



**CITY OF HAMILTON**  
**PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 1, 2018
<b>SUBJECT/REPORT NO:</b>	Application to Amend City of Hamilton Zoning By-law No. 05-200 for Lands Located at 240 Butter Road West, Ancaster (Ward 12) (PED18078)
<b>WARD AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Ryan Ferrari (905) 546-2424 Ext. 5865
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Zoning By-law Amendment Application ZAA-18-004, by A.B Ventures Inc. (Owner)**, for a modification to the Agricultural (A1) Zone and the Conservation / Hazard Land - Rural (P6) Zone in order to prohibit the construction of a single detached dwelling and residential care facility and to recognize the lot size of the lands to be retained as shown on Appendix "A" to Report PED18078, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED18078, 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;
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Greenbelt Plan (2017), and complies with the Rural Hamilton Official Plan (RHOP).

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## **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 a residential care facility on a portion of the consolidated farm parcel known as 240 Butter Road, Ancaster. The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), the Greenbelt Plan (2017), and the Rural Hamilton Official Plan (RHOP). This application will also add a modification to the Agricultural (A1) Zone to recognize the lot area of the retained agricultural lands. The amendment will also address Condition Nos. 3 and 6 of Consent for Severance approval AN/B-17:75 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 Provincial Policy Statement (2014), conforms to the Greenbelt Plan (2017), and complies with the Rural Hamilton Official Plan (RHOP).

***Alternatives for Consideration – See Page 10***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting prior to considering an application for an amendment to the Zoning By-law.

## **HISTORICAL BACKGROUND**

### **Consent for Severance Application AN/B-17:75**

In August of 2017, an application was made to the Committee of Adjustment in order to sever an existing single detached dwelling from the farm operation. The application was heard at the Committee of Adjustment in October of 2017 and subsequently approved.

### **Description of the Subject Lands**

As shown on the Location Map attached as Appendix “A” to Report PED18078, the subject lands are zoned Agricultural (A1) Zone and Conservation / Hazard Land – Rural

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(P6) Zone. The current and future use of the retained lands is Agricultural. The severed lands contain an existing single detached dwelling.

**Proposal**

The purpose of Zoning By-law Amendment Application ZAA-18-004 is to rezone the farmed portion of the subject lands from the Agricultural (A1) Zone and the Conservation / Hazard Land - Rural (P6) Zone to a site specific Agricultural (A1, 675) Zone, and Conservation / Hazard Land - Rural (P6, 675) Zone, to prohibit the development of a single detached dwelling and residential care facility in order to satisfy Condition Nos. 3 and 6 of Consent Application AN/B-17:75 where an existing farm dwelling was severed through a farm consolidation severance. The application will also add a site specific exception to the Agricultural (A1) Zone in order to recognize the lot area of 39 ha (96.3 ac) for the retained lands.

**Chronology**

- October 5, 2017: Consent for Severance application AN/B-17:75 was heard at the Committee of Adjustment and was approved.
- November 2, 2017: Consent for Severance application AN/B-17:75 received final and binding approval.
- December 15, 2017: Application for a Zoning By-law Amendment ZAA-18-004 was received.
- January 8, 2018: Zoning By-law Amendment application ZAA-18-004 was deemed complete.
- January 15, 2018: Zoning By-law Amendment application ZAA-18-004 was circulated to 27 property owners within 120m of the subject lands.
- January 18, 2018: Public Notice sign was installed on the subject lands.
- April 4, 2018: Public Notice sign was updated to include Public Meeting Date.
- April 13, 2018: Circulation of Notice of Public Meeting to 27 property owners within 120m of the subject lands.

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**Details of Submitted Application**

**Location:** 240 Butter Road, Ancaster (see Appendix “A” to Report PED18078)

**Agent:** Urban Solutions Inc. c/o Matt Johnson

**Applicant / Owner:** A.B Ventures Inc.

**Property Description**

**(Lands to be retained)**

**As shown on Appendix “D” to Report PED18078**

<u>Total Lot Area:</u>	± 39 ha (96.3 ac)
<u>Total Lot Frontage:</u>	522.38 m
<u>Lot Depth:</u>	682.51 m

**Property Description**

**(Lands to be conveyed):**

**As shown on Appendix “D” to Report PED18078**

<u>Total Lot Area:</u>	1.50 ha (3.70 ac)
<u>Total Lot Frontage:</u>	30 m
<u>Total Lot Depth:</u>	210.13 m

**Existing Land Use and Zoning**

**Subject Lands:**

**Existing Land Use**

Agriculture  
Single Detached Dwelling

**Existing Zoning**

Agriculture (A1) Zone,  
Conservation / Hazard Land -  
Rural (P6) Zone

**Surrounding Lands:**

**North**

Agriculture  
Single Detached  
Dwellings

Agriculture (A1) Zone

**South**

Agriculture

Agriculture (A1) Zone  
Conservation / Hazard Land -  
Rural (P6) Zone

**East**

Agriculture  
Single Detached  
Dwellings

Agriculture (A1) Zone

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**West**                      Agriculture                      Agriculture (A1) Zone  
                                 Single Detached  
                                 Dwellings

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

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

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*, and,
- Consistent with the Provincial Policy Statement (2014).

### **Greenbelt Plan (2017)**

The *Greenbelt Act* requires that all municipal land use decisions made under the *Planning Act* conform to the Greenbelt Plan (2017). As of July 1, 2017, all planning decisions must conform to the new Greenbelt Plan. The Greenbelt Plan (2017) designates the subject lands as "Protected Countryside".

The following policies, amongst others, are applicable:

"4.6.1 f)              Lot Creation is discouraged and may only be permitted for:

The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:

- i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and,
- ii. 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.”

As per the above policy, it was found through the Consent for Severance Application process (AN/B-17:75) that the proposed severance complied with policy 4.6.1 f) i). With regards to 4.6.1 f) ii), a condition was placed on the Consent Application to rezone the farmland to prohibit a residential dwelling in perpetuity on the subject lands to ensure that the retained farm parcel cannot be developed for a single detached dwelling. This application serves to satisfy this requirement, and as such, the proposal conforms to the Greenbelt Plan (2017).

### **Rural Hamilton Official Plan**

The subject lands are designated “Greenbelt Protected Countryside” on Schedule “A”- Provincial Plans of the RHOP. The subject lands are designated “Agricultural” on Schedule “D” – Rural Land Use Designations in the RHOP. The following policy, amongst others, is applicable:

- “F.1.14.2.8 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:
- v) 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.”

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It was found through the Consent for Severance Application Process (AN/B-17:75) that the proposed severance complied with the RHOP through restricting the development of a single detached dwelling on the subject lands. Based on the foregoing, this application will satisfy Policy F.1.14.2.8 c) iv).

**City of Hamilton Zoning By-law No. 05-200**

The subject lands are currently zoned Agriculture (A1) and Conservation / Hazard Land – Rural (P6) Zone. Agriculture is a permitted use throughout the subject lands. The lands to be severed are zoned Agriculture (A1) Zone and contain an existing single detached dwelling which is a permitted use. The lands to be retained are zoned Agriculture (A1) and Conservation / Hazard Land – Rural (P6) and are currently being used for agricultural purposes.

The purpose of Zoning By-law Amendment application ZAA-18-004 is to modify the existing Agricultural (A1) and Conservation / Hazard Land – Rural (P6) Zones that are on the retained lands to prohibit the development of a single detached dwelling and residential care facility.

**RELEVANT CONSULTATION**

The following internal Departments and external Agencies have no concerns or objections with respect to the proposed application:

- Infrastructure & Sourcewater Division, Public Works Department;
- Development Approvals, Growth Management, Public Works Department;
- Grand River Conservation Authority; and,
- Enbridge Pipelines Inc.

**Public Consultation:**

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 27 property owners within 120 m of the subject property on January 15, 2018, requesting public input on the application. A Public Notice sign was also posted on the property on January 18, 2018 and updated on April 4, 2018 with the date of the Public Meeting. Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on April 13, 2018.

To date, staff has received three letters from the public concerning the proposed Zoning By-law Amendment. The correspondence received by staff will be further discussed in the Analysis and Rationale for Recommendation Section of the Report.

**Public Consultation Strategy:**

As per the City's Public Consultation and Strategy Guidelines, the applicant proposed a consultation strategy through the notice requirements of the previous Consent to Sever application through which notice was given under Section 53 of the *Planning Act*. Neighbours within 60 m of the subject property were notified of the application. One written concern was received from the public and two members of the public attended the public meeting to express their concerns before the Committee of Adjustment. The correspondence received did not affect the Committee's Decision on the Application.

**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 (2017);
  - (ii) It complies with the policies of the RHOP; and,
  - (iii) The proposed amendment satisfies Conditions Nos. 3 and 6 of Consent for Severance application AN/B-17:75, which was approved by the Committee of Adjustment in October, 2017 and the decision of the Committee being final on November 2, 2017 (see Appendix "C" to Report PED18078).
2. The policies of the PPS and Greenbelt Plan (2017) indicate that a residence may be severed as surplus to a farming operation. It was found, through the Consent Application process, the application was consistent with the PPS and conforms to the Greenbelt Plan in effect at the time of the application. The PPS indicates that the intent of the plan is to maintain Agricultural Uses for the long-term period of the Plan and the restriction of development of the subject lands is consistent with the PPS. The Greenbelt Plan supports and permits Agricultural Uses on lands located outside of prime agricultural and specialty crop lands as designated within the Plan. Staff are of the opinion that the application is consistent with the PPS and conforms to the Greenbelt Plan (2017) by restricting the development of a single detached dwelling and residential care facility on the subject lands in order to preserve the existing farm practice.
3. The proposal complies with the policies in the Rural Hamilton Official Plan (RHOP) which speak to surplus farm dwelling severances as a result of a farm consolidation. This application is made with respect to fulfilling the requirement that a Zoning By-law Amendment is required as a condition of a surplus farm dwelling severance. The application seeks to preserve the primary long-term land use of agriculture

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within the Agricultural area. Therefore, staff are supportive of the removal of single detached dwellings and residential care facilities as permitted uses from the "A1" and "P6" Zones.

The following uses will 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 will 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.

4. The proposed modification to permit a reduced minimum lot area for the retained agricultural lands to be 39 ha instead of the required minimum lot area of 40.4 ha can be supported. The retained lands have supported the existing agricultural operation for decades and the decrease in minimum lot area will not hinder the existing and future agricultural potential of the subject property. The proposed lot area will not hinder the future agricultural viability of the lands. Additionally, the land to be severed have always contained the existing single detached dwelling and is not in agricultural production.

Therefore, staff support this modification.

5. Staff received three letters regarding the proposed Zoning By-law Amendment. The letters included questions with regards to the size of the proposed parcel to be severed, the nature and purpose of the proposed Zoning By-law Amendment, the location and time for the public meeting on the proposed Zoning By-law Amendment and the nature of Severance Application AN/B-17:75. Included in the aforementioned inquiries were concerns in relation to the construction of a Medical Marihuana Growing and Harvesting Facility on the lands to be retained. Staff note that the applicant submitted a Site Plan Control Application on January 2, 2018 in order to facilitate a 2,000 sq m Medical Marihuana Growing and Harvesting Facility on the lands to be retained and that the Site Plan has been Conditionally Approved

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as of March X, 2018. The applicant is currently in the process of clearing conditions prior to final approval.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the conditional approval of Consent Application AN/B-17:75 will lapse, and the applicant will not be able to sever the surplus dwelling from the property. The use of the subject property will continue to be regulated by the existing Agricultural (A1) Zone and the Conservation / Hazard Land - Rural (P6) Zone in the City of Hamilton Zoning By-law No. 05-200.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Clean and Green**

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

## **APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: Location Map
- Appendix “B”: Draft Amendment to Zoning By-law No. 05-200
- Appendix “C”: Committee of Adjustment Decision for AN-B/17:75
- Appendix “D”: Proposed Land Severance Sketch
- Appendix “E”: Public Correspondence

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