

January 21st, 2021

FL/B-20:86 – 173 Highway 52, Flamborough

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee grant the severance, an approval should be subject to the following condition(s):

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)
2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
4. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. The owner shall submit survey evidence that the lands to be severed and retained, including the location of any existing structure, lot coverage etc., conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
6. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).
7. The owner shall demolish the existing farm buildings on the retained residential lot, to the satisfaction of the Planning and Economic Development Department.

8. The applicant shall submit and receive final and binding approval of a Zoning By-law Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.
9. The applicant shall submit and receive final and binding approval of an Official Plan Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.
10. The owner must merge the severed agricultural lot (19.22 ha) with the vacant agricultural lot at 1372 Concession 2 W., to the satisfaction of the Manager, Development Planning Heritage & Design.

FL/B-20:86 – 173 Highway 52, Flamborough**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT****Development Planning – Rural**

The purpose of this application is to sever agricultural lands to be added to the adjacent agricultural lands (1372 Concession 2 W.) and to retain lands containing an existing single detached dwelling.

Severed lands:

62m± x 811m± and an area of 19.22 ha±

Retained lands:

140m± x 117m± and an area of 1.15 ha±

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:

"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:

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,

1.14.2.5 Lot additions, except within designated Rural Settlement Areas, may be considered for permitted uses provided the following conditions are met:

a) No new lots shall be created;

b) All resulting lots shall be:

i) 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, except as permitted in F.1.14.2.7 d); and,

- ii) be compatible with and not hinder surrounding agricultural operations.
- c) For lands within the Agriculture designation where the lot addition is for agricultural uses the minimum lot size of all resulting lots shall be 40.4 hectares (100 acres).

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:
 - i) The farm consolidation shall have been completed prior to the time of application.
 - ii) The farm dwelling shall be determined to be surplus to the farm operation for no reason other than the farm dwelling is 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.
 - iii) 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.

- iv) 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;
- v) 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;
- vi) 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);
- vii) 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-law, and no such buildings or structures shall be used for industrial or commercial purpose
- viii) Where a barn or other farm building exists within the immediate vicinity of the surplus residence, the City may require demolition of the barn.

Analysis

The proposed consent application does not meet Policy F.1.14.2.5 c). The lands are designated under the Agriculture designation, which indicates that the lands are comprised of prime agricultural land. The RHOP requires that if a severance was to occur, the agricultural lands must have a resulting lot size of greater than 40.4 ha (100 ac.). This intent of this policy is to ensure that the severed agricultural property can continue to be

agriculturally viable in the future. Staff note that the subject severance would create a fragmented agricultural lot resulting in 19.22 ha, for that reason and as per Policy F.1.14.2.5 c), staff cannot support the proposal.

In addition, staff confirm that the referenced lots, 173 Highway 52 and 1372 Concession 2 W., do not qualify in regard to a "surplus farm dwelling severance", as per policy F.1.14.2.8.

Based on the above, staff are of the opinion that the lot addition would not meet policy F.1.14.2.5 c) above, and as a result, the intent of the RHOP is not maintained in this instance and an OPA would be required to facilitate the proposal. As such, the proposed severance is not minor in nature and is not desirable for the appropriate development of the lands. Accordingly, staff **do not support** the severance.

Hamilton Zoning By-law No. 05-200:

The subject lands are zoned A1 (Agriculture) Zone. The subject proposal does not conform to the policies of the City of Hamilton Zoning By-law No.05-200. The minimum lot area for an Agriculture (A1) Zone is 40.4 ha, the retained lands are proposed at 1.15 ha while the severed lands are proposed at 19.22 ha. As such, the proposed severance is not minor in nature and is not desirable for the appropriate development of the lands. Accordingly, staff **do not support** the severance.

Recommendation

Based on the preceding information, the severance application does not meet the general intent and purpose of the Rural Hamilton Official Plan or Zoning By-law since the applicant is proposing to sever a residential use within the Agricultural designation within the RHOP. The severance is not minor in nature and is not desirable for the appropriate development of the lands. Staff recommend that the severance be **denied**.

CONDITION:

Should the Committee approve the application, staff require the following conditions be added to the application:

1. The owner shall demolish the existing farm buildings on the retained residential lot, to the satisfaction of the Planning and Economic Development Department.
2. The applicant shall submit and receive final and binding approval of a Zoning By-law Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.
3. The applicant shall submit and receive final and binding approval of an Official Plan Amendment Application for the subject lands to the satisfaction of the Manager, Development Planning Heritage & Design.

4. The owner must merge the severed agricultural lot (19.22 ha) with the vacant agricultural lot at 1372 Concession 2 W., to the satisfaction of the Manager, Development Planning Heritage & Design.

Building Division:

1. Demolition of all or an appropriate portion of the existing accessory structure ("barn") straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.
2. The lands to be conveyed shall be merged in title with the lands to which they are to be added.
3. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with the Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.
4. In order to clear conditions, the applicant will be required to make an application for a Zoning Compliance Review and pay the relevant fees.
5. Variances for lot area will be required for zoning compliance of the lands to be conveyed.
6. Subject to the Minimum Distance Separation requirements for livestock facilities within agricultural areas as set out in the Zoning By-Law.

CONDITIONAL UPON:

If the application is approved, we request the following condition(s):

1. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section). May be subject to a demolition permit issued in the normal manner.
2. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
3. The owner shall submit survey evidence that the lands to be severed and retained, including the location of any existing structure, lot coverage etc., conform to the

requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

4. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).

Development Engineering:

Information:

It appears that the proposed severance application is for land assembly purposes only and that new construction is not proposed. Therefore, the Owner must be advised that if the future intent is to develop any of the lands in the future, the lands in question will be subject to an applicable Development Application with and to the satisfaction of the Manager Development Engineering Approvals.

Municipal Services

According to our GIS records, there are no existing municipal services that front the subject property.

Right-of-way Widening

According to our GIS records, the subject section of Highway 52 is classified as an arterial roadway with an ultimate road allowance right-of-way width of 30.480m by Schedule C-1 of the Rural Hamilton Official Plan. The current road allowance right-of-way width of the subject section of Highway 52 ranges between $\pm 30.3\text{m}$ to $\pm 44.3\text{m}$. Therefore, Development Engineering will not require a road widening dedication.

Recommendations:

The Development Approvals Section has no requirements with respect to the proposed severance for land assembly purposes only.

Growth Planning:

No comments.

Transportation Planning:

1. Transportation Planning has no objections to the land severance application.

Source Water Protection Planning:

Given the retained lot will be greater than 1 ha in area, it would meet the sustainable servicing policies of the Rural Hamilton Official Plan and as a result, we can support the application.

We would recommend that Building Division confirm the proposed severance meets minimum clearance distances of Part 8 of the Ontario Building Code as it pertains to the septic system on the retained lot.

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
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Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: January 13, 2021

To: Jamila Sheffield, Committee of Adjustment Secretary/Treasurer
Development Planning
City Hall – 71 Main Street West – 5th Floor

From: Sam Brush – Urban Forestry Health Technician

Subject: 173 Highway 52, Flamborough
File: FL/B-20:86

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, January 21, 2021, regarding the above subject area under discussion, the Forestry & Horticulture Section has reviewed the submission associated with the Application for Consent/Land Severance for this site and provides the following opinion:

SCOPE

There are municipal tree assets on site although it is determined that no impacts are anticipated therefore no Tree Management Plan is required.

Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

TREE MANAGEMENT

Tree Protection is a measure of efforts to preserve existing trees during the Planning of New Developments, Infrastructure Enhancements, Utility Upgrades & Residential Improvements.

LANDSCAPE PLAN

No new Landscape Strips are shown on the submission and none are requested by the Forestry and Horticulture Section.

SUMMARY

- There are Municipal Tree Assets on site, although no impacts are anticipated therefore no Tree Management Plan or Landscape plan is required.
- Note: Prior to a person performing any work on, in or around a public tree an application for a permit shall be submitted to the Director.

We encourage you to forward a complete copy of our comments to the applicant and should you or the Applicant require clarification or technical assistance, please do not hesitate to contact me at (905) 546- 2424 Ext. 7375.

Regards,

A handwritten signature in black ink, appearing to read "Sam Brush". The signature is stylized with a large, looped "S" and a cursive "B".

Sam Brush
Urban Forest Health Technician



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PLAN REVIEW REPORT: City of Hamilton
Jamila Sheffield, Secretary Treasurer

DATE: January 15, 2021

YOUR FILE: FL/B-20:86

RE: **Application for Consent FL/B-20:86**
173 Highway 52, Flamborough, City of Hamilton
J & C DeJong

GRCA COMMENT:*

The Grand River Conservation Authority (GRCA) has no objection to the proposed consent application.

BACKGROUND:

1. Resource Issues:

Information currently available at this office indicates that the proposed severed and merged lands contain watercourses, floodplain, wetlands and the regulated allowances adjacent to these features.

The lands to be retained do not contains any features of interest to the GRCA.

2. Legislative/Policy Requirements and Implications:

The features noted above are identified as natural hazard and natural heritage features by the Provincial Policy Statement (PPS, 2020).

The proposed application will merge the severed parcel with the adjacent agricultural lands and the existing agricultural uses are proposed to continue. Based on the above, GRCA staff do not anticipate any negative impacts to the natural hazard and natural heritage features as a result of the proposed lot line adjustment.

Due to the presence of the above-noted features, portions of the subject lands are regulated by the GRCA under Ontario Regulation 150/06 - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Any future development or other alteration within the regulated area will require prior written approval from the GRCA in the form of a permit pursuant to Ontario Regulation 150/06.

3. Additional Information/Suggestions provided in an advisory capacity:

We wish to acknowledge receipt of the applicable plan review fee in the amount of \$420.00.

Should you have any questions or require further information, please contact me at 519-621-2763 ext. 2228.

Yours truly,

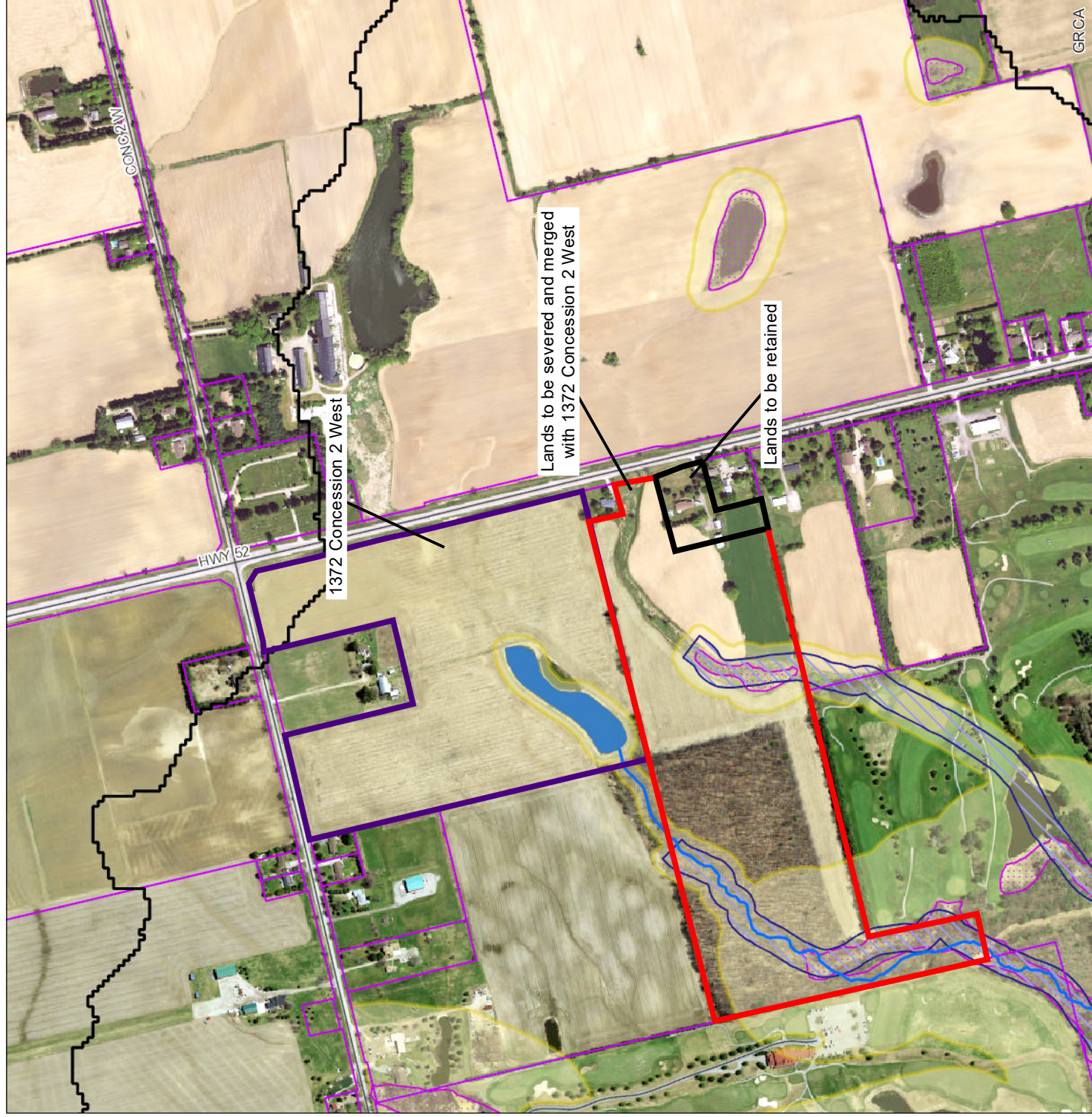
A handwritten signature in black ink, appearing to read "Andrew Herreman".

Andrew Herreman, CPT
Resource Planning Technician
Grand River Conservation Authority

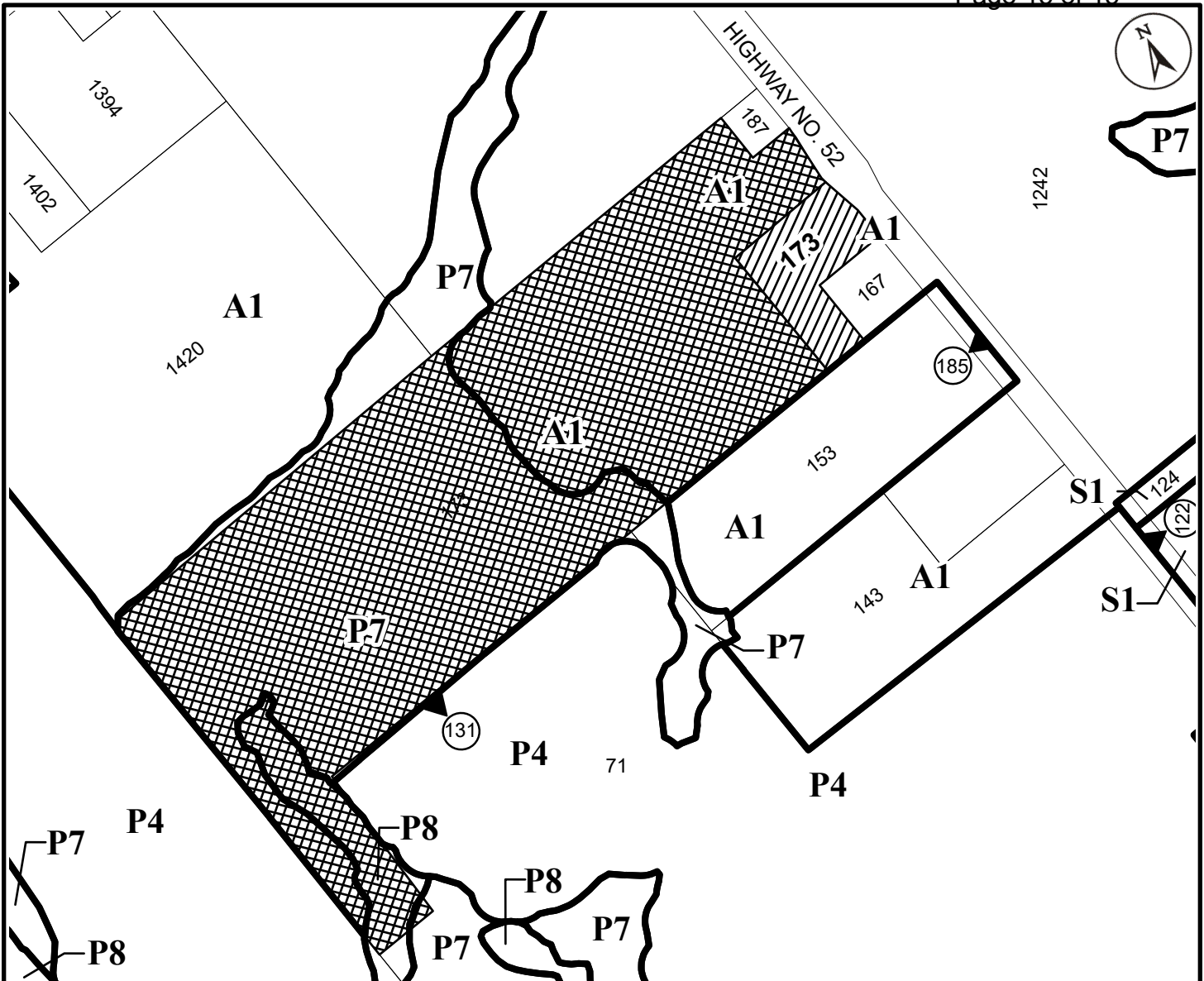
Encl.

****These comments are respectfully submitted to the Committee and reflect the resource concerns within the scope and mandate of the Grand River Conservation Authority.***

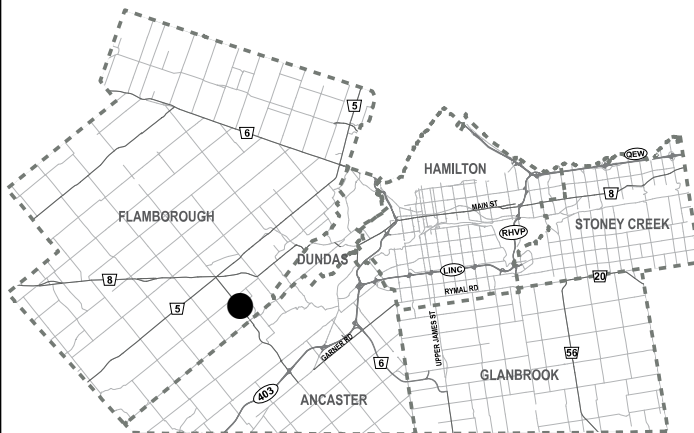
cc: Jacob and Cassidy DeJong (via email only)
Don Robertson (via email only)



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● Site Location



City of Hamilton

Committee of Adjustment

Subject Property

173 Highway 52, Flamborough (Ward 12)



Lands to be Retained



Lands to be Severed

File Name/Number:

FL/B-20:86

Date:

January 12, 2021

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT