



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 15, 2019
<b>SUBJECT/REPORT NO:</b>	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 6266 and 6330 Chippewa Road East, Glanbrook (PED19196) (Ward 11)
<b>WARD AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Alaina Baldassarra (905) 546-2424 Ext. 7421
<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-19-042, by Shirlmar Farms Inc. (Owner)** for a change in zoning from the Agriculture (A1) Zone to the Agriculture (A1, 642) Zone and the Agriculture (A1, 464) Zone to prohibit the construction of a single detached dwelling and residential care facility and recognize a reduced lot area for the retained agricultural parcel and recognize a reduced lot width for the severed surplus farm dwelling parcel, as required by conditions of approval for Consent to Sever application GL/B-18:144, for the lands located at 6266 and 6330 Chippewa Road East as shown on Appendix “A” to Report PED19196, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED19196, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) 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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**EXECUTIVE SUMMARY**

The purpose of this Zoning By-law Amendment application is to add special exceptions to the Agriculture (A1) Zone to:

- prohibit the construction of a single detached dwelling or residential care facility on the retained agricultural portion of the subject lands currently known as 6266 Chippewa Road East, Glanbrook;
- recognize a reduced lot area for the retained agricultural portion of the subject lands; and,
- recognize a reduced lot width on the severed surplus farm dwelling portion of the subject lands.

The proposed amendment is required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), the Greenbelt Plan (2017), and the RHOP. Further, the proposed amendment addresses Condition Nos. 2 and 5 of Consent for Severance approval GL/B-18:144 facilitating 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 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 GL/B-18:144**

In November 2018 an application was made to the Committee of Adjustment to sever an existing single detached dwelling from the existing farm operation. The application

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was heard at Committee on February 7, 2019 and was subsequently approved. 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 care facility on the farmland to be retained. Refer to Appendix "D" to Report PED19196 for the Notice of Decision.

**Description of the Subject Lands**

As shown on the Location Map attached as Appendix "A" to Report PED19196, the subject lands are zoned Agricultural (A1) Zone. The current and future use of the retained lands is agriculture. The severed lands contain an existing single detached dwelling. Refer to Appendix "E" to Report PED19196 for a sketch of the conditionally approved severance.

**Proposal**

The purpose of Zoning By-law Amendment application ZAA-19-042 is to rezone the subject lands to a site specific Agriculture (A1) Zone to prohibit the development of a single detached dwelling and residential care facility in order to satisfy Condition No. 2 of Consent for severance application GL/B-18:144 where an existing farm dwelling was severed through a non-abutting farm consolidation severance. The site specific zoning will also recognize a reduced lot area for the retained agricultural parcel and a reduced lot width for the severed surplus farm dwelling parcel to satisfy Condition No. 5 of Consent for severance application GL/B-18:144.

**Chronology**

- February 7, 2019: Consent for Severance application GL/B-18:144 was heard at the Committee of Adjustment and was approved.
- April 3, 2019: Consent for Severance application GL/B-18:144 received final and binding approval.
- June 6, 2019: Zoning By-law Amendment application ZAA-19-042 received.
- June 10, 2019: Zoning By-law Amendment application ZAA-19-042 deemed complete.

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June 10, 2019: Zoning By-law Amendment application ZAA-19-042 circulated to 29 property owners within 120 m of the subject lands.

June 18, 2019: Public Notice sign installed on the subject lands.

September 18, 2019: Public Notice sign updated to include Public Meeting Date.

September 27, 2019: Circulation of Notice of Public Meeting to 29 property owners within 120 m of the subject lands.

**Details of Submitted Application**

**Location:** 6266 and 6330 Chippewa Road East, Glanbrook (see Appendix "A" to Report PED19196)

**Applicant / Owner:** Shirlmar Farms Inc.

**Property Description**

**(Lands to be retained):** As shown on Appendix "E" to Report PED19196

<u>Total Lot Area:</u>	36.9 ha (91.18 ac)
<u>Total Lot Frontage:</u>	± 576 m
<u>Lot Depth:</u>	± 661 m

**Property Description**

**(Lands to be conveyed):** As shown on Appendix "E" to Report PED19196

<u>Total Lot Area:</u>	1.0 ha (2.48 ac)
<u>Total Lot Frontage:</u>	± 13.72 m
<u>Total Lot Depth:</u>	± 216.5 m

**Existing Land Use and Zoning**

**Subject Lands:**

**Existing Land Use**

Agriculture  
Single detached dwelling

**Existing Zoning**

Agriculture (A1) Zone

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**Surrounding Lands:**

<b>North</b>	Agriculture Single detached dwellings	Agriculture (A1, 118) Zone, Agriculture (A1) Zone
<b>South</b>	Agriculture Single detached dwellings	Agriculture (A1) Zone
<b>East</b>	Agriculture Single detached dwellings	Agriculture (A1) Zone
<b>West</b>	Agriculture Single detached dwellings	Agriculture (A1) Zone, Conservation / Hazard Land - Rural (P6) 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 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.”

As per the above policy, it was found through the Consent for Severance application (GL/B-18:144) process that the proposed severance complied with policy 4.6.1 f) i). With regards to 4.6.1 f) ii), Condition No. 2 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 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

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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 (GL/B-18:144) that the proposed severance, through the imposition of Condition No. 2, complied with the RHOP by 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. 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.

The applicant proposes two site specific Agriculture (A1) Zones in order to prohibit the development of a single detached dwelling and residential care facility and recognize a reduced lot area on the retained farmland and to recognize a reduced lot width for the severed surplus farm dwelling lot.

An evaluation of the proposed modifications is included in Appendix “C” to Report PED19196.

## **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;
- Development 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 29 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 18, 2019 and updated on September 18, 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 27, 2019.

### **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-18:144) 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 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 Condition Nos. 2 and 5 of Consent for Severance application GL/B-18:144 which was approved by the Committee of Adjustment on February 7, 2019 (see Appendix "D" to Report PED19196).
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 (GL/B-18:144) process, that 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 PPS and the restriction of development of the subject lands is consistent with that policy. 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 RHOP which speak to surplus farm dwelling severances as a result of a farm consolidation. This application fulfils Condition Nos. 2 and 5 of Consent for Severance Application GL/B-18:144 by prohibiting the future development of a single detached dwelling and residential care facility on the retained agricultural parcel, permitting a reduced lot area on the retained agricultural parcel and permitting a reduced lot width on the severed surplus farm dwelling parcel.

Staff note that as a result of the Consent for Severance Application (GL/B-18:144), the subject lands will be reassigned the address of 6330 Chippewa Road East and the surplus farm dwelling property will remain 6266 Chippewa Road East, which is reflected in the proposed By-law (see Appendix "B" to Report PED19196).

The proposed modifications to the Agriculture (A1) Zone are discussed in Appendix "C" to Report PED19196.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the conditional approval of Consent for Severance application (GL/B-18:144) 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.

## **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-18:113

Appendix “E”: Land Severance Sketch