



Hamilton

## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221 Fax (905) 546-4202

E-mail: [morgan.evans@hamilton.ca](mailto:morgan.evans@hamilton.ca) or [jamila.sheffield@hamilton.ca](mailto:jamila.sheffield@hamilton.ca)

# NOTICE OF PUBLIC HEARING

## Application for Consent/Land Severance

APPLICATION NUMBER: AN/B-20:17

SUBJECT PROPERTY: 140 Garner Rd. E., Ancaster

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You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
  - Applicant/agent on file, or
  - Person likely to be interested in this application
- 

**APPLICANT(S):**

Owner: Lea Silvestri Investments

Agent: HMBC Planning c/o Gerry Tchisler

**PURPOSE OF APPLICATION:**

To permit the conveyance of a vacant parcel of land for a future business park and to retain a parcel of land containing an existing single detached dwelling and agricultural lands.

**Severed lands:**

160.8 m<sup>±</sup> x 922.0 m<sup>±</sup> and an area of 35.2 ha<sup>±</sup>

**Retained lands:**

166.1 m<sup>±</sup> x 922.5 m<sup>±</sup> and an area of 34.1 ha<sup>±</sup>

The Committee of Adjustment will hear this application on:

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**DATE:** Thursday, July 9th , 2020

**TIME:** 1:15 p.m.

**PLACE:** Via video link or call in (see attached sheet for details)  
To be streamed at  
[www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)  
for viewing purposes only

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### PUBLIC INPUT

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

**Orally:** If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

**Important note:** If a person or public body that files an appeal of a decision of the Committee of Adjustment in respect of the proposed consent does not make written or oral submission

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*to the Committee of Adjustment before it gives or refuses to give a provisional consent, the Local Planning Appeal Tribunal (LPAT) may dismiss the appeal.*

## **MORE INFORMATION**

For more information on this application, including access to drawings illustrating this request:

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

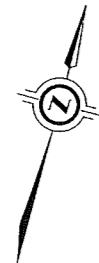
DATED: June 23rd, 2020

*Original Signed*

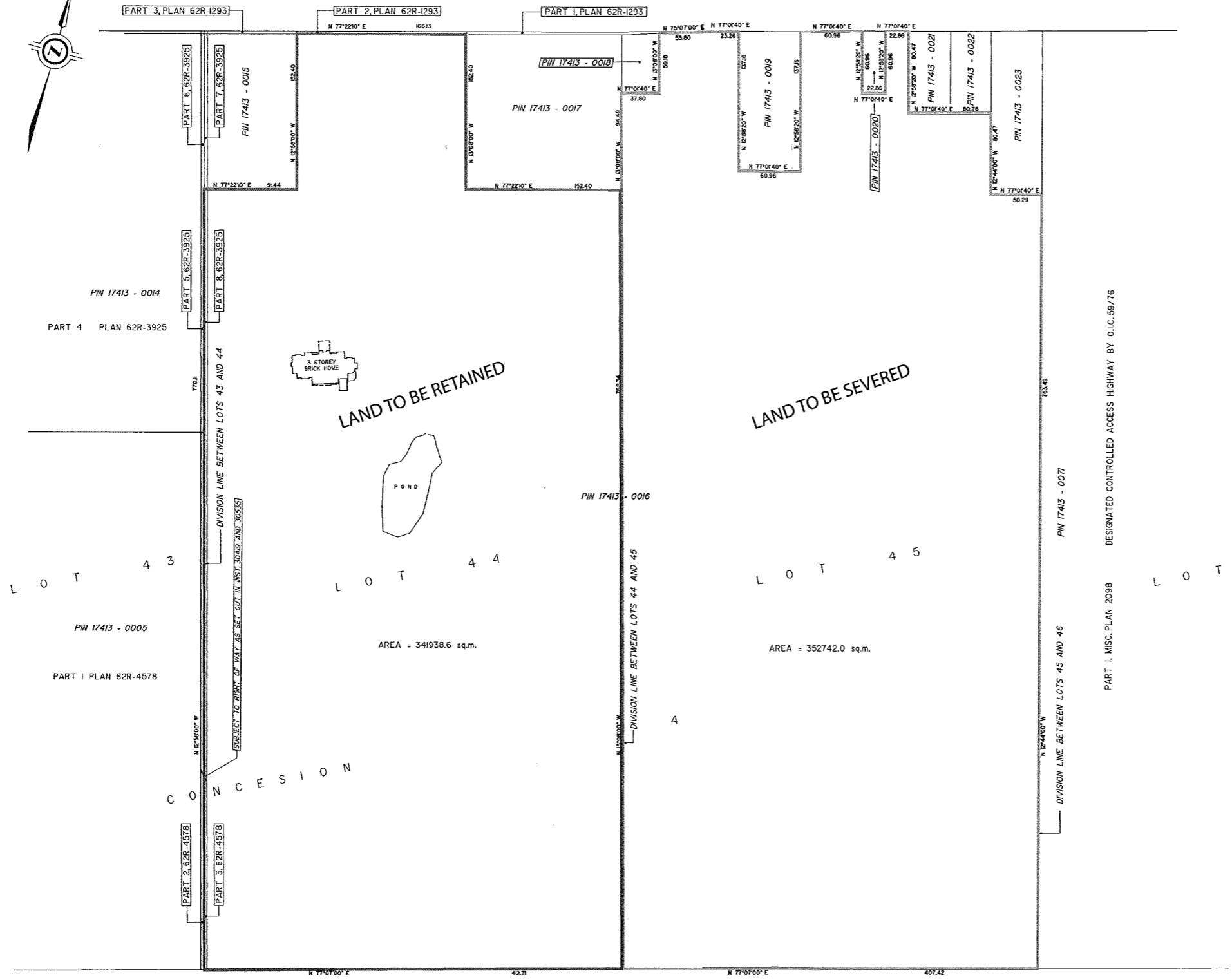
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Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment

***Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.***



HIGHWAY No 53 (ROAD ALLOWANCE BETWEEN CONCESSIONS 3 AND 4)





SKETCH SHOWING  
PART OF LOTS 44 AND 45  
CONCESSION 4  
GEOGRAPHIC TOWNSHIP OF ANCASTER  
NOW IN THE  
CITY OF HAMILTON



METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

BOUNDARY INFORMATION SHOWN ON THIS PLAN HAS BEEN COMPILED FROM TITLE RECORD DOCUMENTS AND HAS NOT BEEN VERIFIED BY FIELD SURVEY.

LEGEND

-  DENOTES LAND TO BE RETAINED
-  DENOTES LAND TO BE SEVERED

AREA TO BE SEVERED - 352,742.0 sq.m.  
AREA TO BE RETAINED - 341,938.6 sq.m.  
TOTAL AREA - 694,680.6 sq.m.

THIS SKETCH WAS COMPLETED ON MARCH 18, 2003.

DATE: *March 19, 2003*  
*[Signature]*  
S.J. DALSAHI  
ONTARIO LAND SURVEYOR

ONTARIO HYDRO  
PIN 17413 - 0067

**J.D. BARNES** SURVEYING & MAPPING LIMITED

MARKED BY INNOVATION - SERVED BY REPUTATION - OLS

25 FRED STREET, SUITE 2A HAMILTON ON L8P 4G8  
T: (905) 573-3311 F: (905) 573-9115 www.jdbarnes.com

DRAWN BY: JPH	CHECKED BY: SJB	REFERENCE NO.: 03-29-980-00-A
FILE: g:\33298000\980ppn.dgn	DATED: MARCH 18, 2003	PLOTTED: 19 MAR 2003

03-29-980-00-A



**Hamilton**

Planning and Economic Development Department  
 Planning Division

**Committee of Adjustment**  
 City Hall  
 5th floor, 71 Main Street West  
 Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424, ext. 4221  
 Fax (905) 546-4202

**APPLICATION FOR CONSENT TO SEVER LAND  
 UNDER SECTION 53 OF THE PLANNING ACT**

Office Use Only

Date Application Received:	Date Application Deemed Complete:	Submission No.:	File No.:
		AN/B-20:17	

**1 APPLICANT INFORMATION**

1.1, 1.2	NAME	ADDRESS	PHONE/FAX
Registered Owners(s)	Lea Silvestri Investments		
Applicant(s)*	MHBC Planning c/o Gerry Tchisler		
Agent or Solicitor	MHBC Planning c/o Gerry Tchisler		

\* Owner's authorisation required if the applicant is not the owner.

1.3 All correspondence should be sent to  Owner  Applicant  Agent/Solicitor

**2 LOCATION OF SUBJECT LAND** Complete the applicable lines

2.1 Area Municipality City of Hamilton	Lot 44 & 45	Concession 4	Former Township Ancaster
Registered Plan N°.	Lot(s)	Reference Plan N°.	Part(s)
Municipal Address 140 Garner Road East, Hamilton, ON	Assessment Roll N°. 251814042001200		

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes  No

If YES, describe the easement or covenant and its effect:

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**3 PURPOSE OF THE APPLICATION**

3.1 Type and purpose of proposed transaction: (check appropriate box)

a) Urban Area Transfer (do not complete Section 10):

- creation of a new lot
- addition to a lot
- an easement

- Other:  a charge  
 a lease  
 a correction of title

b) Rural Area / Rural Settlement Area Transfer (Section 10 must be completed):

- creation of a new lot  
 creation of a new non-farm parcel  
 ( i.e. a lot containing a surplus farm dwelling  
 resulting from a farm consolidation)  
 addition to a lot
- Other:  a charge  
 a lease  
 a correction of title  
 an easement

3.2 Name of person(s), if known, to whom land or interest in land is to be transferred, leased or charged:

Garner Road Investments - 21 King St. W., Suite 920, Hamilton, ON, L8P 4W7

3.3 If a lot addition, identify the lands to which the parcel will be added:

\_\_\_\_\_

**4 DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION**

4.1 Description of land intended to be **Severed**:

Frontage (m)	Depth (m)	Area (m <sup>2</sup> or ha)
160.88	922.01	352,742.0 sq.m.

Existing Use of Property to be severed:

- Residential  
 Agriculture (includes a farm dwelling)  
 Other (specify) \_\_\_\_\_
- Industrial  
 Agricultural-Related
- Commercial  
 Vacant

Proposed Use of Property to be severed:

- Residential  
 Agriculture (includes a farm dwelling)  
 Other (specify) Severed lands currently subject of a draft plan of subdivision application for employment purposes.
- Industrial  
 Agricultural-Related
- Commercial  
 Vacant

Building(s) or Structure(s):

Existing: No existing structures.

Proposed: No new building or structure proposed.

Type of access: (check appropriate box)

- provincial highway  
 municipal road, seasonally maintained  
 municipal road, maintained all year
- right of way  
 other public road

Type of water supply proposed: (check appropriate box)

- publicly owned and operated piped water system  
 privately owned and operated individual well
- lake or other water body  
 other means (specify) \_\_\_\_\_

Type of sewage disposal proposed: (check appropriate box)

- publicly owned and operated sanitary sewage system  
 privately owned and operated individual septic system  
 other means (specify) \_\_\_\_\_

4.2 Description of land intended to be **Retained**:

Frontage (m)	Depth (m)	Area (m <sup>2</sup> or ha)
166.13	922.51	341,938.6 sq.m.

Existing Use of Property to be retained:

- Residential  
 Agriculture (includes a farm dwelling)  
 Other (specify) \_\_\_\_\_
- Industrial  
 Agricultural-Related
- Commercial  
 Vacant

Proposed Use of Property to be retained:

- Residential
- Agriculture (includes a farm dwelling)
- Other (specify) \_\_\_\_\_
- Industrial
- Agricultural-Related
- Commercial
- Vacant

Building(s) or Structure(s):

Existing: Existing Detached Dwelling

Proposed: Existing Detached Dwelling - no modifications proposed.

Type of access: (check appropriate box)

- provincial highway
- municipal road, seasonally maintained
- municipal road, maintained all year
- right of way
- other public road

Type of water supply proposed: (check appropriate box)

- publicly owned and operated piped water system
- privately owned and operated individual well
- lake or other water body
- other means (specify) \_\_\_\_\_

Type of sewage disposal proposed: (check appropriate box)

- publicly owned and operated sanitary sewage system
- privately owned and operated individual septic system
- other means (specify) \_\_\_\_\_

4.3 Other Services: (check if the service is available)

- electricity
- telephone
- school bussing
- garbage collection

### 5 CURRENT LAND USE

5.1 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): Rural

Urban Hamilton Official Plan designation (if applicable) Business Park & Airport  
Prestige Business

Please provide an explanation of how the application conforms with a City of Hamilton Official Plan.

Please refer to attached letter for explanation and justification

5.2 What is the existing zoning of the subject land?

If the subject land is covered by a Minister's zoning order, what is the Ontario Regulation Number? M11x26h57, A2, P8 - Not subject to MZO

5.3 Are any of the following uses or features on the subject land or within 500 metres of the subject land, unless otherwise specified. Please check the appropriate boxes, if any apply.

Use or Feature	On the Subject Land	Within 500 Metres of Subject Land, unless otherwise specified (indicate approximate distance)
<b>An agricultural operation, including livestock facility or stockyard</b>	<input checked="" type="checkbox"/>	on the subject lands

A land fill	<input type="checkbox"/>	
A sewage treatment plant or waste stabilization plant	<input type="checkbox"/>	
A provincially significant wetland	<input type="checkbox"/>	
A provincially significant wetland within 120 metres	<input type="checkbox"/>	
A flood plain	<input type="checkbox"/>	
An industrial or commercial use, and specify the use(s)	<input type="checkbox"/>	
An active railway line	<input type="checkbox"/>	
A municipal or federal airport	<input type="checkbox"/>	

**6 PREVIOUS USE OF PROPERTY**

- Residential                       Industrial                       Commercial  
 Agriculture                       Vacant                       Other (specify)

- 6.1 If Industrial or Commercial, specify use \_\_\_\_\_
- 6.2 Has the grading of the subject land been changed by adding earth or other material, i.e., has filling occurred?  
 Yes             No  Unknown
- 6.3 Has a gas station been located on the subject land or adjacent lands at any time?  
 Yes             No  Unknown
- 6.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?  
 Yes             No  Unknown
- 6.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?  
 Yes             No  Unknown
- 6.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or biosolids was applied to the lands?  
 Yes             No  Unknown
- 6.7 Have the lands or adjacent lands ever been used as a weapons firing range?  
 Yes             No  Unknown
- 6.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?  
 Yes             No  Unknown
- 6.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (e.g., asbestos, PCB's)?  
 Yes             No  Unknown
- 6.10 Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?  
 Yes             No  Unknown
- 6.11 What information did you use to determine the answers to 6.1 to 6.10 above?  
Discussions with owners, air photography, previous and existing uses
- 6.12 If previous use of property is industrial or commercial or if YES to any of 6.2 to 6.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.  
Is the previous use inventory attached?  
 Yes             No

**7 PROVINCIAL POLICY**

7.1 a) Is this application consistent with the Policy Statements issued under subsection of the *Planning Act*? (Provide explanation)

- Yes                       No

Please refer to justification letter submitted with this application.

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b) Is this application consistent with the Provincial Policy Statement (PPS)?

Yes       No      (Provide explanation)

Please refer to justification letter submitted with this application.

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c) Does this application conform to the Growth Plan for the Greater Golden Horseshoe?

Yes       No      (Provide explanation)

Please refer to justification letter submitted with this application.

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d) Are the subject lands within an area of land designated under any provincial plan or plans? (If YES, provide explanation on whether the application conforms or does not conflict with the provincial plan or plans.)

Yes       No

Please refer to justification letter submitted with this application.

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e) Are the subject lands subject to the Niagara Escarpment Plan?

Yes       No

If yes, is the proposal in conformity with the Niagara Escarpment Plan?

Yes       No

(Provide Explanation)

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f) Are the subject lands subject to the Parkway Belt West Plan?

Yes       No

If yes, is the proposal in conformity with the Parkway Belt West Plan?

Yes       No      (Provide Explanation)

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g) Are the subject lands subject to the Greenbelt Plan?

Yes       No

If yes, does this application conform with the Greenbelt Plan?

Yes       No      (Provide Explanation)

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**8 HISTORY OF THE SUBJECT LAND**

8.1 Has the subject land ever been the subject of an application for approval of a plan of subdivision or a consent under sections 51 or 53 of the *Planning Act*?  
 Yes     No     Unknown

If YES, and known, indicate the appropriate application file number and the decision made on the application.

Eastern portion of the site subject to current draft plan of subdivision application 25T201806.

8.2 If this application is a re-submission of a previous consent application, describe how it has been changed from the original application.

N/A

8.3 Has any land been severed or subdivided from the parcel originally acquired by the owner of the subject land?  Yes  No

If YES, and if known, provide for each parcel severed, the date of transfer, the name of the transferee and the land use.

8.4 How long has the applicant owned the subject land?

November 1987

8.5 Does the applicant own any other land in the City?  Yes  No

If YES, describe the lands in "11 - Other Information" or attach a separate page.

**9 OTHER APPLICATIONS**

9.1 Is the subject land currently the subject of a proposed official plan amendment that has been submitted for approval?  Yes  No  Unknown

If YES, and if known, specify file number and status of the application.

9.2 Is the subject land the subject of any other application for a Minister's zoning order, zoning by-law amendment, minor variance, consent or approval of a plan of subdivision?

Yes  No  Unknown

If YES, and if known, specify file number and status of the application(s).

File number \_\_\_\_\_ Status \_\_\_\_\_

**10 RURAL APPLICATIONS**

10.1 Rural Hamilton Official Plan Designation(s)

- Agricultural
- Rural
- Specialty Crop
- Mineral Aggregate Resource Extraction
- Open Space
- Utilities
- Rural Settlement Area (specify) \_\_\_\_\_

Settlement Area

Designation

If proposal is for the creation of a non-farm parcel resulting from a farm consolidation, indicate the existing land use designation of the abutting or non-abutting farm operation.

10.2 **Type of Application** (select type and complete appropriate sections)

- Agricultural Severance or Lot Addition
- Agricultural Related Severance or Lot Addition
- Rural Resource-based Commercial Severance or Lot Addition
- Rural Institutional Severance or Lot Addition

(Complete Section 10.3)

- Rural Settlement Area Severance or Lot Addition
- Surplus Farm Dwelling Severance from an Abutting Farm Consolidation (Complete Section 10.4)
- Surplus Farm Dwelling Severance from a Non-Abutting Farm Consolidation (Complete Section 10.5)

**10.3 Description of Lands**

a) Lands to be Severed:

Frontage (m): (from Section 4.1) 160.88	Area (m <sup>2</sup> or ha): (from in Section 4.1) 352,742.0 sq.m.
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Existing Land Use: Agriculture Proposed Land Use: Vacant / Employment Uses

b) Lands to be Retained:

Frontage (m): (from Section 4.2) 166.13	Area (m <sup>2</sup> or ha): (from Section 4.2) 341,938.6 sq.m.
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Existing Land Use: Agriculture Proposed Land Use: Agriculture

**10.4 Description of Lands (Abutting Farm Consolidation)**

a) Location of abutting farm:

\_\_\_\_\_  
 (Street) (Municipality) (Postal Code)

b) Description abutting farm:

Frontage (m):	Area (m <sup>2</sup> or ha):
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Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

c) Description of consolidated farm (excluding lands intended to be severed for the surplus dwelling):

Frontage (m):	Area (m <sup>2</sup> or ha):
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

d) Description of surplus dwelling lands proposed to be severed:

Frontage (m): (from Section 4.1)	Area (m <sup>2</sup> or ha): (from Section 4.1)
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Front yard set back: \_\_\_\_\_

e) Surplus farm dwelling date of construction:

- Prior to December 16, 2004
- After December 16, 2004

f) Condition of surplus farm dwelling:

- Habitable
- Non-Habitable

g) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m <sup>2</sup> or ha): (from Section 4.2)
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

**10.5 Description of Lands (Non-Abutting Farm Consolidation)**

a) Location of non-abutting farm

\_\_\_\_\_  
 (Street) (Municipality) (Postal Code)

b) Description of non-abutting farm

Frontage (m):	Area (m2 or ha):
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Existing Land Use(s): \_\_\_\_\_ Proposed Land Use(s): \_\_\_\_\_

c) Description of surplus dwelling lands intended to be severed:

Frontage (m): (from Section 4.1)	Area (m2 or ha): (from Section 4.1)
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Front yard set back: \_\_\_\_\_

d) Surplus farm dwelling date of construction:

- Prior to December 16, 2004       After December 16, 2004

e) Condition of surplus farm dwelling:

- Habitable       Non-Habitable

f) Description of farm from which the surplus dwelling is intended to be severed (retained parcel):

Frontage (m): (from Section 4.2)	Area (m2 or ha): (from Section 4.2)
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Existing Land Use: \_\_\_\_\_ Proposed Land Use: \_\_\_\_\_

## 11 OTHER INFORMATION

Is there any other information that you think may be useful to the Committee of Adjustment or other agencies in reviewing this application? If so, explain below or attach on a separate page.

A concurrent minor variance application is being submitted to address a reduction in lot area for the retained lands. Please refer to attached justification letter for detailed information on the consent and variance applications. A portion of the lands is additionally currently the subject of an ongoing subdivision application being processed by the city.

## 12 SKETCH (Use the attached Sketch Sheet as a guide)

12.1 The application shall be accompanied by a sketch showing the following in metric units:

- (a) the boundaries and dimensions of any land abutting the subject land that is owned by the owner of the subject land;
- (b) the approximate distance between the subject land and the nearest township lot line or landmark such as a bridge or railway crossing;
- (c) the boundaries and dimensions of the subject land, the part that is intended to be severed and the part that is intended to be retained;
- (d) the location of all land previously severed from the parcel originally acquired by the current owner of the subject land;
- (e) the approximate location of all natural and artificial features (for example, buildings, barns, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
  - i) are located on the subject land and on land that is adjacent to it, and
  - ii) in the applicant's opinion, may affect the application;
- (f) the current uses of land that is adjacent to the subject land (for example, residential, agricultural or commercial);
- (g) the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private

road or a right of way;


(h) the location and nature of any easement affecting the subject land.

### 13 ACKNOWLEDGEMENT CLAUSE

I acknowledge that The City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

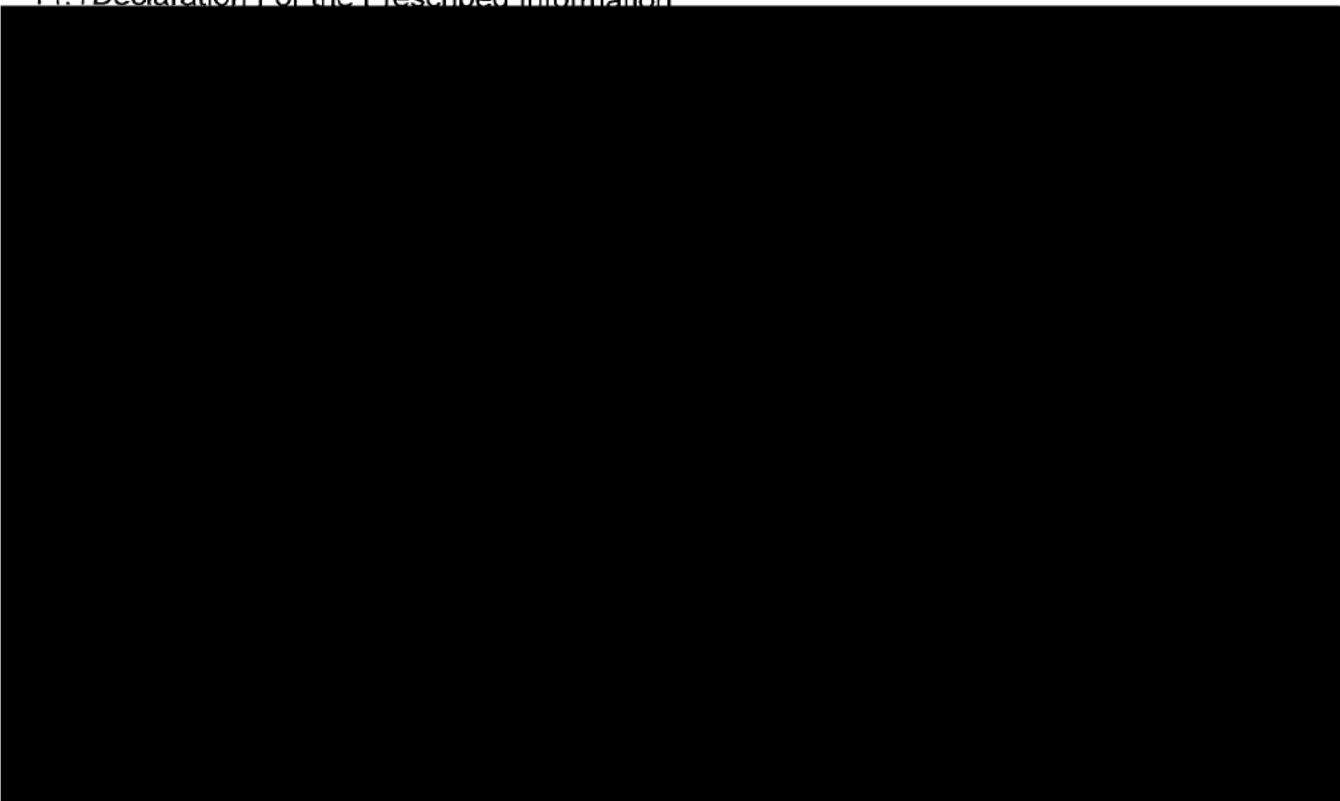
FEBRUARY 12, 2020

Date

  
Signature of Owner

### 14 AFFIDAVIT OR SWORN DECLARATION

14.1 Declaration For the Prescribed Information



Commissioner, etc., Province of  
Ontario, for MHBC Planning Limited.  
Expires August 2, 2022.

### 15 AUTHORIZATIONS

15.1 If the applicant is not the owner of the land that is the subject of this application, the authorization set out below must be completed.

#### Authorization of Owner for Agent to Provide Personal Information

I, PAUL SILVESTRI, am the owner of the land that is the subject of this application for consent to sever land and for the purpose of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56. I authorize MHBC /o/ <sup>GARY</sup> ~~THOMAS~~ as my agent for this application, to provide any of my personal information that will be included in this application or collected during the processing of the application.

FEBRUARY 12, 2020

Date

  
Signature of Owner

**16 CONSENT OF THE OWNER**

Complete the consent of the owner concerning personal information set out below.

Consent of Owner to the Disclosure of Application Information and Supporting Documentation

Application information is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13. In accordance with that Act, it is the policy of the City of Hamilton to provide public access to all *Planning Act* applications and supporting documentation submitted to the City.

I, PAUL SILVESTRI, the Owner, hereby agree and acknowledge  
(Print name of Owner)

that the information contained in this application and any documentation, including reports, studies and drawings, provided in support of the application, by myself, my agents, consultants and solicitors, constitutes public information and will become part of the public record. As such, and in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, I hereby consent to the City of Hamilton making this application and its supporting documentation available to the general public, including copying and disclosing the application and its supporting documentation to any third party upon their request.

FEBRUARY 12, 2020

Date



Signature of Owner

**17 COLLECTION OF INFORMATION**

The personal information contained on this form is collected under the authority of the *Planning Act*, R.S.O. 1990, c. P.13, and will be used for the purpose of processing the application. This information will become part of the public record and will be made available to the general public. Questions about the collection of this information should be directed to the Coordinator of Business Facilitation, Planning and Economic Development Department, City of Hamilton, 1<sup>st</sup> floor, 71 Main Street West, City Hall, Hamilton, Ontario, Telephone, 905-546-2424, ext.1284.

A File Number will be issued for complete applications and should be used in all communications with the City.

**APPLICANT'S CHECKLIST**

Please attach all items listed below:

- Two (2) copies of the completed application form (Ensure you have a copy for yourself);
- Three (3) copies of the prescribed sketch or survey (one (1) full scale size and two (2) no larger than ledger size paper 11" x 17"); and
- The required fee. ( **A cheque or money order payable to the City of Hamilton**)



KITCHENER  
WOODBRIDGE  
LONDON  
KINGSTON  
BARRIE  
BURLINGTON

February 11<sup>th</sup>, 2020

Mr. Scott Baldry, Secretary Treasurer  
Committee of Adjustment  
City of Hamilton  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, Ontario  
L8P 4Y5

Dear Mr. Baldry:

**RE: Application for Consent and Minor Variance  
140 Garner Road East, Ancaster  
OUR FILE: 1594C**

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On behalf of our client, Lea Silvestri Investments, we are pleased to submit an application for consent and minor variance to sever a parcel of land to create a new lot. The Subject Lands are located at Highway 6 and Garner Road East in Ancaster. The lot to be severed is Part of Lots 44 and 45, Concession 4 in the geographic township of Ancaster, known municipally as 140 Garner Road East (the "Subject Lands").

The following letter sets out the purpose of the proposed consent and minor variance. We have also provided a justification for the proposed consent and minor variance through an assessment of the current Provincial and municipal policy framework.

## **BACKGROUND**

### **Existing Site**

The Subject Lands are approximately 69.59 hectares in area and have 327.01 metres of combined frontage on Garner Road East. The Subject Lands straddle the Urban Boundary with approximately half of the lands falling within the Urban Area. The western portion of the Subject Lands falls within the Rural Hamilton Official Plan (RHOP) and contains a dwelling and agricultural uses, as well as a small pond adjacent to a natural area.

The eastern portion of the Subject Lands are currently vacant with a small wooded area to the south. This portion of the Subject Lands falls within the Urban Hamilton Official Plan (UHOP) and is currently subject to a Draft Plan of Subdivision application (25T201806) to facilitate the development of a business park in accordance with the existing Official Plan designation and zoning. The proposed Draft Plan of Subdivision was submitted on July 4, 2018 and applies only to the lands which are located within the Urban Area of the City of Hamilton. The Draft Plan of Subdivision application is currently in process, and 1<sup>st</sup> submission comments have been issued by the City of Hamilton. Draft plan approval has not been granted at the time of writing.

### **Surrounding Land Uses**

The lands located to the north of the Subject Lands are located within the Urban Area of the City of Hamilton and consist of a low-density residential subdivision directly across Garner Road East, with low-rise residential development further east along Garner Road East.

The lands to the east of the Subject Lands are located within the Urban Area of the City of Hamilton, and consist of vacant agricultural lands awaiting development as well as Highway 6 which interchanges with Highway 403 to the north.

The lands to the south of the Subject Lands are outside of the Urban Area and largely consist of agricultural uses, with natural heritage features and an east-west hydro corridor directly along the south property line.

The lands to the west of the Subject Lands are outside of the Urban Area and consist of agricultural lands, a community church, as well as single detached residential dwellings and commercial and industrial uses.

### **PROPOSED CONSENT**

The proposal seeks to sever the eastern portion of the lands along the Urban Boundary. The retained lands will have 166.13 m of frontage along Garner Road East, and will be wholly located outside of the Urban Area of the City of Hamilton. The severed lands will have 160.88 metres of frontage and will be wholly located within the Urban Area of the City of Hamilton, and will continue to be processed within the existing Draft Plan of Subdivision application (25T201806). The attached consent sketch describes the retained and severed lots.

	Retained Lot	Severed Lot
Lot Area	34.19 ha.	35.27 ha.
Lot Frontage	166.13 m	160.88 m
Proposed Use	Existing single-detached residential dwelling and agricultural land	Vacant land – future business park

### **PLANNING ANALYSIS AND JUSTIFICATION**

#### **Planning Act**

Section 51(24) of the *Planning Act* requires that regard be had for the following considerations when creating new lots:

- *“the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality;”*

**The proposed consent will not impact the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality. The proposed lands to be retained contain an existing dwelling and agricultural uses, and no new development is proposed on these lands. These issues will**

**be addressed on the severed lands during detailed design through the Draft Plan of Subdivision application and future site plan applications.**

- *“the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;”*

**The proposed consent is consistent with the matters of provincial interest listed in Section 2 of the *Planning Act*, including the protection of the agricultural resources of the Province, and the orderly development of safe and healthy communities.**

- *“whether the proposed subdivision is premature or in the public interest;”*

**The Subject Lands currently straddle the Urban Boundary. The proposed consent would create a retained lot wholly within the rural area and a severed lot wholly within the Urban Area. The consent would create new lots that better-reflect the Urban Boundary and the boundaries of the land use designation in the Official Plan. As such, the consent is not premature and is in the public interest.**

- *“whether the plan conforms to the official plan and adjacent plans of subdivision, if any;”*

**The retained and severed lots conform to the respective UHOP and RHOP policies, as discussed below.**

- *“the suitability of the land for the purposes for which it is to be subdivided;”*

**The retained and severed lots will be of an appropriate size and regular configuration. No development is intended for the retained lands, and the existing farm dwelling and agricultural use will be maintained. The severed lands will be developed for business park uses through the ongoing Draft Plan of Subdivision application.**

- *“if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;”*

**Not applicable to this application.**

- *“the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;”*

**The Subject Lands have existing access to the surrounding road network via Garner Road East to which no changes are proposed.**

- *“the dimensions and shapes of the proposed lots;”*

**The proposed consent will divide the lands directly along the Urban Boundary which results in a more logical lot fabric consistent with the urban-rural boundary and the associated land use designations of the UHOP and RHOP. The resulting lots will be regular in shape and have ample frontage onto a public road.**



- *“the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;”*

**Not applicable to this application.**

- *“conservation of natural resources and flood control;”*

**All natural resources will be retained and protected, and there are no proposed revisions to any flood regulation areas.**

- *“the adequacy of utilities and municipal services;”*

**Utilities and municipal services are not proposed to be altered on the retained lot containing a farm dwelling and agricultural uses. The severed lot’s servicing will be addressed through the Draft Plan of Subdivision.**

- *“the adequacy of school sites;”*

**The proposed consent does not propose any new residential uses and as such additional school sites are not required.**

- *“the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;”*

**Land dedications are not proposed through the consent application.**

- *“the extent to which the plan’s design optimizes the available supply, means of supplying, efficient use and conservation of energy; and ”*

- 

**The lands to be retained are not proposed for additional development, and as such are not expected to impact the efficient use and conservation of energy.**

- *“the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2). ”*

**The retained lands are not intended to be developed and as such the site plan control requirements are not applicable. The interrelationship with site plan control matters for the severed lands will be dealt with through the Draft Plan of Subdivision.**

#### **Provincial Policy Statement 2014**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development with the goal of enhancing the quality of life for all Ontarians. The *Planning Act* requires that decisions affecting a planning matter “be consistent with” the policies of the PPS. The proposed consent is consistent with the PPS in that it will serve to protect the environment and resources, including agricultural land and serves to implement the policies of the Urban Hamilton Official Plan on the severed lands which are within the Urban Area.

## **Growth Plan for the Greater Golden Horseshoe 2017**

The Growth Plan for the Greater Golden Horseshoe (Growth Plan) provides a framework for implementing the provincial government's vision for building stronger, prosperous communities by better managing growth in the Greater Golden Horseshoe. The *Planning Act* also requires that decisions affecting a planning matter "conform with" the Growth Plan. Similar to the analysis above, the proposal conforms with the Growth Plan as it serves to implement the urban boundary of the City of Hamilton by dividing the Subject Lands into parcels that reflect the urban and rural area boundaries

## **Urban Hamilton Official Plan**

The Subject Lands are subject to both the Urban and Rural Hamilton Official Plans due to its location straddling the Urban Boundary. The eastern portion of the Subject Lands (the severed lands) are within the Urban Hamilton Official Plan.

The eastern portion of the Subject Lands are designated "Business Park" in UHOP Volume 1 and "Airport Prestige Business" in the Airport Employment Growth District (AEGD) Secondary Plan.

The Business Park designation permits business and economic activities such as manufacturing, research and development, transportation terminals, building supply establishments, warehousing, and communication establishments. (E5.4). Within the Airport Prestige Business designation, a range of employment uses are also permitted, including manufacturing, warehousing, airport-related industrial uses, offices, high technology industry, and other employment related uses (B8.4.5.1).

The Urban Hamilton Official Plan contains policies that outline conditions which must be met when creating new lots. The following specific policies are provided for Employment Areas

*"F.1.14.3.5 Consents for new lot creation for both the severed and retained lands for mixed uses, commercial, institutional, or open space uses in the Commercial/ Mixed Use and Institutional designation shall be permitted provided the following conditions are met:*

*a) the lots severed for commercial, institutional or open space uses shall comply with the policies of this Plan including secondary plans, where one exists;"*

**The severed lot will be located solely within the urban area. The lot is appropriate to implement the Business Park and Airport Prestige Business designations of the UHOP and AEGD Secondary Plan.**

*"b) The lots are in conformity with the Zoning By-law or a minor variance is approved;"*

**The in-effect M11 zone applicable to the severed lands permits a wide variety of industrial and employment uses that the active subdivision application intends to facilitate. As per the table below, the severed lot conforms with the lot frontage and area requirements of the in-effect zoning. Other aspects of zoning conformity will be determined through detailed design at the Site Plan Approval stage.**

	Required	Provided (Severed)
Minimum Lot Area	0.4 ha.	35.27 ha.
Minimum Lot Width	60 m	160.88 m

**The existing holding provision applicable to the Subject Lands will continue to be applicable after the lot has been conveyed and will require to be lifted prior to any development.**

*"c) the lots are fully serviced by municipal water and wastewater systems; and,"*

**There is an existing watermain in the Garner Road East R.O.W., and as a part of the Draft Plan of Subdivision application, full wastewater and stormwater servicing is proposed for the severed lands.**

*"d) the lots have frontage on a public road."*

**The severed parcel will retain 160.88 m of frontage on Garner Road East.**

As per the above analysis, the proposed consent application conforms with the consent policies of the UHOP.

### **Rural Hamilton Official Plan**

The RHOP applies to the western portion of the Subject Lands (the retained lot), and contains policies that outline conditions which must be met when creating new lots in the rural area of Hamilton. The Urban Boundary bisects the Subject Lands directly along the proposed consent line. Both general and land use specific policies are provided to regulate lot consents. It should be noted that while a lot is proposed to be created as a part of this application, no development or site alteration on the retained lot is proposed. Furthermore, as a result of this consent, no additional lots are being added to the rural area given that the severed lands will remain wholly within the Urban Area.

The Rural designation permits a variety of uses including resource-based uses, agricultural processing and storage, agricultural uses, and associated farm dwellings. (D4.1).

The RHOP additionally sets out regulations regarding the creation of new lots;

*"F.1.14.2.3 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (Amended by OPA 18):*

- a) Severances that create a new lot for the following purposes shall be prohibited:
  - i) Residential uses except in accordance with:
    - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,
    - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
  - ii) On-farm secondary uses in accordance with Policy D.2.1.3;

- iii) Severance of a lot for a farm labour residence or an existing dwelling that was permitted in a previous official plan and zoning by-law as a farm labour residence, farm help house, or help house;
- iv) Severance of any existing second dwelling on a lot, irrespective of the origin of the second dwelling, except in accordance with Section F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation."

**The proposed consent will preserve the existing farm dwelling and agricultural uses that fall outside of the Urban Boundary while permitting efficient development of lands inside the Urban Boundary on the severed lands. The intent of policy F1.14.2.3 a), to limit the creation of net new residential lots or dwellings in a rural area, is maintained with the proposed consent as no new dwellings or lots are proposed in the rural area.**

- "b) Severances that create a new lot(s) may be permitted for only the following purposes:
  - i) Agricultural uses in accordance with Policies F.1.14.2.1, F.1.14.2.2, and F.1.14.2.3;"

**The proposed consent will not result in a net increase in the number of lots in the rural area. The proposed consent meets the intent of policy F1.14.2.3 b) by retaining the existing agricultural use on the property.**

- "c) All proposed severances that create a new lot shall:
  - i) comply with the policies of this Plan including a rural settlement area plan where one exists;"

**The proposed consent complies with the policies of the Rural Hamilton Official Plan. The proposed consent does not hinder the function of the permitted agricultural use, does not create a new lot in the rural area, and does not propose to modify the existing uses and structures in the rural area, retaining and continuing to provide a secure land base for agricultural activities.**

- "ii) be compatible with and not hinder surrounding agricultural operations;"

**The proposed lot is generous in size and retains an existing use that is compatible with and does not hinder surrounding agricultural operations. The consent does not result in the fragmentation of agricultural lands in the rural area and no new development is being proposed.**

- "iii) conform to the Zoning By-law;"

**The existing farm dwelling and agricultural uses are permitted in the applicable Rural (A2) zone under Zoning By-law 05-200. The retained lot and the existing farm dwelling comply with the minimum frontage and setback regulations of the A2 zone as noted in the table below. However, the retained lot is approximately 6.2 hectares below the minimum required lot area. A concurrent Minor Variance application has been submitted to address this non-conformity, the justification for which is discussed in the appropriate section below.**

	Required	Provided (Retained)
Minimum Lot Area	40.4 ha.	34.19 ha.
Minimum Lot Width	60 m	166.13 m
Minimum Side yard	15.0m	Approx. 100m
Minimum Front Yard	15.0m	Approx. 320m
Minimum Rear Yard	15.0m	Approx. 565m

“iv) *only be permitted when both retained and severed lots have frontage on a public road; and,*”

**Both retained and severed lots have frontage on Garner Road East.**

“v) *meet the requirements of Section C.5.1, Private Water and Wastewater Services.*”

**The retained lands are currently serviced by municipal water and wastewater services. The severed lands are located in the Urban Area and are currently vacant. These lands will be serviced by municipal water and wastewater systems which will be designed and approved through the on-going subdivision application.**

“F.1.14.2.3 *In the Rural designation, severances that create a new lot, except surplus farm dwelling severances, may be considered only for agricultural uses, agriculture related uses, existing rural resource-based commercial uses, existing rural resource-based industrial uses, and existing rural institutional uses, provided all of the relevant conditions of Section D.4.1 and the following conditions are met:*

- a) *New lots for agricultural uses and agricultural-related uses shall demonstrate by a report prepared by an accredited professional knowledgeable in farm economics, such as an agrologist or agronomist, that the proposed agricultural lot(s) is(are) of sufficient size and nature to be reasonably expected to:*
  - i) *Sustain a commercially viable farm operation;*
  - ii) *Allow farm operators the flexibility to change the existing and proposed farm operation in the event of business failure;*
  - iii) *Allow farm operators the flexibility to diversify and intensify the production of agricultural commodities in response to changing economic conditions and trends in agriculture; and,*”

**The proposed consent represents a unique situation where the whole property is bisected by the Urban Boundary resulting in approximately half of the lands carrying a “Rural” land use designation and the other half carrying a “Business Park” designation. The severance line will be along the Urban Boundary and will logically divide the retained and severed lands according to their land use designations. As such, the consent does not result in the fragmentation of agricultural lands. Furthermore, no development is proposed for the retained lands.**

**Zoning By-Law 05-200**

The Subject Lands are currently split-zoned, with the zoning division occurring on the line of the proposed consent.

The eastern portion of the Subject Lands are zoned Airport Prestige Business (M11) with Special Exception 26 and Holding Provision 57 in Zoning By-law 05-200. The site specific M11 zone permits a variety of employment uses, including manufacturing, office, and warehouse uses. Exception 26 permits a banquet facility or conference and convention centre on the eastern portion of the Subject Lands. Holding provision 57 requires a functional servicing report, stormwater management report, wastewater generation assessment, external works agreement, and traffic impact statement to be provided to the City of Hamilton prior to the lifting of the holding provision. The proposed consent meets all regulations of the M11 zone.

The western portion of the Subject Lands are zoned Rural (A2) in Zoning By-law 05-200, as well as Conservation/Hazard Land (P8) which applies on the natural feature located on the western portion of the Subject Lands.

The P8 zone permits agricultural uses, existing single-detached dwellings, and other recreational and passive uses. The proposed consent meets all regulations of the P8 zone.

The A2 zone permits agricultural uses, as well as single detached dwellings. Agricultural uses must have a minimum lot area of 40.4 hectares and a minimum front, side, and rear yard of 15m. The proposed consent meets all regulations of the A2 zone, with the exception of the minimum lot area for an agricultural use, for which a concurrent minor variance application has been filed.

## **PROPOSED MINOR VARIANCE**

### **REQUESTED VARIANCE:**

In order to facilitate the consent application, the following variance for minimum lot area is required for the retained lands:

- To permit a minimum lot area for agricultural uses of 34 hectares, whereas the By-law requires a minimum lot area of 40.4 hectares.

Note that variances are not required for the severed lands.

### **MINOR VARIANCE TESTS:**

The relief requested above from By-law 05-200 meets the four tests set out under Section 45(1) of the *Planning Act* as follows:

#### **1. *The variance maintains the general intent and purpose of the Official Plan***

The retained land are designated Rural in the RHOP.

The intent of the Rural designation is to protect and maintain agricultural uses. The proposed reduction in minimum lot area from 40.4 hectares to 34 hectares maintains the general intent of the RHOP since it will not result in a reduction in the amount land area for agricultural purposes. As mentioned in the consent justification above, the property straddles the Urban Boundary splitting the property approximately equally between the Rural and Business Park land use designations. The proposed

consent line is along the Urban Boundary, thus dividing the properties according to their land use designations. If the land area of the retained lands were to be increased to the minimum area required by the zoning by-law and the severed lands decreased, the retained lands would have a split Rural and Business Park designation which would not contribute to meeting the intent of either designation.

Therefore, it is our opinion that the proposed variance meets the general intent and purpose of the Official Plan.

**2. *The variances maintain the general intent and purpose of the Zoning By-law***

The retained lands are currently zoned Rural (A2) and Conservation / Hazard Land - Rural (P8) Zoning By-law 05-200.

The intent of By-law with respect to minimum lot area requirements for agricultural uses is to ensure that the lot is of sufficient area to maintain a viable agricultural operation. The boundaries of the proposed retained lot for which this variance is required are consistent with the portion of the Subject Lands which are zoned A2. Therefore, the portion of the lot which is zoned A2 will not be reduced from its current size which is actively being farmed. Furthermore, the agricultural uses on the Subject Lands do not operate as an independent agricultural operation today and would continue to be leased to adjoining agricultural operators, ensuring appropriate scale of operations to ensure economic feasibility.

Therefore, it is our opinion that the proposed variance meets the general intent and purpose of the Zoning By-law.

**3. *The requested variance is desirable for the appropriate development or use of the land.***

The proposed variance would allow for the creation of the retained lands with boundaries that match the boundaries of the A2 zone, separating it from the balance of the Subject Lands which are zoned for business park uses. This would allow the future development and use of the retained and severed lands in accordance with their respective zoning categories while not being encumbered by each other's zoning regulations. Given that no development is proposed for the retained lands, the variance would allow lands to retain their existing use and character.

Therefore, it is our opinion that the proposed variance is desirable for the appropriate development and use of the land.

**4. *The requested variances are minor in nature***

The lands will retain their exact use and operation as they do today, with no physical impact from the proposed consent. The variance would simply allow the portion of the Subject Lands currently designated as A2 to be a standalone lot, unencumbered by the business park zoning on the balance of the Subject Lands.

Therefore, it is our opinion that the proposed variance is minor in nature.

## **CONCLUSION**

Based on the above analysis, the proposed consent and minor variance conforms with the current policy and regulatory framework. The proposed consent will preserve the existing uses on the retained lands, and enable future development as permitted in the Urban Hamilton Official Plan on the severed lands.

## **SUBMISSION MATERIALS**

Please find attached the following materials in support of the consent application:

- 1) Consent Application form (2 copies)
- 2) Minor Variance Application form (1 copy)
- 3) Consent Application fee in the amount of \$2,845 (1 cheque)
- 4) Minor Variance Application fee in the amount of \$3,302 (1 cheque)
- 5) Consent Conservation Authority Review fee of \$805 (1 cheque)
- 6) Minor Variance Conservation Authority Review fee of \$495 (1 cheque)
- 7) Draft reference plan / consent sketch (4 reductions)

Please do not hesitate to contact us should you have any questions.

Yours truly,

**MHBC**

Gerry Tchisler, MPL, MCIP, RPP  
Associate