



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 22, 2020
SUBJECT/REPORT NO:	Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road W, 914 Book Road W, and 1276 Shaver Road (Ancaster) (PED20160) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	June Christy (905) 546-2424 Ext. 5863
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Council gives approval to the following actions, as detailed in Report PED20160, respecting Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31, and AN/B-20:32 submitted by Urban Solutions on behalf of the Owner (Knollwood Golf Ltd.) for the Properties Located at 822 Book Road, West, 914 Book Road, West, and 1276 Shaver Road, Ancaster as shown on Appendix "A" to Report PED20160, approved by the Committee of Adjustment but recommended for Tabling by the Planning and Economic Development Department:

- (i) That Council of the City of Hamilton proceed with the appeal to the LPAT against the decision of the Committee of Adjustment to approve Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32;
- (ii) That Council directs appropriate Legal Services and Planning Staff to attend the future LPAT Hearing in opposition to the decision of the Committee of Adjustment to approve Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32.

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 2 of 17

EXECUTIVE SUMMARY

The applicant submitted joint Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 to permit the conveyance of parcels of land containing existing dwellings known as 822 Book Road, West, 914 Book Road, West, and 1276 Shaver Road, Ancaster and to retain lands with a frontage of 758 m and an area of 112.4 ha. The Consent Applications were heard by the Committee of Adjustment on July 23, 2020.

Comments to the Committee of Adjustment from Planning staff noted that there were conflicts with the Greenbelt Plan and the Rural Hamilton Official Plan for the severance of parcels for residential purposes in the Open Space Designation. Staff also indicated that the proposal required a successful rezoning as residential uses are not permitted in the Open Space (P4) Zone.

There were issues with the private servicing of the future residential parcels and as such, Hamilton Water staff did not support the severances and recommended that the applications be tabled. They required a more thorough hydro-g study that can would demonstrate that septic system pollution will not impact the neighbouring wells. Given the concerns from Hamilton Water, staff recommended that the applications be tabled to allow the applicant time to submit a more detailed hydro-g report that would demonstrate that the applications will meet the City's sustainable servicing policies (see Consolidated Staff comments in Appendix "C" to Report PED20160). However, the Committee of Adjustment approved the application for the reasons set out in the decision of the Committee of Adjustment (see Appendix "E" to Report PED20160).

Under the *Planning Act*, appeals must be filed within 20 days of the decision. As such, as per the standing instructions to staff, Planning and Economic Development staff submitted an appeal letter and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process, subject to Council's approval/ratification. The purpose of this report is to seek Council direction on the appeals.

Alternatives for Consideration – See Page 16

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Planning and Economic Development Department staff has submitted the required fee of \$450.00 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets. The Hearing would likely take one day.

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 3 of 17

Staffing: One representative each from Planning, Public Works (Source Water Protection) and Legal Services would be required for preparation and attendance at an LPAT Hearing. One member of Planning staff and Public Works (Source Water Protection), as required, would attend as an expert witness at the Hearing, should Council support the Recommendation of the Report.

Legal: No legal implications are expected.

HISTORICAL BACKGROUND

Role and Responsibilities of the Committee of Adjustment (PD02116(a))

In December, 2002, City Council endorsed a staff report related to the Roles and Responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an information Report, to the Committee of the Whole, when an appeal is made to the of a Local Planning Appeal Tribunal (LPAT) decision made by the Committee of Adjustment to support an application(s) that was not supported by staff. In response to such a report, Council may determine its position on the Committee of Adjustment decision and may instruct Legal Services to attend the LPAT Hearing, in support of the Committee’s decision, and to retain outside professional(s) accordingly.”

Report Fact Sheet:

Application Details	
Applicant/Owner:	Knollwood Golf Ltd.
Agent:	Urban Solutions Planning & Land Development (c/o Matt Johnson)
File Numbers:	AN/B-20:30, AN/B-20:31 and AN/B-20:32
Type of Application:	Consent to Sever
Proposal:	To permit conveyance of three parcels of land containing existing single detached dwellings and to retain lands for use as an existing golf course.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 4 of 17

Property Details	
Municipal Addresses:	822 Book Road West, 914 Book Road West, and 1276 Shaver Road (see Location Map attached as Appendix "A" to Report PED20160)
Lot Area:	112.4 ha
Lot Frontage:	758 m
Servicing:	Septic and Wells
Severance Details	
Severance A 822 Book Road, W AN/B-20:30 Sever into two lots	<u>Lands to be Conveyed</u> 61.32 m x 71.11 m 0.45 ha Contains an existing 3 storey single detached dwelling <u>Lands to be retained</u> 112 ha existing golf course
Severance B 914 Book Road, W AN/B-20:31 Sever the retained lots from Severance A	<u>Lands to be Conveyed</u> 0.3 ha Contains an existing 2 storey single detached dwelling and 1 storey building <u>Lands to be Retained</u> 111.6 ha existing golf course
Severance C 1276 Shaver Road AN/B 20:32 Sever the retained lot from Severance B	<u>Lands to be Conveyed</u> 67 m by 60 m 0.4 ha Contains an existing two storey single detached dwelling <u>Lands to be Retained</u> 111.2 ha existing golf course
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
Greenbelt Plan:	The Greenbelt Plan discourages lot creation for non agricultural uses in the rural area.

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 5 of 17

<p>Rural Hamilton Official Plan:</p>	<ul style="list-style-type: none"> • Designated Open Space in Schedule D-Rural Land Use Designations • Permits predominantly recreational activities, conservation management and other open space uses. • One ancillary residential dwelling may be permitted in conjunction with a resource-based recreational and tourism use • Residential uses are not permitted • As per 1.14.2.1 Lot Creation, severances that create a new lot for residential uses shall be prohibited except where a dwelling may be severed as a result of a farm consolidation and where a dwelling is within a designated Rural Settlement Area.
<p>Zoning Existing:</p>	<ul style="list-style-type: none"> • Open Space (P4) Zone and Conservation/Hazard Land Rural (P6) Zone in the southern portion of the lands.

Acquisition History of 822, 914 Book Road and 1276 Shaver Road

Prior to acquisition of the three parcels by Knollwood Golf Ltd. for development of the golf course, the lands were originally used for agricultural purposes and contained the three existing farm houses. Knollwood Golf Ltd. Acquired the parcels in the eighties and early nineties: 822 Book Road purchased in 1982; 914 Book Road purchased in 1987 and 1276 Shaver Road in 1994. Knollwood Golf Course started operations in 1991. As the applicant’s agent advised in the application materials, the three parcels have subsequently merged in title into Knollwood Golf Course lands.

July 22, 2020 Committee of Adjustment

Staff’s comments noted that the proposed severances did not meet the severance policies of the RHOP (see Staff comments in Appendix “C” to Report PED20160). Severances that create new lots for residential uses in the Open Space designation are prohibited except where a dwelling unit may be severed as a result of a farm consolidation. As well, the Open Space designation does not permit residential uses except or an ancillary residential use in conjunction with a resource-based recreation and tourism use. As such, in the comments submitted to the Committee of Adjustment, staff acknowledged that the proposed severances conflicted with Greenbelt and RHOP policies. The policy framework does not provide a way to rectify the merging of the lands on title by separating the residential uses from the golf course. In addition, the residential uses are not permitted in the Hazard Land Rural (P4) Zone and upon

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 6 of 17

severance of the lands the single detached uses were no longer be permitted. Therefore, a rezoning application would be required prior to severance.

In order for the severances to proceed, and the passage of a site specific zoning by-law to recognize and/or permit the residential uses, an Official Plan Amendment would be required to remove the proposed residential parcels from the Open Space Designation, and to add the lands to a more appropriate designation, most likely a Rural designation which would be compatible with the surrounding area.

Finally, there were issues with the private servicing of the future residential parcels and as such, Hamilton Water staff required that the applicant demonstrate that septic system pollution will not impact the neighbouring wells. Given the concerns from Hamilton Water, staff recommended that the applications be tabled to allow the applicant time to submit a detailed hydro-g report that demonstrates that the applications will meet the City's sustainable servicing policies.

As the minutes of the Committee of Adjustment meeting indicate (see Appendix "D" to Report PED20160), the agent provided an overview of the development of the golf course lands and that the severance applications were an attempt to rectify the owner's lawyer's error in allowing the original farm lots to merge with the golf course lands. Committee members discussed the merits of tabling the application (as staff recommended) so as to allow the owner time to demonstrate that the private servicing concerns of staff would be able to be satisfied. However, the owner and agent were willing to risk not clearing the conditions in the allotted time of one year. The Committee discussed whether to table but ultimately agreed to approve and not table the applications.

Appeal to LPAT

On August 11, 2020, Planning Division staff filed an appeal to the LPAT on behalf of the Planning and Economic Development Department with the Committee of Adjustment decision to approve the applications (see Appendix "F: attached to Report PED20160). The reasons for the appeal can be summarized as follows

- a) The severances conflict with the RHOP Designation and Severance policies, (F.1.14.2); and,
- b) The existing residential uses are not permitted within the zoning bylaw, in particular, in the Open Space (P4) Zone.

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 7 of 17

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Planning Act

The application has been reviewed with respect to the provision of the *Planning Act*.

Powers of Committee

“44(1) If a municipality has passed a by-law under section 34 or a predecessor of such as the council considers advisable. R.S.O. 1990, c. P.13, s, 44(1).

45(1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such section, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s, 45(1); 2006, x, 23, s, 18 (1); 2009, c. 33, Sched. 21, s. 10 (11).

45(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality, that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered subsection (1) applies with necessary modification. R.S.O. 1990, c. P.13, s. 45 (3)).

53(1) An owner of land or the owner’s agent duly authorized in writing may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 1994, c. 23 s. 32.

54(5) The council of a single-tier municipality authorized to give a consent under section 53 may by by-law delegate the authority of the council under section 53 or any part of that authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied, to a municipal planning authority or to the committee of adjustment. 2002, c. 17, Sched. B, s. 21 (4).

54(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, section 53 applies with necessary

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modifications and subsections 45 (4) to (20) do not apply in the exercise of that authority. 1994, c. 23, s. 33 (9).”

Staff are of the opinion pursuant to Section 53(1) of the Planning Act, that a Plan of Subdivision is not necessary for the proper and orderly development of the subject lands, and that a Consent Application is appropriate for the division of the subject lands.

Provincial Policy Statement (2019)

The Provincial Planning Policy Framework is established through the Planning Act (Section 3) and the Provincial Policy Statement (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 Appeals Tribunal approval of the City of Hamilton 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, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

The application was reviewed with respect to the Provincial Policy Statement (PPS), namely Settlement Areas Policy 1.1.3, and Housing Policy 1.4.

Furthermore, Housing Policy 1.4.3 encourages planning authorities to permit and facilitate all forms of residential intensification. Staff are of the opinion that the proposal is consistent with the Provincial policy Statement’s guidelines for residential intensification.

Residential Development

- 1.1.4.2 In *rural areas*, *rural settlement areas* shall be the focus of growth and development and their vitality and regeneration shall be promoted.
- 1.1.5.2 On *rural lands* located in municipalities, permitted uses are:
 - a) the management or use of resources;
 - b) resource-based recreational uses (including recreation dwellings);
 - c) residential development, including the lot creation, that is locally appropriate;

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 9 of 17

- d) *agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices*, in accordance with provincial standards;
- e) home occupations and home industries;
- f) cemeteries; and,
- g) other rural land uses.”

The proposed severances are not consistent with Policy 1.1.4.2 which focuses growth within Rural Settlement Areas. However, Policy 1.1.5.2 does allow for some residential development, including lot creation, that is locally appropriate. It is the intent of the PPS to allow municipalities to determine the extent of residential development in the rural area. Given that the existing farm houses on the subject lands have existed for decades and are compatible with the surrounding rural and residential properties nearby, the proposed severances are consistent with the Provincial Policy Statement.

Greenbelt Plan (2017)

The lands are designated “Protected Countryside” in the Greenbelt Plan where lot creation for residential purposes is discouraged.

3.1.4 Rural Lands Policies

3.1.4.2 *Rural lands* may contain existing agricultural operations and provide important linkages between *prime agricultural areas* as part of the overall *Agricultural System*. *Normal farm practices* and a full range of *agricultural uses, agriculture-related uses and on-farm diversified uses* are supported and permitted. Proposed *agriculture-related uses and on-farm diversified uses* should be compatible with and should not hinder surrounding agricultural operations. Criteria for all these uses shall be based on provincial Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas.

4.5 Existing Uses

4.5.1 All *existing uses* are permitted.

4.5.2 Single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force.

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 10 of 17

Municipalities are encouraged to retain existing lots of record for *agricultural uses* and discourage non-agricultural uses where appropriate.

- 4.5.4 Expansions to existing buildings and structures, accessory structures and uses and/or conversions of legally *existing uses* which bring the use more into conformity with this Plan are permitted subject to a demonstration of the following:
- a) Notwithstanding section 4.2.2.2, new municipal services are not required; and,
 - b) The use does not expand into *key natural heritage features* or *key hydrologic features* or their associated *vegetation protection zones*, unless there is no other alternative, in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure.”

4.6 Lot Creation

For lands falling within the Protected Countryside, the following policies shall apply:

1. Lot creation is discouraged and may only be permitted for:
 - a) Outside *prime* agricultural areas, including *specialty crop areas*, the range of uses permitted by the policies of this Plan;
 - f) 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.

The Greenbelt Plan policies do not provide policy direction for considering lot creation for residential uses except for the severance of a residence surplus to a farming

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 11 of 17

operation as a result of a farm consolidation. It is staff's opinion that even though the existing residences were once farm houses on agricultural properties, the agricultural use of the lands has ceased as the consolidation was for a recreational use and not a farming operation and so lot creation for surplus farm dwelling would not apply. Although *existing* residential uses are permitted, lot creation for non farm related residential purposes is not permitted.

Rural Hamilton Official Plan

The subject lands are designated as "Open Space in Schedule D - Rural Land Use Designations. The following lot creation policies, apply to the proposed severance applications:

Residential Development – Severance Policies

The following lot creation policies, amongst others apply to the proposed development:

- "F.1.14.2.1 The following policies apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agricultural, Rural, Speciality Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations:

- "3.5.3.6 New *development* shall conform to Section C.2, Natural Heritage System policies in Volume 1 of this Plan.

- "3.5.5.6 The division of land by consent may be considered when it is clear that a Plan of Subdivision is not necessary. When the severance of land by consent is deemed appropriate, regard shall be had to the other policies of this Rural Settlement Area Plan and Volume 1 of this Plan.

- C.5.11 No draft, conditional, or final approval of development proposals shall be granted by the City for any development in the rural area that could impact existing private services or involves proposed private services until the development proposal has complied with all of the following: (OPA 23)
 - c) The minimum size for a new lot proposed in an application for a severance or lot addition, with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall be the size required to accommodate the water system and sewage disposal system with no on-site and off-site impacts, and

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 12 of 17

shall include sufficient land for a reserve discharge site or leaching bed, as determined by the requirements in Policies C.5.1.1 a) and b). In no case shall a proposed new lot be less than one acre. The maximum lot size shall be in accordance with Policy F.1.14.2.1 g).”

- 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.”

Based on Policy F.1.14.2.1 the creation of non-surplus dwelling farm lots is prohibited.

Land Use Designation

The following policies, amongst others, apply to the proposed development:

“C.3.3.1 Lands designated as Open Space on Schedule D – Rural Land Use Designations are public or private areas where the predominant use of or function of the land is for recreational activities, conservation management and other open space uses. These include, but are not limited to parks for both active and passive recreational activities including *resource-based* recreational and tourism uses, recreation/community centres, pedestrian pathways, trails, bikeways and walkways, seasonal campgrounds, marinas, woodlots, forestry and wildlife management areas, fishing reserves, *hazard lands* and cemeteries. Ancillary commercial uses may be permitted as defined by section B.3.5.1, Parkland Policies and section C.2, Natural Heritage System policies of this Plan.

C.3.3.2 Open Space designations shall be further refined in Secondary Plans and Rural Settlement Area Plans or identified in an Appendix to this Plan in accordance with Section B.3.5.1 Parkland Policies of this Plan.

The following ancillary uses shall be permitted subject to the following:

SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 13 of 17

- a) Ancillary commercial uses such as but not limited to food concessions, recreational equipment rentals and water oriented recreational uses that are complimentary to supporting and in conjunction with a *resource-based* recreational and tourism use, or recreational/community centre, may be permitted provided they do not interfere with or have any negative impacts on the open space nature of the land; and
- b) One ancillary residential dwelling may be permitted in conjunction with a *resource-based* recreational and tourism use provided it does not interfere with or have any negative impacts on the open space nature of the land.

C.3.3.3 Where land is designated as Open Space and is under private ownership, it is not intended that this land shall necessarily remain so indefinitely, nor shall the Plan be construed as implying these areas are free and open to the general public or shall be purchased by the City.”

The intent of the Open Space designation is to permit Open Space uses. The Open Space designation does not permit residential uses except for an ancillary residential dwelling in conjunction with a *resource-based* recreational and tourism use provided that it does not interfere with or have any negative impacts on the open space nature of the land. As the proposal is not for an ancillary residential dwelling in conjunction with a *resource-based* recreational and tourism use, the proposal does not meet the intent of the Open Space policies of the Rural Hamilton Official Plan.

C.5.1 Private Water and Wastewater Services

“5.1.1 No draft, conditional or final approval of development proposals shall be granted by the City for any development in the rural area that could impact existing private services or involves private services until the development proposal has complied with all of the following:

- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or propose private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City’s calculations, the proponent shall be required to submit a hydrogeological

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 14 of 17

study completed in accordance with Section F.3.2.2 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as may be approved or amended from time to time.

- c) The minimum size for a new lot proposed in an application for a severance or lot addition, with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall be the size required to accommodate the water system and sewage disposal system with acceptable on-site and off-site impacts, and shall include sufficient land for a reserve discharge site or leaching bed as determined by the requirements in Policies C.5.1.1 a) and b). In no case shall a proposed new lot be less than one acre in size. The maximum lot size shall be in accordance with Policy F.1.14.2.1.
- d) The existing or proposed water supply system shall include a well with sufficient quantity of water and with potable water supply to sustain the use. A cistern system that meets current accepted standards, may, to the satisfaction of the City, be an additional component of the water supply system.”

Hamilton Water reviewed the well and septic technical memo from Landtek, the applicant’s consultant. Based on this memo and their desktop review, they determined that they cannot support the proposed severance(s) at this time as it would not meet the sustainable servicing policies within Chapter C.5.1 of the Rural Hamilton Official Plan. While the RHOP states that no newly created lot shall be less than 1 acre, other considerations (such as local soils, impervious surfaces, etc) within Chapter C.5.1 often require this minimum lot size to be larger. Based on their desktop review of local clay soils and the City’s Guidelines for Hydrogeological Studies and Technical Standards for Private Services, the minimum lot size requirement would be 1 hectare (2.54 acres). Staff advised that clay soils cannot dilute septic pollution efficiently, and as a result often requires larger lot areas to manage septic system pollution entirely within the property boundary.

The technical memo provided did not satisfy requirements within the City’s Guidelines for Hydrogeological Studies and Technical Standards for Private Services, as a Water Quality Impact Risk Assessment for each private sewage disposal system was not completed. It should be noted that while Landtek cites the water quality impact risk assessment as a City requirement, one was not completed within the memo that was submitted. This assessment and associated calculations are a key component in arriving at the recommended minimum lot size for a single family dwelling. Undersized lots increase groundwater quality and health risks to nearby well owners. Source Water

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SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent Applications AN/B-20:30, AN/B-20:31 and AN/B-20:32 for the Properties Located at 822 Book Road, West, 914 Book Road, West and 1276 Shaver Road, Ancaster (PED20160) (Ward 12) - Page 15 of 17

staff recommended that the application be tabled in order for the applicant to do a thorough Hydro-g study that can demonstrate otherwise.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Open Space (P4) Zone and Conservation/Hazard Land Rural (P6) Zone in the southern portion. The portion of the lands to be conveyed that contain the existing residential dwellings are zoned Conservation/Hazard Land Rural (P4) Zone.

The P4 Zone permits Botanical Gardens, Cemetery, Community garden, Conservation, Golf Course (excluding mini-golf), Nature Centres, Marina, Recreation, Seasonal Campground and Urban Farms, subject to a set of performance standards.

Residential uses are not permitted in the P4 Zone. As such, the use of a single detached dwelling will no longer be permitted upon severance of the lands. A successful rezoning application will be required to rezone the proposed new parcels to a zone that permits residential uses such as the Rural (A2) Zone which would be compatible with the surrounding area. However, the passage of any zoning by-law must comply with the Official Plan.

RELEVANT CONSULTATION

- Legal Services Division

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The proposal can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement (2020) and it is compatible with existing development in the immediate area with respect to use and character;
 - (ii) It is not consistent with the Greenbelt Plan which discourages lot creation for residential uses, although it is up to the municipality to determine;
 - (iii) It does not comply with the policies of the Rural Hamilton Official Plan in regards to lot creation and permitted residential uses in the Open Space designation;

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- (iv) The conditions of approval cannot be implemented because any site specific rezoning of the subject lands must comply with the RHOP and stand alone residential uses are not permitted in the open space designation; and,
- (v) The applicant has not satisfactorily demonstrated that the proposal will meet the sustainable servicing policies of the RHOP. A more detailed hydrogeological study is required.

2. Zoning By-law Amendment

The proposed severances would require a Zoning By-law Amendment to change the zoning to an appropriate zone that permits residential uses. Staff had requested that this application be Tabled until a successful rezoning application has been approved.

Staff note, that although not stated in staff's July 22, 2020 comments to the Committee of Adjustment on the proposed applications, a Rural Hamilton Official Plan Amendment would be required in order to change the designation to one that permits residential uses. However, at the same time, staff are also challenged by the lack of a policy mechanism to proceed with the severances as there are no policies in the RHOP that provide direction for severing parcels for residential uses in a Protected Countryside / rural area, except in the Rural Settlement Areas.

ALTERNATIVES FOR CONSIDERATION

Option 1:

Council could proceed with the appeal and direct appropriate Legal Services and Planning staff to attend the LPAT Hearing in opposition to the approved severance application, as recommended in this Report.

Option 2:

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decision of the Committee of Adjustment to the LPAT. Provided that no further appeals are filed; this option would allow the Committee of Adjustment's consent approval to stand. However, a successful Official Plan Amendment in addition to the Rezoning application would still be required prior to the Consent being approved.

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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”: Severance Sketches

Appendix “C”: AN/B-20:30, AN/B-20:31 and AN/B-20:32 Consolidated Staff Comments

Appendix “D”: July 22, 2020 Meeting Minutes

Appendix “E”: Notice of Decision

Appendix “F”: Appeal to LPAT Letter

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