



Hamilton

STAFF COMMENTS

HEARING DATE: September 10, 2024

B-24:44 (290 Dewitt Rd., Stoney Creek)

Recommendation:

Development Planning – Approve 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. A Permit to injure or remove municipal trees is a requirement of this application. 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.
5. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department Building Division –Plans Examination Section.
6. The owner/applicant shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
7. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). NOTE: The demolition permit shall have a status of either "Review", "Issued", or "Closed" in order for this condition to be cleared by the Zoning Review Section.
8. The owner/applicant shall demolish the detached garage and shed on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section), or alternatively apply for and receive final approval of the appropriate



Hamilton

Planning Act application in order for the detached garage and shed to remain when no principal use is existing (Planning Division – Zoning Review Section). NOTE: If a demolition permit is required, the permit shall have a status of either “Review”, “Issued”, or “Closed” in order for this condition to be cleared by the Zoning Review Section.

9. Transportation Planning has no objection to the severance if the required right-of-way dedication of approximately \pm 3 metres is dedicated to the City of Hamilton on Dewitt Road. (To the satisfaction and approval of the Manager, Transportation Planning).
10. Dewitt Road is a collector road per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads are to be 26.213 metres. The existing right-of-way on Dewitt Road at the subject property is approximately 20 metres. (To the satisfaction and approval of the Manager, Transportation Planning).
11. A survey conducted by an Ontario Land Surveyor and at the Applicant’s expense will determine the ultimate dimensions for the right-of-way widening. (To the satisfaction and approval of the Manager, Transportation Planning).
12. The Applicant’s surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements. (To the satisfaction and approval of the Manager, Transportation Planning).
13. That the owner apply for, and obtain final approval of, a Minor Variance Application to address any zoning deficiencies, to the satisfaction of the Director of Development Planning, if required.
14. 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.
15. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Design.
16. If tree removal is proposed that the owner submit and receive approval of a Landscaped Plan for the severed and retained lands, to the satisfaction of the Manager of Heritage and Urban Design.



Hamilton

17. That the existing single detached dwelling and accessory building(s) be demolished through the issuance of the appropriate municipal permit to the satisfaction of the Director of Development Planning.
18. 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 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.
19. The applicant shall submit a Stormwater Brief prepared by a qualified professional to demonstrate the change in stormwater runoff due to an increased impervious area will be handled on the site for all storm events to the allowable discharge rate all to the satisfaction of the Manager of Development Engineering.

Proposed Notes:

The lands to be retained (Part 1) will be assigned the address of 290B Dewitt Road (Stoney Creek).

The lands to be conveyed (Part 2) will be assigned the address of 290A Dewitt Road (Stoney Creek).

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.

If this severance 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:

“Caution: Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry Citizenship and Multiculturalism (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).



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Development Planning:

Background

SEVERED LANDS:

Frontage: 10.82 m± **Depth:** 51.82 m± **Area:** 560.69 m² ±

RETAINED LANDS:

Frontage: 10.82 m± **Depth:** 51.82 m± **Area:** 560.69 m² ±

To permit the conveyance of a parcel of land to create a new residential building lot. The existing dwelling will be demolished to facilitate this application.

Analysis

Urban Hamilton Official Plan

The subject lands are designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations within the Urban Hamilton Official Plan. Policies E.3.4.3 and F.1.14.3.1, among others, are applicable and permit the use.

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

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



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The proposed lots have frontage onto a public road and are fully serviced by municipal services. Staff note that the proposed lot and retained lot reflect the general scale and character of the existing lot fabric. This includes lots of a similar width (≈ 10.9 metres) being located two parcels to the south along Dewitt Road. Staff note that the applicant may need to apply for and obtain a minor variance for lot width, which has been included as a recommended condition of approval. Subject to the proposed conditions, the proposed severance meets the lot creation criteria of the Urban Hamilton Official Plan.

As the proposed development is considered residential intensification in the Neighbourhoods designation, Policy B.2.4.2.2 of the Urban Hamilton Official Plan is applicable. Staff have reviewed the proposal against the evaluation criteria of Policy B.2.4.2.2 and determined that it conforms.

Through aerial photograph interpretation and through the submitted plans trees have been identified within the subject property. To facilitate the proposed redevelopment of this site, these trees will need to be removed. The City recognizes the importance of trees and woodlands to the health and quality of life in the community (i.e. canopy cover, energy conservation, mental health benefits) and encourages sustainable forestry practices and the restoration of trees and forests (policy C.2.11.1). It is recommended that a Tree Protection Plan (TPP) be prepared. The TPP is to be prepared by a recognized 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)

Barton Street is considered a Minor Arterial Road on Schedule C – Functional Road Classification of the Urban Hamilton Official Plan.

The proposed consent is for residential purposes, which is a sensitive land use and the subject property is located within 100 metres of an existing minor arterial road, as identified on Schedule C – Functional Road Classification. 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.

Archaeology

The subject property meets two (2) 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; and,
- 2) Along historic transportation routes.

Notwithstanding current surface conditions, 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.



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Hamilton Zoning By-law No. 05-200 and Stoney Creek Zoning By-law No. 3692-92

The subject site is currently zoned as Residential "R6" Zone in Stoney Creek Zoning By-law No. 3692-92, which permits the proposed single detached dwellings and lots with a minimum frontage of 10 metres and minimum area of 310 square metres. Under the current Zoning, the proposal would not require a Minor Variance for lot frontage or area.

The subject site is also subject to the Council Approved "R1" Zone in Zoning By-law No. 05-200, which permits single detached dwellings with minimum lot frontages of 12 metres. Please note that this Zoning is under appeal and not yet in force and effect. Should the Council Approved Zoning come into force and effect prior to the finalization severance, the applicant will be required to apply for and obtain a minor variance approval to address any zoning deficiencies, which is included as a condition of approval.

Based on the foregoing staff recommend **approval of the severance application** subject to the recommended condition(s).

Zoning:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	<ol style="list-style-type: none"> <li data-bbox="443 1016 1515 1125">1. The owner/applicant shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). <li data-bbox="443 1161 1515 1451">2. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). NOTE: The demolition permit shall have a status of either "Review", "Issued", or "Closed" in order for this condition to be cleared by the Zoning Review Section. <li data-bbox="443 1486 1515 1810">3. The owner/applicant shall demolish the detached garage and shed on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section), or alternatively apply for and receive final approval of the appropriate Planning Act application in order for the detached garage and shed to remain when no principal use is existing (Planning Division – Zoning Review Section). NOTE: If a demolition permit is required, the permit shall have a status of either "Review", "Issued", or "Closed" in order for this condition to be cleared by the Zoning Review Section.



Hamilton

<p>Comments:</p>	<ol style="list-style-type: none"> 1. Final approval of the appropriate Planning Act application is required to permit the accessory structures to remain on the conveyed lands when no main use/building has been established. 2. The owner/applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Legislated Approvals and Staging of Development Section of the Planning and Economic Development Department prior to the issuance of a building permit. 3. All or an appropriate portion of the building straddling the proposed property line shall be demolished in order to achieve zoning compliance, or the owner/applicant shall receive final approval of the appropriate Planning Act application. 4. Please be advised the property is subject to amending by-law 24-051 and 24-052, which is not yet final and binding.
<p>Notes:</p>	

Development Engineering:

<p>Recommendation:</p>	<p>Approve with Conditions</p>
<p>Proposed Conditions:</p>	<ol style="list-style-type: none"> 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 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. 2. The applicant shall submit a Stormwater Brief prepared by a qualified professional to demonstrate the change in stormwater runoff due to an increased impervious area will be handled on the site for all storm events to the allowable discharge rate all to the satisfaction of the Manager of Development Engineering.
<p>Comments:</p>	<p>According to our records, the existing municipal infrastructure fronting the subject property summarized as follows:</p>



Hamilton

	<p>Dewitt Road:</p> <ul style="list-style-type: none"> • 200mm ø Watermain • 525mm ø Sanitary Sewer @ 1.2% • 675mm ø Storm Sewer @ 5.0% <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>
Notes:	

Building Engineering:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department Building Division –Plans Examination Section
Comments:	
Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Transportation Planning:

Recommendation:	Approve with Conditions
Proposed Conditions:	<p>Transportation Planning has no objection to the severance if the required right-of-way dedication of approximately ± 3 metres is dedicated to the City of Hamilton on Dewitt Road.</p> <p>Dewitt Road is a collector road per the Council Approved Urban Official Plan: Chapter C - City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads are to be 26.213 metres. The existing right-of-way on Dewitt Road at the subject property is approximately 20 metres.</p> <p>A survey conducted by an Ontario Land Surveyor and at the Applicant’s expense will determine the ultimate dimensions for the right-of-way widening.</p> <p>The Applicant’s surveyor is to contact Geomatics and Corridor Management to confirm the right-of-way dedication requirements.</p> <p>All are subject to the satisfaction and approval of the Manager, Transportation Planning.</p>
Comments:	
Notes:	



Hamilton

Forestry:

Recommendation:	Approve with Conditions
Proposed Conditions:	A Permit to injure or remove municipal trees is a requirement of this application. 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.
Comments:	<p>Conditions of the Forestry and Horticulture Section will be cleared only after receipt of all applicable fees.</p> <p>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.</p> <p>Where existing municipal trees are impacted by development work, are within proximity of the development work or access/egress to the development work, a Public Tree Permit to injure or remove municipal trees is required.</p> <p>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.</p> <p>No Landscape plan required.</p> <p>TREE MANAGEMENT</p> <p>Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.</p> <p>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.</p> <p>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.</p>



Hamilton

	<p>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.</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p> <p>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 15-125.</p> <p>A permit will be issued upon approval of the Tree Management Plan and applicable fees.</p>
Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>The lands to be retained (Part 1) will be assigned the address of 290B Dewitt Road (Stoney Creek).</p> <p>The lands to be conveyed (Part 2) will be assigned the address of 290A Dewitt Road (Stoney Creek).</p>
Notes:	<p>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.</p>

Please Note: Public comment will be posted separately, if applicable.

Hamilton - 290 Dewitt Road - B-24-44

AMIN Pranav <Pranav.Amin1@HydroOne.com>

Thu 8/29/2024 1:21 PM

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

External Email: Use caution with links and attachments

Hello,

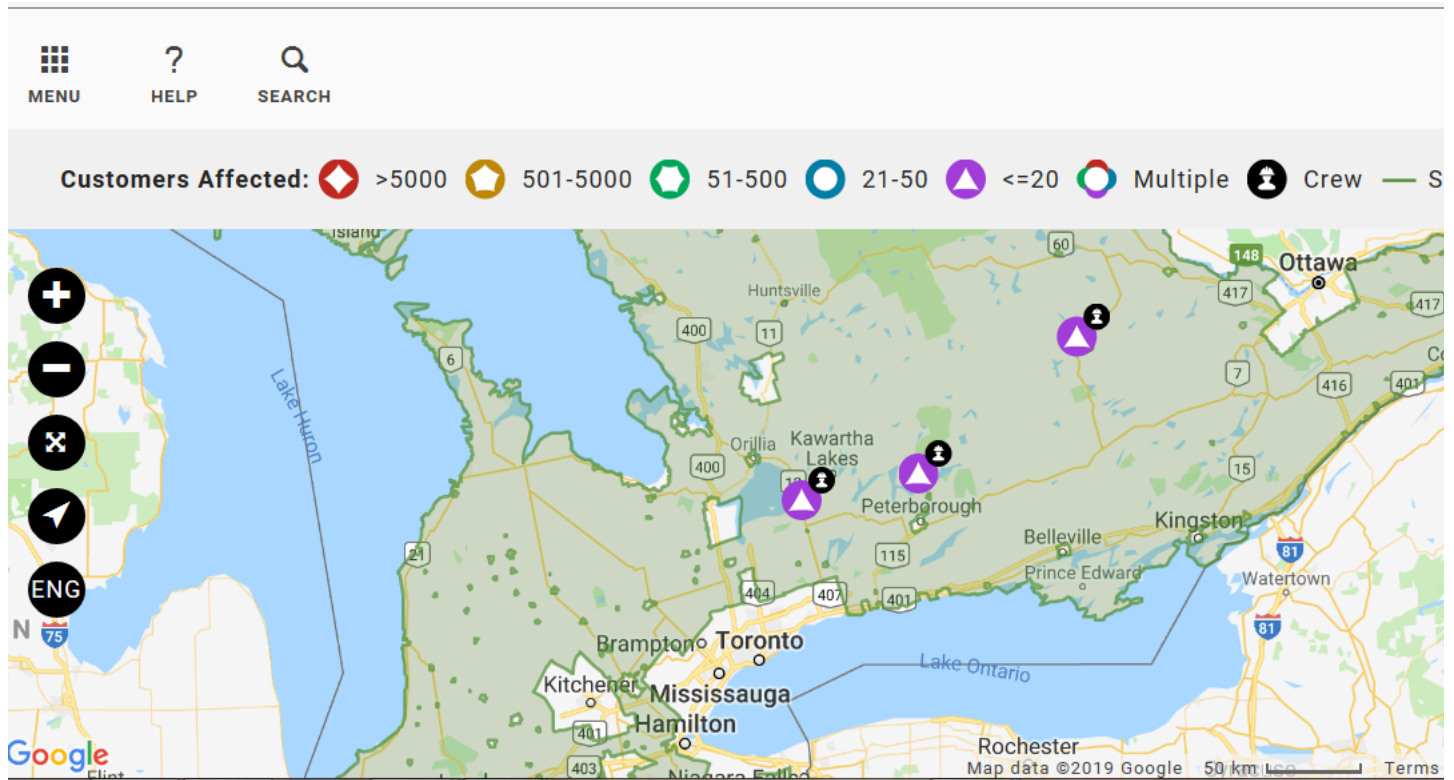
We are in receipt of your Application for Consent, B-24-44 dated August 26th, 2024. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' 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 to be connected to your Local Operations Centre

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

Thank you,

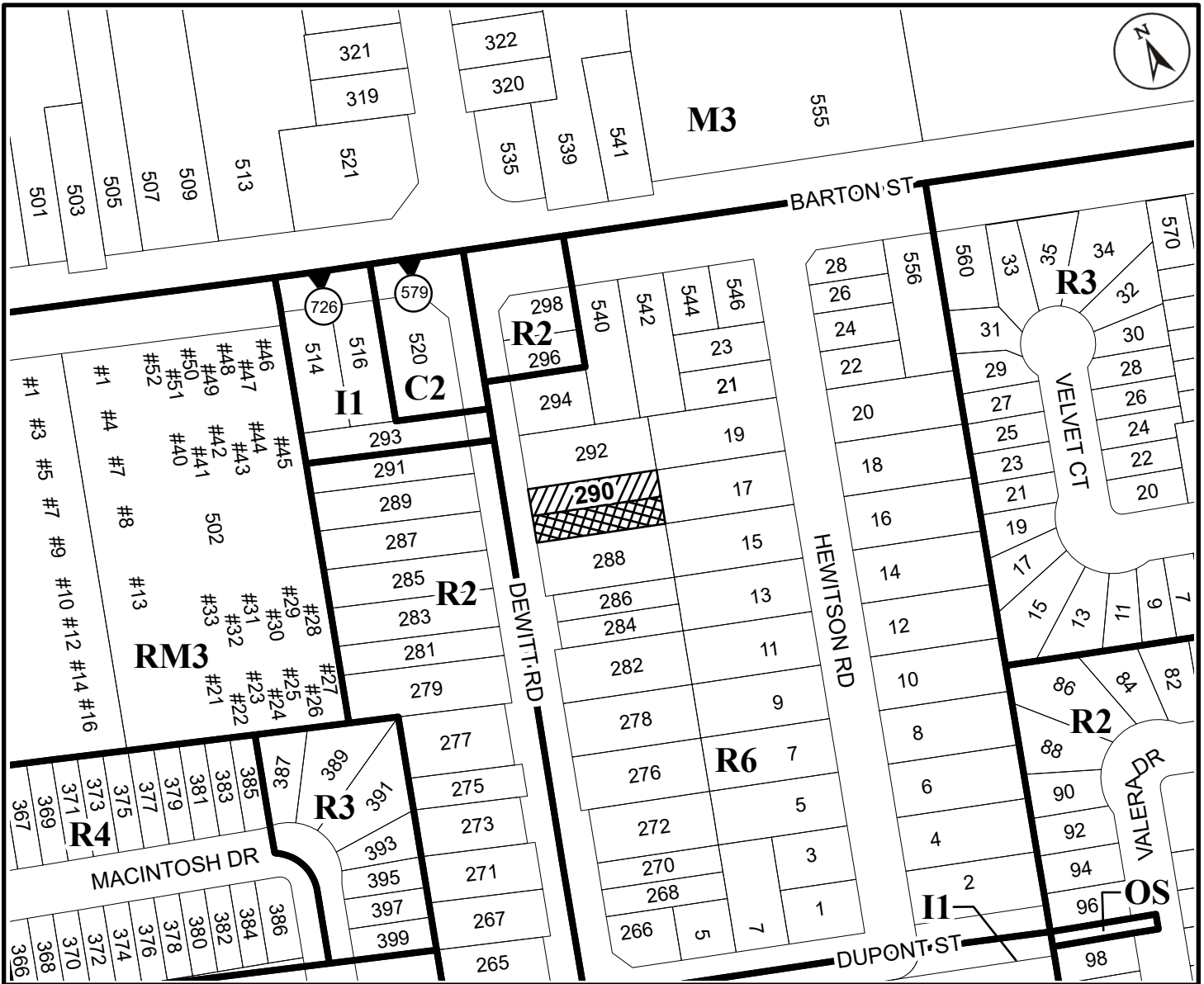
Dennis De Rango

Specialized Services Team Lead, Real Estate Department

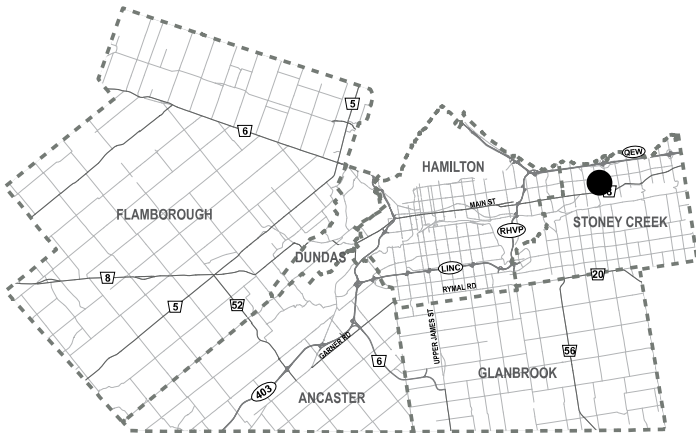
Hydro One Networks Inc.

Tel: (905)946-6237

Email: Dennis.DeRango@HydroOne.com



● Site Location





City of Hamilton

Committee of Adjustment

Subject Property

290 Dewitt Road, Stoney Creek (Ward 10)

 Lands to be Retained

 Lands to be Severed

File Name/Number:
B-24:44

Date:
August 26, 2024

Technician:
AL

Map Not To Scale

Appendix "A"



Hamilton