



Hamilton

STAFF COMMENTS

HEARING DATE: March 27, 2025

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

Recommendation:

Approve — Development Planning

Proposed Conditions:

1. That the owner shall investigate the noise levels on the severed lands to 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 City of Hamilton, Director of Development Planning.

Proposed Notes:

A building permit is required for the construction of the proposed n 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. (Building Engineering)

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.



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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*.

Staff further note that this application was previously considered at the January 21, 2025, Committee of Adjustment hearing and was tabled to allow staff time to discuss revisions to the proposal with the applicant. The proposal was revised and is discussed further below.

Analysis

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. 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.



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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.

Policy F.1.12.9 permits the expansion, enlargement or change in legal non-complying uses provided they maintain the intent and purpose of the Urban Hamilton Official Plan and the Zoning By-law. Staff note that the gross floor area of the proposed accessory dwelling unit – detached decreased in size from 164.6 square metres to 134.8 square metres to help mitigate the potential impacts of the surrounding airport and anticipated industrial uses intended for the area. It is staff’s opinion that the proposed additional dwelling unit – detached is similar to the existing residential use and is a natural extension of the existing use

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.



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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 existing single detached dwelling is a legal non-complying use and the proposed additional dwelling unit – detached is similar to and would be an expansion of this legal non-complying use. However, staff are concerned regarding potential noise impacts on the proposed additional dwelling unit – detached and are recommending a condition of approval requiring the completion of a noise study.

Archaeology

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.

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



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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 comments.

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:

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 134.8 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 construct an accessory dwelling unit - detached in the rear yard of an existing legal non-conforming single detached dwelling.

Staff note that the gross floor area of the proposed accessory dwelling unit decreased in size from 164.6 square metres to 134.8 square metres to help mitigate the potential impacts of the surrounding airport and anticipated industrial uses intended for the area.

Staff further 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 similar to the existing residential use and is a natural extension of the existing use. In addition, the proposed size and scale of the additional dwelling unit was decreased to help mitigate against potential conflicts with the long term function of the area and meets the intent of the additional dwelling unit regulations. Based on the foregoing, **staff recommend approval.**

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	I. 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.



	<p>Furthermore, variance 2 has been provided to address Holding provision 37 which applies to this property.</p> <p>II. Be advised, the proposed Parking Spaces are indicated to be 2.7 metres x 6.0 metres. Please note, as per Section 5.2.1, minimum Parking Space dimensions shall be 2.8 metres x 5.8 metres. Should alteration of the proposed Parking area not be possible, additional variances may be required.</p> <p>Please note, as per Section 5.7.1 a) i), no Parking Spaces shall be required for an Additional Dwelling Unit – Detached. Furthermore, all Parking Spaces provided beyond those that are required under the By-law shall be provided on a permeable surface, such as Gravel or other similar surfaces. As per the drawings provided, the proposed Two (2) Parking Spaces, which are considered to be provided beyond the minimum requirement, would be permitted to be located on the proposed Gravel driveway and is consistent with Section 5.3.4 i).</p> <p>III. 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:	

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 n Additional Dwelling Unit Detached within the rear yard of an existing Single Detached Dwelling.



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	Be advised that Ontario Building Code regulations may require specific setback and construction types.
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Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

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

Danelski, Alexander

From: Kyle Riley <kriley@npca.ca>
Sent: Wednesday, March 12, 2025 9:57 AM
To: Committee of adjustment
Subject: Re: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

External Email: Use caution with links and attachments

Hello Mr. Danelski,

Apologies for the errors.

The first set of comments are towards 96 Eighth Road East A-25:032.

The second set of comments are for both A-25-023 and B-25:010.

The third set of comments are for 476 Book Road East A-24:258.

If there is any further uncertainty please do not hesitate to contact the undersigned.

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.

The NPCA completed its [Watershed-based Resource Management](#) and [Conservation Area](#) Strategies, paving the way for sustainable conservation across the Niagara Peninsula watershed. It's [Watershed Natural Asset Analysis and Valuation](#) for the Niagara Peninsula watershed offers new insights that redefine how we view nature. **Explore them today!**

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

Sent: Wednesday, March 12, 2025 9:48 AM

To: Kyle Riley <kriley@npca.ca>; Committee of adjustment <cofa@hamilton.ca>

Subject: RE: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

Good morning, Ms. Riley:

Thank you for your comments.

Just to be clear could we reconcile the addresses and file names for the files for which you have provided comments?

Your e-mail refers to:

“96 Eighth Road East A-25:031”

By that, do you intend your comments to apply to

96 Eighth Road East A-25:032

or

97 Dartnall Road A-25:031?

Likewise, your e-mail refers to:

“476 Book Road East B-25:010”

Do you intend your comments for:

476 Book Road East A-24:258

or

20 Saveryn Road B-25:010

And when your e-mail refers to

“20 Saveryn Road A-25-023” and notes that “The Applicants are proposing to sever two lots”

Do you intend your comments to be applied solely to the variance file name for this address (A-25-023), the severance file name for this address (B-25:010) or both?

Just want to have our records consistent. Please let me know.

Thanks,

Alexander Danelski

Development Clerk (Temporary Position)

Committee of Adjustment

City of Hamilton



From: Kyle Riley <kriley@npca.ca>

Sent: Wednesday, March 12, 2025 9:13 AM

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

Subject: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

External Email: Use caution with links and attachments

Good day,

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the subject matter forming Hamilton's March 27th COA Agenda and offers the following comments.

The following addresses are within the NPCA's Watershed.

96 Eighth Road East A-25:031 -

The Applicants seek Minor Variances to permit a detached Accessory Dwelling Unit within a front yard, and to allow for the ADU to exist on a .4 hectare lot where 1.5 hectares is required.

There are currently no features regulated by the NPCA which traverse the subject address. As such, the NPCA offers No Objections to development at this address.

There are no Planning or Permitting fees required for our review of this Application.

20 Saveryn Road A-25-023 -

The Applicants are proposing to sever two lots from the existing address known as 20 Saveryn Road. A number of Minor Variances are required to formalize the retained parcel, including permitting a minimum lot area of 339 m² where 630 m² is required, allowing a minimum lot width of 10.7m where 18m is required, permitting a minimum side yard of 1.2m where 2m is required, permitting a minimum rear yard of 2m where 3m is required, and finally permitting 45% lot coverage where 35% is allowed.

There are no features regulated by the NPCA which traverse the subject address. As such, the NPCA offers No Objections to development as shown at this address.

There are no Planning or Permitting fees required by the NPCA.

476 Book Road East B-25:010 -

The Applicants seek a Minor Variance to expand the existing legal non-conforming single by adding an Accessory Detached Dwelling Unit to the site. Minor Variances are required to remove the H3 holding provision that no development or site alteration be undertaken at the site. Minor Variances are also needed to allow for a gross floor area of 164.6 m², where a maximum of 75 m² is permitted, and to allow for the ADU to reach a total height of 6.9 m, where 6m is allowed.

There are currently no features regulated by the NPCA which traverse the subject site.

As such, the NPCA offers No Objections to proposed development at this address.

There are no fees required for our comments on this file.

Thank you for circulating this Agenda to the NPCA for our comments.

Please do not hesitate to contact the undersigned if you have any questions on the above.

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

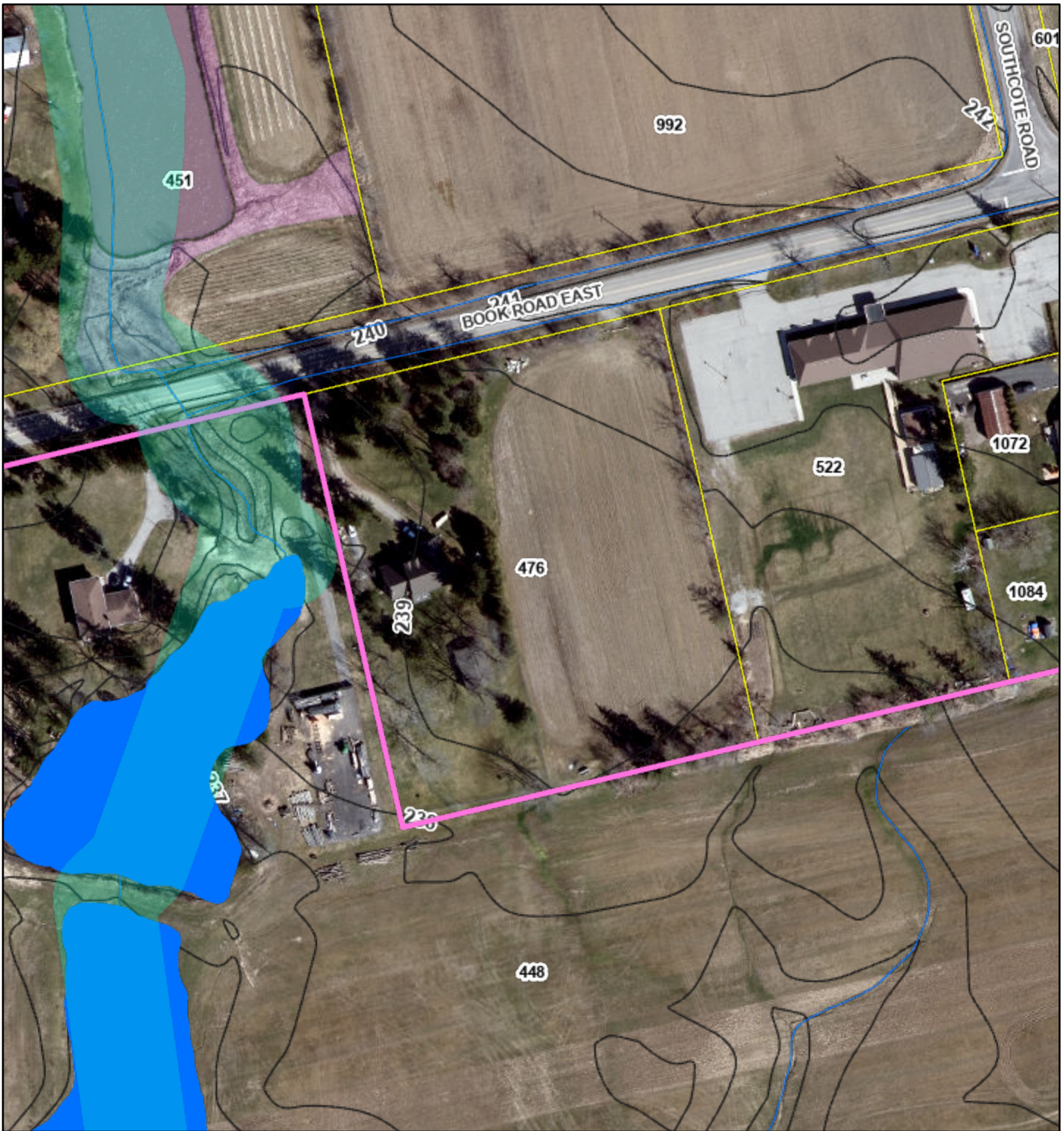
www.npca.ca

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.

The NPCA completed its [Watershed-based Resource Management](#) and [Conservation Area](#) Strategies, paving the way for sustainable conservation across the Niagara Peninsula watershed. It's [Watershed Natural Asset Analysis and Valuation](#) for the Niagara Peninsula watershed offers new insights that redefine how we view nature. **Explore them today!**

ArcGIS Web Map



3/11/2025, 10:38:31 AM

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

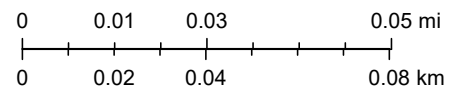
2K Hydrography

2K HydroPoly

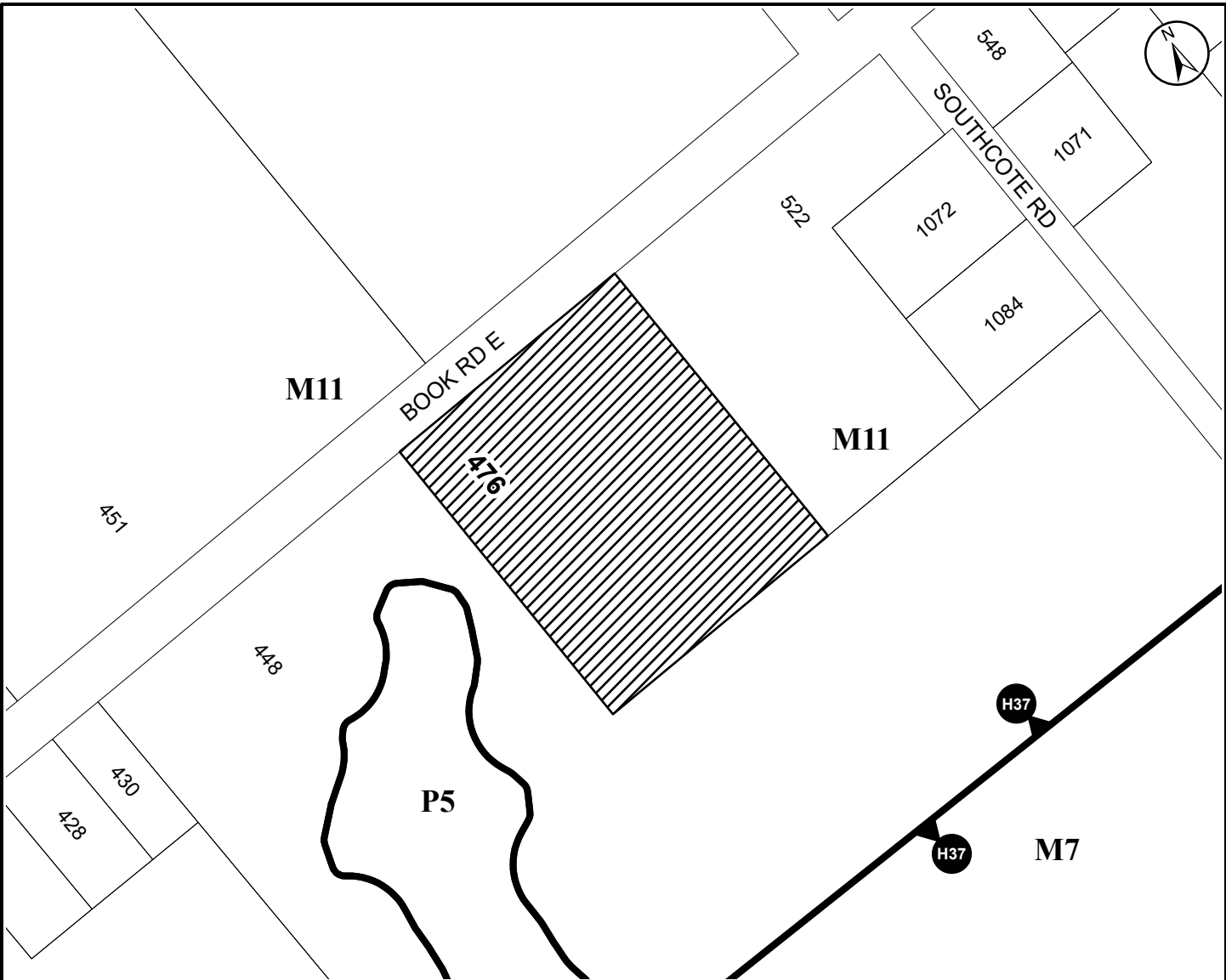
ELC 2020 NPCA

Niagara Region Ortho 2023

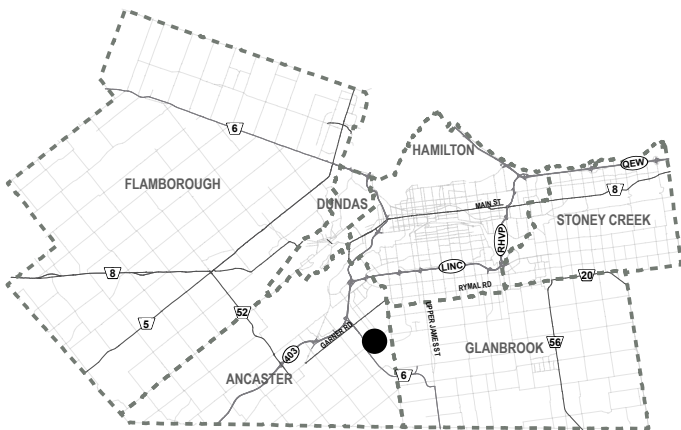
■ Red: Red



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



● 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