply instead.*

	Required by the By-Law	Provided	Conforming/ Non-Conforming
Section 7.6.2.1 Agricultural Regulations			
New Buildings and Structures [as per section 7.6.2.1(a) of Hamilton Zoning By-law 05-200]	i) Shall not be permitted on a vacant lot. ii) Shall be in accordance with the requirements of Sections 12.1.3.1 and 4.8.2.	This lot is not vacant. No new buildings appear to be proposed on the retained lands.	Not Applicable <i>The minimum lot area requirement (pursuant to Section 12.1.3.1 has been reviewed below) which is applicable to agricultural lots.</i>
Expansions to Existing Buildings and Structures [as per section 7.6.2.1(b) of Hamilton Zoning By-law 05-200]	Shall be in accordance with the requirements of Section 12.1.3.1 and 4.8.2.	No building additions proposed.	Not Applicable

	Required by the By-Law	Provided	Conforming/ Non-Conforming
Section 12.1.3.1: Agriculture Lot and Building Regulations			
Minimum Lot Area [as per section 12.1.3.1(a) of Hamilton Zoning By-law 05-200]	i) 40.4 hectares; ii) Notwithstanding i) above, for the lots delineated on Figure "7.0" – Specialty Crop of Schedule "F" – Special Figures, the minimum Lot Area shall be 16.2 hectares.	Less than 40.4 ha	Non-Conforming <i>be advised that a minimum lot area of 0.4ha is required for a lot used as a single detached dwelling only.</i>
Minimum Front Yard [as per section 12.1.3.1(b) of Hamilton Zoning By-law 05-200]	15.0m	Existing	Existing
Minimum Side Yard [as per section 12.1.3.1(c) of Hamilton Zoning By-law 05-200]	15.0m	The proximity of the 'Barn' to the proposed lot line(s). has not been indicated.	Unable to Detemrine Compliance
Minimum Rear Yard [as per section 12.1.3.1(d) of Hamilton Zoning By-law 05-200]	15.0m	Existing	Existing
Maximum Lot Coverage [as per section 12.1.3.1(e) of Hamilton Zoning By-law 05-200]	i) 20%	The new lot coverage of existing buildings on the retained lands has not been indicated.	Unable to Determine Compliance
Section 12.1.3.3: Single Detached Dwelling Regulations			
Minimum Front Yard [as per section 12.1.3.3(d) of Hamilton Zoning By-law 05-200]	10.0m	Existing	Existing
Minimum Side Yard [as per section 12.1.3.3(e) of Hamilton Zoning By-law 05-200]	3.0m	The existing dwelling on the retained lot appears to be greater than 3.0m from the proposed lot lines as shown.	Appears to Conform
Minimum Rear Yard [as per section 12.1.3.3(f) of Hamilton Zoning By-law 05-200]	10.0m	Existing	Existing

SEVERED LANDS:

**The following review is based on the assumption a new Single Detached Dwelling (only) is being proposed on the newly created lot. Be advised that regulations are subject to change (i.e. Minimum Lot Area, etc.) if an agricultural use is also intended.*

	Required by the By-Law	Provided	Conforming/ Non-Conforming
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	Required by the By-Law	Provided	Conforming/ Non-Conforming
Section 7.6.2.3 Single Detached Dwelling Regulations			
New Buildings and Structures [as per section 7.6.2.3(a) of Hamilton Zoning By-law 05-200]	i) Shall not be permitted on a vacant lot.	The proposed lot would be considered vacant. The applicant has indicated a new proposed Single Detached Dwelling on this lot.	Non-Conforming
	ii) Shall be in accordance with the requirements of Sections 12.1.3.3 and 4.8.2.	Reviewed below	
Expansions to Existing Buildings and Structures [as per section 7.6.2.3(b) of Hamilton Zoning By-law 05-200]	Shall be in accordance with Sections 12.1.3.3 (c), (d), (e), and (f) and 4.8.2.	No expansion of existing buildings are proposed.	Not Applicable
Section 12.1.3.3 Regulations			
Minimum Lot Area [as per section 12.1.3.3(a) of Hamilton Zoning By-law 05-200]	0.4 hectares	0.6 ha	Conforms
Minimum Lot Width [as per section 12.1.3.3(b) of Hamilton Zoning By-law 05-200]	30.0m	The proposed lot width (i.e frontage) along Wiers Lane has not been indicated.	Unable to Determine Compliance
Maximum Building Height [as per section 12.1.3.3(c) of Hamilton Zoning By-law 05-200]	10.5m	Details respecting the proposed future Single Detached Dwelling have not been provided at this time.	
Minimum Front Yard [as per section 12.1.3.3(d) of Hamilton Zoning By-law 05-200]	10.0m		
Minimum Side Yard [as per section 12.1.3.3(e) of Hamilton Zoning By-law 05-200]	3.0m		
Minimum Rear Yard [as per section 12.1.3.3(f) of Hamilton Zoning By-law 05-200]	10.0m		
Parking Requirements [Section 5 of Hamilton Zoning By-law 05-200]	<i>In accordance with the requirements of Section 5 of Hamilton Zoning By-law 05-200</i>		

6. Please be advised that the applicant shall ensure Ontario Building Code Compliance is maintained for the location/proximity of the existing Septic Systems to the proposed lot lines.
7. The construction of the new building is subject to the issuance of a building permit in the normal manner.
8. Fencing details have not been provided; all fencing shall conform to Hamilton Fence By-Law 10-142.

Conclusion

Based on the above comments staff object to the issuance of an NEC Development Permit as the proposal does not meet the intent of the Rural Hamilton Official Plan policies regarding lot creation. Should an approval be granted, Staff recommend that the application be revised to address Cultural Heritage, Natural Heritage, Forestry, Source Water Protection and Development Engineering comments and that the following conditions be applied:

CONDITIONS:

1. To the satisfaction of the Manager of Development Engineering, the following is required:
 - A certified Grading and Drainage Plan and a certified Erosion and Sediment Control Plan shall be submitted for review as part of a future severance application.
2. To the satisfaction of the Director of Hamilton Water, the following is required:
 - Provide a revised site plan which demonstrates the proposed septic system can meet minimum clearance distances of Ontario Building Code Part 8, and also delineates a reserve bed area as per Rural Hamilton Official Plan requirements.
3. To the satisfaction of Forestry the following is required:
 - An assessment of the information provided shows that there are potential conflicts with existing public trees or trees that will become publicly owned trees through right of way widening.
 - If existing City trees are proposed to be removed, a detailed Landscape Planting Plan prepared by a **Registered Landscape Architect**, showing the placement of trees on internal/external property is required.
 - A Permit to injure or remove municipal trees is a requirement of this application. Therefore, a Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.

4. To the satisfaction of the Director of Heritage and Urban Design, the following is required:

- **Prior to the issuance of a Development Permit** by the Niagara Escarpment Commission, the applicant shall submit for the approval of the City of Hamilton, Manager of Heritage and Urban Design, a Tree Protection Plan is required to be prepared by a Tree Management Professional (Certified Arborist, Registered Professional Forester, or Landscape Architect).
- **Prior to the issuance of a Development Permit** by the Niagara Escarpment Commission, the applicant shall submit for the approval of the City of Hamilton, Manager of Heritage and Urban Design, a Landscape Plan to be prepared by an OALA in good professional standing.
- The following condition shall be attached to approval issued by the Niagara Escarpment Commission:

“Condition: That the proponent shall carry out a scoped archaeological assessment of that portion of the property subject to soil disturbance arising from this application, including new structures, associated driveway and any associated landscape alterations or soil disturbance, in addition to any areas impacted by the installation of services, such as water, electricity, septic beds or ground-source heat pumps. The proponent shall 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 should take place on the subject property prior to the approval of the Director of Planning, the Niagara Escarpment Commission, and the Ontario Ministry of Citizenship and Multiculturalism (MCM) confirming that all archaeological resource concerns have met licensing and resource conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

If you have any questions regarding the above comments, please contact David Bonaventura at 905 546 2424 Ext. 3364 or David.Bonaventura@hamilton.ca.

Rega

Jennifer Catarino, RPP, MCIP
Area Planning Manager – West Team
Development Planning
Encl.



BY E-MAIL

November 8, 2023

W/R/2023-2024/162

Andrej Obradovic
Senior Planner
Niagara Escarpment Commission
232 Guelph Street
Georgetown, Ontario L7G 4B1

Dear Mr. Obradovic:

RE: W/R/2023-2024/162
APPLICANT/AGENT: Derek Donn
[REDACTED]
LOCATION: Part Lot 4 FW DUN, Concession 1
957 Governors Road
(Former) Town of Dundas, City of Hamilton
ARN 251826029009800
RELATED FILES: W/R/1981-1981/5034; W/R/1981-1981/5019; W/A/1976-1976/5152;
W/A/1976-1976/5114

Staff of the Hamilton Conservation Authority (HCA) has reviewed the NEC Development Permit application according to HCA's responsibilities under the Conservation Authorities Act and provide the following comments.

Please note that as a result of recent changes to the Conservation Authorities Act, effective January 1, 2023, the review services that Conservation Authorities may provide under the Niagara Escarpment Planning and Development Act have been limited to matters that relate to natural hazards. Notwithstanding this, where there are application reviews in progress from prior to January 1, 2023 that HCA has been involved in, HCA may provide some further review comments on non-hazard related matters in order to allow for an efficient transition of review responsibilities to the NEC.

Proposal

The applicant proposes to undertake a severance, resulting in a new 0.6 ha (1.49 ac) building lot, and a 1.74 ha (4.29 ac) retained lot, from an existing 2.34 ha (5.78 ac) lot that supports a single dwelling, agricultural uses, municipal water servicing, and private septic servicing.

Conservation Authorities Act

The subject residential property is approximately 2.35 ha and is located within the Spencer Creek watershed and specially located within the Spring Creek subwatershed. The property is within a regulated area due to the presence a tributary of Spring Creek north of the property that is connected to an unevaluated wetland. The property is contained within the Dundas Valley Environmentally Significant Area (ESA) and is in the vicinity of a Significant Woodland that is regulated due to a confined slope. This property is also within the City of Hamilton Natural Heritage System as identified in the *City of Hamilton Rural Official Plan (2012)*.

Ontario Regulation 161/06 under the Conservation Authorities Act

HCA notes that northern portions, currently used for agriculture, of the subject property border a woodland area that is regulated due to the presence of confined area slope by the HCA pursuant to *Ontario Regulation 161/06* (HCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses) made under the *Conservation Authorities Act, R.S.O. 1990*. This could result in a potential erosion hazard.

A review of the HCA's internal GIS mapping of the confined slope and associated headwater tributary to the north, determined that the tributary is approximately 70m from the property limits. As result there are no concerns for regulatory hazards such as flooding or erosion outside of the confined slope. Similarly, the slope on the southern half of the property is also presents as a globally stable slope. Any proposed development within the northern half of the property map require written permission from the HCA.

Summary

HCA has no concerns associated with a severance of the lot. As portions of property are regulated, written permission may be required for any proposed future development. If you have any questions about these comments, please contact me by phone at (905) 525-2181 Ext. 175 or by email at ssandhu@conservationhamilton.ca

Sincerely,

[REDACTED]

Sawroop Sandhu, Planner
Watershed Management Services.

c.c.

[REDACTED]
Derek Donn, Agent.