



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	December 6, 2016
SUBJECT/REPORT NO:	Proposed Zoning By-law Amendment for Lands Located at 120 Binbrook Road, Glanbrook (PED16228) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Madeleine Giroux (905) 546-2424 Ext. 2664 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Amended Zoning By-law Amendment Application ZAA-16-049, by John and Eva Vuckovic, Owners**, for a change in zoning from the Agriculture (A1) Zone and the Conservation / Hazard Land Rural (P6) Zone in the City of Hamilton Zoning By-law No. 05-200 to the Agriculture (A1, 482) Zone, Modified and the Conservation / Hazard Land Rural (P6, 482) Zone, Modified, in order to prohibit the construction of a single detached dwelling and residential care facility, for the lands located at 120 Binbrook Road (Glanbrook), as shown on Appendix “A” to Report PED16228, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED16228, 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 “C” of Zoning By-law No. 05-200; and,
- (c) That the proposed changes in zoning are consistent with the Provincial Policy Statement, conform to the Greenbelt Plan, and comply with the Rural Hamilton Official Plan (RHOP).

EXECUTIVE SUMMARY

The purpose of this Zoning By-law Amendment application is to rezone the subject lands to prohibit the construction of a single detached dwelling and residential care facility on the consolidated farm parcel known as 120 Binbrook Road, Glanbrook. The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), the Greenbelt Plan, and the Rural Hamilton Official Plan (RHOP). The amendment will also address Condition #2 of Consent for Severance approval GL/B-16:35 to facilitate the severance of a surplus farm dwelling as a result of a consolidation of non-abutting farm parcels.

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 RHOP.

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 for Severance Application GL/B-16:35

On April 22, 2016, the owner of the subject lands submitted a Consent for Severance application (GL/B-16:35) to sever a 1.68 ha (4.15 ac) parcel containing an existing farm dwelling from 120 Binbrook Road, on the basis that the dwelling was deemed surplus as a result of a farm consolidation. The entire farm operation consists of approximately 415 ha (approx. 1,026 ac) of farmland throughout the City of Hamilton and the Township of West Lincoln. The application was conditionally approved by the Committee of Adjustment on June 2, 2016 with a condition, amongst other conditions, to prohibit the construction of a single detached dwelling (per Appendix “B” and Condition #2 on Appendix “C” to Report PED16228). The Notice of Decision was issued by the Committee on June 9, 2016, and the deadline to satisfy all conditions of Severance approval is June 9, 2017.

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Proposal

The purpose of Zoning By-law Amendment application ZAA-16-049 is to rezone the subject lands from the Agriculture (A1) Zone and the Conservation / Hazard Land Rural (P6) Zone to a site-specific Agriculture (A1, 482) Zone, Modified and Conservation / Hazard Land Rural (P6, 482) Zone, Modified in Zoning By-law No. 05-200, to prohibit the construction of a single detached dwelling and residential care facility on the retained farm parcel known as 120 Binbrook Road, Glanbrook. Staff note that the northernmost portion of the subject property also contains lands zoned Conservation / Hazard Land Rural (P8) Zone, but as this zone does not permit a new single detached dwelling as-of-right, no amendments are required to it.

As a residential care facility is considered a residential use and is permitted as-of-right within the Agriculture (A1) Zone, staff have also included it as a prohibited use in the amending By-law.

Chronology

- June 2, 2016: Consent for Severance application GL/B-16:35 heard by the Committee of Adjustment and was conditionally approved.
- June 9, 2016: Notice of Decision was granted by the Committee of Adjustment.
- June 29, 2016: Decision of the Committee of Adjustment for Consent for Severance application GL/B-16:35 was final and binding and no appeals were received.
- July 25, 2016: Zoning By-law Amendment application ZAA-16-049 was received.
- August 10, 2016: Zoning By-law Amendment application ZAA-16-049 was deemed complete.
- August 18, 2016: Zoning By-law Amendment application ZAA-16-049 was circulated to 32 property owners within 120 m of the subject lands.
- September 9, 2016: Public Notice sign was placed on the subject lands.
- November 9, 2016: Public Notice sign was updated to include Public Meeting Date.

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November 18, 2016: Circulation of Notice of Public Meeting to 32 property owners within 120 m of the subject lands.

Details of Submitted Application

Location: 120 Binbrook Road, Glanbrook (see Appendix “A” to Report PED16228)

Agent: Michael P. Sabelli

Applicant / Owner(s): John and Eva Vuckovic

Property Description (Lands to be retained):

<u>Total Lot Area:</u>	± 57.8 ha (142.8 ac)
<u>Total Lot Frontage:</u>	Approx. 619.74 m (Binbrook Road) Approx. 381.54 m (Westbrook Road)
<u>Lot Depth:</u>	Approx. 943.62 m

Property Description (Lands to be conveyed):

<u>Total Lot Area:</u>	1.68 ha (4.15 ac)
<u>Total Lot Frontage:</u>	Approx. 68.36 m
<u>Total Lot Depth:</u>	Approx. 275.46 m

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Agriculture	Agriculture (A1) Zone, Conservation / Hazard Land Rural (P6) Zone and Conservation / Hazard Land Rural (P8) Zone
<u>Surrounding Lands:</u>		
North	Agriculture	Agriculture (A1) Zone, Conservation / Hazard Land Rural (P7) Zone and Conservation / Hazard Land Rural (P8) Zone
South	Agriculture and existing severed residential properties	Agriculture (A1) Zone, Conservation / Hazard Land Rural (P7) Zone and Conservation / Hazard Land

Rural (P8) Zone

East	Agriculture and existing severed residential properties	Agriculture (A1) Zone and Conservation / Hazard Land Rural (P6) Zone
	Agricultural Land within the Township of West Lincoln	N/A
West	Agriculture	Agriculture (A1) Zone, Conservation / Hazard Land Rural (P7) Zone and Conservation / Hazard Land Rural (P8) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2014) and the Greenbelt Plan. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The *Greenbelt Act* requires that all municipal land use decisions made under the *Planning Act* conform to the Greenbelt Plan.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Official Plan analysis below.

As the application for a change in zoning complies with the Rural Hamilton Official Plan, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the Provincial Policy Statement (2014); and,
- Conforms to the Greenbelt Plan.

Rural Hamilton Official Plan (RHOP)

The subject lands are designated “Greenbelt Protected Countryside – Prime Agriculture” on Schedule “A”- Provincial Plans of the RHOP.

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The subject lands are designated “Agriculture” on Schedule “D” – Rural Land Use Designations in the RHOP.

The following policy applies to the subject lands:

“C.3.1.4 The following uses shall be permitted in the Agriculture, Specialty Crop, and Rural designations, provided the applicable conditions are met: (OPA (R)-5)

- a) Except as permitted in Sections D.2.1.1.6 and C.3.1.4 b) and c) of this Plan, a maximum of one dwelling per lot shall be permitted in designations where residential uses are permitted. The Zoning By-law shall limit permitted dwellings to a maximum of one residence per lot in designations where residential uses are permitted.”

The proposal implements the above-noted policy as the consolidated farm operation currently contains a farm residence, and this application seeks to prohibit the construction of additional dwellings on parcels contained within the non-abutting consolidated farm operation.

Additionally, the following policy applies with respect to the “Agriculture” Designation:

“D.2.1 Permitted Uses

Uses permitted in the Agriculture designation are limited to *agricultural uses*, *agricultural-related* commercial and *agricultural-related* industrial uses and on-farm *secondary uses* as set out in the following policies.”

The proposal complies with Policy D.2.1 as the retained parcel known as 120 Binbrook Road, Glanbrook will remain in agricultural operation.

The following policy also applies with respect to lot creation:

“F.1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agricultural, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations:

- b) Severances that create a new lot(s) may be permitted for only the following purposes:
 - iii) Severance of a surplus farm dwelling made surplus as a result of a *farm consolidation* in accordance with Policies F.1.14.2.1 and F.1.14.2.8.”

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The proposal complies with this policy as no new lots are proposed to be created for additional residential dwellings.

Chapter F, Policy 1.14.2.8 contains policies for surplus farm dwelling severances. Specifically:

“F.1.14.2.8 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; and,
- 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.”

The following policies also apply:

“F.1.14.2.8 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:

Lands Not Merged in Title

- 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*;
 - 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;

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- 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.”

The above-mentioned policies were evaluated at the time of Consent for Severance application GL/B-16:35, and staff found that the severance complied with the RHOP. This Zoning By-law Amendment application (ZAA-16-049) is intended to satisfy Policy F.1.14.2.8.c) iv) 1. above.

The following policies, amongst others, apply with respect to the Greenbelt Natural Heritage System:

“C.2.3.2 *Core Areas include key natural heritage features, key hydrologic features, including any associated vegetation protection zones, and provincially significant and local natural areas that are more specifically identified by Schedules B-1 to B-8 - Detailed Natural Heritage Features.*

C.2.3.3 *Any development or site alteration within or adjacent to Core Areas shall not negatively impact their environmental features or ecological functions.”*

Planning staff have reviewed the proposal and indicate that the property contains Core Areas (a Stream and a Significant Woodland) and areas regulated by the Niagara Peninsula Conservation Authority. Staff also indicated that the northern portion of the property is within the Greenbelt Plan Natural Heritage System.

All of the natural features on the property are located on the retained lands, so staff support the Zoning By-law Amendment to prohibit any future construction of a dwelling on these lands. This will assist in protecting the natural heritage features and the agricultural use of the lands, which meets the intent of the Greenbelt Plan and the RHOP.

Based on the foregoing, the proposal complies with the RHOP and staff are supportive of the changes in zoning.

RELEVANT CONSULTATION

The following departments and agencies had no comments or objections:

- Operations Division (Public Works Department);
- Geomatics and Corridor Management Section (Public Works Department);
- Forestry and Horticulture (Public Works Department); and,
- Niagara Peninsula Conservation Authority (NPCA).

The following departments and agencies submitted comments:

Transportation Demand Management (Public Works Department) staff have reviewed the subject proposal and require a road widening of Binbrook Road to a total width of 36.576 m. The applicant has been advised of this requirement, and it will be addressed at the time of future development.

Public Consultation:

In accordance with Council's Public Participation Policy, the original proposal was circulated as part of the Notice of Complete Application to 32 property owners within 120 m of the subject lands on August 18, 2016. No correspondence has been received from members of the public.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Zoning By-law Amendment application has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan;
 - (ii) It complies with the policies of the RHOP; and,
 - (iii) The proposed amendment satisfies Condition #2 of Consent for Severance approval GL/B-16:35, which was approved by the Committee of Adjustment on June 2, 2016 (see Appendix "C" - Condition #2 to Report PED16228).
2. The policies of the PPS and the Greenbelt Plan permit the severance of a residence surplus to a farm operation as a result of farm consolidation. In this circumstance, the PPS and Greenbelt Plan require that the planning authority ensures 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 Agriculture (A1, 482) Zone, Modified, and Conservation / Hazard Land Rural (P6, 482) Zone,

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Modified and will prohibit the construction of a single detached dwelling and residential care facility (see Appendix “B” to Report PED16228). Staff note that no site-specific amendments were required to the Conservation / Hazard Land Rural (P8) Zone on the north portion of the subject property because this zone does not permit residential uses as-of-right.

3. The applicant has requested amendments to the City of Hamilton Zoning By-law No. 05-200 to prohibit the construction of a single detached dwelling. In addition to prohibiting a single detached dwelling, staff have included provisions to prohibit a residential care facility as this is also considered a residential use. 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 Agricultural “A1” Zone:

- Agriculture;
- Secondary Uses to Agriculture; and,
- Veterinary Service – Farm Animal.

The following uses would continue to be permitted on the retained farm parcel in accordance with the Conservation / Hazard Land Rural (P6) Zone:

- Agriculture;
- Conservation;
- Flood and Erosion Control Facilities;
- Recreation, Passive; and,
- Secondary Uses to Agriculture.

The following uses would continue to be permitted on the retained farm parcel in accordance with the Conservation / Hazard Land Rural (P8) Zone (no amendments are required to this zone):

- Agriculture;
- Conservation;
- Existing Single Detached Dwelling (not applicable on this property);
- Flood and Erosion Control Facilities; and,
- Recreation, Passive.

4. The application has been reviewed by Growth Management staff who indicated that Binbrook Road is required to have an ultimate right of way width of 36.576 m,

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whereas it currently has a width in front of the subject property ranging from 20.2 m to 26.2 m. Additionally, Westbrook Road is required to have an ultimate right of way width of 26.213 m, whereas it currently has a width of 20.2 m. Accordingly, a road widening is required to be dedicated to the City. The applicant has been advised of this requirement, and it will be addressed at the time of future development.

Growth Management staff also indicated that the subject property currently has no servicing available. As such, as a condition of Consent for Severance, the applicant was required to submit a scoped hydrogeological study to demonstrate site capacity for sustainable private services, to the satisfaction of the Public Works Department, Source Protection Planning Division (Condition #6 in Appendix "C" to Report PED16228). This condition was cleared by Source Protection Planning staff on July 5, 2016.

5. As a condition of Consent for Severance approval, the applicants were required to provide survey evidence that the lands to be conveyed, including the location of any existing structures, conform to the requirements of the Zoning By-law, or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-law (Condition #4 in Appendix "C" to Report PED16228). This condition was cleared by staff in the Building Division on July 22, 2016.

With respect to the retained lands, a minimum lot area of 40.4 hectares shall be required for agriculture within the Agriculture (A1) and Conservation / Hazard Land Rural (P6) Zones. Staff note that the Conservation / Hazard Land Rural (P8) Zone does not contain any minimum regulations for lot width and / or lot area. Consent for Severance application GL/B-16:35 indicates that the lands to be retained have a lot area of approx. 57.8 ha, which conforms to the requirements of the Zoning By-law.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the conditional approval of Consent Application GL/B-16:35 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 Agriculture (A1) Zone, the Conservation / Hazard Land Rural (P6) Zone, and the Conservation / Hazard Land Rural (P8) Zone in the City of Hamilton Zoning By-law No. 05-200.

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ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A": Location Map

Appendix "B": Draft Zoning By-law Amendment

Appendix "C": Committee of Adjustment Decision for GL/B-16:35

Appendix "D": Preliminary Severance Sketch

:MG/mo