



Hamilton

**B-24:25 – 238 Mountain Park Avenue, Hamilton**

**Recommendation:**

- Approve Minor Variance with Conditions
- Approve Consent with Conditions

**Proposed 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. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. 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 (Planning Division – Zoning Examination Section).
5. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping 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 (Planning Division – Zoning Examination Section).
6. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
7. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan including all services required), erosion and sediment



control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.

8. That the Owners submits a stormwater management brief prepared by a qualified professional to demonstrate how the post-development flows due to the proposed intensification are going to be controlled on site to the allowable discharge rate the existing system has accounted for, to the satisfaction of the City's Director of Development Engineering.
9. Transportation Planning can support the severance of the lands if the following dedication to the Municipal right-of-way are provided. The existing right-of-way along Mountain Park Avenue is approximately 9.0 metres. The Applicant is to dedicate approximately 2.5 metres of right-of-way along the frontage of Mountain Park Avenue.
  - a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widenings.
  - b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the required dedication.
  - c. Subject to the satisfaction and approval of the Manager, Transportation Planning.
10. That the owner shall investigate the noise levels on the severed and retained lands and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended noise control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner and shall be submitted to the satisfaction of the Director of Planning and Chief Planner.
11. That the Owner receive final and binding approval for Minor Variance A-24:98 and address all zoning deficiencies, to the satisfaction of the Director of Planning and Chief Planner.
12. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional



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(i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).

13. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.
14. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
15. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.

### **Proposed Notes:**

The lands to be conveyed (Part 2) will remain as 238 Mountain Park Avenue (Hamilton).

The lands to be retained (Part 1) will be assigned the address of 240 Mountain Park Avenue (Hamilton).

We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.



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## Development Planning:

### Background

The purpose of this application is to permit the conveyance of one half of a semi-detached dwelling and to retain one half of a semi-detached dwelling.

	Frontage	Depth	Area
<b>SEVERED LANDS:</b>	7.62 m <sup>±</sup>	30.48 m <sup>±</sup>	215.49 m <sup>2</sup> <sup>±</sup>
<b>RETAINED LANDS:</b>	7.62 m <sup>±</sup>	30.48 m <sup>±</sup>	215.49 m <sup>2</sup> <sup>±</sup>

To facilitate the creation of two (2) lots (Part 1 and Part 2) for semi-detached dwelling purposes together with an additional dwelling unit, the following variances are requested:

1. To allow a minimum lot area of 210 square metres whereas 270 square metres is required.
2. To allow a minimum lot frontage of 7.6 metres whereas 9.0 metres is required.
3. To allow a minimum front yard of 3.8 metres whereas a minimum of 6.0 metres is required.
4. To allow a minimum of zero parking spaces per additional dwelling unit, whereas a minimum of one parking space per additional dwelling unit is required.

### Site History

On December 7, 2023, the applicant had applied for a severance to convey two residential building lots for single detached dwellings. Committee of Adjustment denied the Consent application HM/B-23:74 and the associated Minor Variance application HM/A-23:299.

### Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP), which permits a semi-detached dwelling.

New lots for residential uses in the “Neighbourhoods” designation are permitted when they meet the Urban Hamilton Official Plan criteria of F.1.14.3.1 (Volume 1). The proposal is defined as Residential Intensification, and accordingly, must be evaluated based on the residential intensification policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1).

All new lot creations must meet the following criteria within the Urban Hamilton Official Plan:



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“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.”

Lot creation for ‘Residential Intensification’ in the “Neighbourhoods” designation is permitted if the lots meet the criteria of F.1.14.3.1 (UHOP Volume 1). The proposed lots are fully serviced by municipal water and wastewater systems and have frontage on a public road. Staff supports the proposed severance as it reflects 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. It is the opinion of staff that the proposed development is compatible with the surrounding area in terms of use and scale. The proposed lots will integrate well with the lot pattern of the neighbourhood and are of an adequate size to support a building footprint for the intended use of semi-detached dwellings. Staff note that all setbacks within the Zoning By-law are being complied with, with the exception of the front yard setback, which was only triggered as a result of the requested road widening conveyance.

Please note that the lands are not within a Neighbourhood Plan per Policy F.1.14.3.1 b).

A Minor Variance Application (A-24:98) has been concurrently submitted in order to address Policy F.1.14.3.1 c). A condition of approval has been recommended to ensure that the Applicant receive final approval of Minor Variance Application A-21:98 prior to lot creation occurring.

The proposal has also been evaluated with respect to Urban Hamilton Official Plan policies of Sections B.2.4.1.4 and B.2.4.2.2 (Volume 1) with respect to residential intensification and has been deemed to conform.



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## Noise

The Sherman Access is identified as a “Major Arterial” and Concession Street is identified as a “Minor Arterial” on Schedule C – Functional Road Classification in the UHOP.

The proposed consent is for residential purposes, which is a sensitive land use and the subject property is located within 400 metres of a major arterial road and 100 metres of a minor arterial road. Therefore, a noise feasibility study is required to be submitted for review and approval in order to conform to Policy B.3.6.3.7 Road and Railway Traffic Noise and Vibration of the Urban Hamilton Official Plan.

## Natural Heritage

1. The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural areas that ecologically connect Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development will not further negatively impact the features and functions of the City’s Natural Heritage System.
2. Through aerial photograph interpretation and the site plan provided, trees have been identified adjacent to the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1). In addition, it is recognized that neighbouring trees should not be impacted by development.

The proposed development may impact the trees within and adjacent to the subject property. To ensure that trees are considered in the design of the proposed development, it is recommended that a Tree Protection Plan (TPP) be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City’s Council adopted Tree Protection Guidelines (revised October 2010).

To ensure that existing tree cover is maintained, 1 for 1 compensation is required for any tree (10 cm DBH or greater) that is proposed to be removed. If trees are to be removed, it is recommended that a Landscape Plan (showing the required compensation) be provided.

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

The subject lands are zoned Low Density Residential “R1” Zone, which permits semi-detached dwellings, subject to the applicable provisions.



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**Analysis**

Variance 1 and 2 (Lot Area and Lot Width)

The applicant is proposing a minimum lot area of 215.49m<sup>2</sup> instead of the minimum 270.0m<sup>2</sup> lot area required and a minimum lot width of 7.6m instead of the minimum 9.0m lot width required.

The applicant is proposing lots to have a minimum lot width of 7.6 metres and minimum lot area of 215.49 square metres instead of the required minimum lot width of 9.0 metres and a minimum lot area of 270 square metres. It is important to note that the variance related to lot area would be for ±232 square metres; however, Transportation Planning has requested a 2.2 metre road widening, which reduces the lot area to ±215 square metres. The intent of the lot area and frontage provisions is to ensure each lot can support a building envelope, parking space, access, sufficient amenity area and landscaped area for drainage and grading. Furthermore, these provisions ensure that new lots are generally consistent with the scale and character of the neighbourhood. There are a variety of lot widths within the immediate neighborhood along Mountain Park Avenue, including some with a similar lot width to the proposed. Staff support the semi-detached dwellings as they are appropriate for the lots and allow for an opportunity to implement compatible residential intensification in accordance with the City's Zoning By-law No. 05-200 and the Urban Hamilton Official Plan. The additional proposed Additional Dwelling Units contribute to small-scale intensification and provide additional housing stock in close proximity to major employers, public service facilities, and commercial amenities. Staff would encourage the proponent to design the proposed dwellings in accordance with the City's Neighbourhood Infill Design Guidelines at the Building Permit stage. Staff support Variances 1 and 2.

Variance 3

The applicant is proposing to allow a minimum front yard of 3.8 metres whereas a minimum of 6.0 metres is required for each semi-detached dwelling. The City's newly adopted Neighbourhood Infill Design Guidelines state that "Streetscape appearance, which shall be achieved by designing front and side yard setbacks that are consistent with the established setbacks along the street" (Guidelines 2.2.12). It's also important to note that the performance standards applicable to the subject lands are slated to be modified through the Low Density Residential Zoning project. This was approved by Council on April 10<sup>th</sup>, 2024 (By-law 24-051). This is not yet in force in effect as an appeal was received. Once in-force, the Council approved zoning will implement a 4 metre minimum required setback from the front lot line. Finally, the reduction in the required front yard to 3.8 metres is only required as a result of a 2.2 metre road widening being requested to be conveyed by Transportation Planning. Accordingly, the distance of the proposed dwelling from the road will be identical to that of a building with a 6 metre front yard setback where no widening was conveyed.

Staff are of the opinion that the proposed 3.8 metre setback is generally consistent with the established setbacks along Mountain Park Avenue and is similar to existing setbacks provided by the dwellings on either side. Staff support this variance.



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## Variance 4

The applicant is proposing no parking spaces for an Additional Dwelling Unit instead of the minimum one parking space required. Staff would like to note that there is a City Initiative approved by City Council on April 10<sup>th</sup>, 2024 (By-law 24-051) to modify and update the parking requirements within Hamilton Zoning By-law No. 05-200. Through these amendments, parking will not be required for Additional Dwelling Units within the urban area.

Furthermore, there is a public transportation readily available within the area. The HSR bus stop is located 220 metres away from the subject lands on Concession Street. Staff also note that the proposal is in proximity to several commercial use and large employers (Juravinsky Hospital), which increases the likelihood of trips to be taken through active modes of transportation and reduces the need for additional parking. Staff do not anticipate that the reduced parking will adversely impact the streetscape and character of the neighbourhood, or have an undue adverse impact on parking in the neighbourhood. Therefore, Staff support the variance.

Having regard for the matters under subsection 45(1) of the Planning Act, staff are satisfied that the requested variances maintain the purpose and intent of the Urban Hamilton Official Plan and the Zoning By-law, are minor in nature and desirable for the appropriate development of the land. Staff recommends that the requested variances as outlined in the Notice of Hearing, be **approved subject to the conditions outlined in this report.**

Having regard for the matters under subsection 51(24) of the Planning Act, staff is satisfied that the proposed lots are suitable for the use, the proper and orderly development of the land, and conform to the Official Plan. Staff recommends that the proposed consents, as outlined in the Notices of Hearing, be **Approved subject to the conditions outlined in this report.**

Zoning:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	<p>If the application is approved, we request the following condition(s):</p> <ol style="list-style-type: none"> <li data-bbox="456 1524 1526 1667">1. 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 (Planning Division – Zoning Examination Section).</li> <li data-bbox="456 1709 1526 1877">2. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping 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</li> </ol>





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	necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
	3. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.
Comments:	
Proposed Notes:	i. Facilitated by minor variance application A.24.98.

Cultural Heritage:

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

Natural Heritage:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>1. That the owner submits and receives approval of a Tree Protection Plan including the review fee as per the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester or landscape architect) in accordance with the City’s Council adopted Tree Protection Guidelines (revised October 2010).</p> <p>2. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.</p>
Comments:	<p>1. The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural areas that ecologically connect Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development will not further negatively impact the features and functions of the City’s Natural Heritage System.</p> <p>2. Through aerial photograph interpretation and the site plan provided, trees have been identified adjacent to the subject property. The City</p>



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	<p>recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (policy C.2.11.1). In addition, it is recognized that neighbouring trees should not be impacted by development.</p> <p>The proposed development may impact the trees within and adjacent to the subject property. To ensure that trees are considered in the design of the proposed development, it is recommended that a Tree Protection Plan (TPP) be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).</p> <p>To ensure that existing tree cover is maintained, 1 for 1 compensation is required for any tree (10 cm DBH or greater) that is proposed to be removed. If trees are to be removed, it is recommended that a Landscape Plan (showing the required compensation) be provided.</p>
Proposed Notes:	

Forestry:

Recommendation:	Approve
Proposed Conditions:	
Comments:	<p>There are no Municipal Tree Assets on site. No public tree permit is required.</p> <p>No Landscape plan required.</p> <p>Forestry has no concerns or conditions regarding this application.</p> <p>For questions please contact: <a href="mailto:urbanforest@hamilton.ca">urbanforest@hamilton.ca</a></p>
Proposed Notes:	

Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>1. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan including all services required), erosion and</p>



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	<p>sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.</p> <p>2. That the Owners submits a stormwater management brief prepared by a qualified professional to demonstrate how the post-development flows due to the proposed intensification are going to be controlled on site to the allowable discharge rate the existing system has accounted for, to the satisfaction of the City's Director of Development Engineering.</p>
<p>Comments:</p>	<p>According to our records, the existing municipal infrastructure fronting the subject property summarized as follows:</p> <p>Mountain Park Ave</p> <ul style="list-style-type: none"> <li>• 150mm ø Ductile Iron Watermain</li> <li>• 250mm ø Sanitary Sewer</li> <li>• 600mm ø Storm Sewer</li> </ul> <p>Separate and independent services shall be provided for each dwelling constructed within each parcel of land in accordance with the current Sewer and Water By-laws.</p>
<p>Proposed Notes:</p>	

Building Engineering:

<p>Recommendation:</p>	<p>Comments Only</p>
<p>Proposed Conditions:</p>	
<p>Comments:</p>	
<p>Proposed Notes:</p>	<p>This Division has no concerns with the proposed application.</p>

Transportation Planning:

<p>Recommendation:</p>	<p>Approve with Conditions</p>
<p>Proposed Conditions:</p>	<p>Transportation Planning can support the severance of the lands if the following dedication to the Municipal right-of-way are provided. The existing right-of-way along Mountain Park Avenue is approximately 9.0 metres. The</p>



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	<p>Applicant is to dedicate approximately 2.5 metres of right-of-way along the frontage of Mountain Park Avenue.</p> <p>a. A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widenings.</p> <p>b. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the required dedication.</p> <p>c. Subject to the satisfaction and approval of the Manager, Transportation Planning.</p>
Comments:	
Proposed Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>The lands to be conveyed (Part 2) will remain as 238 Mountain Park Avenue (Hamilton).</p> <p>The lands to be retained (Part 1) will be assigned the address of 240 Mountain Park Avenue (Hamilton).</p>
Proposed Notes:	We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.

Hamilton - 238 Mountain Park Avenue - B-24-25

AMIN Pranav <Pranav.Amin1@HydroOne.com>

Mon 5/27/2024 3:51 PM

To:Committee of adjustment <cofa@hamilton.ca>

**External Email:** Use caution with links and attachments

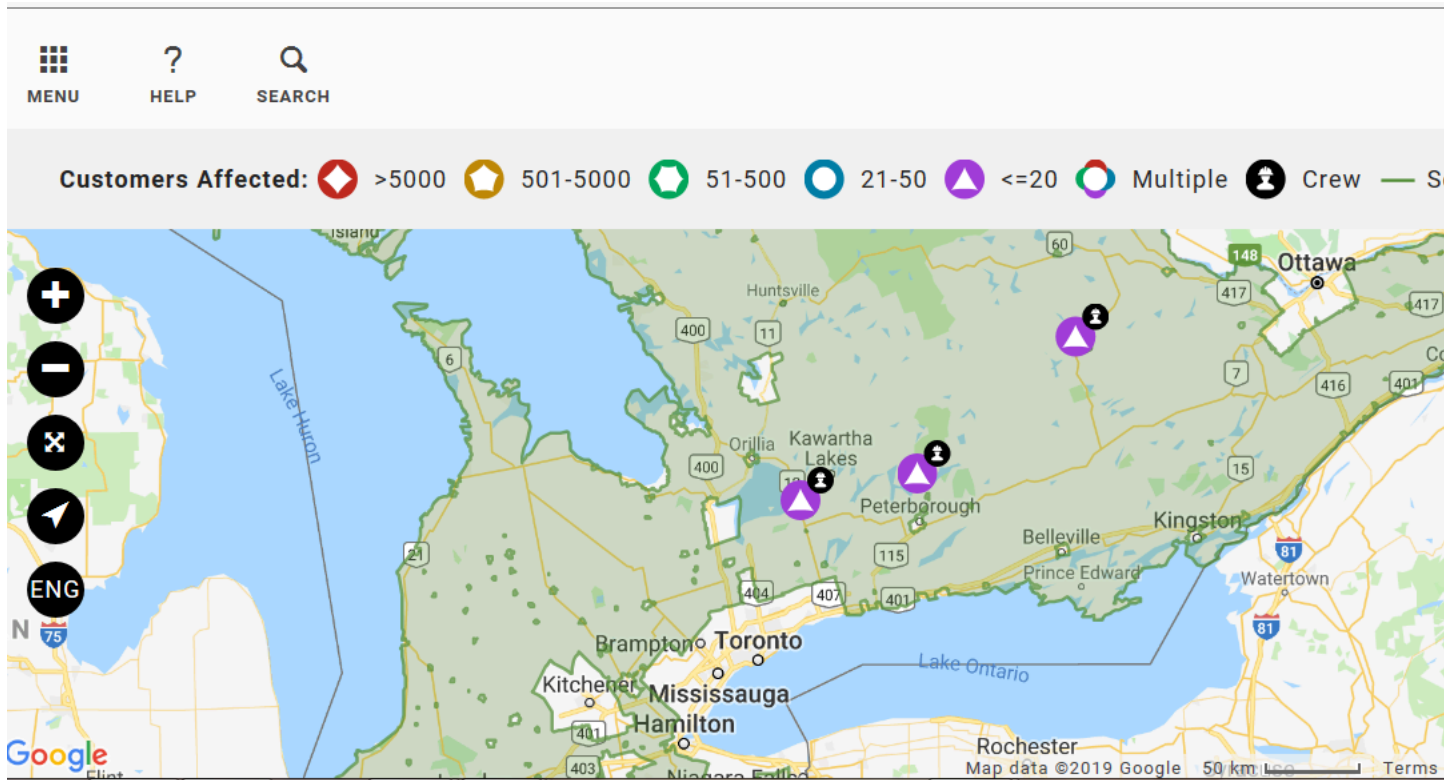
Hello,

We are in receipt of your Application for Consent, B-24-25 dated May 13<sup>th</sup>, 2024. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:  
[Stormcentre \(hydroone.com\)](https://stormcentre.hydroone.com)

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail [CustomerCommunications@HydroOne.com](mailto:CustomerCommunications@HydroOne.com) to be connected to your Local Operations Centre

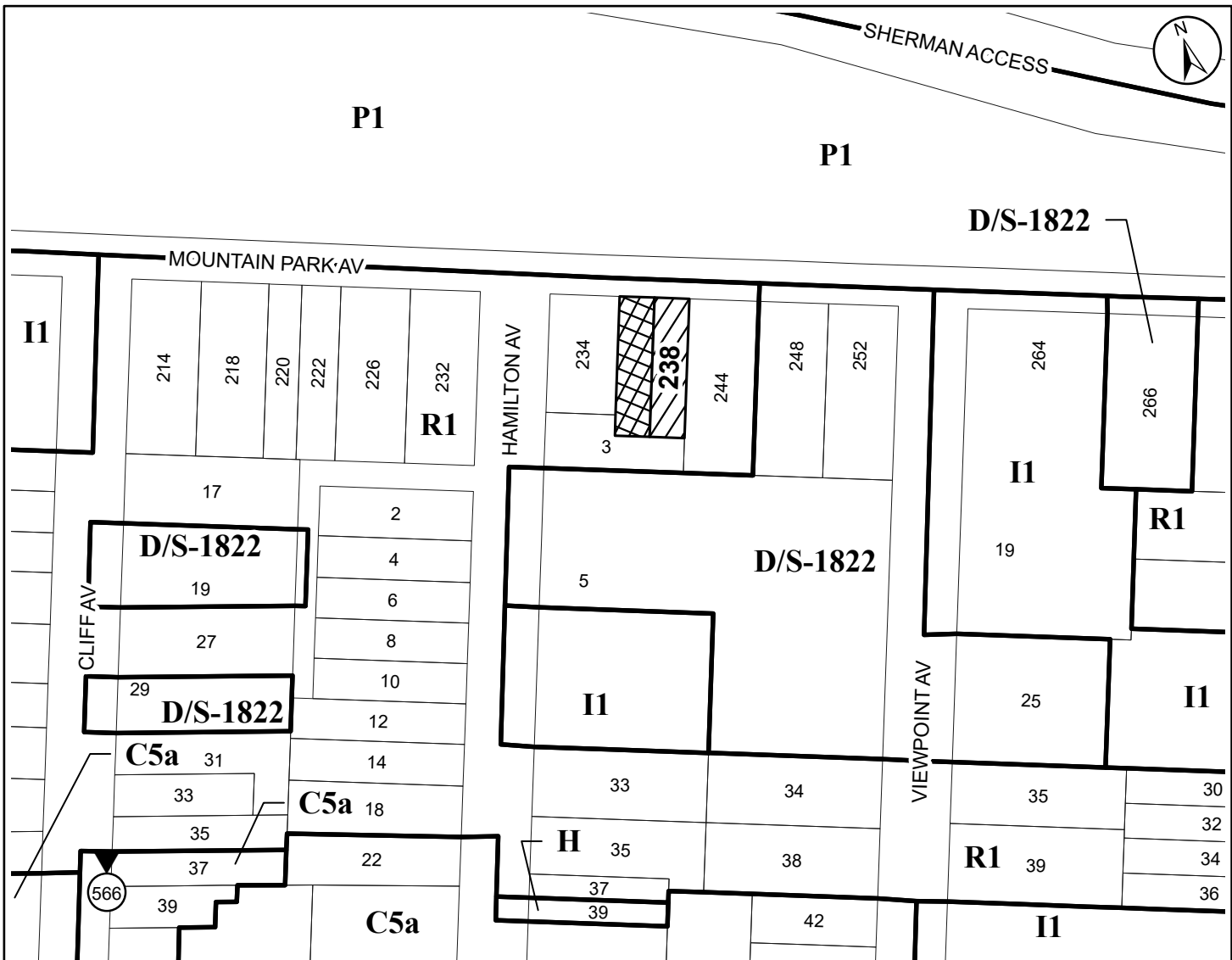
Please let me know if you have any questions or concerns.

Thank you,

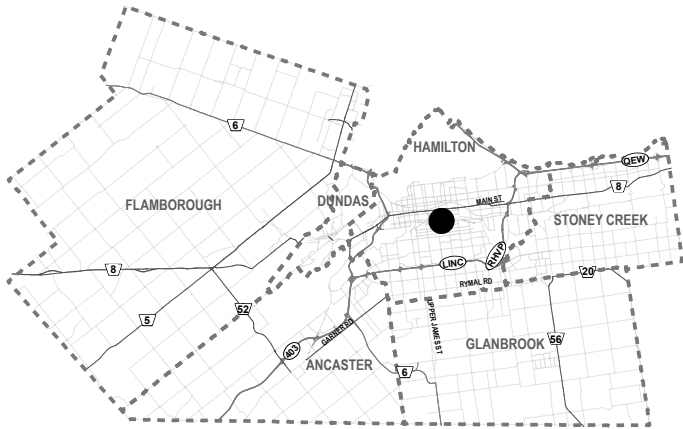
**Dennis De Rango**

Specialized Services Team Lead, Real Estate Department  
Hydro One Networks Inc.  
Tel: (905)946-6237

Email: [Dennis.DeRango@HydroOne.com](mailto:Dennis.DeRango@HydroOne.com)



● Site Location



**City of Hamilton**

# Committee of Adjustments

**Subject Property**

238 Mountain Park Avenue, Hamilton (Ward 7)

- Lands to be retained
- Lands to be severed

<b>File Name/Number:</b>	B-24:25
<b>Date:</b>	May 27, 2024
<b>Technician:</b>	SH
<b>Scale:</b>	N.T.S.
<b>Appendix "A"</b>	

