



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 20, 2020
SUBJECT/REPORT NO:	Applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendment for Lands Located at 8475 English Church Road East, Glanbrook (PED18077) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Elyse Meneray (905) 546-2424 Ext. 6360
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

(a) That **Rural Hamilton Official Plan Amendment Application RHOPA-17-039 submitted by Ed Fothergill, agent, on behalf of Willow Valley Holdings Inc. (Owner)**, for an amendment to the Rural Hamilton Official Plan Schedule D - Rural Land Use Designations to re-designate the lands from Open Space to Rural to permit the creation of two new residential lots, for the lands located at 8475 English Church Road East, Glanbrook, as shown on Appendix “A” to Report PED18077, be **DENIED** on the following basis:

- (i) The proposed Application is not consistent with the Provincial Policy Statement (2020) and does not comply with the Provincial Policy Statement airport regulation, agriculture and lot creation policies;
- (ii) The proposed Application does not comply with the Rural Area and Goods Movement policies A Place to Grow (2019);
- (iii) The proposed Application does not comply with the policies and intent of the Rural Hamilton Official Plan airport development regulation policies and lot creation policies;

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- (iv) The proposed development does not represent good planning as it is proposing a sensitive land use within the 35-40 NEF contour and the creation of two new lots for non-agricultural purposes in the Rural Hamilton Area.

- (b) That **Zoning By-law Amendment Application ZAC-17-082, submitted by Ed Fothergill, agent, on behalf Willow Valley Holdings Inc. (Owner)**, for a change in zoning from the Open Space (P4) Zone to the Rural (A2) Zone in order to permit the development of two new residential lots, for lands known as 8475 English Church Road East (Glanbrook), as shown on Appendix “A” to Report PED18077 be **DENIED** on the following basis:
 - (i) The proposed Application is not consistent with the Provincial Policy Statement (2020);
 - (ii) The proposed Application does not comply with the Rural Area and Goods Movement policies of A Place to Grow (2019);
 - (iii) The proposed Application does not comply with the policies and intent of the Rural Hamilton Official Plan airport regulation policies, lot creation policies and is not an appropriate use for the area; and,
 - (iv) The proposal does not meet the general intent of the City of Hamilton Zoning By-law No 05-200.

EXECUTIVE SUMMARY

The applicant has applied for a Rural Hamilton Official Plan (RHOP) Amendment and a Zoning By-law Amendment for a portion of the lands at the Willow Valley Golf Course located at 8475 English Church Road East. The applicant proposes to re-designate the subject lands from “Open Space” to “Rural” and to change the zoning from the Open Space (P4) Zone to the Rural (A2) Zone in order to permit the development of two new residential lots.

The initial staff report was tabled at the May 1, 2018 Planning Committee meeting (see Appendix “F” to Report PED18077) and further tabled at the July 10, 2018 Planning Committee meeting (see Appendix “G” to Report PED18077) to allow for the Applicant to consult with the Ward Councillor and the Hamilton International Airport. It is staff’s understanding that the Applicant has not met with the Ward Councillor but met with the Hamilton International Airport in 2018. Staff confirmed that the Hamilton International Airport is still not supportive of the application. As a result, the applications have been rescheduled for the October 20, 2020 Planning Committee on the proposed Official Plan

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Amendment and Zoning By-law Amendment as that this matter is on the Planning Committee Outstanding Business List.

The applicant is proposing to create two new residential lots fronting onto English Church Road from the subject lands at the Willow Valley Golf Course, as shown on Appendix "B" to Report PED18077. They are proposed to be created through Consent for Severance Applications GL/B-15:65 and GL/B-15:66 which were tabled at the September 17, 2017 Committee of Adjustment meeting. It should be noted that staff did not support the applications, and the Committee determined that the merits of the application should best be first considered by City Council through an Official Plan and Zoning By-law Amendment with respect to the principle of land use and lot creation.

The first residential lot (shown as Part 1 on Appendix "B" to Report PED18077) is proposed to have a frontage of 62.267 m and an area of .0405 ha and the second proposed residential lot (shown as Part 2 on Appendix "B" to Report PED18077) is an irregular shaped lot with a proposed frontage of 169.8 m and an area of 0.782 ha.

As stated in the Planning Justification Report submitted with the application, the applicant proposes that, as a condition of creating the two lots, two vacant properties zoned Rural (A2) Zone located at 3005 and 3065 Upper James Street (2.01 ha and 2.5 ha in size) would be consolidated with an abutting 30.1 ha property, zoned Rural (A2) Zone at 2907 Upper James Street. The larger property is used as a sod farming operation, and all of the above mentioned properties are owned by the applicant. This proposal is shown on Appendix "C" to Report PED18077.

The applications do not have merit and cannot be supported as they are not consistent with the Provincial Policy Statement (2020), A Place to Grow (2019) and do not conform to the intent of the Rural Hamilton Official Plan (RHOP) specifically the, airport development and lot creation policies.

Alternatives for Consideration – See Page 23

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold as least one Public Meeting to consider an application for Amendment to the Rural Hamilton Official Plan and Zoning By-law.

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HISTORICAL BACKGROUND

Application Details	
Applicant/Owner:	Willow Valley Holdings Inc. (c/o Steve Schiedel)
Agent:	Fothergill Planning & Development Inc. (c/o Ed Fothergill)
File Numbers:	RHOPA-17-039 & ZAC-17-082
Type of Application:	Official Plan Amendment and Zoning By-law Amendment
Proposal:	To create two new residential lots, with the intention of constructing a single detached dwelling on each lot.
Property Details	
Municipal Address:	8475 English Church Road East
Lot Area:	61.2 ha
Lot Frontage:	680 m (along English Church Road East)
Servicing:	No municipal services (well and septic systems)
Existing Use:	Golf Course
Documents	
Provincial Policy Statement (PPS):	The proposal is not consistent with the PPS.
A Place to Grow:	The proposal does not conform to A Place to Grow.
Official Plan Existing:	Designated "Open Space" on Schedule D – Rural Land Use Designations.
Official Plan Proposed:	Rural
Zoning Existing:	Open Space (P4) and 3T Zone
Zoning Proposed:	Rural (A2) Zone
Modifications Proposed:	No modifications proposed.

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Processing Details	
Received:	November 10, 2017
Deemed Complete:	November 17, 2017
Notice of Complete Application:	Sent to 93 property owners within 120 m of the subject property on November 24, 2017.
Public Notice Sign:	December 4, 2017
Statutory Public Notice published in the Hamilton Spectator	April 13, 2018, June 14, 2018 and October 2, 2020.
Notice of Public Meeting:	Sent to 85 property owners within 120 m of the subject property on April 13, 2018, June 14, 2018 and October 2, 2020.
Public Consultation:	<p>The public consultation strategy relies on <i>Planning Act</i> requirements carried out by the City including installation of a Public Notice Sign, circulation of the Notice of Application to all landowners within 120 metres of the site and the holding of a statutory public meeting before the City’s Planning Committee. The applicants have indicated they will be present to answer questions at the statutory public meeting before Planning Committee.</p> <p>The applicant held an Open House for area neighbours on May 6, 2015. Notice of the Open House was distributed to 41 properties along English Church Road. Seven neighbours and the local Councillor attended the Open House. The applicant’s Planning Justification Report indicated that there were no major concerns with the proposal.</p>
Public Comments:	At the time of writing this Report, no correspondence has been received; however, staff received one phone call from a resident to the north of the subject lands in opposition to the proposal. The caller indicated that the proposal for creating two new residential lots did not comply with the RHOP policies and that a precedent would be set for the area.

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Processing Time:	1068 days
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Background

The subject lands at 8475 English Church Road East are part of the Willow Valley Golf Course and located at the south east corner of the intersection at English Church Road, East and Upper James Street. They are also located to the west of the Airport Employment Growth District Secondary Plan and to the southwest of the Mount Hope Secondary Plan. The subject lands are located in the Airport Influence Area, Primary Airport Zoning Regulation Area and between the 35-40 Noise Exposure Forecast Contours.

The subject lands are located within the “White Belt”, (the rural area outside of the Greenbelt Plan area), in the Rural Hamilton Official Plan. Therefore, Greenbelt policies do not apply. Although, the subject lands are not regulated by Greenbelt Plan policies, there are Rural Area policies in A Place to Grow that provide guidance on what should be permitted on rural lands outside of the rural settlement area and as such, the application must conform to A Place to Grow (2019).

Previous (2005) Consent for Severance Application

In 2005, the applicant submitted a Regional (ROPA-05-02) and Local Official Plan (OPA-05-08) Amendment and Zoning By-law (ZAC-05-58) Amendment Applications to allow for the severance and creation of three lots for single detached dwellings on the Willow Valley Golf Course. Two of the proposed lots (8271 English Church Road East and 8321 English Church Road East) had existing dwellings on the property which were being used as a clubhouse and a residence for the groundskeeper. The third proposed lot was vacant. The applications were heard at Planning Committee on May 16, 2006.

Planning Committee agreed to approve the severances for Lot 1 (8271 English Church Road) and Lot 2 (8321 English Church Road) conditional upon the owner agreeing to replace the additional dwelling use with the clubhouse. Planning Committee amended the original application to remove the third lot to be created, as there was no existing dwelling on the lot.

On June 28, 2006, Hamilton City Council approved Official Plan Amendment No. 27 to the former Region of Hamilton-Wentworth Official Plan and Official Plan Amendment No. 55 to the former Township of Glanbrook Official Plan and amended Zoning By-law No. 464 (Glanbrook), for lands located at 8271 and 8321 English Church Road East, which permitted the creation of the two lots for the existing single detached dwellings. In 2006, the two lots were severed (GL/B-06:117 & GL/B-06:118) from the Willow Valley Golf Course. See Appendix “D” and Appendix “E” to Report PED18077 for Committee of

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Adjustment applications GL/B-06:117 & GL/B-06:118 meeting minutes and staff comments.

Application History

May 1, 2018 Planning Committee

The applications were tabled at the May 1, 2018 Planning Committee meeting in order for the Applicant to meet with the Ward Councillor (see Appendix “F” to Report PED18077 for the May 1, 2018 Planning Committee meeting minutes).

July 10, 2018 Planning Committee

The applications were rescheduled for the July 10, 2018 Planning Committee meeting. At this meeting, the Applicant requested that the applications be further tabled to allow for the following:

- Meet with the Hamilton International Airport to review the application;
- Discuss the application with staff; and,
- Meet with Ward Councillor on site to discuss the application.

The motion was granted, and the application was tabled (see July 10, 2018 Meeting Minutes attached as Appendix “G” to Report PED18077).

July 20, 2018 Noise Study Submission

On July 20, 2018, the Applicant submitted a noise feasibility study titled “*Preliminary Noise Control Study, Creation of Two Residential Lots; Parts 5 and 6 on English Church Road, City of Hamilton*”, prepared by SS Wilson Associated. Staff reviewed the noise study and determined that the noise levels for the two proposed residential lots exceeded the requirements of the RHOP. Therefore, staff could not approve the noise study. The noise study is further discussed in the Policy Implications section of the report.

Outstanding Business List

The Rural Hamilton Official Plan Amendment and Zoning By-law Amendment applications have been tabled since July 10, 2018 and have remained on the Outstanding Business List for 833 days. City staff have attempted to reschedule the applications for Planning Committee twice, but the Applicant requested more time to consult with the Ward Councillor and the Hamilton International Airport. It is staff’s understanding that these meetings have not occurred and therefore, the applications have rescheduled for the October 20, 2020 Planning Committee as the Applicant has

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had sufficient time to follow up on these matters the HIA position and advice on the applications has not changed (i.e. that the application should be denied) and therefore staff's recommendation has not changed.

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Open Space (Willow Valley Golf Course)	Open Space (P4) Zone, Special Exception 164 and 3T

Surrounding Land Uses:

North	Residential, Agriculture and Open Space (Cameron Speedway and Amusements)	Rural (A2) Zone Open Space (P4) Zone, Special Exception 160
South	Willow Valley Golf Course	Open Space (P4) Zone, Special Exception 164 and 3T
East	Agriculture	Agriculture (A1) Zone
West	Residential and Willow Valley Golf Course	Rural (A2) Zone Open Space (P4) Zone, Special Exception 164 and 3T

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The proposed Rural Hamilton Official Plan Amendment (RHOPA-17-039) and Zoning By-law Amendment (ZAC-17-082) were reviewed against the Provincial Policy Statement (2020), A Place to Grow (2019) and the Rural Hamilton Official Plan.

Two of the most relevant policies in all documents are: land use compatibility of sensitive land uses in proximity to an airport and the residential development in the rural area.

The subject property is located in the rural area in close proximity to the John C. Munro International Airport. The purpose of the application is to create two new residential lots for single-detached dwellings.

Provincial Policy Statement (2020)

The Provincial Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS, 2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The applications have been reviewed against the policies of the Provincial Policy Statement (PPS, 2020).

Land Use Compatibility

The subject property was identified as being located within the Airport Influence Area, Primary Airport Zoning Regulation Area and the 35-40 Noise Exposure Forecast Contour, as such, the following policies, amongst other, apply to the proposal:

- “1.2.6.1 *Major facilities and sensitive land uses* shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long term viability of *major facilities* in accordance with provincial guidelines, standards and procedures.
- 1.6.9.1 Planning for land uses in the *vicinity of airports, rail facilities and marine facilities* shall be undertaken so that:
- a) their long term operation and economic role is protected; and,
 - b) airports, rail facilities and marine facilities and sensitive land uses are appropriately designed, buffered and/or separated from each other, in accordance with policy 1.2.6.
- 1.6.9.2 *Airports* shall be protected from incompatible land uses and development by:
- a) prohibiting new residential *development* and other sensitive land uses in areas near *airports* above 30 NEF/NEP;
 - b) considering redevelopment of existing residential uses and other sensitive land uses or infilling of residential and other sensitive land uses in area above 30 NEF/NEP only if it has been demonstrated that there will be no negative impacts on the long term function of the *airport*, and,

- c) discouraging land uses which may cause a potential aviation safety hazard.”

The proposal is not consistent with the Airport, Rail and Marine policies of the Provincial Policy Statement. The PPS protects airports from incompatible land uses and development by prohibiting new residential development and other sensitive land uses in areas near airports above the 30 NEF contour. This proposal is to create two new residential lots within the 35-40 NEF contour. John C. Munro International Airport staff have advised that any residential development permitted in the area (i.e. within the 35-40 NEF Contour) will be significantly impacted by aircraft noise. This can result in complaints against routine airport operations and the intent of the NEF contour land use policies is to ensure the long term viability of the airport for 24/7 operations. It is better to avoid a potential land use conflict, rather than to try and mitigate it. Therefore, the proposal does not meet the intent of the PPS as the proposed development is not an appropriate distance from the airport to prevent or mitigate adverse effects from noise.

In addition, by allowing for residential development within this area the long-term operation and economic role of the Airport is not being protected.

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;
 - 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.”

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The proposed use is not consistent with Policy 1.1.4.2 which focuses of 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.

Agriculture and Lot Creation

The subject property has been identified as a prime agricultural area as such, the following policies, amongst others, apply to the proposal:

- “2.3.1 *Prime agricultural areas* shall be protected for long-term use for agriculture.
- 2.3.3.1 In *prime agricultural areas*, permitted uses and activities are: *agricultural uses, agriculture-related uses and on-farm diversified uses*.
- 2.3.4.1 Lot creation in *prime agricultural areas* is discouraged and may only be permitted for:
- a) *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
 - b) *agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*;
 - c) a residence surplus to a farming operation as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*; and
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and

- d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

2.3.4.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).”

The proposed use is not consistent with Policy 2.3.1 and 2.3.3.1, which protects prime agricultural areas for long-term use for agriculture and permits only agricultural uses, agricultural-related uses and on-farm diversified uses. Furthermore, the proposed development is not consistent with Policy 2.3.4.3, which does not permit the creation of new residential lots in prime agricultural areas except for a residence surplus to a farming operating as a result of a farm consolidation in accordance with policy 2.3.4.1 (c).

A Place to Grow (2019)

The following applicable policies, amongst others, apply as it relates to the airport:

“3.2.4.2 The Province and municipalities will work with agencies and transportation service providers to:

- a) co-ordinate, *optimize*, and ensure the long-term viability of *major goods movement facilities and corridors*.

3.2.5.1 In planning for development, optimization, or expansion of existing and *planned corridors* and supporting facilities, the Province, other public agencies and upper- and single-tier municipalities will:

- b) ensure that existing and *planned corridors* are protected to meet current and projected needs in accordance with the transportation and *infrastructure* corridor protection policies in the PPS;

3.2.5.2 The planning, location, and design of *planned corridors* and the land use designations along these corridors will support the policies of this Plan, in particular that development is directed to *settlement areas*.”

The development is not consistent with the Airport policies of the Growth Plan (2019). Therefore, this development conflicts with Policies 3.2.5.1 b) and 3.2.5.2 of the Growth Plan (2019).

Rural Hamilton Official Plan (RHOP)

The two most important RHOP policies are the Noise policies and the severance policies. The policies, not above, apply to any residential development in the rural area, regardless of land use designation.

Airport Influence Area Policies

The subject lands are identified as Airport Influence Area on Schedule “F” Airport Influence Area, Primary Airport Zoning Regulation Area and between the 35-40 Noise Exposure Forecast Contours on Appendix “D” – Noise Exposure Forecast Contours and Primary Zoning Regulation Area. The following policies, amongst others, apply to the proposed development:

- “B.3.6.3.2 Development of noise *sensitive land uses*, in the vicinity of provincial highways, parkways, arterial roads, collector roads, truck routes, railway lines, railway yards, airports or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines standards.
- B.3.6.3.8 *Development* within the vicinity of John C. Munro International Airport shall be in accordance with Section C.4.8 – Airport.
- C.4.8.5 The City shall minimize the future conflicts between operation of the Airport and surrounding land uses to ensure:
- There shall be no negative impact on the long-term operations of the Airport;
- a) The opportunities for expansion of airport operations shall not be limited; and,
- b) There are no land uses in the vicinity which may cause a potential aviation hazard; and,
- c) Development that is noise or land use sensitive to airport operations or will limit the opportunities for expansion of airport operations shall be restricted.
- C.4.8.7 All *development and redevelopment* shall comply with all provincial and municipal standards, criteria and guidelines regarding noise and vibration from air traffic sources, including section B.3.6.3 – Noise, Vibration and Other Emissions.

C.4.8.8 Proposals for *development*, infill development and *redevelopment* of residential or other *sensitive land use* shall comply with the following requirements in Table C.4.8.1 – Requirement for Development in the Vicinity of John C. Munro International Airport, based on all applicable location criteria. Proposals may meet more than one locational criteria and thereby be subject to more than one set of requirements.”

Table C.4.8.1: Requirements for Development in the Vicinity of John C. Munro International Airport

	Locational Criteria	Requirements
1	35 NEF and greater, and/or within the Airport Influence Area	<p>a) All new <i>development</i> of residential and other <i>sensitive land uses</i>, including infill <i>development</i> and <i>redevelopment</i>, shall be prohibited.</p> <p>b) New land uses which may cause a potential aviation hazard shall be prohibited.</p>

The proposal conflicts with Policy B.3.6.3.2 and C.4.8.4 since it is contrary to the PPS and A Place to Grow. In addition, it is also contrary to Policies C.4.8.5 and C.4.8.8. The proposed residential use is located between the 35-40 NEF contours and the Airport Influence Area. As per policy C.4.8.8, all proposals for development, infill development and redevelopment of residential or other sensitive land uses shall comply with Table C.4.8.1 – Requirements for Development in the Vicinity of John C. Munro International Airport, based on all applicable location criteria.

The locational criteria applicable for the proposal is 35 NEF or greater and / or within the Airport Influence Area. Therefore, all new development of residential and other sensitive land uses, including infill development and redevelopment shall be prohibited. Furthermore, policy C.3.3.2 (d) states that development that is noise or land use sensitive to airport operations or will limit the opportunities for expansion of airport operations shall be restricted. The proposal is for a sensitive land use and therefore shall be restricted so that there is no adverse effect on the airport or surrounding land uses.

As part of the application, the Applicant submitted an environmental noise impact study titled “*Preliminary Noise Control Study, Creation of Two Residential Lots; Parts 5 and 6 on English Church Road, City of Hamilton*”, prepared by SS Wilson Associated and dated July 20, 2018.

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The study reviewed the acoustic requirements for the development of two single detached dwellings with respect to acoustic noise from the Hamilton International Airport and vehicular traffic along English Church Road East.

The Provincial Policy Statement (PPS) and Ministry of Environment, Conservation and Parks (MOECP) requirements permit residential development within the NEF 30 contour but acknowledge that municipalities have the right to further restrict residential development in these contours. As per Table C.4.8.1 in the RHOP, there is no opportunity to permit newly proposed residential development, redevelopment or infill development above the NEF 28 contour. Therefore, staff are not supportive of the proposed development as it does not conform to the RHOP noise policies.

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:
- 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 subject lands are currently designated “Open Space” on Schedule “D” – Rural Land Use Designations of the Rural Hamilton Official Plan (RHOP). 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:

- 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.

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Notwithstanding the designation of the subject lands, residential development is contrary to the Noise and Airport Influence policies. These policies directly implement the provincial policy. Furthermore, the RHOP does not allow severances for residential dwelling lots unless they are related to a farming operation.

City of Hamilton Zoning By-law 05-200

The subject lands are zoned Open Space (P4) Zone – Special Exception 164 in Zoning By-law No. 05-200. The lands are also subject to Special Exception 3T, a pilot project for entertainment on outdoor commercial patios for areas of Downtown Hamilton and for certain lands zoned Open Space (P4) and Settlement Commercial (S2) Zone in the Rural Area. This temporary use has been extended to May 1, 2022. Special Exception 164 applies only to 8475 English Church Road and permits the following additional provisions:

- a) A clubhouse shall be set back a minimum of 200.0 m from English Church Road East and Upper James Street, and a minimum of 900.0 m from the adjacent livestock building and manure facility on the lands to the east described as 8149 English Church Road East;
- b) Minimum yards for all golf tees, fairways, greens and practice areas shall be 30.0 m from any lot line that abuts a public street or a lot used for residential or institutional purposes;
- c) A landscaped area with a minimum width of 10.0 m shall be provided adjacent to any lot line that abuts a public street or a lot used for residential or institutional purposes.

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, and a Zoning By-law Amendment is required to permit the residential use on the subject lands.

RELEVANT CONSULTATION

Departments and Agencies	
<ul style="list-style-type: none">• Community Planning;• Hydro One;• Recreation Division;• Urban Design;• Hamilton Fire Department;	No Comment

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<ul style="list-style-type: none"> • Ministry of Transportation; • Union Gas; • Bell Canada; and, • Rogers Cable. 		
	Comment	Staff Response
Growth Planning	<ul style="list-style-type: none"> • Staff notes that there is a lengthy history to this property and previous severances associated with it. • The proposed severances do not conform to the lot creation policies of Policy F.1.14 of Volume 1 of the Rural Hamilton Official Plan. • Staff note that the subject lands fall within the 35 to 40 NEF noise Contour per Appendix “D” – Noise Exposure Forecast Contours and Primary Zoning Regulation Area. • As per Policy B.3.6.3.8 of Volume 1 of the Rural Hamilton Official Plan, development is subject to Policy Section C.4.8 – Airport, which per Table C.4.8.1 prohibits all new residential development in locations within the 35 NEF contour or greater. • Based on the foregoing, staff do not support the proposed amendments and associated severances. 	<p>These issues are further discussed in the Policy Implications and Analysis and Rationale sections of the report.</p>
Development Engineering	<ul style="list-style-type: none"> • A Grading and Drainage Control Plan and a revised Hydrogeological Report showing hydrogeologic cross sections to demonstrate isolation between surface activities and bedrock aquifer wells within 500 meters required at Consent. 	<p>Should the applications be approved, the following will be required at the Consent stage:</p> <ul style="list-style-type: none"> • Grading and Drainage Plan; and, • Revised Hydrogeological Report. <p>In addition to the above, should the applications be approved, the</p>

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	<ul style="list-style-type: none"> • The Development Engineering section is unable to support this application until a Grading and Drainage Plan and Hydrogeological Report are approved. • Should the subject application proceed to the Severance Application stage the future application may be subject but not limited to the following requirements/conditions: <ul style="list-style-type: none"> • Erosion and Sediment Control Plan • Stormwater Management Design • Security to cover the potential damages to municipal infrastructure • Geotechnical Investigation Report • External works/consent/encroachment agreements • Cost recoveries • Municipal Easement requirements 	<p>following requirements / conditions may be required at the Consent stage:</p> <ul style="list-style-type: none"> • Erosion and Sediment Control Plan • Stormwater Management Design • Security to cover the potential damages to municipal infrastructure • Geotechnical Investigation Report • External works/consent/encroachment agreements • Cost recoveries • Municipal Easement requirements
Transportation Planning	<ul style="list-style-type: none"> • Right-of-Way dedications for Upper James Street and English Church Road are required at the Consent stage. • A 15 m by 15 m daylighting triangle at the corner of Upper James Street and English Church Road is required at the Consent stage. • The BLAST Line corridors need to be protected for future rapid transit. 	<ul style="list-style-type: none"> • Should the applications be approved, these requirements will be addressed through the future Consent process.
Recycling and Waste Disposal (Environmental Services)	<ul style="list-style-type: none"> • Proposal is eligible for municipal waste collection and that the standard note should be added to any future site plan 	<ul style="list-style-type: none"> • Should the applications be approved, this note will be added to any future site plan.

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Division, Public Works Department)		
Niagara Peninsula Conservation Authority (NPCA)	<ul style="list-style-type: none"> • Advised that current regulations do not permit development (including but not limited to: structures, septic systems, ponds and fill) within floodplain areas. The lands to be severed, shown as Part 1 on the <i>Sketch for Land Severance prepared by A.T.McLaren limited (dated May 1, 2015)</i> is located outside of any features of interest. NPCA • A 3.0 m setback from the bank of the watercourse to the rear lot line of Part 2 is required. • NPCA will require a topographic survey showing the floodplain elevation of 218.81 m GSC and a building envelope for Part 2 that is located outside the regulatory floodplain. • The NPCA has no objection to the applications subject to the circulated sketch being revised to meet the requirements outlined in this letter. • Should any development and/or site alterations (i.e. grading / fill) be proposed in an NPCA regulated area a work permit will be required from our office in accordance with the “Regulation of Development, Interference with Wetlands and Alterations to Shoreline and Watercourses” (O. Reg. 155/06). 	<ul style="list-style-type: none"> • Should the applications be approved the following will be required at the Consent stage: <ul style="list-style-type: none"> • A 3.0 metre setback from the bank of the watercourse to the rear lot line of Part 2; and, • Topographical Survey showing the floodplain elevation and building envelop for Part 2. • Staff note that although NPCA requested a 3.0 metre setback from the bank of the watercourse to the rear lot line of Part 2. Natural Heritage staff requested a 15 m setback. This is discussed further in the Analysis and Rationale section.
John C. Munro International Airport	<ul style="list-style-type: none"> • Advised that as per the City of Hamilton By-law #05-196 no <i>sensitive land uses are permitted to be developed within</i> 	<ul style="list-style-type: none"> • These issues are further discussed in the Policy Implications and Analysis and Rationale sections of the report.

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	<p><i>areas exposed to noise disturbance levels greater than the 28 NEF, except where the lands are currently designated Urban.</i></p> <ul style="list-style-type: none"> The proposed residential severances falls under Noise Exposure Forecast (NEF) contour 40 and the Airport Influence Area therefore; any residential development permitted in the area will be significantly impacted by aircraft noise and will conflict with the Hamilton Airport Zoning Regulations and the City of Hamilton By-law. 	
Public Consultation:		
	Comment	Staff Response
Lot Creation	<ul style="list-style-type: none"> The proposed development does not comply with the RHOP and will set a precedent for the area. 	<ul style="list-style-type: none"> The proposed severances do not conform to the lot creation policies of Policy F.1.14 of Volume 1 of the Rural Hamilton Official Plan, therefore staff are not supportive of the application.

PUBLIC CONSULTATION

In accordance with the *Planning Act* and Council’s Public Participation Policy, the proposal was circulated as part of the Notice of Complete Application to 93 property owners within 120 m of the subject lands on November 24, 2017. A public notice sign was posted on the property December 4, 2017. The statutory notice of this Public Meeting was published in the Hamilton Spectator and circulated to 93 property owners within 120 m of the subject lands on October 2, 2020.

Public Consultation Strategy

The applicant held an Open House for area neighbours on May 6, 2015. Notice of the Open House was distributed to 41 properties along English Church Road. Seven neighbours and the local Councillor attended the Open House. The applicant’s Planning Justification Report indicated that there were no major concerns with the proposal.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal does not have merit and cannot be supported for the following reasons:
 - (i) The proposal is not consistent with the Provincial Policy Statement (2020);
 - (ii) The proposal does not comply with the policies and intent of the Rural Hamilton Official Plan (RHOP) in regards to airport development and lot creation policies;
 - (iii) The proposal does not meet the general intent of Hamilton Zoning By-law No. 05-200; and,
 - (iv) The proposed development does not represent good planning as it is recommending the development of a sensitive land use (residential) within the 35-40 NEF noise contours and the creation of two new lots for residential purposes in the Hamilton rural area.
2. The applicant proposes to consolidate two vacant properties zoned Rural (A2) Zone located at 3005 (2.01 ha) and 3065 Upper James Street (2.5 ha) with an abutting 30.1 ha property, zoned Rural (A2) Zone at 2907 Upper James Street. There are no policies in either the PPS or Growth Plan to permit the development scheme proposed. The proposed lot severances on English Church Road East do not comply with the airport development and lot creation policies of the Rural Hamilton Official Plan.
3. The applicant has requested a change in zoning from the Open Space (P4) Zone to the Rural (A2) Zone. Since staff do not support the Official Plan Amendment application and the proposal, staff do not support the associated Zoning By-law Amendment, which would implement the proposed zoning change. Staff are not supportive of a change in zoning because the applicant is recommending the development of a sensitive land use (residential) within the 35-40 NEF noise contours and the creation of two new lots for residential purposes in the Hamilton rural area.
4. City staff advise that should development occur, and based on the topography and site conditions, no development or site alteration should occur within a minimum Vegetation Protection Zone (VPZ) of 15 m, measured from the stable top of bank of the stream. The rear lot line should be revised to pull it outside of the recommended Vegetation Protection Zone. This would create a longer, narrower lot, but there will be sufficient space for a home, septic, driveway and accessory structure.

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5. Should development proceed, the applicant shall ensure all future work aligns with the peer review comments and the City's Hydrogeological Guidelines and Technical Standards for Private Services. As per the City's Hydrogeological Guidelines, the applicant shall complete hydrogeologic cross sections to demonstrate isolation between surface activities and bedrock aquifer wells within 500 m. The applicant is also encouraged to review MOECP Guideline D-5-4 to ensure that future work conforms with conditions stated in this Guideline.

ALTERNATIVES FOR CONSIDERATION

1. If the proposed Official Plan Amendment and Zoning By-law Amendments are approved, staff should be directed to prepare a draft Official Plan and draft Zoning By-law Amendments that implement the proposed Concept Plan attached as Appendix "B" to Report PED18077.
2. Alternatively, if the Official Plan Amendment and Zoning By-law Amendments are denied, the subject lands could be developed in accordance with the Open Space (P4) Zone, which permits such uses as a botanical garden, cemetery, community garden, conservation, golf course (excluding mini-golf), nature centres, recreation, seasonal campground and urban farm.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & 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.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

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": Concept Plan
- Appendix "C": Lot Consolidation Plan
- Appendix "D": September 17, 2015 Committee of Adjustment Meeting Minutes
- Appendix "E": September 17, 2015 Committee of Adjustment Staff Comments
- Appendix "F": May 1, 2018 Planning Committee Meeting Minutes
- Appendix "G": July 10, 2018 Planning Committee Meeting Minutes

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