



Hamilton

STAFF COMMENTS

HEARING DATE: January 21, 2025

A-24:258 – 476 Book Road East, Ancaster

Recommendation:

Deny — Development Planning

Proposed Conditions:

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 (416-212-8886). 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).”



Development Planning:

Background

The purpose of Minor Variance application A-24:258 is to permit the construction of an additional dwelling unit – detached within the rear yard of an existing single detached dwelling.

Staff note that this Minor Variance application was made under Section 45(2) of the *Planning Act* to permit the addition of a non-conforming use similar to the existing legal non-conforming use. Accordingly, staff have reviewed this Minor Variance application under Section 45(2)(a)(ii) of the *Planning Act*.

Analysis

Provincial Planning Statement (2024)

Staff note that Policy 2.8.1.3 requires development within 300 metres of employment areas to be avoided where possible or to minimize and mitigate potential impacts on the long term economic viability of employment uses in accordance with provincial guidelines. Policy 2.8.2.3 requires planning authorities to, amongst other things, protect employment areas in settlement areas by prohibiting residential uses, commercial uses, public service facilities and other institutional uses within employment areas.

Additionally, Policy 3.4.1 requires the long term operation and economic role of airports be protected and for airports and sensitive land uses to be appropriately buffered and/or separated from each other in accordance with Policy 3.5. Similarly, Policy 3.4.2 requires airports be protected from incompatible land uses and development by prohibiting new residential development and other sensitive land uses in areas nor airports above 30 Noise Exposure Forecast.

Staff further note that Policy 3.5.1 requires major facilities and sensitive land uses to be planned and developed to avoid land use conflict or if avoidance is not possible, to minimize and mitigate any potential adverse effects from odour, noise or other contaminants, minimize risk to public health and safety, and to ensure the long term-operational and economic viability of major facilities such as airports.

Staff are of the opinion that the proposed new residential use, in the form of an additional dwelling unit – detached, is incompatible with the airport and could compromise its long term operation and economic viability.



Urban Hamilton Official Plan

The subject lands are identified as “Employment Area” in Schedule E – Urban Structure and are designated “Airport Employment Growth District” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. As this application is regarding legal non-complying uses, Policies F.1.12.7, F.1.12.8 and F.1.12.9, among others, are applicable. Policy B.3.6.3.6 and Section C.4.8 are also applicable regarding development within the vicinity of John C. Munro International Airport.

“F.1.12.7 Legally existing land uses which do not comply with the land use designations shown on Schedule E-1 – Urban Land Use Designations or their related policies should cease to exist over time. Accordingly, such uses shall be deemed as legal non complying.

F.1.12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:

- a) the Zoning By-law shall permit only the existing use and the associated performance standards;
- b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,
- c) the use is in compliance with appropriate provincial and municipal regulations.

F.1.12.9 The expansion or enlargement or change in legal non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan and the Zoning By-law.”

Policy B.3.6.3.6 states that development within the vicinity of John C. Munro International Airport shall be in accordance with Section C.4.8 – Airport. The policies of Section C.4.8 seek to guide development around the John C. Munro International Airport to support the operations of the airport, its complementary uses and businesses and to minimize future land use conflicts between the operation of the airport and surrounding land uses.

More specifically. Policy C.4.8.5 requires the City to ensure there are no negative impacts on the long term operations of the airport, that opportunities for expansion of airport operations are not limited; that there are no land uses in the vicinity of the airport which may cause a potential aviation hazard and; that development that is noise or land use sensitive to airport operations or will limit the expansion opportunities of airport operations be restricted.

Additionally, Policies C.4.8.4 and C.4.8.6 require the City to maintain Noise Exposure Forecast contours to formulate guidelines for development in the vicinity of the airport. Policy C.4.8.8 requires



proposals for development of sensitive land uses around the airport comply with the requirements laid out in Table C.4.8.1. The subject property is identified as being between the 35 and 40 Noise Exposure Forecast contours on Appendix D – Noise Exposure Forecast Contours and Primary zoning Regulation Area. Per Table C.4.8.1, for lands located within 35 Noise Exposure Forecast contour or greater, all new development or residential or other sensitive land uses shall be prohibited.

Airport Employment Growth District Secondary Plan

The subject lands are designated “Airport Prestige Business” in Map B.8-1 – Land Use Plan of the Airport Employment Growth District Secondary Plan.

Per Policy 8.4.5, the “Airport Prestige Business” designation is planned for employment uses that will benefit from frontage on existing and future major roads in the Airport Employment Growth District. Similarly, Policy 8.4.5.1 permits a broad range of industrial uses and ancillary uses to support the operation of the airport and industrial uses (e.g. manufacturing, repair services, warehousing, commercial rental establishments, hotels, etc.).

Based upon the above analysis, Development Planning staff are of the opinion that the proposed additional dwelling does not maintain the intent and purpose of the Urban Hamilton Official Plan or Zoning By-law. The proposed development would be an intensification of a sensitive land use within close proximity to John C. Munro International Airport, within an area that the Urban Hamilton Official Plan prohibits the development of new sensitive or residential land uses.

The proposed development poses a land use conflict between the airport as well as the existing and future employment uses in the area. The proposed new residential use is contrary to the goals and planned function of the area as well as the long term policy and economic goals of the City.

Archeology:

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.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 4.6.2 of the Provincial Planning Statement apply to the subject application.



Hamilton

STAFF COMMENTS

HEARING DATE: January 21, 2025

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 (416-212-8886). 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).”

Cultural Heritage

No comment.

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

The subject lands are zoned Airport Prestige Business (M11, H37) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and proposed additional dwelling unit – detached are not permitted uses.

Staff note that Holding Provision “H37” is in place on the subject lands and states the following:

“Notwithstanding Subsections 8.2, 8.3, 9.7, 9.8, 9.9, 9.10, 9.11 and 9.12, on those lands zoned Community Institutional (I2) Zone, Major Institutional (I3) Zone, Airside Industrial (M7) Zone, Airport Related Business (M8) Zone, Airport Reserve (M9) Zone, Airport Light Industrial (M10) Zone, Airport Prestige Business (M11) Zone, and Extractive Industrial (M12) Zone, site alteration shall only be permitted in accordance with Subsections 1.11 d) and e) and Subsections 9.7.4 and 9.11.4, until such time as:



Hamilton

a. That lands have access to servicing, the provision of adequate municipal water, municipal wastewater, and transportation infrastructure in accordance with the respective master plans for the Airport Employment Growth District to the Satisfaction of the Director of Development Engineering.”

Variances 1 to 4

1. An expansion of the legally established non-conforming single detached dwelling use shall be permitted in the form of a new additional dwelling unit – detached.
2. The construction of an additional dwelling unit – detached shall not be considered development or site alteration for the purposes of the [“H37”] holding provision.
3. An additional dwelling unit – detached shall be permitted to have a gross floor area of 164.6 square metres instead of the maximum permitted 75 square metres.
4. An additional dwelling unit – detached shall be permitted to have a maximum height of 6.9 metres instead of the maximum permitted height of 6.0 metres.

The applicant proposes to permit the addition of a legal non-conforming use by constructing an additional dwelling unit – detached in the rear yard of the existing single detached dwelling.

Staff note that this application is being reviewed in accordance with Section 45(2)(a)(ii) of the *Planning Act*, which reads:

“(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee;”

Having regard for the matters under subsection 45(2) of the *Planning Act*, staff are of the opinion that the proposed additional dwelling unit – detached is not compatible with the current and planned functions of the Airport Employment Growth District. The additional residential dwelling unit has the potential to impact the long term development of the employment area and airport by introducing another residential unit. In addition, the proposed size and scale of the additional dwelling unit does not meet the intent of the additional dwelling unit regulations. Based on the foregoing, **staff recommend denial.**



Hamilton

Zoning:

| | |
|----------------------|---|
| Recommendation: | Comments Only |
| Proposed Conditions: | |
| Comments: | <p>1. Please note variances 1 and 2 have been provided as it relates to the M11 zone not permitting a Single Detached Dwelling and any expansion to the existing legally established building. The construction of the Additional Dwelling Unit - Detached is considered to be an expansion of the legally established non-conforming use. Furthermore, variance 2 has been provided to address Holding provision 37 which applies to this property.</p> <p>In addition, an applicable Planning Act application shall be required for the removal of the H37 provision. Variance #2 is provided as it relates to the proposed Additional Dwelling Unit – Detached and shall not exempt the property from removal of the Holding provision should additional development be proposed.</p> <p>2. Be advised that insufficient information has been provided to determine the minimum parking space dimensions for the Additional Dwelling Unit – Detached. Should the proposed spaces not meet the requirements under Section 5.2.1 under Hamilton Zoning By-law 05-200, additional variances may be required.</p> <p>3. All development in the City of Hamilton shall comply with the Hamilton Airport Zoning (Height) Regulations established by Transport Canada, which are registered at the local Land Titles Office and which may be amended from time to time. No projections shall be permitted beyond this maximum height.</p> |
| Notes: | |

Cultural Heritage:

| | |
|----------------------|--|
| Recommendation: | Comments and Conditions/Notes |
| Proposed Conditions: | |
| Comments: | <p>Archeology:</p> <p>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:</p> |



| | |
|--------|---|
| | <p>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;</p> <p>2) In areas of pioneer Euro-Canadian settlement; and</p> <p>3) Along historic transportation routes.</p> <p>These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 4.6.2 of the Provincial Planning Statement apply to the subject application.</p> <p>Cultural Heritage: No Comment.</p> |
| Notes: | <p>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:</p> <p>“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 (416-212-8886). 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).”</p> |



Hamilton

Development Engineering:

| | |
|----------------------|--|
| Recommendation: | Comments Only |
| Proposed Conditions: | |
| Comments: | Provided the existing drainage pattern is maintained, Development Engineering has no comments or objections to the minor variances as proposed |
| Notes: | |

Building Engineering:

| | |
|----------------------|--|
| Recommendation: | Comments and Conditions/Notes |
| Proposed Conditions: | |
| Comments: | |
| Notes: | A building permit is required for the construction of the proposed Additional Dwelling Unit Detached within the rear yard of an existing Single Detached Dwelling. Be advised that Ontario Building Code regulations may require specific setback and construction types. |

Transportation Planning:

| | |
|----------------------|---------|
| Recommendation: | Approve |
| Proposed Conditions: | |
| Comments: | |
| Notes: | |

Source Protection Planning:

| | |
|----------------------|--|
| Recommendation: | Comments and Conditions/Notes |
| Proposed Conditions: | |
| Comments: | Source Protection Planning understands that the applicant is seeking a minor variance to permit the construction of a detached additional dwelling unit (ADU) on an existing 1.43 ha lot that currently has private water and wastewater services. We understand that this file is subjected to the requirements of H37 in Schedule D: Holding Provisions of the City of Hamilton’s Comprehensive Zoning By-law No. 05-200, which stipulates that site alteration in the Airport Prestige Business (M11) Zone will only be allowed once the lands have been connected to municipal water and wastewater servicing. We understand that the applicant is requesting relief from Holding Provision |



Hamilton

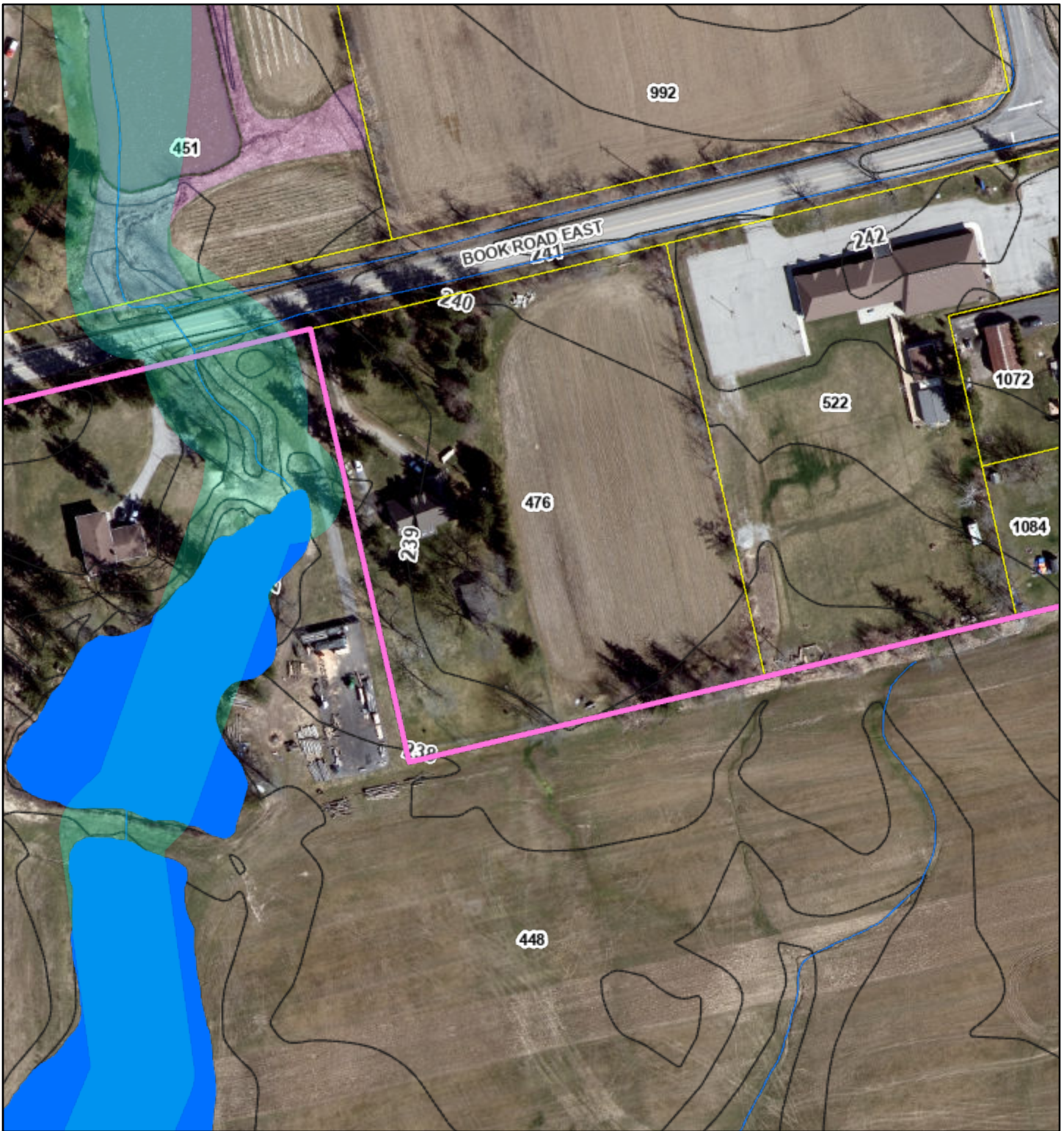
STAFF COMMENTS

HEARING DATE: January 21, 2025

| | |
|--------|--|
| | <p>H37 to facilitate the construction of this ADU prior to establishing municipal connection for water and wastewater servicing (Minor Variance #2).</p> <p>Based on the above, our comments are as follows:</p> <p>The applicant shall provide a Hydrogeological Assessment report prepared by a Qualified Person (P.Geol., P.Eng.) to support the proposed private servicing, to the satisfaction of Director of Hamilton Water. The hydrogeological assessment report shall include details on both water supply, wastewater disposal and its potential impacts, and as well a demonstration that the private well and septic system locations conform to Ontario Building Code Part 8 clearances. This shall also include the location of a reserve area bed to meet the Rural Hamilton Official Plan requirements. The hydrogeological assessment shall be completed in accordance with the City's Guideline for Hydrogeological Studies and Technical Standards for Private Servicing (link: https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf).</p> |
| Notes: | |

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

ArcGIS Web Map



1/10/2025, 1:24:25 PM

1:2,257

SWOOP 2020 NPCA

- Red: Band_1
- Green: Band_2
- Blue: Band_3

Roads

WRIP Quaternary Watersheds (10K)

NPCA APPROXIMATE REGULATION LANDS

CityView Application Views

Assessment Parcels

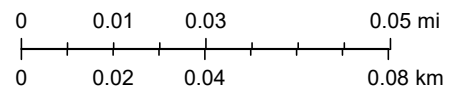
2K Hydrography

2K HydroPoly

ELC 2020 NPCA

Niagara Region Ortho 2023

■ Red: Red



NPCA, Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Web AppBuilder for ArcGIS

From: [Kyle Riley](#)
To: [Committee of adjustment](#)
Subject: Attn: Jamila Sheffield NPCA: Planning Comments January 21, 2025 COA Agenda
Date: Monday, January 13, 2025 1:10:47 PM
Attachments: [Outlook-ot3vf1sx.png](#)
[44 Bellstone Lane Basemap.pdf](#)
[476 Book Road East Basemap.pdf](#)
[2187 Regional Road 56 Basemap.pdf](#)

External Email: Use caution with links and attachments

Hello Jamila,

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the subject matter from Hamilton's January 21st, 2025 CofA Agenda, and offers the following comments.

The following Applications are within the regulation area of the NPCA.

A-24:257 44 Bellstone Lane -

The Applicants seek to construct a deck 2.6m from the easterly lot lines where a 6m setback is required.

There are currently no NPCA-regulated features which traverse the subject address. As such, we offer No Objections to the proposed development at this address.

Our Offices require no Planning fees for our comments on this file.

A-24:184 2187 Regional Road 56 -

The Applicants seek a Minor Variance to allow for the indoor and outdoor storage of recreation equipment, commercial motor vehicles, equipment and equipment accessories to motor vehicles, major recreational equipment, commercial motor vehicles, and indoor household goods.

As this Application does not involve site alteration or development and the proposed usage is not considered sensitive, the NPCA offers No Objections to this Proposal.

No Planning is required for our comments on this file.

The NPCA advises the Applicant that the proposed development within the regulated area of NPCA features on-site will require a Permit before undertaking works.

A-24:258 476 Book Road East -

The Applicants are seeking to construct and expand the existing non-conforming

residential usage through the addition of an ADU. The ADU would have a gross floor area of 164.6m² instead of the maximum allowed of 75m². It will also have a maximum height of 6.9m instead of the maximum allowed of 6m.

The structure's location is geographically distant from NPCA-regulated features in the area. As such, the NPCA offers No Objections to the proposed development.

No fees for Planning or Permitting are required for our comments on this Application.

Best regards,



Kyle Riley
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

(O) 905.788.3135 Ext 252
(Cell) 905.933.2541
www.npca.ca
kriley@npca.ca

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

From: Committee of adjustment <cofa@hamilton.ca>
Sent: Thursday, January 2, 2025 1:00 PM
To: Committee of adjustment <cofa@hamilton.ca>
Subject: January 21, 2025 COA Agenda Available

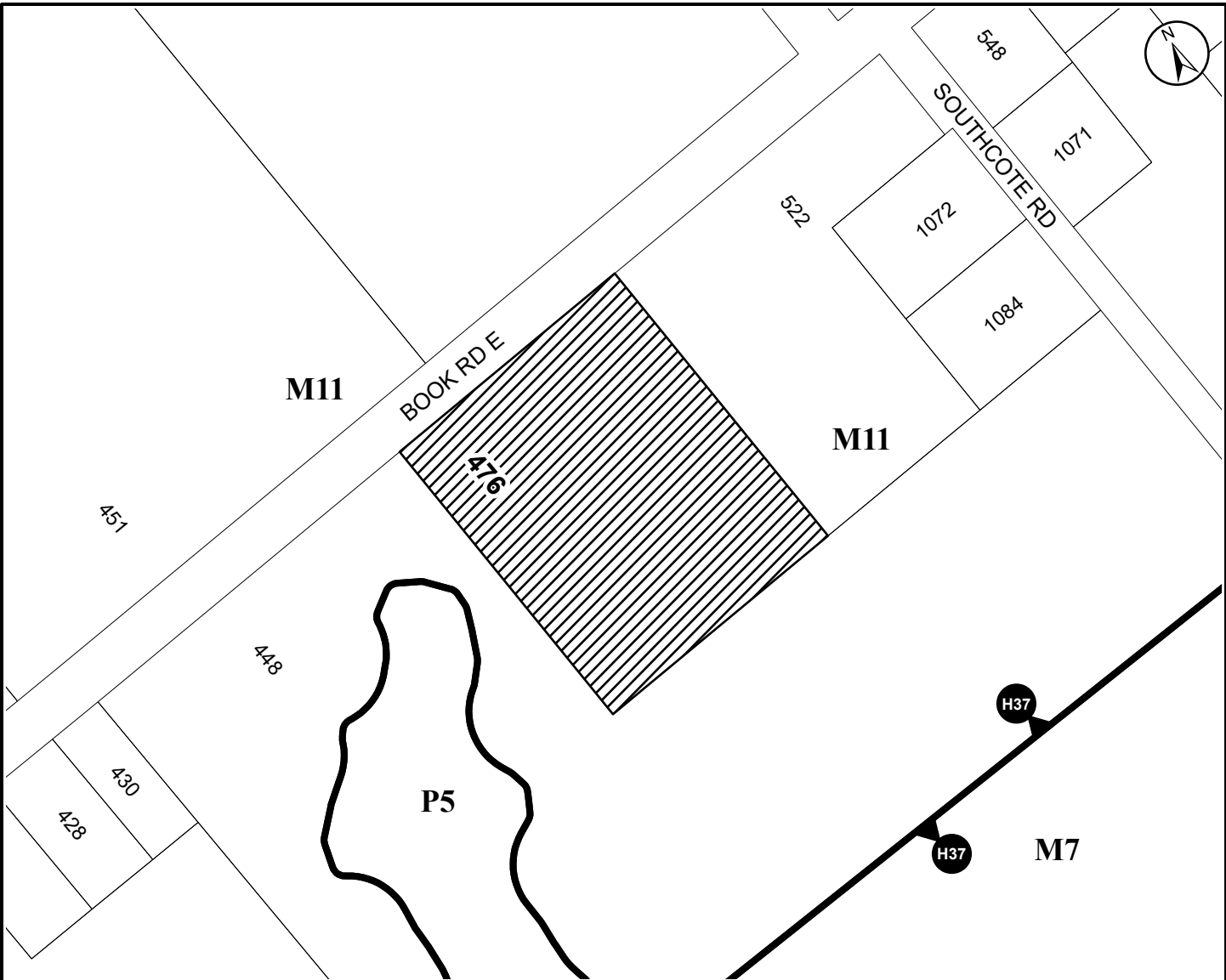
Good Afternoon,

Please see attached slides for a reminder on formatting guidelines for COA Comment submissions.

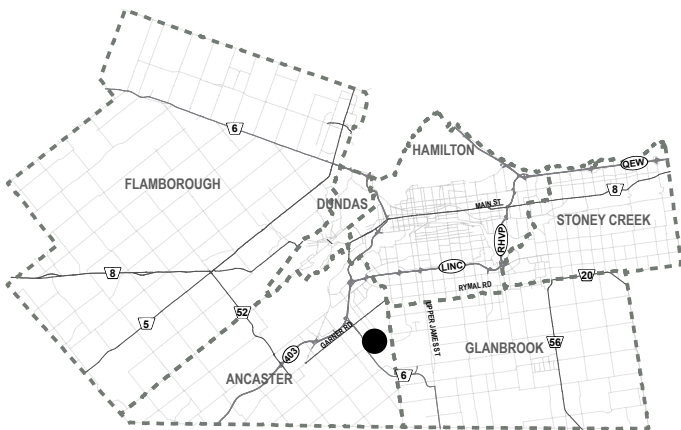
Attached is a copy of the Agenda for the **January 21, 2025** Hybrid Hearing date, please follow the link below for a copy of the submitted materials.

www.hamilton.ca/committeeofadjustment

(Please allow enough time to download, as the files are sometimes very large.)



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



476 Book Road East, Ancaster
(Ward 12)

File Name/Number:
A-24:258

Date:
January 7, 2025

Technician:
SH

Scale:
N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department