

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 14
COMMITTEE DATE: January 17, 2012	
SUBJECT/REPORT NO: Application for an Amendment to the Town of Flamborough Zoning By-law No. 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Kate Mihaljevic (905) 546-2424, Ext. 4424
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-11-061, by Stanley and Janina Krupski, Owners**, for a change in zoning from the Agricultural "A" Zone to the Agricultural "A-89" Zone, with a Special Exception, in order to prohibit the construction of any residential dwelling(s), for the lands located at 1214 Highway 8 (Flamborough), as shown on Appendix "A" to Report PED12006, on the following basis:

- (a) That the draft By-law, attached as Appendix "A" to Report PED12006, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law be added to Schedule "A-17" of Zoning By-law No. 90-145-Z.
- (c) That the proposed change in zoning conforms to the Hamilton-Wentworth Official Plan, and the Town of Flamborough Official Plan.

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 2 of 11

EXECUTIVE SUMMARY

The purpose of the application is to change the zoning on the subject lands to prohibit the construction of a new single detached dwelling on a consolidated farm parcel in accordance with a condition of approval for Consent Application FL/B-11:30 (see Appendix "C"- Condition 2). The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement and Greenbelt Plan, and conforms to the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan, and the new Rural Hamilton Official Plan. The application was submitted by the applicant, Jakob and Alberdina Detmar, to whom the farm lands are to be conveyed.

Alternatives for Consideration - See Page 10.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Proposal

The applicants, Jakob and Alberdina Detmar, have applied for a change in zoning to prohibit the construction of a single detached dwelling on the lands known as 1214 Highway 8 (see Appendix "A"). Prohibiting future residential development on the retained parcel is necessary to ensure that the consolidated farm parcel complies with existing Provincial policies. The proposed change in zoning is to satisfy a condition of severance (FL/B-11:30), which was conditionally approved by the Committee of Adjustment on June 2, 2011 (see Appendix "C"- Condition 2).

Consent Application FL/B-11:30

An application for consent was applied for to sever agricultural lands from the existing single detached dwelling and associated accessory structures on the lands known as 1214 Highway 8 (Flamborough) (see Appendix "C"). The agricultural lands to be conveyed are to be purchased by the property owner of 2150 Safari Road, Mr. and Mrs. Detmar, as per the existing agreement of purchase and sale. The single detached dwelling, with associated accessory structures, was deemed surplus to the consolidated farming operation. The application was conditionally approved, subject to a number of

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 3 of 11

conditions, including the requirement that the conveyed lands be rezoned to prohibit any new residential use (see Appendix “C”- Condition 2). As these lands are not abutting and, therefore, cannot be merged, this application will ensure conformity with provincial and municipal policy documents.

Details of Submitted Application:

Location: 1214 Highway 8 (Flamborough) (see Appendix “A”)

Owners: Stanley and Janina Krupski

Applicant: Jakob and Alberdina Detmar

Property Description:

<u>Total Lot Area:</u>	31.19 hectares
<u>Total Lot Frontage:</u>	Approximately 457.54 metres on Highway 8
<u>Total Lot Flankage:</u>	Approximately 688.59 metres on Seaton Road

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Agricultural	Agricultural “A” Zone
<u>Surrounding Lands:</u>		
North	Rural Single Detached Residential and Agricultural	Agricultural “A” Zone
South	Rural Single Detached Residential and Agricultural	Agricultural “A” Zone
East	Rural Single Detached Residential and Agricultural	Agricultural “A” Zone and Agricultural “A-2” Zone, Modified
West	Agricultural and School	Agricultural “A” Zone, Modified and Institutional “I-4” Zone, Modified

POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that address agriculture.

Policy 2.3.3.1 states that in prime agricultural areas, permitted uses and activities are: agricultural uses, secondary uses, and agriculture-related uses.

In addition, Policy 2.3.4.1 states that lot creation in prime agricultural areas is discouraged, and may only be permitted for:

- “c) A residence surplus to a farming operation as a result of farm consolidation provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.”

Further, Policy 2.3.4.3 states that the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with Policy 2.3.4.1 (c).

As the applicant is proposing to change the zoning to prohibit the construction of a single detached dwelling, the proposal conforms to the applicable policies of the Provincial Policy Statement.

Greenbelt Plan

The subject lands are designated as “Protected Countryside - Prime Agricultural Area” within the Greenbelt Plan. Policy 3.1.3.1 states that within prime agricultural areas, as identified in municipal official plans, normal farm practices and a full range of agricultural, agriculture-related, and secondary uses are supported and permitted.

Policy 4.6 addresses lot creation for lands falling within the Protected Countryside. Policy 4.6.3 states that within the specialty crop area and prime agricultural area, lot creation is permitted for:

- “c) The severance of a residence surplus to a farming operation as a result of a farm consolidation, which residence was an existing use as of the date this Plan came into force, provided that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 5 of 11

lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective, should be considered;”

As the applicant is proposing to change the zoning to prohibit the construction of a single family dwelling, the proposal conforms to the applicable policies of the Greenbelt Plan.

Hamilton-Wentworth Official Plan

The subject lands are designated as “Rural Area - Prime Agricultural Area” within the Hamilton-Wentworth Regional Official Plan. Policy C-3.2 states:

“The Rural Area contains a mix of sub-designations (Prime Agricultural Lands, Rural Settlements, Environmentally Significant Areas, and Mineral Aggregate Areas), as well as a variety of existing land uses and activities including residential, commercial, rural industrial, and the primary activity of farming.”

Further, Policy C-3.2 continues:

“While in the past these activities have been scattered throughout the rural landscape, the intent of this Plan is to concentrate development in appropriate areas (generally Rural Settlements), limit rural development, and protect agricultural lands.”

Policy C-3.2.2 states that agriculture will continue to be the predominant use in the rural areas of the Region.

In addition, Policy D-8 of the Plan addresses land severances, and states that the severance of land on prime agricultural lands is generally inconsistent with the principles of sustainable development.

Policy D-8.1.1 states:

“Policies related to Rural Settlement Areas, mineral aggregate areas, separation distances from watercourses, the Agricultural Code of Practice, consolidation of agricultural lands, surplus farm houses, continued farm viability and lots limited to appropriate size of intended use must be incorporated into the Area Municipal Official Plans.”

However, further policy direction will be provided by the local Official Plan and, therefore, the proposal conforms to the general intent of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The subject lands are designated as “Agriculture” on Schedule “B” within the Town of Flamborough Official Plan. The following Policies, among others, apply:

- “B.2 It is the intent of Council to support the agricultural economy in the Rural Area. Accordingly, the Plan provides for preservation of AGRICULTURE lands. Council encourages the continuance of farming and related activities as the predominant use of land in the RURAL AREA.
- B.2.7 A severance may be considered if it is for the consolidation of abutting agricultural properties, increasing the size of an existing farm, or to establish a new farming operation where both the established farm and the new farm are viable.
- B.2.8 A severance may be considered in the case where a surplus farm house is created as a result of a farm consolidation, provided that no severances have been granted from the lands consolidated to the farm within the last three years, and the location of the proposed severance does not interfere with the farm operation.”

As the applicant is proposing to change the zoning to prohibit the construction of a single detached dwelling and preserving the agricultural lands for the purposes of farm consolidation, the proposal conforms to the policies of the Town of Flamborough Official Plan.

Rural Hamilton Official Plan

The subject lands are designated as “Agriculture” under the Ministerially approved Rural Hamilton Official Plan. Staff notes that the Ontario Municipal Board (OMB) issued an order on June 28, 2011, approving portions of the Rural Hamilton Official Plan. However, the remaining portions of the plan, including the Lot Creation Policies of the Plan, are still subject to an appeal before the OMB. Therefore, the Official Plan is not yet in force and effect.

Policy D.2.1 states that uses permitted in the Agriculture designation are limited to agricultural uses, agricultural-related commercial and agricultural-related industrial uses, and on-farm secondary uses.

Staff advises that Policy F.1.14.2.2 states that an existing farm dwelling that is a residence surplus to a farm operation as a result of a farm consolidation may be severed provided that:

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 7 of 11

- "b) The lot to be created for the surplus farm dwelling shall comply with the provisions of Section F.1.14.2.2 d) of this Plan.
- c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:
- i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation and is located in Rural Hamilton;
 - ii) The parcels of land comprising the consolidated farm operation shall be a minimum of 38.4 hectares (95 acres) in total;
 - iii) The parcel of land from which the surplus dwelling is severed shall be a minimum of 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D - Rural Land Use Designations;
 - iv) The parcel of land from which the surplus dwelling is severed shall have been owned and part of the consolidated farm operation for at least one year;
 - v) The owner of the retained land shall grant in favour of Hamilton a restrictive covenant prior to the granting of final consent which prohibits the construction of any dwelling unit;
 - vi) The land retained as a result of the severance of a surplus dwelling shall be rezoned prior to the granting of final consent to prohibit the construction of any dwelling unit; and,
 - vii) Barns and farm buildings situated on the land retained as a result of surplus farm dwelling severance shall comply with the Minimum Distance Separation 1 formula of the Province.
- d) In all cases where surplus farm dwellings are to be severed, the following conditions shall also apply:
- i) The surplus dwelling to be severed shall be at least 25 years old;
 - ii) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 8 of 11

- iii) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;
- iv) The shape and dimensions of the surplus farm dwelling lot shall not impair agricultural operations on the retained land and shall not exceed 122 metres (400 feet) in depth; and,
- v) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.”

For information purposes, staff notes that this application would not meet Policy F.1.14.2.2 c) iv) as the lands from which the surplus farm dwelling parcel is to be severed from are currently not owned by the applicant. Also, the lands to be conveyed are not contiguous to the existing farming operation to which they are to be added and, as such, purchasing the lands inclusive of the occupied dwelling in advance of the severance would cause undue hardship to the owner and prohibit the opportunity for farm consolidation.

In addition, the application would not meet Policy F.1.14.2.2 d) iv) since the new frontage will, by definition, be Seaton Road, resulting in the depth of the surplus farm dwelling lot being approximately 183 metres (550 feet). However, it is important to note that the existing dwelling is oriented to and maintains a front yard from Highway 8, and the depth measured from Highway 8 is only 100 metres (300 feet).

Further, Consent Application FL/B-11:30 was approved by the Committee of Adjustment on May 26, 2011, which predates any decision by the OMB on the Rural Plan. Therefore, the policies in effect at the time of the application supported the Consent. Also, the applicant has entered into an Agreement of Purchase and Sale for the conveyed portion, subject to the finalization of the Consent Application and, as such, staff is satisfied that the proposal meets the general intent of the Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Infrastructure Planning and Source Water Protection, Public Works Department.
- Hydro One Networks.

Public Consultation

In accordance with Council's Public Participation Policy, preliminary circulation of the application shall not be required if the application is part of the implementation of a planning study or other application, such as consent, which has been approved within one year of public involvement and participation opportunities. As the property was the subject of Consent Application FL/B-11:30 on May 26, 2011, which was a public process, preliminary circulation of the Zoning By-law Amendment was not required. Additionally, no letters were received in response to the circulation of the Consent Application and no members of the public were present at the Committee of Adjustment meeting.

In accordance with the new provisions of the Planning Act, Notice of a Complete Application for the Zoning By-law Amendment was circulated to 24 property owners within 120 metres of the subject property on October 20, 2011. To date, no formal responses have been received. Further, a Public Notice sign for the Zoning By-law Amendment was posted on the property on November 1, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (a) It is consistent with the policies of the Provincial Policy Statement and the Greenbelt Plan.
 - (b) It conforms with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.
 - (c) It is compatible with the surrounding land uses and will maintain the existing farming operation.
 - (d) It implements a condition of approval for Consent Application FL/B-11:30 (see Appendix "C"- Condition 2).
2. The policies of the Provincial Policy Statement and Greenbelt Plan permit the severance of a single detached dwelling surplus to a farming operation, as a result of a farm consolidation, provided that the planning authority ensures that a new single detached dwelling is not permitted in perpetuity on the retained lot of farm land created by the severance. The retained parcel on the subject lands will continue to be zoned for agricultural uses. The proposed Zoning By-law modification will prohibit any new residential development on the retained agricultural lands. Consequently, the only structures that will be permitted by the zoning will be for agricultural uses. Therefore, the proposal is consistent with the

SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 10 of 11

policy direction of the Province, as per the Provincial Policy Statement and Greenbelt Plan, and will ensure that the primary use of the lands remains agricultural, and prevents agricultural lands from losing their viability by becoming fragmented.

3. The proposed change in zoning will facilitate a conditionally approved severance application (see Appendix “C” - Condition 2), conveying what is deemed to be a surplus farm dwelling as a result of a farm consolidation from the subject lands. The proposed site-specific zoning will permit the agricultural farming operation to continue, while prohibiting residential uses on the retained farm parcel. Consequently, the proposed site-specific zoning will not permit farm help houses, home professions within a single detached dwelling, accessory open storage, and a fruit and vegetable stand.
4. The proposed change in zoning is supportable, as it conforms to the “Rural Area - Prime Agricultural Area” policies of the Hamilton-Wentworth Official Plan in that the proposed change will preserve the agricultural farming operation.
5. The proposed change in zoning is supportable, as it conforms to the “Agriculture” policies of the Flamborough Official Plan, in that the proposed change in zoning will prohibit the construction of a single family dwelling, and will maintain the agricultural farming operation on the subject lands.

ALTERNATIVES FOR CONSIDERATION:

Should the application be denied, the property would remain agricultural, and any future use would have to conform to the provisions of the Agricultural “A” Zone. Based on the foregoing, Consent Application FL/B-11:30 would not be finalized, as the change in zoning was a condition of approval (see Appendix “C”- Condition 2).

CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Environmental Stewardship

- ◆ Natural resources are protected and enhanced.
- ◆ No new development is associated with these applications.

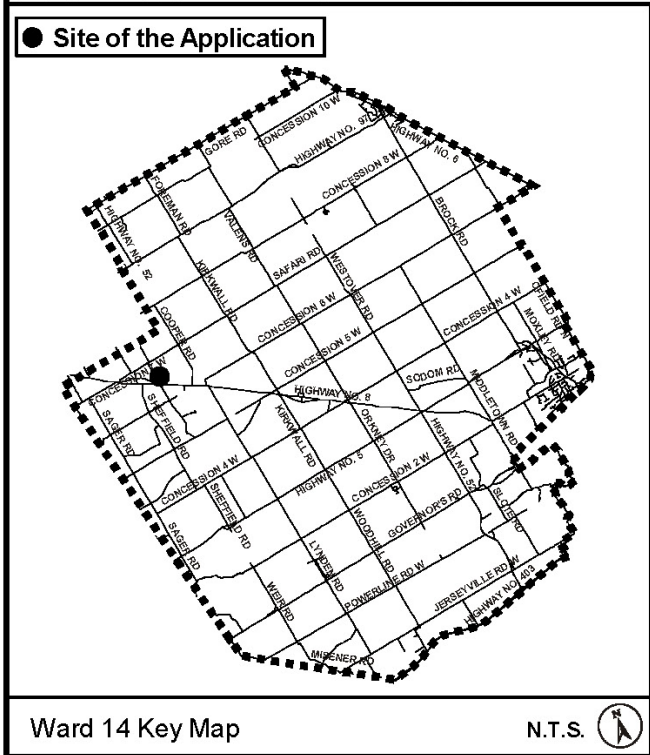
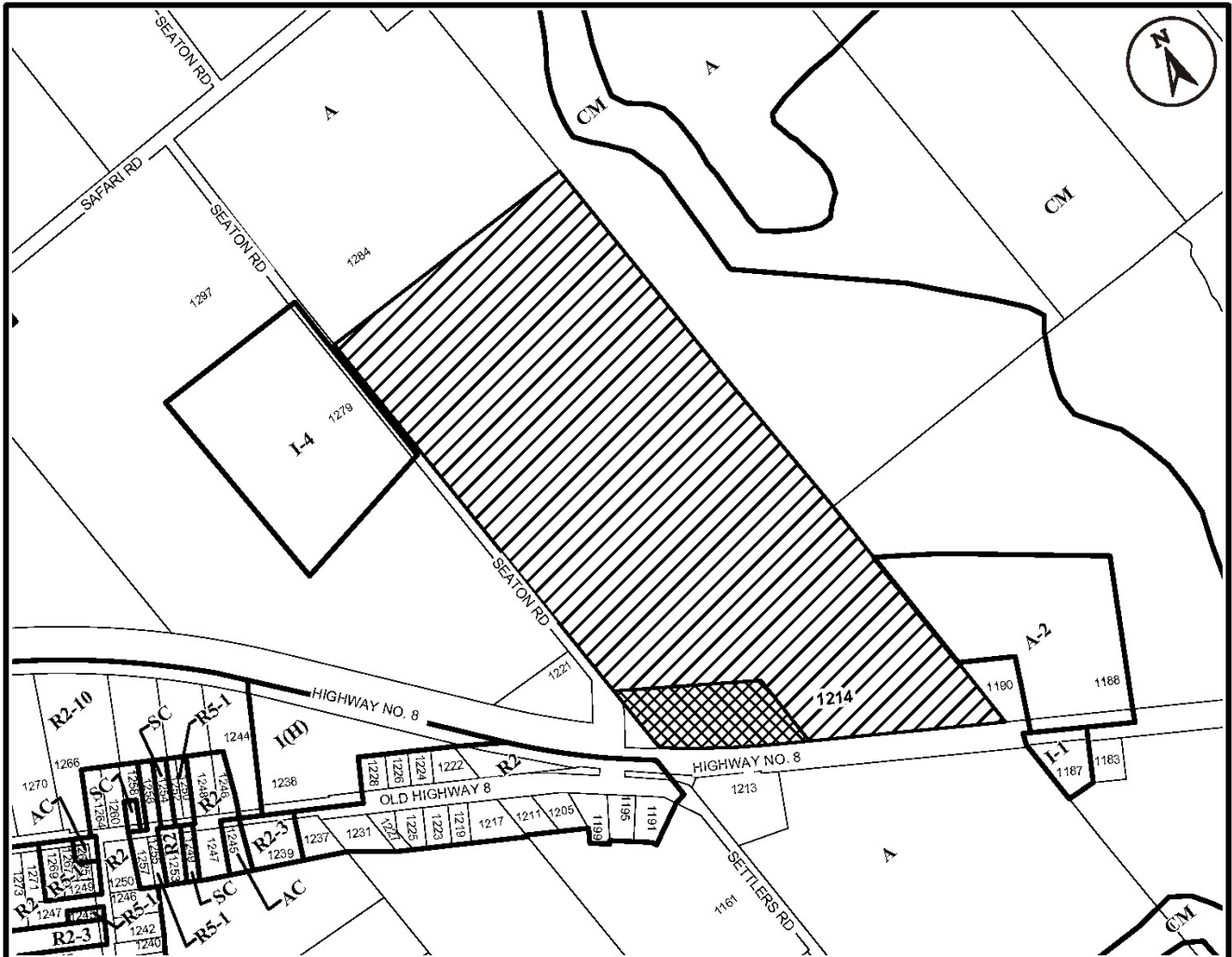
SUBJECT: Application for an Amendment to the Town of Flamborough Zoning By-law 90-145-Z for the Lands Located at 1214 Highway 8 (Flamborough) (PED12006) (Ward 14) - Page 11 of 11

APPENDICES / SCHEDULES


- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law
- Appendix "C": Committee of Adjustment Decision for FL/B-11:30

:KM

Attachs. (3)



Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-11-061	Date: October 13, 2011
Appendix "A"	Scale: N.T.S.
Planner/Technician: KM/AL	

Subject Property

- 1214 Highway 8
- Portion of 1214 Highway 8 subject to application

N.T.S. 

Authority: Item [REDACTED]
Planning Committee
Report: 12-[REDACTED] (PED12006)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 90-145-Z, Respecting Lands Located at 1214 Highway 8, in the former Town of Flamborough, now in the City of Hamilton

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as the "The Corporation of the Town of Flamborough" and is the successor to the former Regional Municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 90-145-Z be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Flamborough) in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule A-17 of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning from the Agricultural "A" Zone to the Agricultural "A-89" Zone, Modified, with a Special Exception, on the lands the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.
2. That Section 33: Agricultural Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

33.3.87 A-89 (See Schedule A-17)

Permitted Uses:

Notwithstanding the permitted uses of Sub-section 33.1, only the following uses shall be permitted:

- (a) Agriculture.
- (b) Conservation.

Zone Provisions:

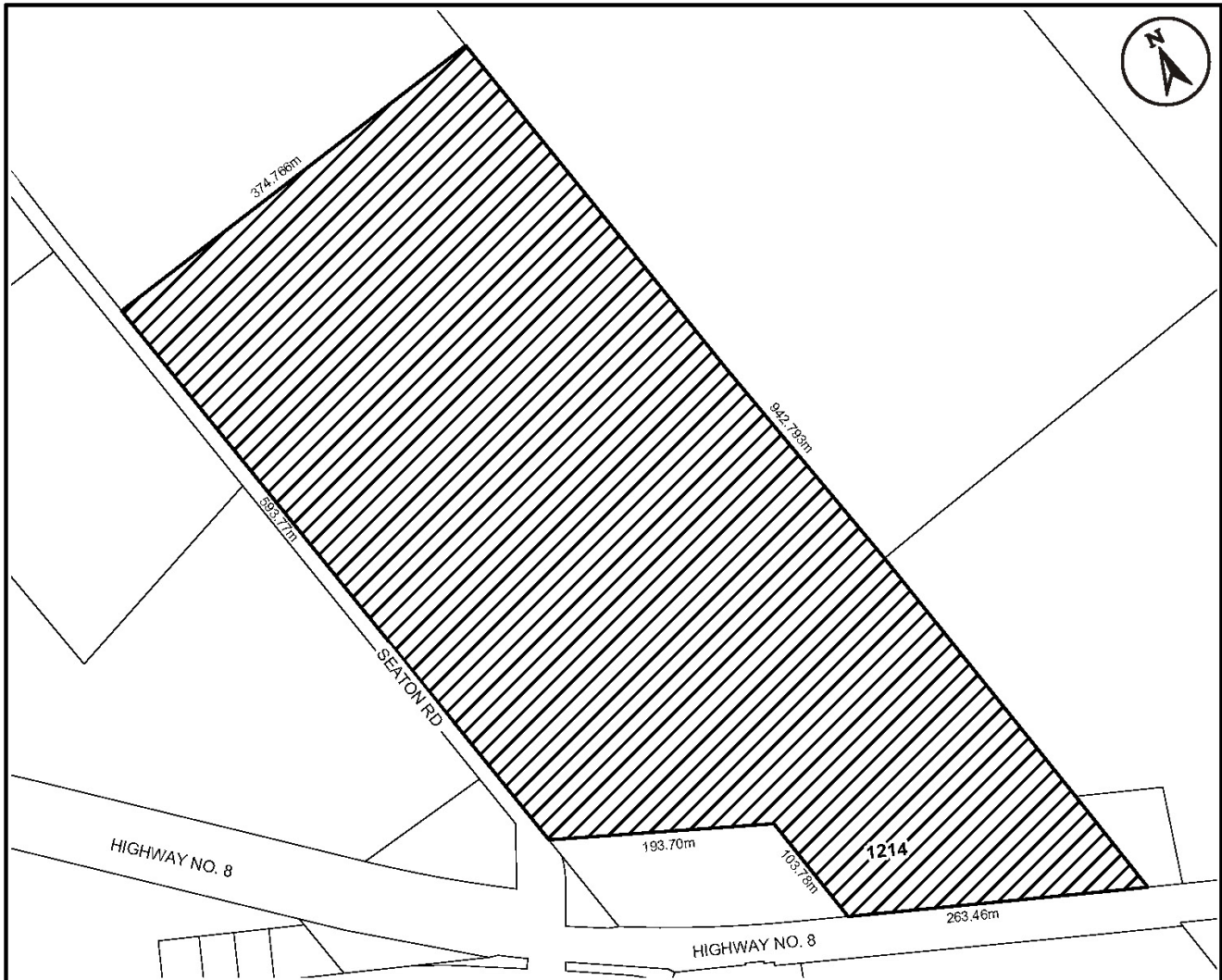
- (a) All zone provisions of Sub-section 33.2 shall apply.

3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this ■■■ day of ■■■, 2012.

R. Bratina
Mayor

Rose Caterini
Clerk



This is Schedule "A" to By-Law No. 12-

Passed the day of, 2012

Clerk

Mayor

Schedule "A"

Map Forming Part of
By-Law No. 12-_____

to Amend By-law No. 90-145-Z

Subject Property

1214 Highway 8



Change in Zoning from the Agricultural "A" Zone to the Agricultural "A-89" Zone modified, with a special exception.

Scale:
N.T.S.

File Name/Number:
ZAR-11-061

Date:
Nov. 24, 2011

Planner/Technician:
KM/AL



Hamilton



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENTLAND SEVERANCE

APPLICATION NO. FL/B-11:30
SUBMISSION NO. B-30/11

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 1214 Highway #8, formerly in the Town of Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Barry Wray on behalf of the owners Stanley and Janina Krupski, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land having a frontage on Highway #8 of 237.7m± (780'±), and an area of 29.6ha.± (73.12ac.±) containing a portion of an existing barn (to be demolished), and to retain a parcel of land having a frontage on Seaton Road of 95m± (312'±), and an area of 1.65ha.± (4.1ac.±) containing an existing single family dwelling, implement shed and a portion of a barn (barn to be demolished) for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Flamborough Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.



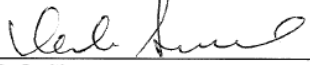

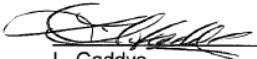
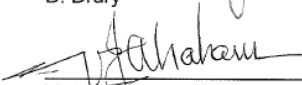
Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

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.
2. That the owner/applicant shall apply for and receive approval of a Zoning By-law Amendment application prohibiting the construction of any new residential dwellings on the conveyed lands, to the satisfaction of the Manager of Development Planning.
3. That the barn be photo documented and provided to Heritage Planning prior to demolition.
4. That the owner/applicant either demonstrate the buildings to remain on the lands to be retained comply with the Zoning By-law or receive approval of all required zoning by-law modifications to the satisfaction of the Manager of Development Planning.
5. The owner must dedicate a 10.526 foot (3.208m) road allowance widening on Seaton Road from both the conveyed and retained lands, by transfer deed to the City, to the satisfaction of the Senior Director of Growth Management.
6. The owner shall demolish the existing barn straddling the proposed lot line. Demolition of the existing barn is subject to a demolition permit issued in the normal manner.
7. That the applicant be required to make an application for Ontario Building Code compliance and pay the relevant fees to the satisfaction of The Planning and Economic Development Department (Building Services Division).

FL/B-11:30
Decision
Page 2

8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
9. The owner submit to the Committee of Adjustment office an administration fee of \$15.30 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 26th day of May, 2011.

 _____ M. Dudzic, Chairman	 _____ I. Dunlop
 _____ D. Smith	 _____ D. Drury
 _____ L. Gaddy	 _____ V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 2nd, 2011.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 2nd, 2012) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS June 22nd, 2011.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1. Staff advise that the following noise warning clause should be included in any future purchase and sale and/or lease/rental agreements for the retained lands:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."
2. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 1240 Seaton Road (based on the location of an existing culvert and entry), and that the lands to be retained will remain as 1214 Highway No. 8.