



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202
E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING

Application for Consent/Land Severance

APPLICATION NUMBER: GL/B-20:61

SUBJECT PROPERTY: 5020 Tyneside Rd., (Glanbrook)

You are receiving this notice because you are either:

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

APPLICANT(S): Sullivan Planning Services Inc. on behalf of the owner Thomsen-Jung Farms Ltd.

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land containing an existing dwelling and to retain a parcel of agricultural land containing two agricultural buildings.

Severed lands:

65m[±] x 280m[±] and an area of 1.96ha[±]

Retained lands:

646m[±] x 1,000m[±] and an area of 63.29ha[±]

**This application will be heard in conjunction with
Minor Variance Application GL/A-20:199**

The Committee of Adjustment will hear this application on:

DATE: Thursday, January 21st, 2020

TIME: 1:45 p.m.

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

PUBLIC INPUT

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

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

MORE INFORMATION

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

- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 4144
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: January 5th, 2021

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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

To be demolished
to be gained for farming

Barn I

45m

Tee
Shop

Parking
+ front yard

House

280m

Hydro
Line

Driveway

65m

Driveway
ROW

Chippewa
creek
approx 30 feet
lower in
elevation
than House

1.96 ~~hectare~~
or 4.46 ~~acre~~



NOTICE OF PUBLIC HEARING **Minor Variance**

You are receiving this notice because you are either:

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

APPLICATION NO.: GL/A-20:199

APPLICANTS: Mike Sullivan on behalf of the owner Thomsen-Jung Farms Ltd.

SUBJECT PROPERTY: Municipal address **5020 Tyneside Rd., Glanbrook**

ZONING BY-LAW: Zoning By-law 05-200, as Amended

ZONING: "A1", "P7" & "P8" (Agricultural and Conservation/Hazard Land - Rural) district

PROPOSAL: To permit the conveyance of land containing an existing single detached dwelling in accordance with GL/B:20-61 notwithstanding that:

1. A lot width of 0.0m shall be provided (on the lands to be severed) instead of the minimum required lot width of 30.0m.
2. No lot frontage shall be provided (on the lands to be severed) whereas the by-law requires a lot to abut a street for a minimum of 4.5m.
3. The use of a Single Detached Dwelling shall be permitted on the lands to be severed.

NOTES:

- i. These variances are necessary to facilitate consent application GL/B-20:61.
- ii. The current 'P7' zone of the lands being severed permits the use of 'existing' Single Detached Dwellings. As a result of the proposed severance, the existing status of this dwelling is effectively lost as it is located on a newly created lot. Variance #3 is necessary in order to permit the continued use of the Single Detached Dwelling.
- iii. A single detached dwelling requires a minimum of one (1) parking space to be provided on site. Such parking shall be provided in accordance with Section 5 of Hamilton Zoning By-law 05-200. Insufficient information has been provided in order to determine zoning compliance. As such, further variances may be required.
- iv. The existing farm buildings on the lands to be retained shall be setback a minimum 15.0m from the proposed new lot line. Insufficient information has been provided in order to determine zoning compliance. Further variances may be required if compliance with this provision cannot be achieved.

This application will be heard by the Committee as shown below:

DATE: Thursday, January 21st, 2020
TIME: 1:45 p.m.

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

PUBLIC INPUT

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

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

MORE INFORMATION

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

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

DATED: January 21st, 2020.

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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

To be demolished
to be gained for farming

Barn I

45m

Tee
Shop

Parking
+ front yard

House

280m

Chippewa
creek
approx 30 feet
lower in
elevation
than House

Hydro
Line

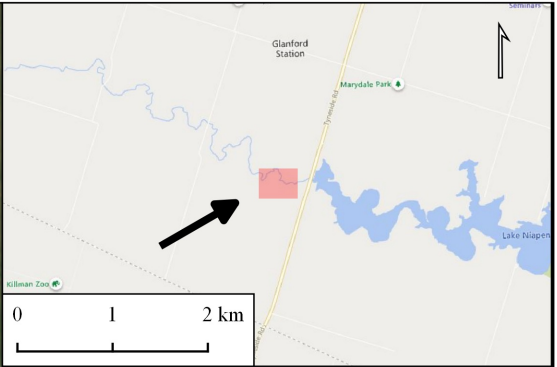
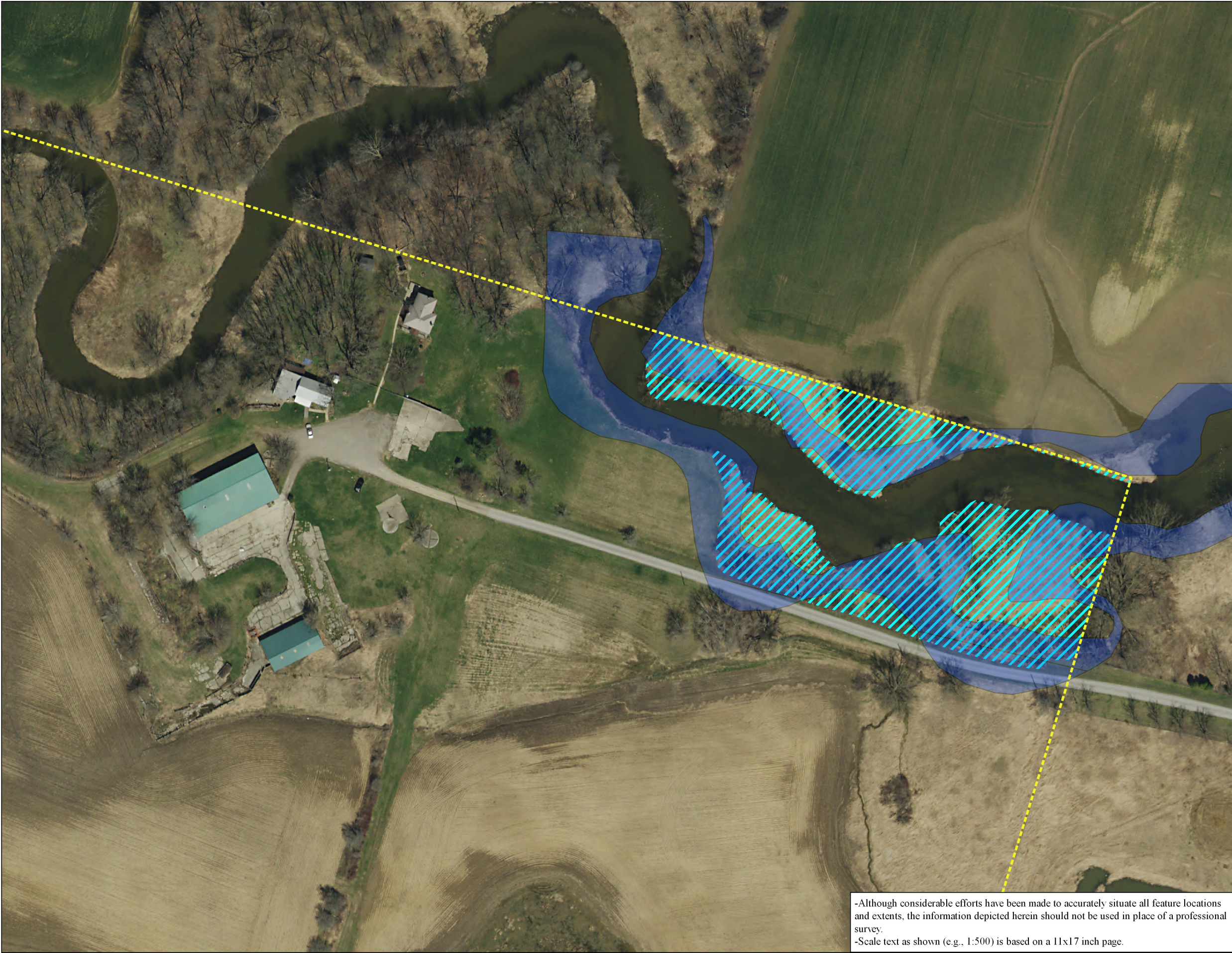
Driveway

65m

1.96 ~~hectare~~
or 4.46 ~~acre~~

Driveway
ROW





Legend

Study Area

Subject Property

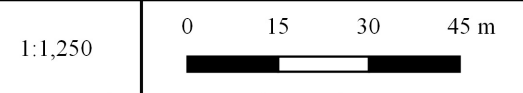
Significant Natural Features - Agency Identified

Provincially Significant Lake Niapenco
Binbrook Conservation Area Wetland Complex

Significant Natural Features - Terrastory

PSW Boundary as Delineated by Terrastory on
20 May 2020

Notes:
-PSW boundary as mapped by Terrastory herein is clipped to the Subject Property boundary. PSW may extend to an undetermined distance onto adjacent lands to the east/north.



| | | | |
|--|----------------------|-----------|---------------------|
| | Project No.: 2054 | By: TK | Date: 2020-05-21 |
|--|----------------------|-----------|---------------------|

Orthophotograph Date: 2015 (SWOOP).

Location: 5020 Tyneside Road, City of Hamilton.

Figure 1. PSW Boundary Update.

-Although considerable efforts have been made to accurately situate all feature locations and extents, the information depicted herein should not be used in place of a professional survey.
-Scale text as shown (e.g., 1:500) is based on a 11x17 inch page.



Photo 1. Welland River and adjacent riverine marshes within the PSW (20 May 2020).



Photo 2. Existing driveway looking north. Driveway acts as the PSW boundary (20 May 2020).



Photo 3. Area of manicured lawn mapped as part of the existing PSW. Updated PSW boundary mapping by Terrastory removes this area from the wetland (20 May 2020).



Photo 4. Wetland boundary is tight to the bankfull crest of the Welland River adjacent to the manicured lawn (20 May 2020).

From: Tristan Knight <tristan@terrastoryenviro.com>
Sent: May 21, 2020 9:28 AM
To: Mike Sullivan; info@tjfarm.ca
Subject: PSW Boundary Update - 5020 Tyneside Road, Hamilton
Attachments: 2054 - Updated PSW Boundary and Site Photographs.pdf

Good Morning Mike, Andreas,

As you know, Terrastory's Senior Ecologist/President (Tristan Knight) undertook a site visit to 5020 Tyneside Road in Glanbrook on 20 May 2020 to assess the boundary of the Provincially Significant Lake Niapenco Binbrook Conservation Area Wetland Complex (hereinafter "PSW") in the northeast corner of the Subject Property. Tristan is a certified wetland evaluator and former instructor of the Ontario Wetland Evaluation System (OWES) certification course. Per OWES, wetlands in the province of Ontario are delineated in accordance with the "50% wetland vegetation rule" (i.e., where 50% of the relative coverage of vegetation is represented by "wetland plants") and presence of hydric soils.

The results of the wetland delineation exercise revealed inconsistencies between the PSW boundary as currently mapped and true wetland conditions. In particular, the existing PSW boundary extends across an existing driveway (which predates the year 1995) and also includes an area of manicured lawn dominated by Dandelion (*Taraxacum officinale*), various Clovers (*Trifolium* spp.), and pasture grasses. Publicly available information suggests that this wetland unit forming part of the PSW was originally mapped in 1998. It is unknown if the feature was mapped based on aerial photographs or a site visit at that time.

An updated PSW boundary in the northeast corner of the Subject Property, which reflects the professional opinion of Terrastory staff, is shown on the attached figure. Representative photographs showcasing site conditions are also provided.

It is further noted that wooded areas surrounding the existing residence/barn are dominated by Black Walnut (*Juglans nigra*) and other upland vegetation, and therefore do not represent wetland. Other wetlands occur on the Subject Property outside the area of interest.

Please let me know if you have any questions or comments pertaining to the above.

Cheers,
T.

Tristan Knight M.E.S., M.Sc.
Senior Ecologist | President
Terrastory Environmental Consulting Inc.
(c) 905-745-5398
www.terrastoryenv.com



WHITE COAD LLP
LAWYERS

Please reply to Woodstock office.

Richard A. Coad
Brad J. Hause
Gordon M. Klein
Ryan E. Verhoog
Russell Mitchell
C. Adel Fortin

October 6, 2020

To Whom It May Concern

Dear Sir or Madam:

**Re: Thomsen-Jung Farms Ltd. (the "Corporation")
5020 Tyneside Road, Mount Hope
Our File No. 7010K20**

We are solicitors for the Corporation being the registered owner in fee simple of the above noted property by Transfer registered on December 16, 2019 as Instrument No. WE1402479.

Our client has requested that we provide more information with respect to the permanent Right-of-Way ("ROW") that permits the subject property to access Tyneside Road.

Please be advised that this is an express grant easement that runs with the land and binds all subsequent land owners, both the benefitting property (the "Dominant Tenement") as well as the property that is subject to the ROW (the "Servient Tenement"). This is not a license and as such there is no time limit or expiry. This ROW was created in Instrument GL570B which was registered on the 4th day of September 1865 and continues to bind both the Dominant and Servient Tenement.

The ROW grants the Dominant Tenement a permanent and indefinite access for both vehicles and pedestrians over a 15.18 wide strip of land over the Servient Tenement to permit uninterrupted and continuous access to Tyneside Road. The proposed severance will not extinguish or impair the ROW and the ROW grants the Dominant Tenement the same rights to access Tyneside Road as would having actual lot frontage on Tyneside Road would.

I trust the foregoing is satisfactory.

Yours very truly,

WHITE COAD LLP

Gordon M. Klein

408 Dundas Street
Woodstock, Ontario
N4S 1B9
Tel: (519)421-1500
Fax: (519)539-6926

6 Stover Street N.
P.O. Box 700
Norwich, Ontario
N0J 1P0
Tel: (519)863-2710
Fax: (519)863-2469

237 Main Street
Delhi, Ontario
N4B 2M4
Tel: (519)582-1552
Fax: (519)582-1941

206-45 Stanley Street
Ayr, Ontario
N0B 1E0
Tel: (519)632-9144
Fax: (519)632-9545

Email:
main@whitecoad.com



Transfer/Deed of Land

Form 1 - Land Registration Reform Act, 1984

A

| | | | |
|---|--|---|---|
| <p>FOR OFFICE USE ONLY</p> <p>145856</p> <p>CERTIFICATE OF REGISTRATION CERTIFICATE OF REGISTRATION NEW PROPERTY (62) HAMILTON</p> <p>'93 02 8 16 14</p> <p><i>V. Griffith</i></p> <p>New Property Identifiers:</p> <p>Additional: See Schedule <input type="checkbox"/></p> <p>Executions:</p> <p>Additional: See Schedule <input type="checkbox"/></p> | | (1) Registry <input checked="" type="checkbox"/> Land Titles <input type="checkbox"/> | (2) Page 1 of 5 pages <i>aw</i> |
| | | (3) Property Identifier(s) Block Property | Additional: See Schedule <input type="checkbox"/> |
| | | (4) Consideration ONE HUNDRED FIVE THOUSAND-- Dollars: \$105,000.00 | |
| | | (5) Description This is a: Property Division <input type="checkbox"/> Property Consolidation <input type="checkbox"/> Part of Lots 11 and 12 Concession 8, former Township of Glanford, now in the Township of Glanbrook Regional Municipality of Hamilton-Wentworth Land Registry Office for the Registry Division of Wentworth (No. 62) | |
| (6) This Document Contains: (a) Redescription: New Easement <input type="checkbox"/> Plan/Sketch <input type="checkbox"/> (b) Schedule for: Description <input checked="" type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input type="checkbox"/> | | (7) Interest/Estate Transferred: Fee Simple <i>Together with right of way</i> | |
| (8) Transferor(s) The transferor hereby transfers the land to the transferee and certifies that the transferor is at least eighteen years old, and that I am a spouse. The property transferred is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence. Name(s): GRIFFITH, Burton Thomas Signature(s): <i>Burton Thomas Griffith</i> Date of Signature: Y. M. D. 1993 02 03 as to his undivided one-half interest | | | |
| (9) Spouse(s) of Transferor(s) I hereby consent to this transaction Name(s): Signature(s): Date of Signature: Y. M. D. | | | |
| (10) Transferor(s) Address for Service: R. R. #3 Mount Hope, Ontario, L0R 1W0 | | | |
| (11) Transferee(s) SMITH, Kathleen Lynn (as to an undivided one-quarter interest) Date of Birth: Y. M. D. 1944 03 07 <i>as tenants in common</i> MACLEAN, Allan Douglas 1952 07 23 MACLEAN, Marilyn Elaine as joint tenants 1953 08 29 (as to the remaining one-quarter interest) | | | |
| (12) Transferee(s) Address for Service: 5020 Tyneside Road, Mount Hope, Ontario, L0R 1W0 | | | |
| (13) Transferor(s) The transferor verifies that to the best of the transferor's knowledge and belief, this transfer does not contravene section 49 of the Planning Act, 1983. Date of Signature: Y. M. D. Signature: Y. M. D. Solicitor for Transferor(s) I have explained the effect of section 49 of the Planning Act, 1983 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, this transfer does not contravene that section. I am an Ontario solicitor in good standing. Name and Address of Solicitor: Signature: Y. M. D. | | | |
| (14) Solicitor for Transferee(s) I have investigated the title to this land and to abutting land where relevant and I am satisfied that the title records reveal no contravention as set out in subclause 49 (21a) (c) (ii) of the Planning Act, 1983 and that to the best of my knowledge and belief this transfer does not contravene section 49 of the Planning Act 1983. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing. Name and Address of Solicitor: Signature: Y. M. D. | | | |
| (15) Assessment/Roll Number of Property: City: Mun. Map Sub. Par. Multiple (16) Municipal Address of Property: 5020 Tyneside Road R. R. #3 Mount Hope, Ontario L0R 1W0 (17) Document Prepared by: Robert J. Wilkins WILKINS, WYNNE, HORODYSKI 245 Wilson Street East P.O. Box 7260 Ancaster, Ontario L9G 3N6 | | | |
| | | Fees and Tax Registration Fee 27.00 Land Transfer Tax 775.00 Total | |

Additional Property Identifier(s) and/or Other Information

In the Township of Glanbrook in the Regional Municipality of Hamilton-Wentworth formerly in the Township of Glanford, County of Wentworth, and being composed of:

FIRSTLY: The north half of the west half and the west half of the east half of Lot Number Twelve in the Eighth Concession of the said Township of Glanford, containing by admeasurement ninety-six acres more or less, together with a right-of-way from the lands hereby conveyed through and over the east half of the east half of the said lot to the public travelled road between Lots Twelve and Thirteen as heretofore used and enjoyed and more particularly mentioned and referred to the in the Deed thereof from Catherine Burnett to Agnes Patterson and John Patterson bearing date the Second day of September, 1865 and a certain agreement between Agnes Patterson, John Patterson, William Hawthorne and the Landed Banking and Loan Company bearing date the 23rd day of October, 1879 and registered on the 18th day of November, 1879 in book for the Township of Glanford as Number 1283, as shown on Plan attached to Deposit No. 126373.

SECONDLY: The north one hundred acres of even width throughout of Lot Number Eleven in the Eighth Concession of the Said Township of Glanford.

SUBJECT to Expropriation Plan registered in the Registry Office for the Registry Division of the County of Wentworth on the 13th day of May, 1968 as No. 90620 A.B.

Most recently described in Instrument No. 126374. A.B.

Save and Except for Part of Lot 12 Concession 8, Township of Glanbrook, and designated as Part 1 on Reference 62R-9624.

Affidavit of Residence and of Value of the Consideration
Form 1 - Land Transfer Tax Act

Refer to all instructions on reverse side.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land)

Part of Lot 11 and 12 Concession 8, Township of Glanbrook, Regional Municipality of Hamilton-Wentworth

BY (print names of all transferors in full) Burton Thomas Griffith

TO (see instruction 1 and print names of all transferees in full) Kathleen Lynn Smith and Allan Douglas MacLean, Marilyn Elaine MacLean

1. (see instruction 2 and print name(s) in full) Allan Douglas MacLean

MAKE OATH AND SAY THAT:

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 3)

- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
☒ (c) A transferee named in the above-described conveyance;
☐ (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s))

described in paragraph(s) (a), (b), (c) above; (delete out references to inapplicable paragraph(s))

- ☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s))

described in paragraph(s) (a), (b), (c) above; (delete out references to inapplicable paragraph(s))

- ☐ (f) A transferee described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) who is my spouse described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and as such, I have knowledge of the facts herein deposed to.

2. (To be completed where the value of the consideration for the conveyance exceeds \$400,000.)

I have read and considered the definition of "single family residence" set out in clause 1(1)(a) of the Act. The land conveyed in the above-described conveyance

- ☐ contains at least one and not more than two single family residences.
☐ does not contain a single family residence.
☐ contains more than two single family residences. (see instruction 3)

NOTE: Clause 2(1) (a) imposes an additional limit of the rate of one-half of one per cent upon the value of consideration in excess of \$400,000 where the conveyance contains at least one and not more than two single family residences.

3. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1)(f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) none

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

| | |
|--|---------------------------|
| (a) Money paid or to be paid in cash | \$ 0.00 |
| (b) Mortgages (i) Assumed; (show principal and interest to be credited against purchase price) | \$ Nil |
| (ii) Given back to vendor | \$ 105000.00 |
| (c) Property transferred in exchange (total below) | \$ Nil |
| (d) Securities transferred to the value of (total below) | \$ Nil |
| (e) Liens, legacies, annuities and maintenance charges to which transfer is subject | \$ Nil |
| (f) Other valuable consideration subject to land transfer tax (total below) | \$ Nil |
| (g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (Total of (a) to (f)) | \$ 105000.00 \$ 105000.00 |
| (h) VALUE OF ALL CHATTELS - Items of tangible personal property (Total Sales Tax is payable on the value of all chattels unless exempt under the provisions of the "Federal Sales Tax Act", R.S.C. 1981, c. 454, as amended) | \$ Nil |
| (i) Other consideration for transaction not included in (g) or (h) above | \$ Nil |
| (j) TOTAL CONSIDERATION | \$ 105000.00 |

Attest:
Notary
Filed in
Book
Page
Where
Applicable

5. If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 5) n/a

6. If the consideration is nominal, is the land subject to any encumbrance? n/a

7. Other remarks and explanations, if necessary. This is a conveyance from Burton Thomas Griffith of his undivided 50% interest to Kathleen Lynn Smith of a 25% interest and a 25% interest to Allan Douglas MacLean and Marilyn Elaine MacLean

Sworn before me at the Town of Ancaster

In the Regional Municipality of Hamilton-Wentworth

this 5th day of February, 1993

Mary Carmela Mancini
MARY CARMELA MANCINI, a Commissioner, etc.
Judicial District of Hamilton-Wentworth for William
Wynne, Horodyski, Barristers and Solicitors.
Expiring January 15, 1994.

A Commissioner for taking Affidavits, etc.

Property Information Record:

A. Describe nature of instrument: DEED/TRANSFER

B. (i) Address of Property being conveyed: (if available) 5020 Tyneside Road, R. R. #3 Mount Hope, Ontario

(ii) Assessment Roll No. (if available)

C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) same as above

D. (i) Registration number for last conveyance of property being conveyed

(ii) Legal description of property conveyed: Same as in D.(i) above. Yes ☐ No ☒ Not known ☐

E. Name(s) and address(es) of each transferee's solicitor:
WILKINS, WYNNE, HORODYSKI & MCCLUSKEY, 245 Wilson Street East
P.O. Box 7260, Ancaster, Ontario L9G 3N6

For Land Registry Office use only:

Registration No.

Registration Date

Land Registry Office No.

School Tax Support (Voluntary Election) See reverse for explanation

- (a) Are all individual transferees Roman Catholic? Yes ☐ No ☐
(b) If Yes, do all individual transferees wish to be Roman Catholic Separate School Supporters? Yes ☐ No ☐
(c) Do all individual transferees have French Language Education Rights? Yes ☐ No ☐
(d) If Yes, do all individual transferees wish to support the French Language School Board (where established) Yes ☐ No ☐

NOTE: As to (c) and (d) the land being transferred will be assigned to the French Public School Board or Board unless otherwise directed in (a), (b), (c), and (d).

Affidavit of Residence and of Value of the Consideration
Form 1 - Land Transfer Tax Act

4

Refer to all instructions on reverse side.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land)

Part of Lot 11 and 12 Concession 8, Township of Glanbrook, Regional Municipality of Hamilton-Wentworth

BY (print names of all transferors in full) Burton Thomas Griffith

TO (see instruction 1 and print names of all transferees in full) Kathleen Lynn Smith and Allan Douglas MacLean, Marilyn Elaine MacLean

I, (see instruction 2 and print name(s) in full) Kathleen Lynn Smith

MAKE OATH AND SAY THAT:

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s): (see instruction 3))

- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
☒ (c) A transferee named in the above-described conveyance;
☐ (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s))

☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s))

☐ (f) A transferee described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) who is my spouse described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and as such, I have knowledge of the facts herein deposed to.

2. (Rule completed where the value of the consideration for the conveyance exceeds \$400,000.)

I have read and considered the definition of "single family residence" set out in clause 1(1)(a) of the Act. The land conveyed in the above-described conveyance

- ☐ contains at least one and not more than two single family residences.
☐ does not contain a single family residence.
☐ contains more than two single family residences. (see instruction 3)

Note: Clause 2(1) (a) imposes an additional tax at the rate of one-half of one per cent upon the value of consideration in excess of \$400,000 where the conveyance contains at least one and not more than two single family residences.

3. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1) (f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) none

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

| | | |
|---|--------------|--------------|
| (a) Monies paid or to be paid in cash | \$ 0.00 | |
| (b) Mortgages (i) Assumed (insert principal and interest to be credited against purchase price) | \$ Nil | |
| (ii) Given back to vendor | \$ 105000.00 | |
| (c) Property transferred in exchange (insert below) | \$ Nil | |
| (d) Securities transferred to the value of (insert below) | \$ Nil | |
| (e) Liens, legacies, annuities and maintenance charges to which transfer is subject | \$ Nil | |
| (f) Other valuable consideration subject to land transfer tax (insert below) | \$ Nil | |
| (g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (total of (a) to (f)) | \$ 105000.00 | \$ 105000.00 |
| (h) VALUE OF ALL CHATTELS - Items of tangible personal property (insert below in column on the value of all chattels unless exempt under the provisions of the "Federal Sales Tax Act", F.R.C. 1953, c.454, as amended) | \$ Nil | |
| (i) Other consideration for transaction not included in (g) or (h) above | \$ Nil | |
| (j) TOTAL CONSIDERATION | \$ 105000.00 | |

Abandon
Mortgage
Filled in
Spent
Where
Applicable

5. If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 3) n/a

6. If the consideration is nominal, is the land subject to any encumbrance? n/a

7. Other remarks and explanations, if necessary. This is a conveyance from Burton Thomas Griffith of his undivided 50% interest to Kathleen Lynn Smith of a 25% interest and a 25% interest to Allan Douglas MacLean and Marilyn Elaine MacLean.

Sworn before me at the Town of Ancaster
in the Regional Municipality of Hamilton-Wentworth
this 5th day of February 1993

A Commissioner for taking Affidavits, etc.

Property Information Record

- A. Describe nature of instrument: DEED/TRANSFER
- B. (i) Address of Property being conveyed (if available) 5020 Tyneside Road, R. R. #3 Mount Hope, Ontario
(ii) Assessment Roll No. (if available)
- C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) same as above
- D. (i) Registration number for last conveyance of property being conveyed
(ii) Legal description of property conveyed: Same as in D. (i) above. Yes ☐ No ☒ Not known ☐
- E. Name(s) and address(es) of each transferee's solicitor
WILKINS, WYNNE, HORODYSKI & MCCLUSKEY, 245 Wilson Street East
P.O. Box 7260, Ancaster, Ontario L9G 3N6

| | |
|---------------------------------------|--------------------------|
| Far, Land, Registry, Office, use only | |
| Registration No. | |
| Registration Date | Land Registry Office No. |

School Tax Support (Voluntary Election) See reverse for explanation.

- (a) Are all individual transferees Roman Catholic? Yes ☐ No ☐
(b) If Yes, do all individual transferees wish to be Roman Catholic Separate School Supporters? Yes ☐ No ☐
(c) Do all individual transferees have French Language Education Rights? Yes ☐ No ☐
(d) If Yes, do all individual transferees wish to support the French Language School Board (where established) Yes ☐ No ☐

NOTE: As to (c) and (d) the land being transferred will be assigned to the French Public School Board or Sector unless otherwise directed in (e) and (f).

Affidavit of Residence and of Value of the Consideration
Form 1 - Land Transfer Tax Act

5

Refer to all instructions on reverse side.

IN THE MATTER OF THE CONVEYANCE OF (insert brief description of land)

Part of Lot 11 and 12 Concession 8, Township of Glanbrook, Regional Municipality of Hamilton-Wentworth

BY (print names of all transferors in full) Burton Thomas Griffith

TO (see instruction 1 and print names of all transferees in full) Kathleen Lynn Smith and Allan Douglas MacLean, Marilyn Elaine MacLean

I, (see instruction 2 and print name(s) in full) Marilyn Elaine MacLean

MAKE OATH AND SAY THAT:

1. I am (place a cross, mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent(s)): (see instruction 3)

- ☐ (a) A person in trust for whom the land conveyed in the above-described conveyance is being conveyed;
☐ (b) A trustee named in the above-described conveyance to whom the land is being conveyed;
☒ (c) A transferee named in the above-described conveyance;
☐ (d) The authorized agent or solicitor acting in this transaction for (insert name(s) of principal(s))

described in paragraph(s) (a), (b), (c) above; (delete out references to inapplicable paragraph(s))

- ☐ (e) The President, Vice-President, Manager, Secretary, Director, or Treasurer authorized to act for (insert name(s) of corporation(s))

described in paragraph(s) (a), (b), (c) above; (delete out references to inapplicable paragraph(s))

- ☐ (f) A transferee described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable) and am making this affidavit on my own behalf and on behalf of (insert name of spouse) who is my spouse described in paragraph () (insert only one of paragraph (a), (b) or (c) above, as applicable); and as such, I have knowledge of the facts herein deposed to.

2. (Date completed where the value of the consideration for the conveyance exceeds \$400,000)

I have read and considered the definition of "single family residence" set out in clause 1(1)(a) of the Act. The land conveyed in the above-described conveyance

- ☐ contains at least one and not more than two single family residences.
☐ does not contain a single family residence.
☐ contains more than two single family residences. (see instruction 3)

Note: Clause 2(1) of the Act imposes an additional tax at the rate of one-half of one per cent upon the value of consideration in excess of \$400,000 where the conveyance contains at least one and not more than two single family residences.

3. I have read and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clauses 1(1) (f) and (g) of the Act and each of the following persons to whom or in trust for whom the land is being conveyed in the above-described conveyance is a "non-resident corporation" or a "non-resident person" as set out in the Act. (see instructions 4 and 5) none

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

| | | | |
|--|----|------------------|--------------|
| (a) Money paid or to be paid in cash | \$ | <u>0.00</u> | |
| (b) Mortgages (i) Assumed (show principal and interest to be credited against purchase price) | \$ | <u>Nil</u> | |
| (ii) Given back to vendor | \$ | <u>105000.00</u> | |
| (c) Property transferred in exchange (detail below) | \$ | <u>Nil</u> | |
| (d) Securities transferred to the value of (detail below) | \$ | <u>Nil</u> | |
| (e) Liens, legacies, annuities and maintenance charges to which transfer is subject | \$ | <u>Nil</u> | |
| (f) Other valuable consideration subject to land transfer tax (detail below) | \$ | <u>Nil</u> | |
| (g) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL SUBJECT TO LAND TRANSFER TAX (Total of (a) to (f)) | \$ | <u>105000.00</u> | \$ 105000.00 |
| (h) VALUE OF ALL CHATTELS - items of tangible personal property (detail below: Total Sales Tax is payable on the value of all chattels unless exempt under the provisions of the Federal Sales Tax Act, R.S.C. 1985, c.44, as amended) | \$ | <u>Nil</u> | |
| (i) Other consideration for transaction not included in (g) or (h) above | \$ | <u>Nil</u> | |
| (j) TOTAL CONSIDERATION | \$ | <u>105000.00</u> | |

Nil/None
Nil/0
Filed in
Insert "Nil"
Where
Applicable

5. If consideration is nominal, describe relationship between transferor and transferee and state purpose of conveyance. (see instruction 5) n/a

6. If the consideration is nominal, is the land subject to any encumbrance? n/a

7. Other remarks and explanations, if necessary. This is a conveyance from Burton Thomas Griffith of his undivided 50% interest to Kathleen Lynn Smith of a 25% interest and a 25% interest to Allan Douglas MacLean and Marilyn Elaine MacLean.

Sworn before me at the Town of Ancaster

In the Regional Municipality of Hamilton-Wentworth

this 24 day of February 1993

A Commissioner for taking Affidavits, etc.

Property Information Record

- A. Describe nature of instrument: DEED/TRANSFER
- B. (i) Address of Property being conveyed (if available) 5020 Tyneside Road, R. R. #3 Mount Hope, Ontario
- (ii) Assessment Roll No. (if available)
- C. Mailing address(es) for future Notices of Assessment under the Assessment Act for property being conveyed (see instruction 7) same as above
- D. (i) Registration number for last conveyance of property being conveyed (if available)
- (ii) Legal description of property conveyed; Same as in D. (i) above. Yes ☐ No ☒ Not known ☐
- E. Name(s) and address(es) of each transferee's solicitor
WILKINS, WYNNE, HORODYSKI & MCCLUSKEY, 245 Wilson Street East
P.O. Box 7260, Ancaster, Ontario L9G 3N6

For Land Registry Office use only

| | |
|-------------------|--------------------------|
| Registration No. | |
| Registration Date | Land Registry Office No. |

School Tax Support (Voluntary Election) See reverse for explanation

- (a) Are all individual transferees Roman Catholic? Yes ☐ No ☐
- (b) If Yes, do all individual transferees wish to be Roman Catholic Separate School Supporters? Yes ☐ No ☐
- (c) Do all individual transferees have French Language Education Rights? Yes ☐ No ☐
- (d) If Yes, do all individual transferees wish to support the French Language School Board (where established) Yes ☐ No ☐

NOTE: As to (c) and (d) the land being transferred will be assigned to the French Public School Board or Sector unless otherwise directed in (a) and (b).

November 4, 2020

Ms. Jamila Sheffield,
Secretary-Treasurer, Committee of Adjustment
City of Hamilton

email: Jamila.sheffield@hamilton.ca

Re: Application FC-20-055 (Thomsen-Jung Farms Ltd)
5020 Tyneside Rd, Glanbrook
City of Hamilton

My client and I attended the Committee of Adjustment hearing, held on October 22, 2020. At this meeting, Committee members raised several questions which required this letter in response. We ask you to circulate this letter and attachments to all members of the Committee for their review and consideration on this matter.

1 THE APPLICATION

This application seeks to sever a dwelling that, as a result of a recent farm consolidation is now considered surplus to the owners needs. A bona fide farmer, the Provincial Policy Statement (2020, PPS) permits this.

Since we first approached the City in June 2020, with a request for Formal Consultation, this application has become far too complicated. Several issues have been raised by City staff and external agencies that have added unnecessary complexity to this application. Certain supporting materials were submitted to the City with the application. Based on the Committee's questions, we must conclude they didn't have the benefit of this material for this meeting.

1. Floodplain (APPENDIX 1):
 - a. Letter of Opinion from Terrastory Environmental Consulting
2. Legal Access to Tyneside (APPENDIX 2):
 - a. Letter from Lawyer confirming a Deeded Right of Way provides access
 - b. Copy of the Deed confirming the Right-of-Way status
3. Revised Lot Configuration (APPENDIX 3)

2 THE ISSUES

Several technical issues were identified by City staff and the Committee that require clarification. The following is an explanation of this supplemental information.

2.1 FLOODPLAIN | SIGNIFICANT NATURAL HERITAGE FEATURES

We acknowledge that portions of this proposed lot are likely in a floodplain. We note that significant effort was made in designing the severed lot to avoid the floodplain and in particular any significant natural heritage features, such as a Provincially Significant Wetland (PSW).

5020 Tyneside Drive, Glanbrook: Application FC 20-055

Thomsen-Jung Farms Ltd. c/o Andreas Thomsen-Jung

Terrastory Environmental Consulting Inc. (Terrastory), a professional ecology firm, was retained to identify how and where the lot could be designed to avoid significant features. Their findings are presented in Appendix 1 and demonstrate that the lot is designed to achieve this goal, and therefore is consistent with the PPS (2020) and the City of Hamilton Official Plan.

Terrastory has demonstrated that the proposed lot is designed to avoid significant issues and therefore is consistent with the PPS. We also note that City natural heritage staff did not identify any concerns in their comments.

The Niagara Peninsula Conservation Authority (NPCA) raised concerns related to their Watershed Policies. We are of the opinion that the NPCA watershed policies are not applicable for this application as no physical development is proposed. Their watershed policies define development as “site alteration”, but do not include creation of a new lot. No site alteration or construction is proposed with this application.

It is our opinion that the proposed severed lot avoids any significant natural heritage features and is therefore consistent with the PPS (2020), which represents good planning.

2.2 LEGAL ACCESS TO TYNESIDE DRIVE

City staff were unable to support this application, largely due to the lack of frontage on a municipal road. We note that this dwelling has existed for over 100 years and has used the existing access laneway for decades, without issue.

The Planning Brief submitted with this application demonstrated that alternative means of access, namely to Minor Road directly, resulted in a larger severed lot, impacted agriculture and unnecessarily complicated this application.

The Committee requested proof that the Right-of-Way currently used for access is both legal and on title. We offer a letter from the property owner’s lawyer confirming this, as well as a copy of the actual property deed.

The property owner has approached the owners of the lands over which the deeded Right-of-way pass, offering to buy their lands. They are not interested in selling their property, as they may have plans for it at some point. Gaining direct access to Tyneside is therefore not possible.

We trust this supplemental information satisfies the Committee’s request.

2.3 REVISED LOT CONFIGURATION

Significant discussion centred on the size of the severed lot and its related impacts. The severed lot was proposed at over 3.0 hectares, which is significantly larger than normal. This is the result of several factors, including maintaining all buildings on the severed lot, avoiding the loss of further agricultural lands, avoiding significant natural heritage features, and respecting existing and respecting historical uses and points of access.

To address Committee of Adjustment comments, the property owner offers the following:

1. Accessory farm buildings (2 barns) will be demolished
2. The proposed severance has been re-configured to a rectangle

5020 Tyneside Drive, Glanbrook: Application FC 20-055

Thomsen-Jung Farms Ltd. c/o Andreas Thomsen-Jung

The attached Figure, being in Appendix 3, demonstrates the revised configuration of the severance. This will result in the removal of 2 existing farm buildings, and this land being retained with the farm operations, rather than with the proposed severed lot.

This approach will reduce the severed lands, while increasing the lands available for farming.

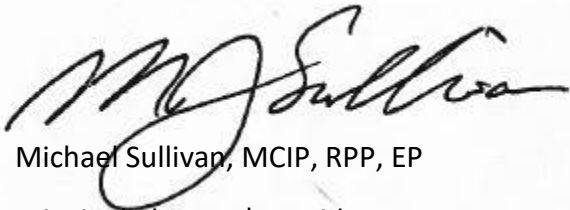
3 CLOSING

We trust this letter and attached Appendices provides the Committee with the additional clarity required. In addition, by modifying the application by reducing the size of the severed lot, we wish to demonstrate some willingness to negotiate this matter.

You are welcome to call me at 289-687-3730 or by email at mike@sullivanplanning.ca with any questions or concerns.

Sincerely,

SULLIVAN PLANNING SERVICES INC.



Michael Sullivan, MCIP, RPP, EP

Principal Planner | President

Attach

cc. Andreas Thomsen-Jung – President, TJF Farms Ltd (Property owner)