



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 4, 2021
<b>SUBJECT/REPORT NO:</b>	Request for Direction to Proceed with Appeal of Committee of Adjustment Consent and Minor Variance Applications GL/B-20:61 and GL/A-20:199 for the Lands Located at 5020 Tyneside Road (Glanbrook) (PED21093) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Velimir Lazarevic (905) 546-2424 Ext. 5865
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That Council gives approval to the following actions, as detailed in Report PED21093, respecting Committee of Adjustment Consent and Minor Variance applications GL/B-20:61 and GL/A-20:199 submitted by Sullivan Planning on behalf of the Owner (Thomsen-Jung Farms Ltd.) for the lands located at 5020 Tyneside Road, Glanbrook as shown on Appendix "A" to Report PED21093, approved by the Committee of Adjustment but recommended for Denial by the Planning and Economic Development Department:

- (i) That Council of the City of Hamilton proceed with the appeal to the LPAT against the decision of the Committee of Adjustment to approve applications GL/B-20:61 and GL/A-20:199;
- (ii) That Council directs appropriate Legal Services and Planning Staff to attend the future LPAT Hearing in opposition to the decision of the Committee of Adjustment to approve applications GL/B-20:61 and GL/A-20:199.

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**EXECUTIVE SUMMARY**

The applicant submitted joint Consent and Minor Variance applications GL/B-20:61 and GL/A-20:199 to permit a surplus farm dwelling severance of a parcel of land containing an existing dwelling known as 5020 Tyneside Road, Glanbrook and the retention of an agricultural parcel with frontage along Miles Road, as shown on Appendices “A” and “B” to Report PED21093.

The Consent and Minor Variance applications were tabled by the Committee of Adjustment on October 20, 2020 and heard again on January 21, 2021.

Staff comments to the Committee of Adjustment noted that there were conflicts with the Rural Hamilton Official Plan regarding the proposed surplus farm dwelling severance because the parcel to be conveyed had no frontage onto a public road and the severance would create a landlocked parcel. The future landlocked parcel has access through the adjacent property to the north at 6229 Chippewa Road East through a right of way agreement, which staff noted did not constitute frontage. Furthermore, the Rural Hamilton Official Plan policies outline that a surplus farm dwelling shall not generally exceed a depth of 122 m, and the proposed new lot would have a depth of 328 m.

Staff indicated that the proposal required a successful Zoning By-law Amendment application as the requested variances under application GL/A-20:199 was to permit a landlocked parcel of land which did not meet the four tests and were not considered as “minor” relief from the provisions of the City of Hamilton Zoning By-law No. 05-200.

The Niagara Peninsula Conservation Authority (NPCA) also did not support the applications as the proposal would allow lot creation within the flood hazard which is not permitted by NPCA policy or the Provincial Policy Statement and within the valley associated with the Welland River which is also contrary to NPCA policy.

Given these concerns, staff recommended that the applications be denied since they do not meet the intent of the Rural Hamilton Official Plan and the general intent of the Zoning By-law No. 05-200. The Committee of Adjustment approved both applications on January 21, 2021.

Under the *Planning Act*, appeals must be filed within 20 days of the decision. As such, on February 4, 2021, Planning and Economic Development staff submitted an appeal form and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process, subject to Council’s approval/ratification as per the standing instructions to staff. The purpose of this report is to seek Council direction on the appeals.

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**Alternatives for Consideration – See Page 15**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Planning and Economic Development Department staff has submitted the required fee of \$475.00 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets. The Hearing would likely take one day.

**Staffing:** One representative each from Planning, Legal Services, and the Niagara Peninsula Conservation Authority would be required for preparation and attendance at an LPAT Hearing.

**Legal:** No legal implications are expected.

**BACKGROUND**

**Formal Consultation Application FC-20-055**

On July 15, 2020, staff reviewed a Formal Consultation application (FC-20-055) for a proposed surplus farm dwelling severance at 5020 Tyneside Road. Staff advised that Consent to Sever, Rural Hamilton Official Plan (RHOP) and Zoning By-law Amendment applications would be required to implement the proposal. Any future applications would also require an archaeological assessment for the area to be severed. The applicant was advised that the proposal would likely not be supported as it conflicts with the RHOP policies for surplus farm dwelling severances because the proposed new lot would have no frontage onto a public road. Comments from the Niagara Peninsula Conservation Authority (NPCA) indicated that the proposed new lot is impacted by the following features regulated by the NPCA:

- The Welland River;
- Floodplain hazard associated with the Welland River;
- A provincially Significant Wetland and buffer associated with the River as well as Lake Niapenco; and,
- Steep valleys associated with the River.

In accordance with NPCA policies, the NPCA advised that lot creation could not be supported within a flood hazard and a PSW, or below the top of bank and within a valley system.

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**Committee of Adjustment Applications GL/B-20:61 and GL/A-20:199**

The Consent to Sever application GL/B-20:61 and Minor Variance application GL/A-20:199 were received by the City on September 9, 2020. They were heard by the Committee of Adjustment on October 22, 2020. It is noted that none of studies required through the Formal Consultation application were submitted (EIS and archaeological assessment) with the Consent and Minor Variance applications.

Consents where a new lot is created that will have no frontage onto a right of way are prohibited under the Surplus Farm Dwelling policies. The RHOP policies also state that the shape and dimensions of a surplus farm dwelling lot shall generally not exceed a depth of 122 m, whereas the proposed surplus farm dwelling lot would have a depth of approximately 328 m. Furthermore, the requested Minor Variances were not considered minor due to conflicts with the lot creation policies of the RHOP. As such, staff recommended that the proposed Consent and Minor Variance applications be denied. (see Consolidated Comments in Appendix “C” to Report PED21093).

The Niagara Peninsula Conservation Authority (NPCA) comments to the Committee of Adjustment noted that through the Formal Consultation process, they requested further information to ensure a proper review, including an EIS (see NPCA comments attached as Appendix “E” to Report PED21093). They noted that the proposed lot is a) not setback from the physical top of slope, b) would fragment the valley feature and the watercourse, and c) would allow lot creation within the flood hazard and within the valley associated with the Welland River. They advised that they could not support the Consent application as it is contrary the NPCA policies and the Provincial Policy Statement.

As noted in the minutes of the October 22, 2020 Committee of Adjustment meeting indicate (see Minutes attached as Appendix “D” to Report PED21093), the Committee discussed the existing driveway access to the proposed new lot from the northern neighbour and there was general agreement that this driveway constituted lot frontage. The Committee of Adjustment tabled the applications in order to provide the applicant with the opportunity to demonstrate that a legal deed existed with the property owner to the north at 6229 Chippewa for driveway access to the proposed new lot.

The applications were returned to the January 21, 2021 Committee of Adjustment meeting whereby the applicant provided the legal access agreement for the Committee’s review. As the January 21, 2021 minutes indicate (refer to Appendix “D” to Report PED21093), there was discussion about the history of the property and that it was originally owned by the NPCA. There was also discussion about the shape of the proposed new residential lot and that if the access came from Miles Road instead of Tyneside Road, the lot would be extremely long and would take too much land out of

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agriculture. The Committee of Adjustment approved the applications, with conditions for the reasons set out in the decision of the Committee of Adjustment (see Appendix “F” to Report PED21093).

**Appeal to LPAT**

On February 4, 2021, Planning Division staff filed an appeal to the LPAT on behalf of the Planning and Economic Development Department of the Committee of Adjustment decision to approve the applications. The reasons for the appeal can be summarized as follows

- a) The Consent conflicts with the RHOP Severance policies, (F.1.14.2), and;
- b) The proposed variances fail the four tests for a Minor Variance and cannot be considered as “minor” relief from the provisions of the City of Hamilton Zoning By-law No. 05-200.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

***Planning Act***

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

**Powers of Committee**

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

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

45(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality, that implements an official plan, or from such by-laws of the municipality as are specified and that implement an

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official plan, and when a committee of adjustment is so empowered subsection (1) applies with necessary modification. R.S.O. 1990, c. P.13, s. 45 (3)).

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

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

54(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, section 53 applies with necessary modifications and subsections 45 (4) to (20) do not apply in the exercise of that authority. 1994, c. 23, s. 33 (9)."

The subject lands have frontage only on Miles Road, however the owner has legal access to Tyneside Road which was established by an agreement with the neighbouring 6229 Chippewa Road East. Staff are not in support of the subject severance as it would create a landlocked parcel which is not fronting onto a Right of Way, but instead has legal access which is owned by the abutting property (6229 Chippewa Road East). Staff note that legal access does not constitute frontage, therefore the proposal does not comply with the Rural Hamilton Official Plan, Chapter F – Implementation, 1.14.2.1.c.iv) which state that severances that create a new lot shall only be permitted when both severed and retained lots have frontage on a public road. To resolve the conflict, an amendment to the Rural Hamilton Official Plan would be required.

### **Provincial Policy Statement (2019)**

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, apply to the proposal.

"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.

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- 1.1.5.2 On *rural lands* located in municipalities, permitted uses are:
- a) residential development, including lot creation, that is locally appropriate;
  - b) *agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices*, in accordance with provincial standards;
- 2.3.4 Lot Creation and Lot Adjustments
- 2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:
- 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,”

Policy 2.3.4.1 states that lot creation in prime agricultural areas is discouraged and may only be permitted for a residence surplus to a farming operation as a result of a farm consolidation.

Staff note that the Cultural Heritage policies have not been updated within the RHOP in accordance with the PPS (2019). The following policies of the PPS (2019) also apply:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or area of archaeological potential unless significant archaeological resources have been conserved.”

The subject property meets three of the 10 criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 2) Local knowledge associates areas with historic events/activities/occupations; and,
- 3) In areas of pioneer Euro Canadian settlement.

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These criteria define the property as having archaeological potential. Accordingly, and as noted previously, staff required that an Archaeological Assessment be completed within the area to be severed and submitted with any future application. An archaeological Assessment was not provided as part of the Consent to Sever application and is still outstanding.

**“3.1 Natural Hazards**

**3.1.2 Development and site alteration shall not be permitted within:**

- c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and
- d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.”

The PPS defines development in part as “the creation of a new lot”. The NPCA noted in their comments that the proposed new lot is contrary to clause c) and d) above at this time. They noted that there was no analysis of the floodplain in this area to confirm if in fact the proposed lot would have safe access during a flooding event under the Regulatory 100-year storm. As such, the NPCA noted that they could not confirm that clause c) has been satisfied.

Therefore, the proposed Consent application is not consistent with the Provincial Policy Statement.

**Greenbelt Plan (2017)**

The lands are designated “Protected Countryside” in the Greenbelt Plan, the following policies of the Greenbelt Plan, amongst others, apply to the proposal.

**“4.5 Existing Uses**

**4.5.1** All *existing uses* are permitted.

**4.5.2** Single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force. Municipalities are encouraged to retain existing lots of record for *agricultural uses* and discourage non agricultural uses where appropriate.

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

4.6 Lot Creation

1. Lot creation is discouraged and may only be permitted for:
  - a) Outside *prime* agricultural areas, including *specialty crop areas*, the range of uses permitted by the policies of this Plan;
  - f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:
    - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and,
    - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.”

The Greenbelt Plan policies provide direction for lot creation and outline that severances of a residence surplus to a farm operation as a result of a farm consolidation, are permitted. The Greenbelt Plan has been implemented through the RHOP and implementing Zoning. It is staff’s opinion that the proposed severance conforms to the policies of the Greenbelt Plan.

## **Rural Hamilton Official Plan**

The Rural Hamilton Official Plan designates the property as “Agriculture” in Schedule D – Rural Land Use Designations. The following policies, amongst others, are applicable to the proposal.

### **Residential Development – Severance Policies**

“F.1.14.2.1 The following policies shall apply to all severances and lot additions, including minor lot line adjustments and boundary adjustments in the Agricultural, Rural, Specialty 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:
  - ii) Residential uses except in accordance with:
    - 2) 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,
- b) Severances that create a new lot(s) may be permitted for only the following purposes:
  - i) Agricultural uses in accordance with Policies F.1.14.2.1, F.1.14.2.2, and F.1.14.2.3;
  - ii) Agricultural-related uses in accordance with Policies F.1.14.2.1, F.1.14.2.2, and F.1.14.2.3;
  - iii) Severance of a surplus farm dwelling made surplus as a result of a farm consolidation in accordance with Policies F.1.14.2.1 and F.1.14.2.8;
  - iv) Severances within designated Rural Settlement Areas in accordance with Policy F.1.14.2.1 c), Policy F.1.14.2.4, and Section C.5.1, Private Water and Wastewater Services;

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- v) Acquiring land for infrastructure, petroleum resource extraction, and mineral aggregate resource extraction purposes in accordance with Policy F.1.14.2.1 g);
  - vi) Facilitating conveyances of land to a public body or approved private land trust in accordance with Policy F.1.14.2.1 h);
  - vii) In the Rural designation only, non-agricultural uses which may only be permitted in accordance with Sections D.4.1, F.1.14.2.1, and F.1.14.2.3;
- c) All proposed severances that create a new lot shall:
- v) comply with the policies of this Plan including a rural settlement area plan where one exists;
  - vi) be compatible with and not hinder surrounding agricultural operations;
  - vii) conform to the Zoning By-law;
  - viii) only be permitted when both severed and retained lots have frontage on a public road; and,
  - ix) meet the requirements of Section C.5.1, Private Water and Wastewater Services.

F.1.14.2.8 An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided all of the following conditions are met:

All Lands

- a) In all cases where surplus farm dwellings are to be severed the following shall apply:
  - xi) The farm consolidation shall have been completed prior to the time of application.
  - xii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is

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surplus to the needs of the farm consolidation. Farm dwellings that have been determined to be surplus to a farm operation prior to December 16, 2004 and prior to the acquisition of the additional farm parcel(s), or as a result of changing agricultural operations, are deemed not to be surplus farm dwellings for the purposes of Section F.1.14.2.8.

- xiii) The proposed surplus farm dwelling:
  - 1) shall have been built on or before December 16, 2004; and,
  - 2) shall be habitable on the date of the application for the surplus farm dwelling severance and shall meet the City's standards for occupancy without requiring substantial demolition and new construction.
- xiv) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Private Water and Wastewater Services of this Plan. The maximum size of the surplus dwelling lot shall be the size required for servicing in accordance with Section C.5.1, with as little acreage as possible taken out of agricultural production;
- xv) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Private Water and Wastewater Services of this Plan;
- xvi) The shape and dimensions of the surplus farm dwelling lot shall:
  - 1) not impair agricultural operations on the retained land; and;
  - 2) generally not exceed a depth of 122 metres (400 feet);
- xvii) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-

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law, and no such buildings or structures shall be used for industrial or commercial purpose

- xviii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.”

The subject lands have frontage only on Miles Road, however the owner has legal access to Tyneside Road which was established by an agreement with the neighbouring 6229 Chippewa Road East. The proposed lot would not have frontage on Miles Road. Staff are not in support of the subject severance as it would create a landlocked parcel which is not fronting onto a Right of Way, but instead has legal access which is owned by the abutting property (6229 Chippewa Road East). Staff note that a Right of Way access does not constitute frontage. Therefore, staff cannot support this proposal as it does not comply with Policy 1.14.2.1.c).

Staff also have questions with respect to how the retained agricultural lot will be farmed and how farm machinery will access the retained agricultural lot. It appears that the current access of farm machinery is through Tyneside Road, and ultimately the private road which leads to the lands which are proposed for a severance. Staff note that the only way for farm machinery to access the agricultural lot will be through the newly severed residential lot.

In addition, the Rural Hamilton Official Plan policies state that the shape and dimensions of the surplus farm dwelling shall generally not exceed a depth of 122 m, as per Policy 1.14.2.8.a).xvi).2 to avoid the unnecessary fragmentation of rural lands. The proposed surplus lot has a proposed depth of approximately 328 m which does not comply with the RHOP.

### **Hamilton Zoning By-law No. 05-200**

The subject lands are zoned A1 (Agriculture) Zone, Conservation/Hazard Land – Rural (P7) Zone and Conservation/Hazard Land – Rural (P8) Zone. The proposed surplus farm dwelling lot is zoned A1 and P7 Zones (see Appendices “A” and “B” to PED21093).

The A1 Zone permits Agriculture, a Residential Care Facility, Secondary Uses to Agriculture, Single Detached Dwellings, and Veterinary Service – Farm Animal, subject to a set of performance standards.

The P7 Zone permits Agriculture, Conservation, Existing Single Detached Dwellings, Flood and Erosion Control Facilities, and Recreation (Passive), subject to a set of performance standards.

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The following variances were requested through the Minor Variance application (GL/A-20:199):

1. The applicant is seeking a variance for a lot width of 0.0 m to be provided (on the lands to be severed) instead of the minimum required lot width of 30.0 m; and,
2. The applicant is seeking a variance for no lot frontage to be provided (on the lands to be severed) whereas the by-law requires a lot to abut a street for a minimum of 4.5 m.

The applicant is seeking to permit a Single Detached Dwelling on the lands to be severed. The current 'P7' Zone of the lands being severed permits the use of 'existing' Single Detached Dwellings, "existing" is defined in Zoning By-law No. 05-200 as "legally established on the effective date of this By-law or applicable amendments thereto." 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. As such, a variance is necessary in order to permit the continued use of the Single Detached Dwelling.

Staff do not support the variances as they are not in keeping with the Rural Hamilton Official Plan policies which state that all proposed severances that create new lots shall only be permitted when both severed and retained lots have frontage on a public road, as per RHOP, Chapter F, 1.14.2.1.c.iv). The variance is not minor in nature and is not appropriate for the development of the subject property.

The proposed severance would require a successful Zoning By-law Amendment application as the requested variances do not meet the four tests and are not considered as "minor" relief from the provisions of the City of Hamilton Zoning By-law No. 05-200.

## **RELEVANT CONSULTATION**

- Legal Services Division

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

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

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

**SUBJECT: Request for Direction to Proceed with Appeal of Committee of Adjustment Consent and Minor Variance Applications GL/B-20:61 and GL/A-20:199 for the Lands Located at 5020 Tyneside Road (Glanbrook) (PED21093) (Ward 11) - Page 15 of 16**

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

The proposal cannot be supported for the following reasons:

- The propose severance for a surplus farm dwelling is not consistent with the Provincial Policy Statement (2020) natural hazard policies and the applicant has not demonstrated that it meets the Cultural Heritage policies as an archaeological assessment has not been submitted;
- The proposed severance does not comply with the policies of the Rural Hamilton Official Plan regarding lot creation since the severed lands will not have frontage on a Right of Way and will result in a landlocked parcel. As well, it does not comply with the policies of the Rural Hamilton Official Plan regarding policies which deal with the shape and dimensions of a surplus farm dwelling lot where the resulting lot shall generally not exceed a depth of 122 metres. The proposed surplus farm dwelling lot has a proposed depth of approximately 328 metres which does not comply.

The proposed severances would require an Official Plan Amendment in order to address the conflicting lot creation policies of Chapter F: Implementation within the Rural Hamilton Official Plan; and,

- Minor Variance application (GL/A-20:199) does not meet the four tests and is not considered as “minor” relief from the provisions of the City of Hamilton Zoning By-law No. 05-200. Staff note that since the associated Consent application (GL/B:20-61) does not comply with the RHOP, the requested variances cannot be supported as they are associated with the proposed Consent and ultimately do not comply with the RHOP and do not conform to the Zoning By-law. Therefore, an Official Plan Amendment and a Zoning By-law Amendment are required.

## **ALTERNATIVES FOR CONSIDERATION**

### **Option 1:**

Council could proceed with the appeal and direct appropriate Legal Services and Planning staff to attend the LPAT Hearing in opposition to the approved severance and

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

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minor variance application, as recommended in this Report. Where an appeal has been filed, Legal and Planning staff are available to meet on a without prejudice basis with an applicant in the event the applicant proposes potential settlement options.

**Option 2:**

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

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Location Map

Appendix "B": Severance Sketch

Appendix "C": GL/B-20:61 and GL/A-20:199 Consolidated Staff Comments

Appendix "D": October 23, 2020 and January 21, 202 C of A Meeting Minutes

Appendix "E": October 23, 2020 Niagara Peninsula Conservation Authority Comments

Appendix "F": Notice of Decisions

Appendix "G": Appeal to LPAT

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