



Hamilton

STAFF COMMENTS

HEARING DATE: May 21, 2024

A-24:74 – 225 Concession 5 Road East, Flamborough

Recommendation:

Development Planning - Deny
Source Protection Planning - Deny

Proposed Conditions:

Proposed Notes:



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Development Planning:

Background

So as to permit an Additional Dwelling Unit - Detached to the Existing Single Detached Dwelling.

Analysis

Rural Hamilton Official Plan

The subject lands are designated “Rural Settlement Areas” in Schedule D – Rural Land Use Designations within the Rural Hamilton Official Plan. Policies D.5.1.1 among others, are applicable and state that development proposed within a provincial plan identified on Schedule A – Provincial Plans shall comply with Section C.1.0, Provincial Plans. The following policies apply:

“C.3.1.2 e) An additional dwelling unit – detached shall be permitted in Rural Hamilton subject to the following:

- i) One additional dwelling unit – detached may be permitted on a lot with a minimum lot area of 1.5 hectares.
- ii) The primary dwelling and the additional dwelling unit – detached can achieve the minimum servicing requirements of Policy C.5.1 of this Plan.
- iii) The minimum lot area established in e) i) above may be reduced where it can be demonstrated that the minimum servicing requirements of Policy C.5.1 of this Plan can be achieved.

C.5.1.1 No draft, conditional, or final approval of development proposals shall be granted by the City for any development in Rural Hamilton that could impact existing private services or involves proposed private services until the development proposal has complied with all of the following: (OPA 23)(OPA 26)

- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City’s calculations, the proponent shall be required to submit a hydrogeological study report completed in accordance with Section F.3.2.5 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as may be approved or amended from time to time. (OPA 23)



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e) The private water supply and sewage disposal systems shall be capable of sustaining the proposed and existing uses within acceptable levels of on-site and off-site water quantity and quality impacts, including nitrate impact;"

Concession 5 East and Centre Road Rural Settlement Area Plan

The subject lands are further designated "Settlement Residential" on Map 5 within Concession 5 East and Centre Road Rural Settlement Area Plan. Policies A.3.2.3.2, A.3.2.3.3, and A.3.2.4.1 among others, are applicable.

A.3.2.3.3 Any development or redevelopment must conform to the relevant policies of Volume 1 of this Plan.

A. 1.2.4 Development in Rural Settlement Areas shall proceed in accordance with the specific policies and designations for each Rural Settlement Area and subject to the following conditions:

b) All development shall be required to obtain approval from the City for servicing. Any development shall be serviced in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of Volume 1 of this Plan, and in no case shall a proposed new lot be less than one acre; and (OPA 26)

Staff note that the subject lands are approximately 0.14 hectares in size. Staff defer any servicing concerns to Source Water Planning. Staff are of the opinion that the proposed secondary dwelling unit does not meet the intent of the Rural Hamilton Official Plan as the lot size does not meet the minimum 1.5-hectare lot size for an accessory dwelling unit – detached.

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

The subject site is zoned Settlement Residential (R1) Zone, which permits the use.

VariANCES 1 and 4

1. An Additional Dwelling Unit – Detached shall be permitted within an S1 Zone.

4. A minimum lot area of 0.1401 hectares shall be permitted for an Accessory Dwelling Unit – Detached instead of the minimum required lot area of 1.5 hectares for an Accessory Dwelling Unit – Detached within an S1 Zone.

By-law No. 24-039 has since become final and binding which now permits an Additional Dwelling Unit – Detached within an S1 Zone in accordance with the requirements of Section 4.33, which states that a maximum of one Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling having a minimum lot area of 1.5 hectares.



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The intent of these provisions is to ensure sufficient lot area is provided to meet servicing requirements.

Staff are of the opinion that the variances do not meet the four tests of a minor variance as the general intent of the Official Plan or Zoning By-law is not being maintained as the provided lot area does not meet the minimum requirement. Furthermore, staff are of the opinion that the variances are neither minor in nature nor desirable for the development as negative impacts may arise to the subject lands or surrounding area from the proposals inability to be properly serviced. Staff defers any servicing concerns to Source Water Planning. Based on the foregoing, **staff do not support the variances.**

Variations 2 and 3

2. A maximum gross floor area of 78.8 m² shall be permitted instead of the maximum permitted gross floor area of 75.0 m² for an Accessory Dwelling Unit – Detached.

3. The ground floor area of a Secondary Dwelling Unit – Detached shall not exceed 70.1% of the ground floor area of the principal dwelling when the ground floor area of the principal dwelling is less than or equal to 105 square metres instead of the maximum permitted 70.0% of the ground floor area of the principal dwelling.

The intent of these provisions are to ensure that the Accessory Dwelling Unit – Detached remains subordinate to the primary dwelling.

Staff are of the opinion that the variances maintain the general intent of the By-law and are minor in nature as the Accessory Dwelling Unit will remain subordinate to the primary dwelling. However, staff are of the opinion that the variance does not maintain the general intent of the Official Plan nor is the variance desirable for the development as the variances aide to a proposal that does not meet Rural Hamilton Official Plan policy. Additionally, the variances may lead to negative impacts to the subject site and surrounding area as the subject lands are not sufficient size to accommodate an Accessory Dwelling Unit – Detached, nor has any justification been provided to demonstrate that the proposal would achieve minimum servicing requirements.

Staff are of the opinion that the variances do not meet the four tests of a minor variance. Based on the foregoing, **staff do not support the variances.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	1. Please be advised that Zoning By-law Amendment 24-039 has been deemed to be Final and Binding as of the writing of these comments.



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	<p>2. Please be advised, as per Zoning By-Law Amendment 24-039, regulations pertaining to Additional Dwelling Units – Detached have been amended under Section 4.33.4 to permit An Additional Dwelling Unit – Detached within an A1, A2 and S1 Zone without the approval of a Planning Act process, provided the lot and proposed Dwelling Unit meet the minimum requirements.</p> <p>3. Please note, Variances #1, #2 and #3, pertaining to Section 4.33.2 are no longer required as of the passing of Zoning By-law Amendment 24-039. As such, the only required Minor Variance is Variance #4 as it pertains to Section 4.33.4 regarding the minimum lot area required for an Additional Dwelling Unit – Detached located within an S1 Zone.</p>
Proposed Notes:	

Development Engineering:

Recommendation:	No comments.
Proposed Conditions:	
Comments:	Provided the existing drainage pattern is maintained, Development Approvals has no comments.
Proposed Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	<p>A building permit is required for the construction of the proposed Additional Dwelling Unit - Detached to the Existing Single Detached Dwelling.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	

Source Protection Planning:

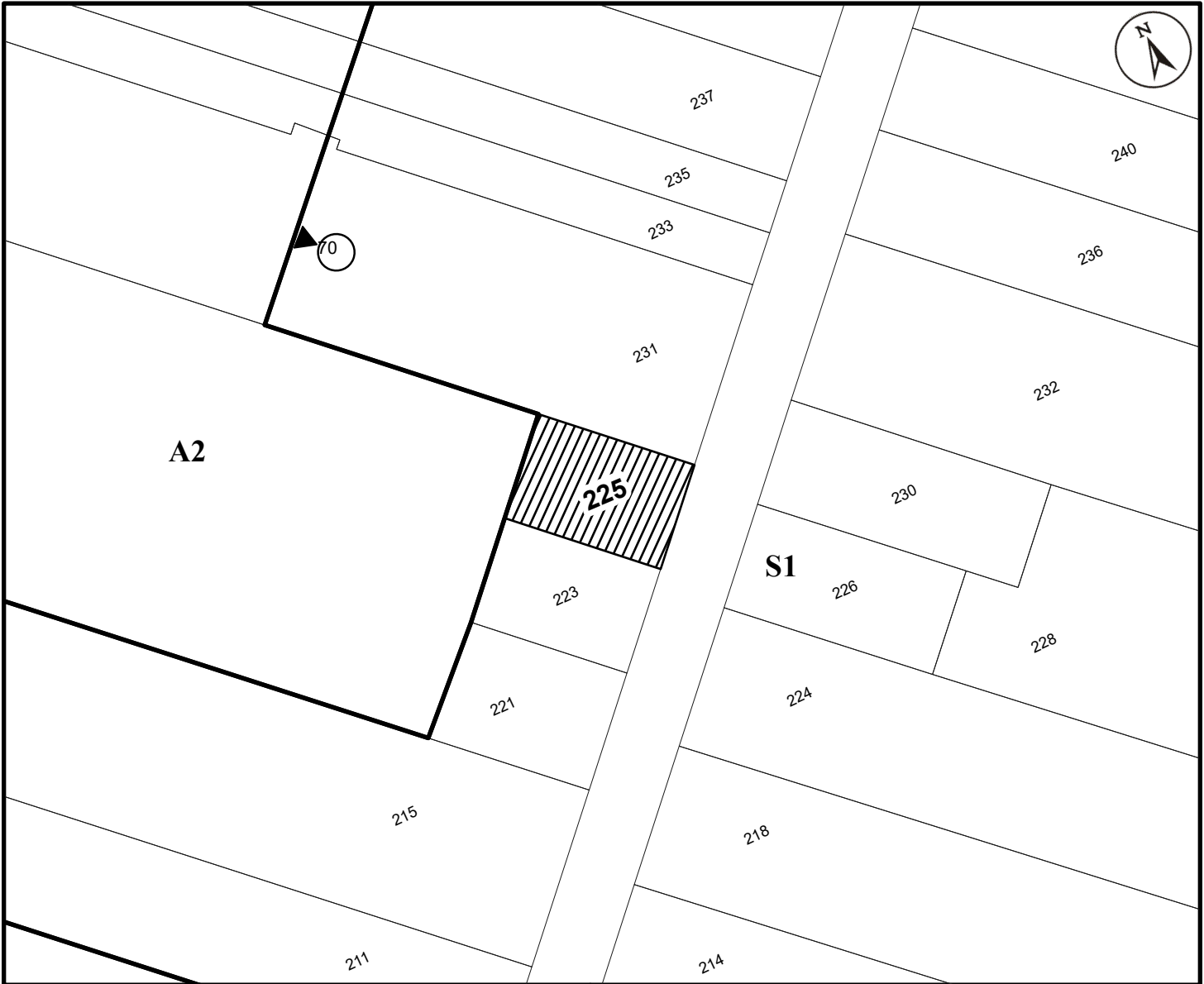


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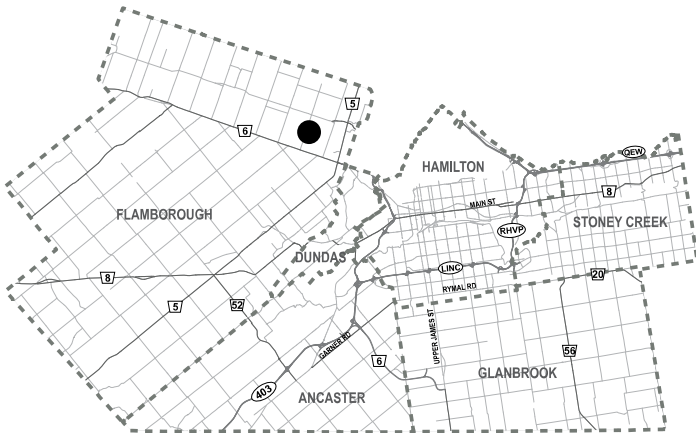
STAFF COMMENTS

HEARING DATE: May 21, 2024

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Source Protection Planning understands that the applicant is proposing a detached secondary dwelling unit on an existing 0.1404 ha lot.</p> <p>Section C.3.1.2 d) of the Rural Hamilton Official Plan specifies that the minimum lot size for a secondary dwelling unit within a detached dwelling must be 1.5 ha ha in order to maintain sustainable private services. Given the fact that the lot size is under 1.5 ha, Source Protection Planning cannot support the application at this time.</p>
Proposed Notes:	



● Site Location



City of Hamilton

Committee of Adjustment

Subject Property



225 Concession Road 5, Flamborough
(Ward 15)

File Name/Number:

FL/A-24:74

Date:

May 8, 2024

Technician:

NB

Map Not To Scale

Appendix "A"



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