



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 19, 2019
SUBJECT/REPORT NO:	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1557 Concession 2 Road West, Flamborough (PED19042) (Ward 12)
WARD AFFECTED:	Ward 12
PREPARED BY:	Ryan Ferrari (905)-546-2424 Ext. 5865
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAA-18-052, by Neil Vanderkruk Holdings (Owner)**, for a modification to the Agricultural (A1) Zone in order to prohibit the construction of a single detached dwelling and residential care facility as required by the conditions of consent approval as shown on Appendix “A” to Report PED19042, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED19042, 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 modification 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).

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

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facility on a portion of the consolidated farm parcel known as 1557 Concession 2 Road West, Flamborough. 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). The amendment will also address Condition No. 2 of Consent for Severance approval FL/B-18:33 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 9

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 FL/B-18:33

In April, 2018, an application was made to the Committee of Adjustment in order to sever an existing single detached dwelling from the existing farm operation. The application was heard at the Committee of Adjustment meeting on May 10, 2018 and subsequently approved. As a condition of provisional consent, the applicant was required to submit a Zoning By-law Amendment for the purposes of restricting the development of a single detached dwelling on the farmland to be retained. Refer to Appendix “E” to Report PED19042 for the Notice of Decision.

Description of the Subject Lands

As shown on the Location Map attached as Appendix “A” to Report PED19042, the subject lands are zoned Agricultural (A1) Zone and Conservation / Hazard Land – Rural (P7) Zone. The current and future use of the retained lands is Agricultural. The severed lands contain an existing single detached dwelling. Refer to Appendix “D” to Report PED19042 for the proposed severance sketch.

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Proposal

The purpose of Zoning By-law Amendment Application ZAA-18-052 is to rezone the farmed portion of the subject lands from the Agricultural (A1) Zone to a site specific Agricultural (A1) Zone, to prohibit the development of a single detached dwelling and residential care facility in order to satisfy Condition No. 2 of Consent Application FL/B-18:33 where an existing farm dwelling was severed through a non-abutting farm consolidation severance.

Chronology

- May 10, 2018: Consent for Severance application FL/B-18:33 was heard at the Committee of Adjustment and was approved.
- June 7, 2018: Consent for Severance application FL/B-18:33 received final and binding approval.
- October 16, 2018: Application for a Zoning By-law Amendment ZAA-18-052 was received.
- October 23, 2018: Zoning By-law Amendment application ZAA-18-052 was deemed complete.
- October 23, 2018: Zoning By-law Amendment application ZAA-18-052 was circulated to 58 property owners within 120 m of the subject lands.
- November 14, 2018: Public Notice sign was installed on the subject lands.
- February 20, 2019: Public Notice sign was updated to include Public Meeting date.
- March 1, 2019: Circulation of Notice of Public Meeting to 58 property owners within 120 m of the subject lands.

Details of Submitted Application

- Location:** 1557 Concession 2 Road W, Flamborough (see Appendix "A" to Report PED19042)
- Agent:** Chris Van Berkel
- Applicant / Owner:** Neil Vanderkruk Holdings Inc.

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Property Description

(Lands to be retained)

**As shown on Appendix
“D” to Report
PED19042**

<u>Total Lot Area:</u>	53.197 ha (131.45 ac)
<u>Total Lot Frontage:</u>	157.52m
<u>Lot Depth:</u>	1341.73 m

Property Description

(Lands to be conveyed):

**As shown on
Appendix “D” to
Report PED19042**

<u>Total Lot Area:</u>	0.68 ha (1.70 ac)
<u>Total Lot Frontage:</u>	45.65 m
<u>Total Lot Depth:</u>	151.13 m

Existing Land Use and Zoning

Subject Lands:

Existing Land Use

Agriculture
Single Detached Dwelling

Existing Zoning

Agriculture (A1) Zone,
Conservation / Hazard Land -
Rural (P7) Zone

Surrounding Lands:

North

Agriculture
Single Detached Dwellings

Agriculture (A1) Zone

South

Single Detached Dwellings
Place of Worship

Settlement Residential (S1) Zone
Settlement Institutional (S3) Zone

East

Agriculture
Single Detached Dwellings

Agriculture (A1) Zone
Conservation / Hazard Land -
Rural (P7) Zone

West

Agriculture
Single Detached Dwellings

Agriculture (A1) Zone
Settlement Residential (S1) Zone

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.

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The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal 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 (FL/B-18:33) 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

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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 recommendation 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.”

It was found through the Consent for Severance Application Process (FL/B-18:33), 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) v).

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

The subject lands are zoned Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P7) Zone. The permitted uses are as follows:

Agriculture (A1) Zone

- Agriculture;
- Residential Care Facility;

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

Conservation / Hazard Land – Rural (P7) Zone

- Agriculture;
- Conservation;
- Existing Single Detached Dwelling;
- Flood and Erosion Control Facilities; and,
- Recreation, Passive.

The applicant proposes a modification to the Agriculture (A1) Zone in order to prohibit the development of a single detached dwelling and residential care facility on the retained farmland. No changes are proposed for the portion of the lands zoned Conservation / Hazard Land – Rural (P7) Zone.

An evaluation of the proposed modifications is included in Appendix “C” to Report PED19042.

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;
- Operations Division, Public Works Department;
- Development Approvals, Growth Management, Planning and Economic Development Department;
- Forestry & Horticulture Division, Public Works Department; and,
- Grand River Conservation Authority.

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 58 property owners within 120 m of the subject property on October 30, 2018, requesting public input on the application. A Public Notice sign was also posted on the property on November 14, 2018 and updated on February 20, 2019 with the date of the Public Meeting. Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on March 1, 2019.

Staff have not received any letters of correspondence from the public to date.

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. No members of the public attended the Committee of Adjustment Hearing on May 10th, 2018 to express any concerns.

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 Condition No. 2 of Consent for Severance application FL/B-18:33, which was approved by the Committee of Adjustment on May 10, 2018 (see Appendix "D" to Report PED19042).
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. 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. Staff note that as a result of the Consent Application, the subject lands will be

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reassigned the address of 320 Orkney Road which is reflected in the proposed By-law (see Appendix “B” to Report PED19042).

The proposed modifications to the Agriculture (A1) Zone are discussed in Appendix “C” to Report PED19042.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the conditional approval of Consent Application FL/B-18:33 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 (P7) 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.

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.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Location Map

Appendix "B" – Draft Amendment to Zoning By-law No. 05-200

Appendix "C" – Zoning Modification Chart

Appendix "D" – Proposed Land Severance Sketch

Appendix "E" – Committee of Adjustment Decision for FL-B/18:33

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