

November 11, 2020

Chair and Members of Planning Committee  
City of Hamilton  
71 Main St. W.  
Hamilton ON

Dear Chair and Committee Members:

**Re:   Application for Land Assembly and Severance**  
**Mr. Steve Schiedel - 8475 English Church Road**

It is important that the review of this proposal takes into account the significant benefits arising out of an exercise which helps to implement important Provincial and local planning policies which seek to promote and protect agricultural resources. This application achieves this objective in two ways. First, it proposes to add two residential development parcels to the inventory of agricultural lands with in the community shown as parts 1 and 2 on the attached sketch. The proposal also helps achieve a second important agricultural objective, to consolidate smaller properties into a larger consolidated farm operation (Part 3). This application has merit and can be supported for This reason alone.

However, there is another extremely important benefit of this proposal in that it allows for the removal of the potential for two residential driveways on an active municipal road which generates a significant amount of noise, in a location which poses safety concerns with potential traffic conflicts. The proposal will essentially relocate the potential for construction of two new dwellings to a more desirable location on English Church Road backing onto an existing golf course shown as Parts 5 and 6. As such, this proposal does not generate any new potential residential development in the area and therefore should not be considered as "new development" within the context of assessing provincial and local Official Plan policies.

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In addition to the intuitively positive outcomes of having this application approved, versus denial of the proposal, the proponent has undertaken technical studies to provide support for the application. This has included an Agricultural Study which has detailed the agricultural benefits of implementing this proposal. A copy of the report is not in the staff report, but is attached.

The proponent retained a noise consultant to assess the noise impacts from both air and road sources on both locations. The findings of that report confirm that notwithstanding that the two potential residential lots on English Church Road are within a higher Airport NEF noise contour, when the noise contour level for the existing lots on Upper James were assessed in combination with noise generated by traffic on Upper James Street, the two sites were acoustically similar. The report thus confirmed that noise is a neutral factor in weighting the benefits of each location.

The consultant undertook a Hydrogeological and Geotechnical Study which confirmed the ability of each of the proposed two new lots to be able to accommodate a single family dwelling. These reports were peer reviewed by a consultant retained by the City who accepted the findings of the technical studies, thus confirming the feasibility of each of the two lots being provided with private services.

In considering the merits of the application, there are both policy and practical considerations.

From a policy perspective, the proposal is consistent with and helps to achieve a number of policy objectives of the Provincial Policy Statement including:

- (a) contributing to establishment of a healthy community (1.1.1);
- (b) helping to avoid a land use pattern which may cause public health and safety concerns (1.1.1(c)); and
- (c) helping to ensure transportation systems which are safe and facilitate the movement of people (1.6.7.1).

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The proposal is consistent with agricultural policies in Section 2.3.1 which are intended to protect agricultural areas for long term agricultural use. This is achieved not only by increasing agricultural supply of land, but also promoting farm consolidation which helps to sustain long term viability of agricultural operations.

The proposal also helps to achieve similar planing objectives in the Rural Official Plan which include policies related to protection of agricultural land. Policy B.3.6.3 also notes that the assessment of noise includes more than Airport related noise, but also includes noise from roadways.

From a practical perspective, the bottom line question is: "What is the best outcome for those who will reside in dwellings on these two lots?" Is it preferable to have two new homes with driveways constructed on Upper James Street on lands that could otherwise be used for agricultural purposes, or is it a better outcome to have two new dwellings constructed on a less travelled roadway in a very attractive setting abutting a golf course?

The second part of the practical perspective is to question whether it is preferable to keep the two residential lots on Upper James Street together with the surrounding agricultural lands as three separate parcels while allowing agriculture and non-agricultural uses, or is it preferable to convert development lands to agricultural uses and allow for the establishment of a larger farm property.

A question has arisen in the past as to whether approval of This application would set a precedent. In my opinion, it would set a very desirable precedent. Any proposal to convert development lands to agricultural uses and allow for the creation of farm properties should be considered in a favourable light.

Secondly, any proposal that would reduce, minimize or eliminate driveway accesses on Upper James Street should be supported as a positive precedent. This proposal does not have any negative impacts from a public perspective. It is consistent with the development pattern in the area. It will provide a very attractive living environment as opposed to living in a highway. It does not take land out of agricultural production and will not have any adverse impact on surrounding agricultural operations.

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The staff report in front of you does not fully assess all of the implications of the proposal. It only focuses on the severance applications and does not assess the benefits of the full proposal. Staff felt that they could only consider the severance application and noted that there is nothing in the Provincial Policy Statement to permit what is being proposed.

I agree with staff that an assessment of the severance applications on their own should lead to a planning opinion that the severances do not conform to Provincial policy and do not represent good planning. If that were all to be considered within this context, the applications should be denied. In this case, however, there are other critical factors involved in the decision as to whether or not to approve the application and to determine how it should be implemented.

I disagree with that position that there is nothing in the PPS to address the proposal and feel that it is important to assess all aspects of the proposal just as it is mandatory to examine all of the policies in the Provincial Policy Statement which are irrelevant to this proposal.

While I will continue to agree to disagree with staff on this matter, certainly the Committee is free to consider all aspects of this proposal.

It is not surprising that the Provincial Policy Statement would not specifically speak to an application such as this given that it is a broad Provincial document intended to set out general policies within which individual applications can be assessed. It is not like a Zoning By-law where if a proposed development is not specifically permitted, it is considered prohibited. It is focused on achieving positive outcomes within the framework presented. When considering all aspects of this proposal and all policies in the Provincial Policy Statement it is my opinion that the proposal is not only consistent with, but helps achieve important policy objectives.

While this proposal involves two applications to create lots on English Church Road, this is an outcome to help achieve desirable objective of relocating development potential from a busy highway to a preferred location backing onto a golf course. When that consideration is the result of an outcome to achieve other benefits and the proposal taken as a whole does not generate any new development, the assessment of this proposal becomes completely different.

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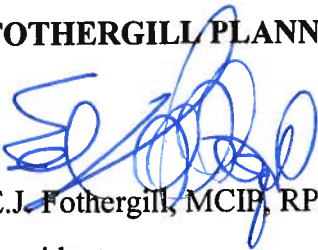
Ultimately, our questions to the Committee are therefore threefold. One, do you support converting development lands to agricultural purposes? Two, do you support the consolidation of properties to allow for the creation of a larger agricultural parcel? Three, do you prefer to see two new dwellings constructed on an attractive golf course setting as opposed to Upper James Street? If the answer to these questions is yes, the application should be supported.

A denial of the application will not further advance any public interests. It will only frustrate the positive outcomes associated with this endeavor.

We look forward to these matters being considered at the upcoming Planning Committee meeting of November 17.

Sincerely,

**FOTHERGILL PLANNING & DEVELOPMENT INC.**



E.J. Fothergill, MCIP, RPP  
President

cc. Steve Schiedel