



Hamilton

STAFF COMMENTS

HEARING DATE: April 9, 2024

GL/A-23:250 – 3355 Golf Club Road, Glanbrook

Recommendation:

Table

Proposed Conditions:

1. That By-law Nos. 24-038 and 24-039 be final and binding, to the satisfaction of the Director of Development Planning.
2. That the applicant demonstrate that the size and nature of the primary farm operation requires additional employment, to the satisfaction of the Director of Development Planning.
3. That a Farm Labour Residence shall not be permitted accessory to an “Agri-tourism Facility” use.

Proposed Notes:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval 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 (416-212-0036) 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).”



Hamilton

STAFF COMMENTS

HEARING DATE: April 9, 2024

Development Planning:

Background

The purpose of this application is to facilitate the construction of a Farm Labour Residence in the basement of an Agri-Tourism retreat building without the presence of an existing principal farm dwelling.

The following variances are requested:

1. Permit a “Farm Labour Residence” on a lot without an existing permanent principal farm dwelling, whereas a “Farm Labour Residence” is only permitted on a lot with an existing permanent principal farm dwelling.
2. Permit a “Farm Labour Residence” in the basement of an “Agri-Tourism Retreat” building, whereas only an accessory detached dwelling of temporary construction and accessory detached bunk house of temporary construction are permitted.
3. Permit a “Farm Labour Residence” with a maximum floor area of 326 square metres with a maximum number of 10 units.

Site History

This Minor Variance application was tabled at the October 13, 2023 Committee of Adjustment Hearing to allow the applicant to speak to the Planning Department to further discuss alternative proposals for a favourable recommendation. There are no amendments made to this application.

In October of 2019, the applicant applied for Zoning By-law Amendment application ZAC-19-028 and Rural Hamilton Official Plan Amendment (RHOPA) application RHOPA-19-007. The subject applications were appealed to the Ontario Land Tribunal on May 27, 2021 as a result of a decision of Council not being made on the applications within the time period required under the *Planning Act*.

The purpose of the RHOPA was to create a Site Specific Policy Area in the Agriculture designation to allow an “Agri-tourism Facility” as an On-Farm Secondary Use. The purpose of the rezoning application was to modify Agriculture (A1) Zone to allow an expanded definition of an “Agri-tourism Facility” to mean “an on-farm healthy living agritourism facility which use acts as a secondary on-farm building use and provides education, tourist opportunities and other agritourism uses to experience organic agriculture and holistic living but at the same time offers available accommodations and meals for guests, up to a maximum of 25 guests”.

Planning staff did not support these applications at the Ontario Land Tribunal; however, the Ontario Land Tribunal approved both applications on November 23, 2022.



Hamilton

On March 27, 2024, Council approved Rural Hamilton Official Plan Amendment No. 39 (“RHOPA 39”) and amendments to Hamilton Zoning By-law No. 05-200, regarding Farm Labour Residences, through By-law Nos. 24-038 and 24-039. The amendments allow for multiple Farm Labour Residences associated with farm operations, remove requirements that they are on the same lot as an existing permanent principal Farm Dwelling and are of temporary construction, and increase the maximum size permissions for Farm Labour Residences. At the time of writing this report, these by-laws are not final and binding and not in force and effect.

Analysis

Rural Hamilton Official Plan

The subject property is designated as “Agriculture” on Schedule D – Rural Land Use Designations in Volume 1 of the Rural Hamilton Official Plan (RHOP). Schedule B – “Natural Heritage System” in Volume 1 of the RHOP identifies the subject lands are containing Core Area, Greenbelt Protected Countryside and Greenbelt Natural Heritage Systems. The following policies apply, amongst others, with text deleted though amendments by RHOPA 39 shown with “~~strikeout text~~”. RHOPA 39 was approved by Council on March 27, 2024 and is not final and binding.

- D.2.1.1.6 A farm labour residence may be permitted on the same lot as the primary farm use provided all the following conditions are met:
- b) A ~~maximum of one~~ farm labour residence may be permitted without an amendment to the Zoning By-Law, in the form of an accessory apartment attached to and forming part of the principal farm residence, or an accessory detached ~~temporary~~ dwelling, such as a mobile home or bunk house provided: (OPA 9)
 - ~~i) The second unit shall be serviced by the same private sewer and water systems used by the principal farm residence and be in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services policies of this Plan.~~
 - ii) i) Where a temporary dwelling is used as a farm labour residence, the owner shall remove the temporary dwelling from the subject farm if, in the opinion of the City, it is no longer required or used as a farm labour residence.

Section D.2.1.3.1 states that “In addition to the above policies, on-farm secondary uses shall be subject to the following conditions:

- d) Agri-tourism uses and facilities associated with seasonal farm related attractions, and farm tours may be permitted, subject to a Zoning By-law amendment for any new buildings and structures for the agri-tourism use.”

The Council approved policies require that farm labour residences be operationally required based on the size and nature of a farm operation and be accessory to an Agriculture use. The proposal is for a



Hamilton

permanent farm labour residence in the basement of the On-Farm Secondary Use (Agri-tourism Facility). While the submission indicates that the northern portion of the subject property contains active farm uses, it has not been sufficiently demonstrated that the size and nature of the primary farm operation requires additional employment. Based on the forgoing, it has not been demonstrated that the proposal meets the intent of the approved revisions to the Official Plan.

Archaeology:

The subject property meets the criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential. 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.

In addition, the subject property contains a number of archaeological sites. Although not directly located on the proposed development area on the site, it is the legal responsibility of the property owner to ensure that these sites are not disturbed in accordance with the Ontario Heritage Act.

If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval 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 ([416-212-0036](tel:416-212-0036)) In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416- 212-7499).”

Cultural Heritage:

The subject property is *adjacent* to 3481, 3219 Golf Rd and 3468 Guyatt Rd; properties included in the City’s Inventory of Heritage Buildings.



The City recognizes there may be cultural heritage properties that are not yet identified or included in the Register of Property of Cultural Heritage Value or Interest nor designated under the *Ontario Heritage Act*, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.

Accordingly, the following section of the Rural Hamilton Official Plan, Volume 1, apply:

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*.”

Notwithstanding that the *adjacent* property is included in the City’s Inventory of Heritage Buildings, Staff have reviewed the application and are of the opinion that the cultural heritage value or interest of the property will be conserved. Staff have no further comments on the application as circulated.

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

The subject lands are zoned Agricultural (A1) Zone for which the use of a Farm Labour Residence, Accessory to Agriculture and on the same lot as an existing permanent principal Farm Dwelling, may be permitted in the following forms:

- a) An Accessory detached dwelling of temporary construction, such as a mobile home; or,
- b) An Accessory detached bunk house of temporary construction, where cooking and sanitary facilities are shared.

A “Farm Labour Residence” means “accommodation for full-time farm labour where the size and nature of the farm operation requires additional employment.”

Under the regulations currently in effect, the proposed Farm Labour Residence on a lot without an existing permanent principal Farm Dwelling, located in the basement of the Agri-Tourism Facility building of permanent construction, is not permitted.

Under By-law No. 24-039, approved by Council on March 27, 2024 which is not final and binding, the Farm Labour Residence regulations in the Agricultural (A1) Zone are being deleted and replaced with the following:

- “j) Farm Labour Residence A Farm Labour Residence, accessory to Agriculture, may be permitted in accordance with the following:
 - 1. Shall have a maximum building height of 10.5 metres.



Hamilton

2. All Farm Labour Residences shall have an aggregate maximum lot coverage of 420 square metres.
3. Individual Farm Labour Residence units shall have a maximum gross floor area of 200 square metres.
4. All Farm Labour Residences shall be separated from the principal Farm Dwelling by a minimum of 30 metres.
5. All Farm Labour Residences shall be a separated by a minimum of 10 metres.
6. In addition to Section 5 of this By-law, a minimum of 1 parking space per Farm Labour Residence shall be required in the absence of a principal farm dwelling on the same lot.”

While the submission indicates that the northern portion of the subject property contains active farm uses, it has not been sufficiently demonstrated that the proposed use of a Farm Labour Residence is accessory to a primary farm use, nor that the size and nature of the primary farm operation requires additional employment. Based on the forgoing, it has not been demonstrated that the proposal meets the definition of a Farm Labour Residence use in the Zoning By-law.

Notwithstanding, under the Council approved regulations, the proposed Farm Labour Residence is in the basement of an “Agri-tourism Facility” as an On-Farm Secondary Use with a maximum floor area of 326 square metres. Based on the forgoing, the proposal would meet the intent of the approved amendments to the Zoning By-law regulations, provided that it can be demonstrated that the proposed Farm Labour Residence is accessory to, and required for, the primary farm operation as discussed above.

Staff note that further variances may be required when the regulations under By-law No. 24-039 come into force and effect.

Based on the foregoing, Planning staff recommend **tabling** this application pending additional information demonstrating that the size and nature of the primary farm operation requires additional employment, and to determine whether further variances are required when the revised zoning regulations for Farm Labour Residences under By-law No. 24-039 come into force and effect.

Zoning:

Recommendation:	Comments and Conditions/ Notes
Proposed Conditions:	
Comments:	Requested Variance modified to;



Hamilton

	<p>1. To permit the Farm Labour Residence notwithstanding that it is not permitted to support a secondary use to agriculture (i.e. Agri-tourism).</p> <p>i. Please be advised that a portion of this property is under Conservation Management. Please contact the Niagara Peninsula Conservation at 905- 788-3135 for further information.</p> <p>This property is listed in the City of Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest as a property of cultural heritage value or interest. Please contact a Cultural Heritage Planner culturalheritageplanning@hamilton.ca for further information.</p>
Proposed Notes:	<p>i. A Farm Labour Residence is only permitted to support an agricultural use and the owner/applicant must demonstrate, in accordance with the definition, that the Farm labour Residence is required for the operation of the primary agriculture use.</p>

Development Engineering:

Recommendation:	No comments.
Proposed Conditions:	
Comments:	
Proposed Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	<p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p> <p>The Ontario Building Code requires a clear height of 1.95m under beams and ducting in basement units.</p> <p>A building permit is required for the construction of a Farm Labour Residence in the basement of an Arig-Tourism retreat building.</p>

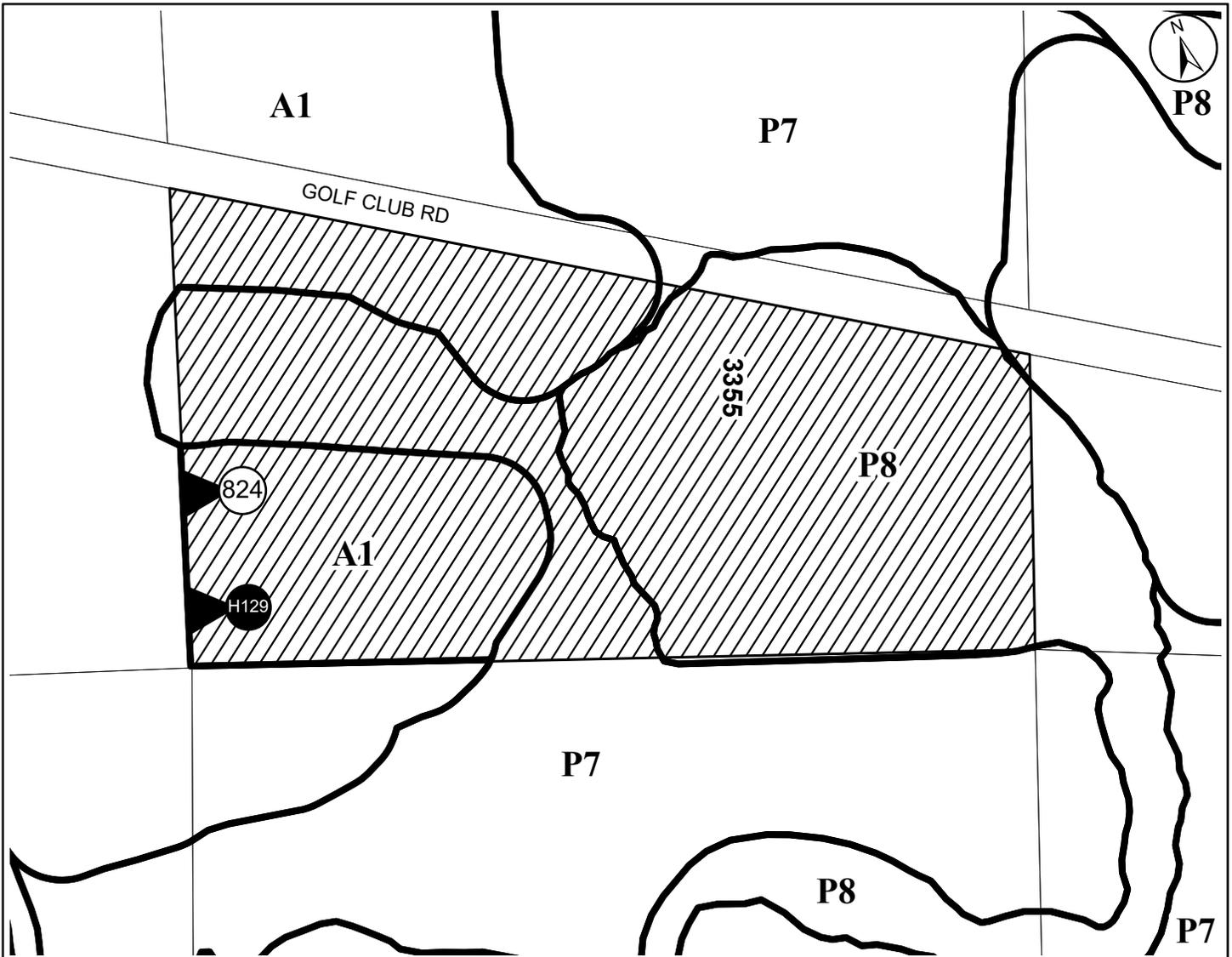
Transportation Planning:

Recommendation:	No comments.
-----------------	--------------

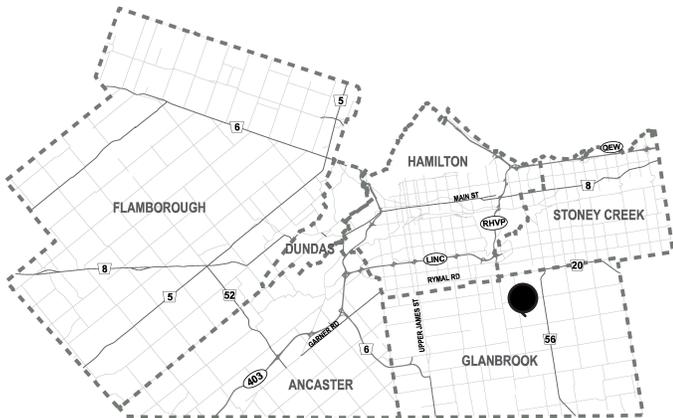


Hamilton

Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



3355 Golf Club Road, Glanbrook
(Ward 11)

File Name/Number:

GL/A-23:250

Date:

March 22, 2024

Technician:

AL

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department