



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 3, 2019
<b>SUBJECT/REPORT NO:</b>	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 3600 Guyatt Road, Glanbrook (PED19154) (Ward 11)
<b>WARD AFFECTED:</b>	Ward 11
<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-18-006, by Larry Freeman (Owner)**, for a change in zoning from the Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone to the Agriculture (A1, 642) Zone and Conservation / Hazard Land – Rural (P6, 642) Zone to prohibit the construction of a single detached dwelling and residential care facility and to permit a reduced lot size for the agricultural parcel, as required by conditions of approval for Consent to Sever application GL/B-17:114, for the lands located at 3600 Guyatt Road as shown on Appendix “A” to Report PED19154, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED19154, 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” – Special Exceptions of Zoning By-law No. 05-200; and,
- (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).

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

## **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 3600 Guyatt Road, Glanbrook. 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 a reduced lot area of the retained agricultural lands. The amendment will also address Condition Nos. 2 and 3 of Consent for Severance approval GL/B-17:114 to facilitate the severance of a surplus farm dwelling as a result of a consolidation of non-abutting farm parcels and to recognize the reduced lot size of the retained farmlands.

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 RHOP.

### **Alternatives for Consideration – See Page 11**

## **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 GL/B-17:114**

In December of 2017, an application was made to the Committee of Adjustment to sever an existing single detached dwelling from the existing farm operation. The application was heard at the February 22, 2018 Committee of Adjustment hearing and was tabled so that the applicant could submit a Hydrogeological Study to justify the size of the severed farm lot. The applicant submitted a Hydrogeological Study to the City's satisfaction and the application returned to the Committee of Adjustment on May 30, 2019 and was subsequently approved.

**Description of the Subject Lands**

As shown on the Location Map attached as Appendix “A” to Report PED19154, the subject lands are zoned Agricultural (A1) Zone, Conservation / Hazard Land – Rural (P6) Zone, Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) 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-18-006 is to rezone the farmed portion of the subject lands from the Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone to a site specific Agriculture Zone and Conservation / Hazard Land – Rural (P6) Zone, to prohibit the development of a single detached dwelling and residential care facility on the retained farmland in order to satisfy Condition Nos. 2 and 3 of Consent for Severance application GL/B-17:114 where an existing farm dwelling was severed through a non-abutting farm consolidation severance and to recognize the reduced lot size of the retained farmlands.

**Details of Submitted Application**

**Location:** 3600 Guyatt Road, Glanbrook (see Appendix “A” to Report PED19154)

**Agent:** IBI Group Inc. c/o Tracy Tucker

**Applicant / Owner(s):** Larry Freeman

**Property Description:**

<b><u>(Lands to be retained)</u></b>	<b><u>Total Lot Area:</u></b>	± 22 ha (54.36 ac)
<b>As shown on Appendix</b>	<b><u>Total Lot Frontage:</u></b>	Approx. 63 m
<b>“D” to Report</b>	<b><u>Lot Depth:</u></b>	Irregular
<b>PED19154</b>		

<b><u>(Lands to be conveyed):</u></b>	<b><u>Total Lot Area:</u></b>	0.4 ha (1 ac)
<b>As shown on</b>	<b><u>Total Lot Frontage:</u></b>	Approx. 63.3 m
<b>Appendix “D” to</b>	<b><u>Total Lot Depth:</u></b>	Approx. 63.9 m
<b>Report PED19154</b>		

**Existing Land Use and Zoning**

**Subject Lands:**

**Existing Land Use**

**Existing Zoning**

Agriculture  
Single detached  
dwelling

Agriculture (A1) Zone,  
Conservation / Hazard Land -  
Rural (P6) Zone,  
Conservation / Hazard Land -  
Rural (P7) Zone,  
Conservation / Hazard Land -  
Rural (P8) Zone

**Surrounding Lands:**

**North**

Agriculture  
Single detached  
dwellings

Agriculture (A1) Zone

**South**

Agriculture  
Single detached  
dwellings

Agriculture (A1) Zone

**East**

Agriculture  
Single detached  
dwellings

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

**West**

Agriculture  
Single detached  
dwellings

Agriculture (A1) Zone,  
Conservation / Hazard Land –  
Rural (P7) Zone,  
Conservation / Hazard Land –  
Rural (P8) Zone

**Chronology**

December 20, 2017:

Zoning By-law Amendment application ZAA-18-006 was received.

January 19, 2018:

Zoning By-law Amendment application ZAA-18-006 was deemed incomplete.

January 24, 2018:

Zoning By-law Amendment application ZAA-18-006 was deemed complete.

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 3600 Guyatt Road, Glanbrook (PED19154) (Ward 11) - Page 5 of 11**

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- February 2, 2018: Zoning By-law Amendment application ZAA-18-006 was circulated to 36 property owners within 120m of the subject lands.
- February 17, 2018: Public Notice sign was installed on the subject lands.
- May 30, 2019: Consent for Severance application GL/B-17:114 was heard at the Committee of Adjustment and was approved.
- June 26, 2019: Consent for Severance application GL/B-17:114 received final and binding approval.
- August 7, 2019: Public Notice sign was updated to include Public Meeting Date.
- August 16, 2019: Circulation of Notice of Public Meeting to 36 property owners within 120 m of the subject lands.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the PPS. 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 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 RHOP, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*, and,
- Consistent with the PPS.

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

The *Greenbelt Act* requires that all municipal land use decisions made under the *Planning Act* conform to the Greenbelt Plan (2017). 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 (GL/B-17:114), that the proposed severance complied with policy 4.6.1 f) i). With regards to 4.6.1 f) ii), Condition No. 3 was placed on the Consent for Severance application requiring that the lands be rezoned to prohibit a residential dwelling and residential care facility in perpetuity on the subject lands and 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

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 3600 Guyatt Road, Glanbrook (PED19154) (Ward 11) - Page 7 of 11**

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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 (GL/B-17:114), that the proposed severance complied with the RHOP by restricting the development of a single detached dwelling and residential care facility on the subject lands. Based on the foregoing, this application satisfies Policy F.1.14.2.8 c) v). The proposal complies with the RHOP.

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

The subject lands are zoned Agriculture (A1) Zone, Conservation / Hazard Land – Rural (P6) Zone, Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone. The permitted uses are as follows:

**Agriculture (A1) Zone**

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

**Conservation / Hazard Land – Rural (P6) Zone**

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

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 3600 Guyatt Road, Glanbrook (PED19154) (Ward 11) - Page 8 of 11**

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- Single Detached Dwelling.

**Conservation / Hazard Land – Rural (P7) Zone**

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

**Conservation / Hazard Land – Rural (P8) Zone**

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

The applicant proposes a site specific Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone to prohibit the development of a single detached dwelling and residential care facility on the retained farmland. No changes are proposed to the portion of the lands zoned Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone. The applicant also proposes to permit a reduced minimum lot size for the retained agricultural parcel of 22 ha.

An evaluation of the proposed modifications is included in Appendix “C” to Report PED19154.

**RELEVANT CONSULTATION**

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

- Infrastructure and Sourcewater Division, Public Works Department;
- Operations Division, Public Works Department;
- Engineering Approvals, Growth Management, Planning and Economic Development Department;
- Forestry and Horticulture Division, Public Works Department; and,
- Niagara Peninsula 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 36 property owners within 120 m of the subject property on January 24, 2018 requesting public input on the application. A Public Notice sign was also posted on the property on February 17, 2018 and updated on August 7, 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 August 16, 2019. To date, one letter from the public has been received (Appendix "F" to Report PED19154). A summary of the concerns raised are included in the Analysis and Rationale for Recommendation Section of this 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 for Severance application (GL/B-17:114) 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 30, 2019 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 PPS, and conforms to the Greenbelt Plan (2017);
  - (ii) It complies with the policies of the RHOP; and,
  - (iii) The proposed amendment satisfies Condition Nos. 2 and 3 of Consent for Severance application GL/B-17:114, which was approved by the Committee of Adjustment on May 30, 2019 (see Appendix "D" to Report PED19154).
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 for Severance application process, that the application was consistent with the PPS and conforms to the Greenbelt Plan in effect at the time of the application. As per Policy 2.3.1, the PPS indicates that the intent of the plan is to protect agricultural areas. The restriction of development of the subject lands is consistent with that policy. The Greenbelt Plan supports and permits Agricultural Uses on lands designated within the Plan. Staff are of the opinion that the application is consistent with the PPS and

conforms to the Greenbelt Plan (2017) as it restricts the development of a single detached dwelling and residential care facility on the subject lands to preserve the existing farm practice.

3. Staff received one letter of correspondence concerning the Zoning By-law Amendment application. The resident expressed concern that the severance of the surplus farm dwelling would have a cumulative impact on Agricultural properties in the Greenbelt. As stated above, the purpose of allowing farmers to sever surplus farm dwellings as a result of expanding farm operations is to allow for expansions while divesting of the surplus farm house. The purpose of the Zoning By-law Amendment is to restrict the development of a new single detached dwelling and residential care facility on the retained portion of farm land so that it remains farmed in perpetuity. This Zoning By-law Amendment serves to implement the provincial direction through the PPS and Greenbelt Plan as well as implement the direction of the RHOP.
4. The proposal complies with policy F.1.14.3.8 c) in the RHOP which speaks to surplus farm dwelling severances as a result of a farm consolidation. This application fulfils Condition Nos. 2 and 3 of Consent for Severance GL/B-17:114 by prohibiting the future development of a single detached dwelling and residential care facility of a surplus farm dwelling severance and permitting the retained farmland to have a reduced lot size.

Staff note that as a result of the Consent for Severance Application (GL/B-17:114), the retained farmlands will be reassigned the address of 3590 Guyatt Road which is reflected in the proposed By-law (see Appendix “B” to Report PED19042) while the severed surplus farm dwelling will retain the address of 3600 Guyatt Road.

The following modifications to Zoning By-law No. 05-200 are required to fulfill Conditions Nos. 2 and 3 of Consent for Severance application GL/B-17:114:

**Agriculture (A1, 642) Zone**

- Remove Single Detached Dwelling from Permitted Uses;
- Remove Single Residential Care Facility from Permitted Uses; and,
- Permit Minimum lot size of 22 ha.

**Conservation / Hazard Land – Rural (P6, 642) Zone**

- Remove Single Detached Dwelling from Permitted Uses.

The proposed modifications to the Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone are discussed in Appendix “C” to Report PED19154.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the conditional approval of Consent Application GL/B-17:114 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, Conservation / Hazard Land - Rural (P6) Zone, Conservation / Hazard Land - Rural (P7) Zone and Conservation / Hazard Land - Rural (P8) Zone in the City of Hamilton Zoning By-law No. 05-200.

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

### **Community Engagement and 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” – Zoning Modification Chart

Appendix “D” – Committee of Adjustment Decision for GL/B-17:114

Appendix “E” – Proposed Land Severance Sketch

Appendix “F” – Resident Comments