



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 5, 2015
SUBJECT/REPORT NO:	Application for an Amendment to the Township of Glanbrook Zoning By-law No. 464 for the Lands Located at 345 Bell Road, Glanbrook (PED15060) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Alana Fulford Planner (905) 546-2424 Ext. 1393 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Zoning Application ZAA-15-005, by David Earl Barlow, Owner**, for a change in zoning from General Agriculture “A1” Zone to the General Agriculture “A1-282” Zone, with a Special Exception, in order to prohibit the construction of a single detached dwelling, for the lands located at 345 Bell Road (Glanbrook), as shown on Appendix “A” to Report PED15060, on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED15060, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
 - (ii) That the amending By-law be added to Schedule “D” of Zoning By-law No. 464.
- (b) That staff be directed to include the subject lands in the new Rural Zoning By-law, once final and binding, in the appropriate Agriculture (A1) Zone with Special Exception 118.

EXECUTIVE SUMMARY

The purpose of the application is to address the condition of consent approval associated with a severance of a surplus farm dwelling as a result of a consolidation of non-abutting farm parcels. In particular, in accordance with the Rural Hamilton Official Plan, the purpose of the application is to prohibit the construction of a single detached dwelling on the consolidated farm parcel, as approved under Committee of Adjustment Consent Application GL/B-14:114 (see Appendix "C" – Condition #2). The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), Provincial Greenbelt Plan (Greenbelt Plan), and the Rural Hamilton Official Plan.

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

Alternatives for Consideration – See Page 12

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-13:09

345 Bell Road was subject to a previous consent application (GL/B-13:09) to sever a 1.52 ha parcel containing an existing farm dwelling from 1660 Hall Road, on the basis that the dwelling was deemed surplus as a result of a farm consolidation of non-abutting farm parcels, being 2040 Hall Road, 210 Barlow Road, 345 Bell Road (the subject property to this Zoning By-law Amendment Application), and a vacant farm lot on Regional Road 9A. The application was conditionally approved by the Committee of Adjustment on April 4, 2013. Subsequently, an application for an Amendment to the Township of Glanbrook Zoning By-law was submitted to prohibit the construction of a single detached dwelling for the lands located at 1660 Hall Road, in order to address a condition of approval of consent application GL/B-13:09. By-law No. 14-045 was passed on February 26, 2014.

Consent Application GL/B-14:03 & GL/B-14:114

Prior to the submission of the most recent consent application - GL/B-14:114, 345 Bell Road was subject to a previous consent application that was identical in nature and intent (GL/B-14:03). The purpose of that consent application was to sever a 1.8 ha parcel of land containing an existing dwelling for residential purposes 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 210 Barlow Road (see Appendix "D"). Although the lot depth of the severed lot exceeded the recommended depth in the surplus farm dwelling severance policies of the Rural Hamilton Official Plan, it was noted by staff that the area of the severed lot is disturbed and will not impair the agricultural operation on the retained lands. This application was conditionally approved by the Committee of Adjustment on February 20, 2014. However, later in the year, the applicant subsequently submitted a further consent application (GL/B-14:144) that remained unchanged from the previously approved application (GL/B-14:03). The purpose of this latest consent application was to ensure the applicant could meet all the conditions of consent within the required time frame by extending the deadline through re-submission of the consent application. Consent application GL/B-14:144 was conditionally approved by the Committee of Adjustment on January 29, 2015 and the decision was final and binding on February 26, 2015 (see Appendix "C"). As a result, the deadline to meet all conditions of consent approval was extended to February 5, 2016, one year from the date of the Notice of Decision.

Proposal

This Zoning By-law Amendment Application ZAA-15-005 has been submitted to satisfy Condition #2 of Consent Application GL/B-14:114 (see Appendix "C").

Accordingly, the applicant has applied for a change in zoning to the Township of Glanbrook Zoning By-law No. 464 from the General Agricultural "A1" Zone to a site specific General Agricultural "A1-282" Zone for the retained parcel at 345 Bell Road. The purpose of this modification is to prohibit the construction of a single detached dwelling on the retained farm parcel, as required by the lot creation policies of the PPS, Greenbelt Plan, and the Rural Hamilton Official Plan.

Chronology

February 20, 2014: Consent Application GL/B-14:03 for 345 Bell Road conditionally approved by the City of Hamilton Committee of Adjustment.

March 20, 2014: Decision of the City of Hamilton Committee of Adjustment for Consent Application GL/B-14:03 is final and binding as no appeals were received during the appeal period.

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- December 23, 2014: Submission of Zoning By-law Amendment Application ZAA-15-005 by David Earl Barlow.
- January 22, 2015: Application ZAA-15-005 is deemed complete.
- January 29, 2015: Consent Application GL/B-14:114 for 345 Bell Road conditionally approved by the City of Hamilton Committee of Adjustment.
- February 12, 2015: Circulation of Notice of Complete Application and Preliminary Circulation of ZAA-15-005 to all residents within 120 m of the subject lands.
- February 23, 2015: Public Notice Sign was erected on the subject lands.
- February 26, 2015: Decision of the City of Hamilton Committee of Adjustment for Consent Application GL/B-14:114 is final and binding as no appeals were received during the appeal period.
- April 8, 2015: Public Notice Sign was updated to include Public Meeting date.
- April 17, 2015: Circulation of Notice of Public Meeting to all residents within 120 m of the subject lands.

Details of Submitted Application

- Location:** 345 Bell Road, Glanbrook (see Appendix "A")
- Applicant / Owner(s):** David Earl Barlow
- Property Description:** Total Lot Area: ± 74 ha
Total Lot Frontage: Approximately 798 m
Lot Depth: Approximately 1,800 m
- 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 and Single Detached Dwelling	General Agricultural “A1” Zone
<u>Surrounding Lands:</u>		
North	Agricultural and Single Detached Dwellings	General Agricultural “A1” Zone
South	Agricultural	General Agricultural “A1” Zone
East	Agricultural and Single Detached Dwelling	General Agricultural “A1” Zone
West	Agricultural and Single Detached Dwelling	General Agricultural “A1” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

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

“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:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*;
 - 2. the planning authority ensures that new residential dwellings are prohibited on any 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 prohibit the construction of a new residential dwelling on the retained farm parcel, the proposal is consistent with the policies of the PPS.

Greenbelt Plan

The subject property is designated “Protected Countryside – Prime Agricultural” in the Greenbelt Plan. Policy 3.1.3.1 states:

“For lands falling within the *prime agricultural area* of the Protected Countryside the following policies shall apply:

1. 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.
2. *Prime agricultural areas* shall not be redesignated in municipal official plans for non-agricultural uses except for:
 - a. Refinements to the prime agricultural and rural area designations, subject to the criteria identified in the municipal implementation policies of section 5.2; or
 - b. *Settlement area* expansions subject to the *settlement area* policies of section 3.4.
3. Other uses may be permitted subject to the general policies of sections 4.2 to 4.6.
4. New land uses and the creation of lots, as permitted by the policies of this Plan, and new or expanding livestock facilities shall comply with the minimum distance separation formulae.”

As per Policy 3.1.3.1.3 above, this proposal has been reviewed against the lot creation policies contained in Section 4.6 of the Greenbelt Plan. In particular, Policy 4.6.3 states:

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

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The proposed Zoning By-law Amendment conforms to the above noted policy, as the subject application is to prohibit the construction of a new residential dwelling on the retained farm parcel. Accordingly, the proposal conforms to the Greenbelt Plan.

Rural Hamilton Official Plan

The subject lands are designated “Agriculture” on Schedule “D” - Rural Land Use Designations in the Rural Hamilton Official Plan.

The following uses are permitted in the Agriculture designation, in accordance with Policy D.2.1:

“Uses permitted in the Agriculture designation are limited to *agricultural uses*, *agricultural-related* commercial and *agricultural-related* industrial uses and on-farm *secondary uses*...”

The proposal conforms to Policy D.2.1 as it represents a use permitted in the Agriculture designation, in accordance with the Rural Area General Provisions policies of Chapter C, Policy 3.1.

Chapter F, Policy 1.14.2.8 contains a series of conditions that must be met for surplus farm dwelling severances. Policy 1.14.2.8 a) identifies the following conditions that shall apply to the severed farm dwelling:

“An *existing* farm dwelling that is a *residence surplus to a farming operation* as a result of a *farm consolidation* may be severed provided all of the following conditions are met:

All Lands

- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
 - i. The *farm consolidation* shall have been completed prior to the time of application.
 - ii. The farm dwelling shall be determined to be surplus to the *farm operation* for no reason other than the farm dwelling is surplus to the needs of the *farm consolidation*. Farm dwellings that have been determined to be surplus to a *farm operation* prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.

- iii. The proposed surplus farm dwelling:
 - 1) shall have been built on or before December 16, 2004; and,
 - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
- iv. 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, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
- v. A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
- vi. The shape and dimensions of the surplus farm dwelling lot shall:
 - 1) not impair agricultural operations on the retained land; and
 - 2) generally not exceed a depth of 122 metres (400 feet);
- vii. 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.
- viii. Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn."

In reviewing the surplus farm dwelling severance approved through Consent Application GL/B-14:114 against 1.14.2.8 a) i. and ii., the farm was consolidated prior to submission of the consent application and the farm dwelling was determined to be surplus strictly due to the farm consolidation which resulted in the dwelling being deemed surplus to the needs of the consolidated farm. With respect to Sub-Policy iii., the surplus dwelling was constructed prior to December 16, 2004 and was habitable as of the date of the consent application. With respect to Sub-Policy iv., the severed lot meets the lot area requirements of this policy with the size of the severed lot (1.8 ha) posing no concern to Source Protection Planning staff as per their comments on consent application GL/B-14:114. With respect to Sub-Policy v., private services on the severed lot will be provided in accordance with the requirements of Source Protection Planning as confirmed through approval of the consent application, with the existing septic system

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subject to Condition #7 of consent application GL/B-14:114 regarding system compliance.

With regard to Sub-Policy vi., the configuration of the severed lot does not impair the agricultural operation of the retained farm parcel. Although this policy states that the dimensions of the surplus farm dwelling lot shall generally not exceed a depth of 122 m, the depth of the severed lot is 268 m. However, as staff noted in the consent application comments that supported the application, the existing dwelling is set back almost the full extent of the depth of the severed lot and the area of the severed lot is disturbed and will not impair the agricultural operation on the retained lands. Finally, with respect Sub-Policy vii., the approved severance does not include any farm buildings/barns.

Policy F.1.14.2.8 c) applies to lands not merged in title and states the following:

“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*;
- ii. The parcels of land comprising the consolidated *farm operation* shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture designation and 14.2 hectares (35 acres) in the Rural and Specialty Crop designations;
- iii. The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D – Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations;
- iv. Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
 1. The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or
 2. The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit.

If the land owner grants a restrictive covenant in favour of the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.”

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Sub-Policy i. requires that the owner and operator of the farm maintains an existing dwelling on the land that is also part of the consolidated farm operation. It is noted that the existing dwelling at 210 Barlow Road is located on land that is part of the consolidated farming operation and shall be maintained.

With respect to Sub-Policies ii. – iv., the parcels of land comprising the consolidated farm operation are approximately 149 ha in total, which conforms to the minimum size requirement of 38.4 ha (95 ac) in total in the Agriculture designation. Furthermore, the parcel of land from which the surplus dwelling is being severed (345 Bell Road), is approximately 74 ha in size, which meets the minimum size requirement of 16.2 ha (40 ac) for lands designated Agriculture. Lastly, as the subject application is an amendment to the Zoning By-law to prohibit the construction of a single detached dwelling, the proposal conforms to Sub-Policy iv.

Based on the foregoing, the proposal conforms to the Rural Hamilton Official Plan.

RELEVANT CONSULTATION

The following Department and Agencies had no comments or objections:

- Asset Management Section, Public Works Department;
- Recreation Division, Community and Emergency Services Department;
- Forestry and Horticulture Section, Public Works Department;
- Transportation Planning Section, Public Works Department;
- Landscape Architectural Services, Public Works Department; and,
- Niagara Peninsula Conservation Authority.

The following Departments submitted comments:

Hamilton Municipal Parking System indicated that any shared driveway access to the severed and retained lots will require an agreement to be registered on title to the properties, enacting the shared driveway for the use of the properties. The applicant has indicated that a separate access will be created for the retained lot.

Corridor Management, Public Works Department advised that any new or change to access to the retained land requires an Access Permit from Public Works. The applicant has been advised accordingly.

Public Consultation

In accordance with Council's Public Participation Policy, the application was pre-circulated as part of the Notice of Complete Application to 24 property owners within 120 m of the subject lands on February 12, 2015. At the time of the preparation of this Report, no comments or concerns have been received.

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Furthermore, a Public Notice Sign for the Zoning By-law Amendment was posted on the property on February 23, 2015. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act*.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the PPS, and conforms to the policies of the Greenbelt Plan;
 - (ii) It complies with the policies of the Rural Hamilton Official Plan; and,
 - (iii) The proposed amendment satisfies a condition of approval for Consent Application GL/B-14:114, which was approved by the Committee of Adjustment on January 29, 2015 (see Appendix “C” - Condition # 2).
2. The policies of the PPS and Greenbelt Plan permit the severance of a residence surplus to a farming operation as a result of a farm consolidation. In this circumstance, the PPS and Greenbelt Plan require that the planning authority ensure that a residential dwelling is not permitted in perpetuity on the retained farm parcel 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 “A1-282” Zone to prohibit the construction of a single detached dwelling (see Appendix “B”).
3. With respect to the Rural Hamilton Official Plan, this application conforms to the requirements for Surplus Farm Dwelling Severances for non-abutting farm consolidations, as established by Chapter F, Policy 1.14.2.8.
4. Based on the foregoing, staff support the proposal to prohibit the construction of a single detached dwelling 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.

The following uses would continue to be permitted on the retained farm parcel in accordance with the General Agricultural “A1” Zone:

- Agricultural uses, and buildings, structures and uses accessory thereto;
- Commercial greenhouse operations for horticultural purposes only (meaning only for the growing of flowers, plants, shrubs, trees and garden vegetables), and uses, buildings and structures accessory thereto;
- Kennels;
- Seasonal farm produce stands;

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- Outside parking and storage of larger vehicles; and,
- Fish, wildlife and / or forest management.

ALTERNATIVES FOR CONSIDERATION

In the event Council does not support the proposed application, the conditional approval of Consent Application GL/B-14:114 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 the Township of Glanbrook Zoning By-law No. 464.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.1 Continue to grow the non-residential tax base.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED15060:	Location Map
Appendix “B” to Report PED15060:	Draft By-law
Appendix “C” to Report PED15060:	Committee of Adjustment Decision for GL/B-14:114
Appendix “D” to Report PED15060:	Map of Other Lands Forming Part of the Consolidated Farm Operation

:ALF/th