

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 11
COMMITTEE DATE: October 2, 2012	
SUBJECT/REPORT NO: Application for an Amendment to the Township of Glanbrook Zoning By-law No. 464 for the Lands Located at 6363 White Church Road (Glanbrook) (PED12177) (Ward 11)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Alvin Chan (905) 546-2424 Ext. 1334
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Zoning Application ZAA-12-012, by Mark and Katherine Comley, Owners**, for a change in zoning from the General Agriculture “A1” Zone to the General Agriculture “A1-278” Zone, with a Special Exception, in order to prohibit the construction of any residential dwelling(s), for the lands located at 6363 White Church Road (Glanbrook), as shown on Appendix “A” to Report PED12177, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12177, 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 “B” of Zoning By-law No. 464.

EXECUTIVE SUMMARY

The purpose of the application is to address the condition of approval associated with a severance of a surplus farm dwelling as result of a consolidation of non-abutting farm parcels. In particular, to prohibit the development of a new residential dwelling on the consolidated farm parcel, as approved under Committee of Adjustment Consent Application GL/B-11:102 (see Appendix "C" - Condition 2). The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement, Provincial Greenbelt Plan, and the Rural Hamilton Official Plan.

The proposed application has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Provincial Greenbelt Plan and Rural Hamilton Official Plan.

Alternatives for Consideration - See Page 9.

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

Consent Application GL/B-11:102

Consent Application GL/B-11:102 proposed to sever a 1 acre parcel containing the existing farm dwelling from the subject lands, on the basis that the dwelling was deemed to be surplus as a result of a farm consolidation of a non-abutting farm parcel, being 259 Butter Road West, (Ancaster). However, in review of the application, the Infrastructure and Source Water Protection Section determined that a minimum lot area of 1.5 acres was required to meet the Ministry of the Environment Guidelines.

In review of alternative lot configurations to attain the required minimum lot area, it was noted that the severance boundary could not be extended westerly due to the existing farm access road, and could not be extended southerly due to the existing farm drainage tiles.

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After a review of all the information, issues, and concerns, the Committee of Adjustment determined that the change from a 1 acre parcel to a 1.5 acre parcel was minor in nature. They were also in favour of the change in the lot configuration to an L-shaped parcel to accommodate the increased lot area requirements, thereby lessening the impact on the retained farmland. Without any further comments or issues being raised, the Committee of Adjustment was of the opinion that the configuration would be least intrusive on the adjacent farmland. It is noted that under the Planning Act, no additional notice of an amendment is required where in the opinion of the approval authority (i.e. Committee of Adjustment), the change is minor.

Based on the foregoing, the application was conditionally approved by the Committee of Adjustment on December 8, 2011 (see Appendix "C"), with the ultimate lot configuration to be provided through the submission of a reference plan, to the satisfaction of the Secretary Treasurer of the Committee of Adjustment, and subject to the requirement for an amendment to the Township of Glanbrook Official Plan and Zoning By-law No. 464 (see Appendix "C" - Condition 2). The final lot configuration was submitted with the subject Zoning By-law Amendment Application on April 26, 2012, and deemed satisfactory by the Secretary Treasurer of the Committee of Adjustment.

Subsequent to the approval of the severance application, the Rural Hamilton Official Plan came into force and effect, which permits the consolidation of non-abutting farm parcels and the severance of the resulting surplus dwelling. Accordingly, an amendment to the Township of Glanbrook Official Plan is no longer required, as the respective lot creation policies have been repealed by the Rural Hamilton Official Plan.

Proposal

The subject Zoning By-law Amendment Application ZAA-12-012 has been submitted to satisfy Condition of Approval #2 regarding Severance Application GL/B-11:102 (see Appendix "C").

Accordingly, the applicant has applied for a change in zoning to By-law No. 464 from the General Agricultural "A1" Zone to a site-specific General Agricultural "A1-278" Zone for the retained parcel at 6363 White Church Road. The purpose of this modification is to prohibit future residential uses on the retained farm parcel, as required by the lot creation policies of the Provincial Policy Statement, Provincial Greenbelt Plan, and the Rural Hamilton Official Plan.

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Chronology:

- December 8, 2011: Severance Application GL/B-11:102, for 6355 White Church Road, approved by the City of Hamilton Committee of Adjustment.
- January 4, 2012: Confirmation that no appeals have been received within the appeal period for Severance Application GL/B-11:102 and application is final and binding.
- April 26, 2012: Submission of Zoning By-law Amendment Application ZAA-12-012, by Shimlar Farms Inc., c/o: Mark and Katherine Comley.
- May 15, 2012: Application ZAA-12-012 is deemed complete.
- May 22, 2012: Circulation of Notice of Complete Application and Preliminary Circulation for ZAA-12-012 to all residents within 120m of the subject lands.
- May 30, 2012: Public Notice Sign was erected on the subject lands.
- September 28, 2012: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands and all residents who provided written comments.

Details of Submitted Application

- Location:** 6363 White Church Road (see Appendix "A").
- Applicant/Owner(s):** Mark and Katherine Comley
- Property Description:**
- Total Lot Area: ± 35.6 Hectares.
- Total Lot Frontage: Approximately 656.7m (Irregular)
- Lot Depth: Approximately 667.4m (Irregular)
- Servicing: Existing private services and storm ditches.

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Agricultural	General Agricultural “A1” Zone
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings and Agricultural	General Agricultural “A1” Zone
South	Agricultural	General Agricultural “A1” Zone
East	Agricultural and Single Detached Dwelling	General Agricultural “A1” Zone
West	Hamilton Conservation Authority Trail System and Single Detached Dwellings	General Agricultural “A1” Zone

POLICY IMPLICATIONS

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. Policy 2.3.4.1 c) states:

“Lot creation in prime agricultural areas is discouraged, and may only be permitted for:

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.”

Based on the foregoing, as the subject application is to address the required prohibition of future residential dwellings on the retained lot of farmland, the proposal is consistent with the policies of the Provincial Policy Statement.

Greenbelt Plan

Severance Application GL/B-11-102 was reviewed in accordance with the Lot creation policies contained in Section 4.6 of the Greenbelt Plan. In particular, Policy 4.6.3 (c) states:

“More specifically, within specialty crop and prime agricultural areas, 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 a 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 lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective, should be considered.”

Severance Application GL/B-11:102 conforms to the above noted policy, as the subject application is to address the required prohibition of future residential dwellings on the retained lot of farmland. Accordingly, the proposal conforms to the Provincial Greenbelt Plan.

Hamilton-Wentworth and Township of Glanbrook Official Plans

The “Rural” area, as denoted within the Hamilton-Wentworth and Township of Glanbrook Official Plans, has been repealed and replaced with the policies of the Rural Hamilton Official Plan, which are reviewed below.

City of Hamilton Rural Official Plan

The subject lands are designated “Agriculture” on Schedule “D” - Rural Land Use Designations. Section F.1.14.2.2 contains policies for the severance of surplus farm dwellings. In particular, Section F.1.14.2.2(c) provides policies for severance of a surplus dwelling as the result of a non-abutting farm consolidation; in this case, being a farm holding in the Town of Ancaster, located at 259 Butter Road West.

It is noted that Sub-Policy (i) of Section F.1.14.2.2(c), which is still under appeal with the Ontario Municipal Board, requires that the owner and operator of the farm maintains an existing dwelling on land that is part of the consolidated farm operation. It is noted that the existing dwelling at 259 Butter Road West (Ancaster) is located on the consolidated farming operation, and shall be maintained.

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With respect to the remaining policies, which are now in force and effect, the retained farm parcel, being 86.5 acres, conforms to the minimum retained farm parcel of 40 acres and forms part of the consolidated holding, totalling 186.04 acres, which conforms to the minimum consolidated farm parcel of 95 acres. Lastly, as the subject application is a Zoning By-law Amendment application to prohibit any future residential dwellings, the proposal conforms to the policies Section F.1.14.2.2(c).

Section F.1.14.2.2(d) applies to all forms of farm consolidation. In review, the surplus dwelling approved under Severance Application GL/B-11:102 was constructed prior to December 16, 2004; was habitable as of the date of the original severance application; has a minimum lot area of 1.5 acres; and proposes a lot configuration that does not impair the agricultural operation of the retained farm parcel. The approved severance does not include any farm buildings/barns, and will be supported with sustainable private services with an established minimum lot area of 1.5 acres, as required by the City of Hamilton Infrastructure and Source Water Planning Section. Based on the foregoing, the proposal conforms to the Rural Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Traffic Engineering Section, Public Works Department.
- Environment and Sustainable Infrastructure Division, Public Works Department.
- Tax Administration/Banking Section, Corporate Services Department.
- City Wide Services Section, Community Services Department.

Public Consultation

In accordance with Council's Public Participation Policy, preliminary circulation of the application was not required since the property was also the subject of a Consent Application, which is a Public Process. No letters were received in response to the circulation of the severance application, and no members of the public attended the Committee of Adjustment Meeting.

In accordance with the new provisions of the Planning Act, Notice of Complete Application for the Zoning By-law Amendment was circulated to 48 property owners within 120m of the subject property on May 22, 2012. To date, one formal response has been received with respect to the approved lot configuration, as per Committee of Adjustment Severance Application GL/B-11:102 (see Appendix "C"). The public comment has been addressed within the Analysis/Rationale for Recommendation Section below.

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Furthermore, a Public Notice sign for the Zoning By-law Amendment was posted on the property on May 30, 2012. Finally, 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:
 - (i) It is consistent with the Provincial Policy Statement, and conforms to the policies of the Provincial Greenbelt Plan;
 - (ii) It conforms with the policies of the Rural Hamilton Official Plan; and,
 - (iii) The proposed amendment satisfies a condition of approval for Consent Application GL/B-11:102, which was approved by the Committee of Adjustment on December 8, 2011 (see Appendix "C" - Condition 2).

2. The policies of the Provincial Policy Statement (PPS) and Greenbelt Plan permit the severance of a residence surplus to a farming operation, as a result of a farm consolidation. In this regard, the PPS and Greenbelt Plan require that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this form of severance.

As such, the retained farm parcel will continue to be zoned for agricultural uses under a site-specific General Agricultural "A1-278" Zone, with a Special Exception prohibiting any new residential dwelling.

3. With respect to the Rural Hamilton Official Plan, the subject application conforms to the requirements for Surplus Farm Dwelling Severances for Non-abutting Lands, as established by Sections F.1.14.2.2(c) and (d).

Based on the foregoing, staff supports the proposal to prohibit residential uses on the retained farm parcel which, by definition, would also preclude any home occupations, home professions, home industries, bed and breakfast establishments, and farm help houses.

Although prohibited by definition, staff has included these uses within the amending By-law for clarity purposes (see Appendix "B").

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4. The Development Engineering section has reviewed the subject application, and advises/reminds the owner/applicant of Condition 6 of Severance Application GL/B-11:102, whereby the owner/applicant is required to dedicate 7.54m of land from the lands to be severed along the south side of White Church Road to the City of Hamilton in order to establish a right-of-way width of 15.24m from the original centreline of this roadway. All costs related to the preparation and registration of legal documents and a Reference Plan for the road widening shall be borne by the owner/applicant.

5. In response to the Notice of Complete Application, staff received one letter of concern (see Appendix "D"). The public comment pertains to the lot shape approved through GL/B-11:102. Staff notes that the lot size and shape was amended at the Committee of Adjustment meeting on December 8, 2011, and was deemed as a minor change. It is noted that the right of appeal has expired, as the last day of appeal of the severance application was January 4, 2012.

Notwithstanding the above, the applicant/owner offered to amend the lot lines to address the above public concern. However, upon detailed review of existing site conditions, it was determined that the lot could not be extended westerly due to the existing farm access road, and could not be extended southerly due to issues regarding the weeping tiles for the retained farmland.

ALTERNATIVES FOR CONSIDERATION:

In the event Council does not support the proposed application, the conditional approval of Consent Application GL/B-11:102 will lapse, and the applicant will not be able to sever the surplus dwelling from the property. The use of the subject property would continue to be regulated by the existing General Agriculture "A1" Zone provisions contained in Zoning By-law No. 464.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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

Financial Sustainability

- ◆ Effective and sustainable Growth Management.
- ◆ Generate assessment growth/non-tax revenues.

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Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

Environmental Stewardship

- ◆ Natural resources are protected and enhanced.

Healthy Community

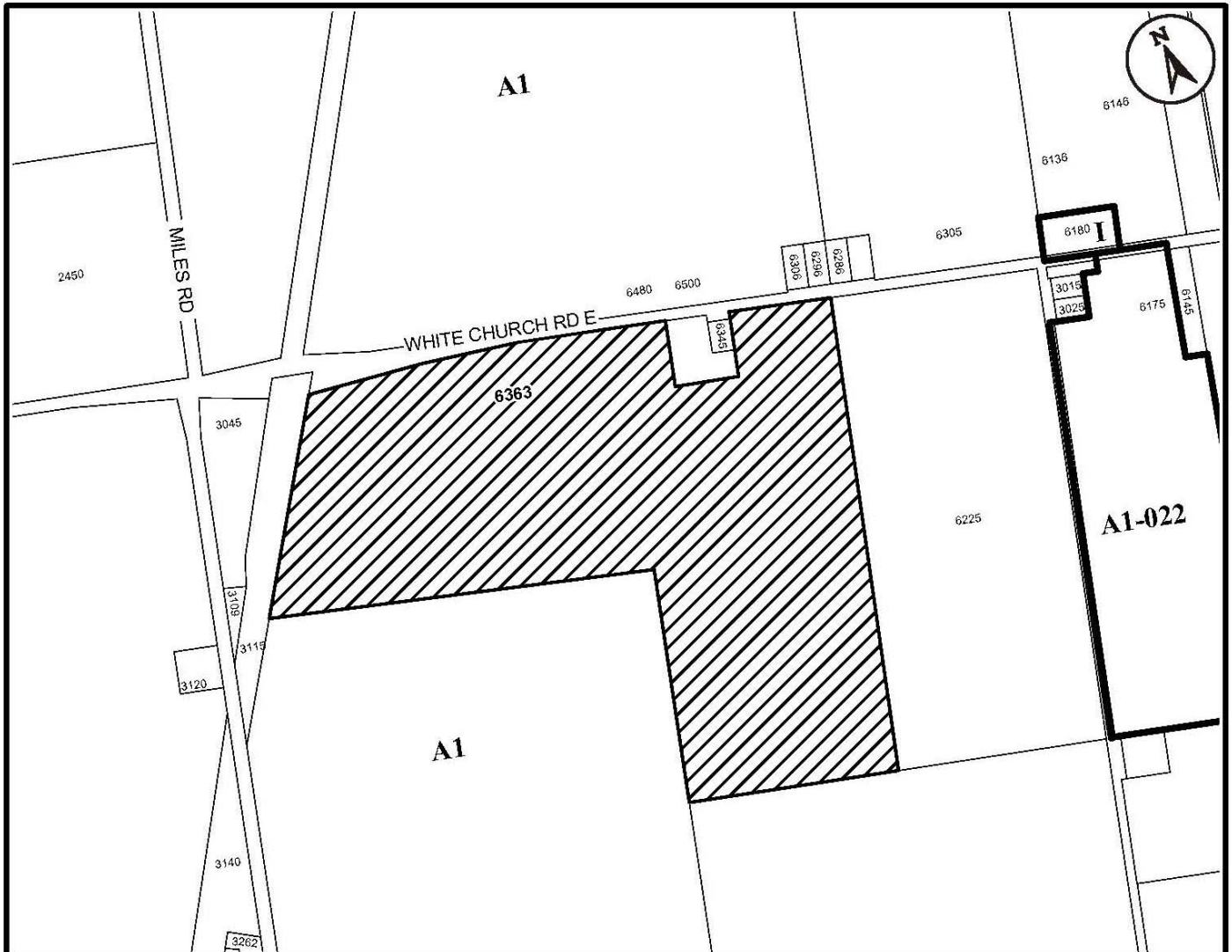
- ◆ Plan and manage the built environment.
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

APPENDICES / SCHEDULES

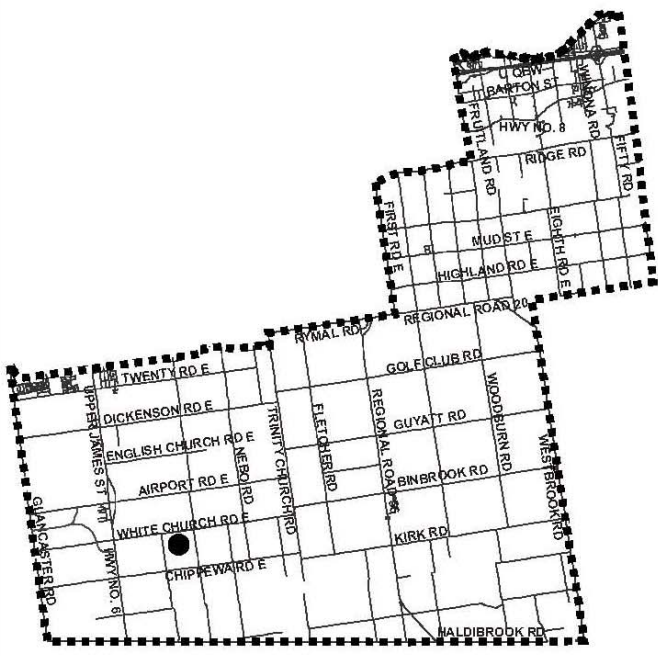
- Appendix "A": Location Map
- Appendix "B": Zoning By-law Amendment to Glanbrook Zoning By-law No. 464
- Appendix "C": Committee of Adjustment Decision for GL/B-11:102
- Appendix "D": Public Submission

:AC

Attachs. (4)



● Site of the Application



Ward 11 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAA-12-012

Date:
August 13, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
AC/KA

Subject Property

Change in Zoning from the General Agricultural "A1" Zone to the General Agriculture "A1-278" Zone.

Authority: Item [REDACTED]
Planning Committee
Report 12-[REDACTED] (PED12177)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 464 (Glanbrook) Respecting Lands Located at 6363 White Church Road

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 Corporation of the Township of Glanbrook" 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 of the former area municipalities 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

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. 464 (Glanbrook), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Rural Hamilton Official Plan, approved by the Minister under the Planning Act on March 7, 2012.

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

1. That Schedule "B", appended to and forming part of By-law No. 464 (Glanbrook), is amended by changing the zoning from the General Agricultural "A1" Zone to the General Agricultural "A1-278" Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That Section 44, "Exceptions to the Provisions of the By-law", of Zoning By-law No. 464, be amended by adding a new special provision, "A1-259", as follows:

"A1-278" 6363 White Church Road

Notwithstanding **SECTION 8: GENERAL AGRICULTURAL "A1" ZONE**, Sub-section 8.1 - **PERMITTED USES**, the following uses shall be prohibited on the lands zoned "A1-278":

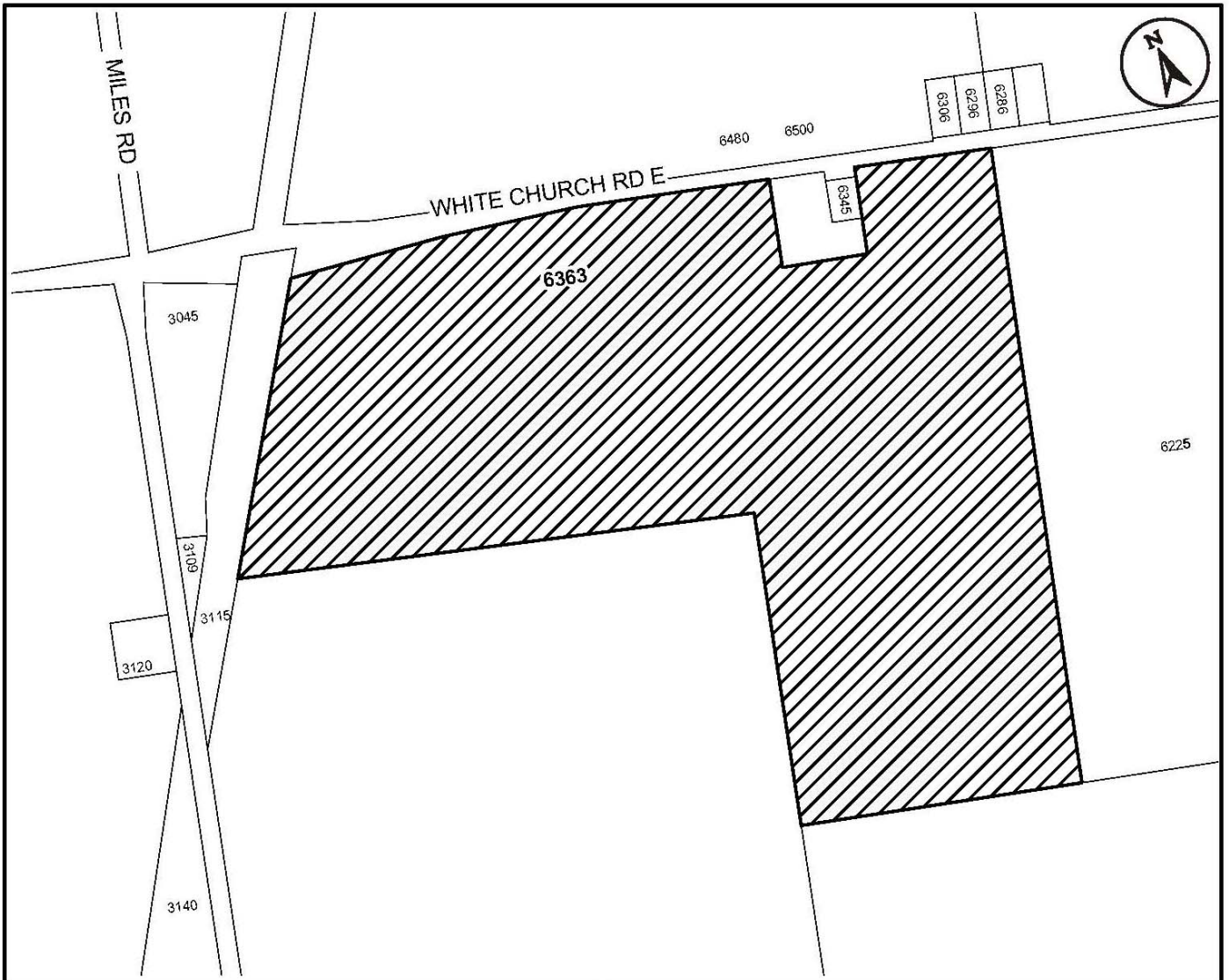
- (a) A single detached dwelling
 - (b) Farm Help Houses
 - (c) Home Occupations and Home Professions
 - (d) Home Industries
 - (e) Bed and Breakfast Establishments
3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2012.

R. Bratina
Mayor

R. Caterini
Clerk

ZAA-12-012



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

Passed the day of, 2012

Mayor

Clerk

Schedule "A"

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

to Amend By-law No. 464

Subject Property



Change in Zoning from the General Agricultural "A1" Zone to the General Agriculture "A1-278" Zone.

Scale:
N.T.S.

File Name/Number:
ZAA-12-012

Date:
August 13, 2012

Planner/Technician:
AC/KA



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. GL/B-11:102
SUBMISSION NO. B-102/11

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 6355 Whitechurch Road, formerly in the Township of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the owners Shirlmar Farms Inc. (c/o Mark & Katherine Comley), 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 of 195' and an area of 1.5 acres containing an existing dwelling and garage for residential purposes, and to retain an irregular shaped vacant parcel of land having an area of 35ha± (86.5ac±) to be combined with an existing agricultural parcel of land (known municipally as 259 Butter Road West) for agricultural (farm consolidation) purposes.

THE DECISION OF THE COMMITTEE IS:

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


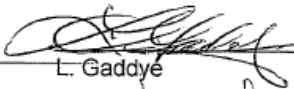
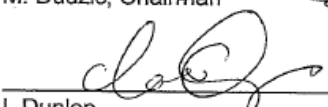
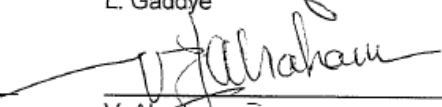
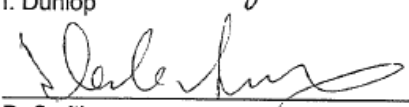

1. The proposal does not offend the intent of the Hamilton-Wentworth and Township of Glanbrook Official Plans.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development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

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. The owner/applicant shall apply for and receive final approval of Official Plan Amendment and Zoning By-law Amendment applications to the satisfaction of the Manager of Development Planning.
3. The owner/applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation to the satisfaction of the Planning and Economic Development Department (Building Services Division).
4. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
5. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be retained to the satisfaction of the Planning and Economic Development Department (Building Services Division).
6. The owner shall dedicate 7.54 metres from the lands to be severed adjacent to Whitechurch Road to the City of Hamilton to establish a right-of-way width of 15.24 metres from centerline of the original Whitechurch Road road allowance including all costs associated with the preparation and registration of the required Reference Plan and legal documents for the widening, to the satisfaction of the Planning and Economic Development Department, Development Engineering (East) Division.
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

GL/B-11:102
Decision
Page 2

DATED AT HAMILTON this 8th day of December, 2011.

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

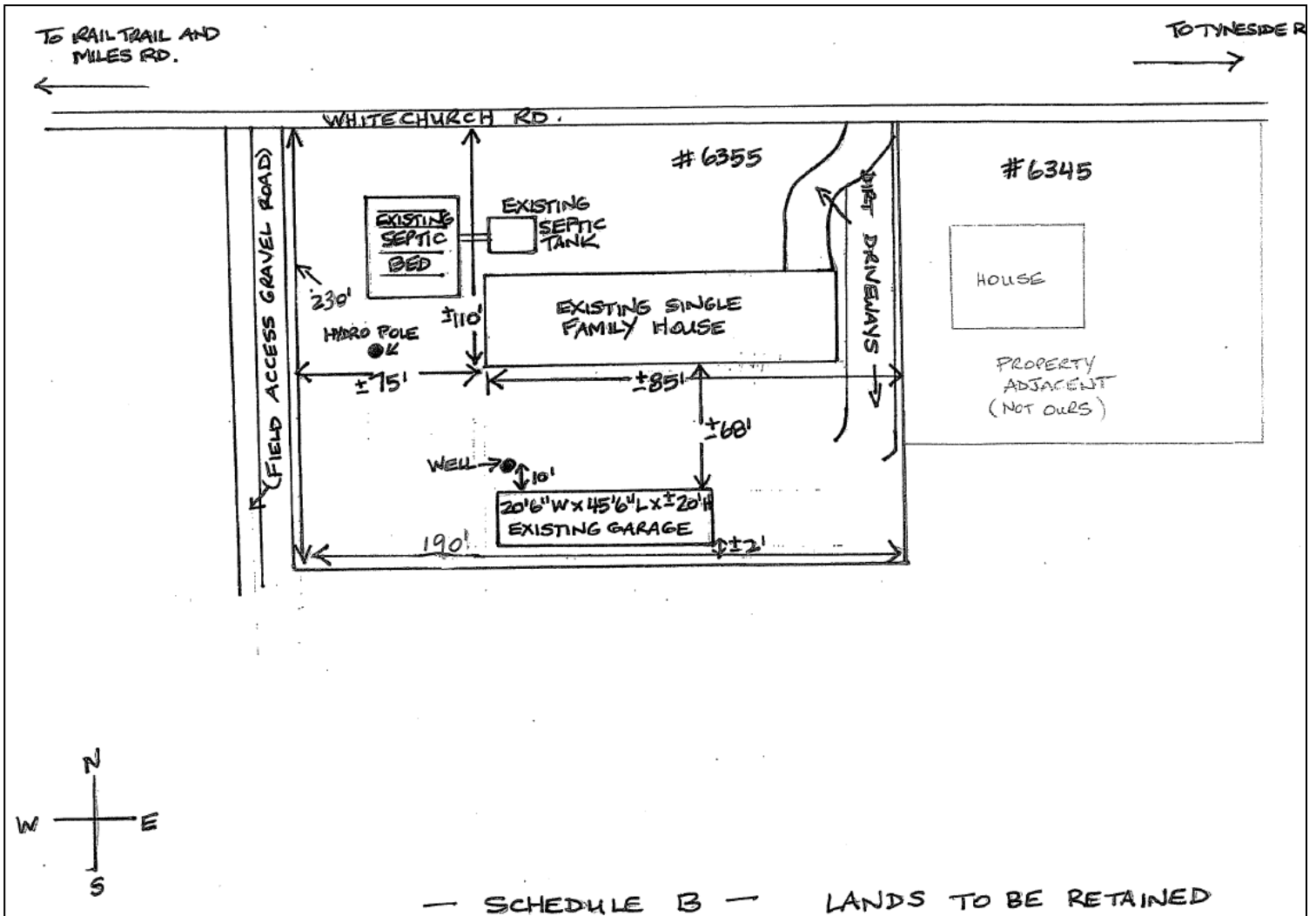
THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 15th, 2011.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 15th, 2012) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

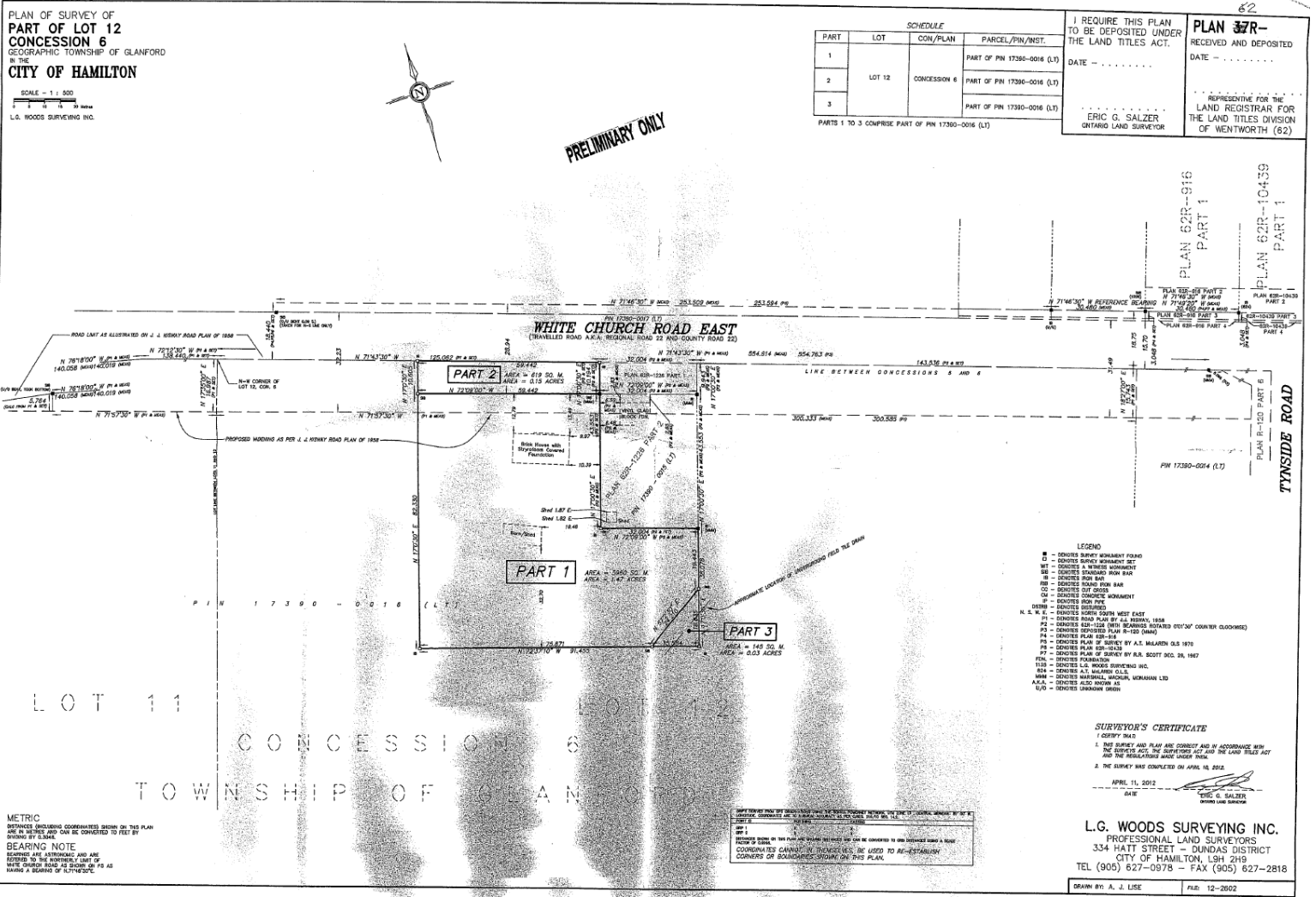
NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS January 4th, 2012.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE:

1. Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will remain as 6355 White Church Road East, and the lands to be retained will be assigned the municipal address of 6363 White Church Road East.





> -----Original Message-----

> > From: Norma Sullivan

> > Sent: Friday, July 06, 2012 7:59 AM

> > To: Chan, Alvin

> > Cc: Johnson, Brenda

> > Subject: Re: File No. ZAA-12-012 - Amend Zoning By-law

Alvin, I have the original notice dated Nov. 22, 2011 where Shirlmar Farms is requesting a severed lot 190' x 230', it is the "Amended" copy dated December 8, 2011 where they are requesting the lot be 195' and an area of 1.5 acres. The date of appeal is Jan 4, 2012. I did not receive any notification of the change. I received a Notice to Amend Zoning By-law on May 22, 2012 and the illustration attached did not reflect the change in the lot size or shape, no indication the lot would be L shaped and include an area of land directly South of my lot 6345. Please advise how I can make a formal appeal. Thankyou.