



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 1, 2019
SUBJECT/REPORT NO:	Application to Amend City of Hamilton Zoning By-law No. 05-200 for Lands Located at 2274 Powerline Road West, Ancaster (PED19171) (Ward 12)
WARD AFFECTED:	Ward 12
PREPARED BY:	Alaina Baldassarra (905) 546-2424 Ext. 7421
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAA-19-033, by Thomas and Susan Traver (Owners)**, for a change in zoning from the Agriculture (A1) Zone to the Agriculture (A1, 642) Zone (Block 1) and from the Conservation / Hazard Land – Rural (P6) Zone to the Conservation / Hazard Land – Rural (P6, 642) Zone (Block 2) 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 AN/B-18:131, for the lands located at 2274 Powerline Road W, as shown on Appendix “A” to Report PED19171, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED19171, 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,

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- (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 permit a reduced lot size and 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 2274 Powerline Road West, Ancaster. The proposed Zoning Amendment will also permit a reduced lot size. The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement 2014 (PPS), the Greenbelt Plan (2017), and the RHOP. The amendment will also address Condition Nos. 3 and 5 of Consent for Severance approval AN/B-18:131 and modify the current Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone 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 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 to consider an application for an amendment to the Zoning By-law.

HISTORICAL BACKGROUND

Consent for Severance Application AN/B-18:131

In November, 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 held on December 6, 2018 and subsequently tabled as the farm property had yet to be consolidated. The application returned to Committee on February 7, 2019 and was subsequently approved as the farmer completed the purchase of the subject lands. As a condition of consent, the applicant was required to submit a Zoning By-law Amendment application for the purposes of restricting the development of a single detached dwelling and residential

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care facility on the retained farmland. Refer to Appendix “D” to Report PED19171 for the Notice of Decision for the consent for severance application AN/B-18:131.

Description of the Subject Lands

The subject lands are located south of Power Line Road West and north of a Hydro One Corridor (see location map attached as Appendix “A” to Report PED19171). The subject application is currently an agricultural property with one single detached dwelling on the lot. The future use of the retained lands is agriculture and conservation and the severed lands will contain an existing single detached dwelling. Refer to Appendix “E” to Report PED19171 for a sketch of the conditionally approved severance.

Proposal

The purpose of Zoning By-law Amendment application ZAA-19-033 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 (A1) Zone and site specific Conservation / Hazard Land – Rural (P6) Zone, to prohibit the development of a single detached dwelling and residential care facility in order to satisfy Condition Nos. 3 and 5 of Consent for Severance application AN/B-18:131 where an existing farm dwelling was severed through a non-abutting farm consolidation severance. The amendment also recognizes the reduced lot size of the retained farmlands.

Details of Submitted Application

Location: 2274 Powerline Road West, Ancaster (see Appendix “A” to Report PED19171)

Applicant / Owner: Thomas & Susan Traver

Property Description

<u>(Lands to be retained):</u>	<u>Lot Area:</u>	27.7 ha (68.6 ac)
As shown on Appendix “D” to Report PED19171	<u>Lot Frontage:</u>	± 84.5m
	<u>Lot Depth:</u>	± 1004 m (Irregular)

Property Description

<u>(Lands to be conveyed):</u>	<u>Lot Area:</u>	0.82 ha (2.02 ac)
As shown on Appendix “D” to Report PED19171	<u>Lot Frontage:</u>	± 76.2 m
	<u>Lot Depth:</u>	± 118.8 m

Existing Land Use and Zoning

Subject Lands:

<u>Existing Land Use</u>	<u>Existing Zoning</u>
Agriculture, Single detached dwelling	Agriculture (A1) Zone, Conservation / Hazard Land - Rural (P6) Zone

Surrounding Lands:

North	Agriculture, Single detached dwellings	Agriculture (A1) Zone
South	Agriculture, Hydro One Corridor	Agriculture (A1) Zone, Conservation / Hazard Land - Rural (P6) Zone
East	Agriculture, Single detached Dwellings, Conservation	Agriculture (A1) Zone, Conservation / Hazard Land - Rural (P6) Zone
West	Agriculture, Single detached dwellings Conservation	Agriculture (A1) Zone, Conservation / Hazard Land - Rural (P6) Zone

Chronology

<u>February 7, 2019:</u>	Consent for Severance meeting AN/B-18:131 was heard at the Committee of Adjustment meeting and was conditionally approved.
<u>April 3, 2019:</u>	Consent for Severance application AN/B-18:131 received final and binding approval.
<u>May 8, 2019:</u>	Zoning By-law Amendment application ZAA-19-033 was received.
<u>June 3, 2019:</u>	Zoning By-law Amendment application ZAA-19-033 was deemed complete.

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- June 10, 2019: Zoning By-law Amendment application ZAA-19-033 was circulated to 22 property owners within 120 m of the subject lands.
- June 19, 2019: Public Notice sign was installed on the subject lands.
- September 4, 2019: Public Notice sign was updated to include Public Meeting Date.
- September 13, 2019: Circulation of Notice of Public Meeting to 22 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

The *Greenbelt Act* requires that all municipal land use decisions made under the *Planning Act* conform to the Greenbelt Plan. The Greenbelt Plan 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.”

It was found through the Consent for Severance application AN/B-18:131, that the proposed severance complied with policy 4.6.1 f) i). With regards to 4.6.1 f) ii), Condition No. 5 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 application 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:

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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 AN/B-18:131, that the proposed severance complied with the RHOP by prohibiting 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). Therefore, the proposal complies with the RHOP.

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

The subject lands are zoned Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) 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;
- 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 in order to prohibit the development of a single detached dwelling and residential care facility on the retained farmland and to recognize the reduced lot size of the retained farmlands.

An evaluation of the proposed modifications is included in Appendix “C” to Report PED19171.

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;
- Development Engineering Approvals, Growth Management, Planning and Economic Development Department;
- Forestry and Horticulture Division, Public Works Department
- Hydro One Networks Inc.; 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 22 property owners within 120 m of the subject property on June 10, 2019 requesting public input on the application. A Public Notice sign was also posted on the property on June 20, 2019 and updated on September 4, 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 September 13, 2019. To date, staff have received no letters of correspondence concerning the application.

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 AN/B-18:131 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 hearings on December 5, 2018 or February 7, 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,

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- (iii) The proposed amendment satisfies Conditions Nos. 3 and 5 of Consent for Severance Application AN/B-18:131, which was approved by the Committee of Adjustment on February 7, 2019 (see Appendix "D" to Report PED19171).
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 staff evaluation of the Consent 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. The proposal complies with the 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. 3 and 5 of Consent for Severance application AN/B-18:131 by prohibiting the future development of a single detached dwelling and residential care facility on the retained farmlands as a result of a surplus farm dwelling severance and permitting the retained farmland to have a reduced lot size.

The following modifications to Zoning By-law No. 05-200 are required to fulfill Conditions Nos. 3 and 5 of Consent for Severance application AN/B-18:131:

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 27 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 PED19171.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the conditional approval of Consent for severance application AN/B-18:131 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 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 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.

Our People and Performance

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

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 AN/B-18:131

Appendix “E”: Land Severance Sketch