



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 3, 2022
<b>SUBJECT/REPORT NO:</b>	Zoning By-law Amendment Application for Lands Located at 1640 Trinity Church Road, Glanbrook (PED22087) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Charlie Toman (905) 546-2424 Ext. 5863
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Zoning By-law Amendment Application ZAA-22-010, by Harvinder Wallace (Owner)**, for a change in zoning from Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to the Agriculture (A1, 118) Zone, Conservation/Hazard Land-Rural (P7, 773) Zone and Conservation/Hazard Land-Rural (P8, 773) Zone to prohibit development of a single detached dwelling and a residential care facility, as required by the conditions of Consent approval, as shown on Appendix “A” attached to Report PED22087, be **APPROVED** on the following basis:

- (i) That the draft By-law attached as Appendix “B” to Report PED22087, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law be added to Schedule “C” of Zoning By-law No. 05-200;
- (iii) That the proposed modifications in zoning are consistent with the Provincial Policy Statement, 2020, conform to the Greenbelt Plan and comply with Rural Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

On July 22, 2021, the Applicant received conditional approval of Consent Application GL/B-21:19 (see Appendix “C” attached to Report PED22087) to sever a 1 ha lot containing a dwelling that is surplus to the Applicant’s farm operation for the lands located at 1640 Trinity Church Road. The purpose of the Zoning By-law Amendment Application is to satisfy Condition Nos. 5, 6 and 8 of the Consent Application by adding special exceptions to the Agriculture (A1) Zone, to:

- Prohibit development of a single detached dwelling and residential care facility, shown as Blocks 1, 2 and 3 on Appendix “B” attached to Report PED22087; and,
- Recognize a reduced lot area of 35.8 hectares.

The proposed amendments are required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), the Greenbelt Plan (2017) and the Rural Hamilton Official Plan by ensuring that an additional dwelling cannot be built on the retained farm parcel. Staff are in support of the proposed Zoning By-law Amendment Application.

## **Alternatives for Consideration – See Page 12**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting prior to considering an Application for an amendment to the Zoning By-law.

## **HISTORICAL BACKGROUND**

### **Consent for Severance Application GL/B-21:19**

On July 22, 2021, the Committee of Adjustment approved Consent Application GL/B-21:19 with conditions, to permit the severance of a 1 ha parcel containing a detached dwelling from a 36.8 ha agricultural lot located at 1640 Trinity Church Road. The Applicant owns a 90 ha farm nearby at 1511 Nebo Road and the dwelling at 1640 Trinity Church Road had become surplus to their operation. A condition of the Consent approval required final and binding approval of a Zoning By-law Amendment Application in order to prevent any future residential development on the retained farm lot (refer to Appendix “C” attached to Report PED22087).

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**Report Fact Sheet**

<b>Application Details</b>	
Applicant/Owner:	Harvinder Wallace
File Number:	ZAA-22-010
Type of Application:	Zoning By-law Amendment
Proposal:	Change in zoning from Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to the Agriculture (A1, 118) Zone, Conservation/Hazard Land-Rural (P7, 773) Zone and Conservation/Hazard Land-Rural (P8, 773) Zone to prohibit development of a single detached dwelling and residential care facility on the retained lands and to recognize the reduced lot area of the retained agricultural parcel.
<b>Property Details</b>	
Municipal Address:	1640 Trinity Church Road
Lot Area:	$\pm 36.8$ ha.  Proposed retained rural residential lot at 1640 Trinity Church Road $\pm 1$ ha.  Proposed severed agricultural parcel at 1640 Trinity Church Road $\pm 35.8$ ha.
Servicing:	The dwelling is serviced by private and separate well and septic services.
Existing Use:	Agriculture
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
Greenbelt Plan:	The proposal conforms to the Greenbelt Plan (2017).
Rural Hamilton Official Plan Existing:	"Agriculture" on Schedule "D" – Rural Land Use Designations
Zoning Existing:	Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone

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<b>Documents</b>	
Zoning Proposed:	Agriculture (A1, 118) Zone, Conservation/Hazard Land-Rural (P7, 773) Zone and Conservation/Hazard Land-Rural (P8, 773) Zone
Modifications Proposed:	<p>Modifications requested by the Applicant:</p> <ul style="list-style-type: none"><li>• Notwithstanding Section 12.1.1, for the property known as 1640 Trinity Church Road, single detached dwellings and residential care facility are prohibited; and,</li><li>• Notwithstanding Section 12.1.3.1a), for the property known as 1640 Trinity Church Road, the minimum lot area shall be 35.8 hectares instead of the required 40.4 hectares.</li></ul>
<b>Processing Details</b>	
Received:	August 23, 2021
Deemed Complete:	September 22, 2021
Notice of Complete Application:	Sent to 15 property owners within 120 metres of the subject property on January 21, 2021.
Public Notice Sign:	Sign Posted: January 26, 2021 and updated on April 6, 2022.
Notice of Public Meeting:	Sent to 15 property owners within 120 metres of the subject property on April 14, 2022.
Public Consultation:	As per the approved Council guidelines, circulation to the surrounding property owners was previously provided through the Committee of Adjustment Consent Application. At that time, no comments were received.
Public Comments:	No public comments were received on the proposal.
Processing Time:	239 days from the date of receipt of Applications.

## **BACKGROUND**

### **EXISTING LAND USE AND ZONING**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Agriculture	Agriculture (A1) Zone, Conservation/Hazard Land- Rural (P7) Zone and Conservation/Hazard Land- Rural (P8) Zone

#### **Surrounding Land Uses:**

<b>North</b>	Agriculture and woodlands	Conservation/Hazard Land- Rural-Rural (P7) Zone and Conservation/Hazard Land- Rural (P8) Zone
<b>East</b>	Agriculture and single detached dwelling	Agriculture (A1) Zone and Conservation/Hazard Land- Rural-Rural (P7) Zone and Conservation/Hazard Land- Rural (P8) Zone
<b>West</b>	Agriculture	Agriculture (A1) Zone and Conservation/Hazard Land- Rural (P7) Zone and Conservation/Hazard Land- Rural (P8) Zone
<b>South</b>	Agriculture, single detached dwelling and supportive housing	Agriculture (A1) Zone

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the PPS. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The mechanism for

the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Land Tribunal (formerly Ontario Municipal Board) approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Official Plan analysis below.

As the Application for a change in zoning complies with the RHOP, it is staff's opinion that the Application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the PPS; and,
- Conforms to the Greenbelt Plan (2017).

### **Rural Hamilton Official Plan (RHOP)**

The subject lands are designated "Greenbelt Protected Countryside" on Schedule "A" - Provincial Plans and "Agriculture" on Schedule "D" - Rural Land Use Designations of the RHOP. The following policies, amongst others, apply to the proposal.

- "F.1.14.2.8 (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) Not impair agricultural operations on the retained land; and,
    - (2) Generally, not exceed a depth of 122 metres (400 feet);

- (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 purposes; and,
- (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.

#### Lands Not Merged in Title

- (c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of parcels of land, Applications for severance of the surplus dwelling shall comply with the following conditions:
  - (i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation;
  - (ii) The parcels of land comprising the consolidated farm operation shall generally be a minimum of 38.4 hectares (95 acres) in total in the Agriculture and Rural designations and 14.2 hectares (35 acres) in the Specialty Crop designation; (OPA 30)

- (iii) The parcel of land from which the surplus dwelling is severed shall generally be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D – Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations; and,
- (iv) Prior to granting of final consent, one of the following conditions shall be met for the retained farm parcel as a result of a surplus farm dwelling severance:
  - (1) The land owner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or,
  - (2) The land owner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit.”

Based on the policies above, staff found that the Consent Application (GL/B-21:19) complied with the RHOP subject to the retained agricultural parcel being rezoned to restrict development of a single detached dwelling and residential care facility. Staff note that at 35.8 hectares, the retained agricultural parcel complies with Section F1.14.2.8 c) ii) which requires a minimum lot area of 16.2 hectares.

Based on the forgoing, this Application satisfies Policy F.1.14.2.8 (c) and complies with the RHOP.

#### Airport Influence Area Policies

The subject lands are identified as Airport Influence Area on Schedule “F” Airport Influence Area, Primary Airport Zoning Regulation Area and between the 30-35 Noise Exposure Forecast Contours on Appendix “D” – Noise Exposure Forecast Contours and Primary Zoning Regulation Area. The following policies, amongst others, apply to the proposed development.

- “B.3.6.3.2 Development of noise *sensitive land uses*, in the vicinity of provincial highways, parkways, arterial roads, collector roads, truck routes, railway lines, railway yards, airports or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines standards.”



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	Locational Criteria	Requirements
1	28 NEF and greater, but less than 35 NEF	a) All new <i>development</i> of residential and other <i>sensitive land uses</i> , including infill <i>development</i> and <i>redevelopment</i> , shall be prohibited; b) New land uses which may cause a potential aviation hazard shall be prohibited; and, c) All <i>development</i> Applications approved prior to approval of this Plan may proceed.

The proposal is to facilitate the severance of an existing dwelling that is surplus to the Applicant's farm operation by rezoning the retained farm parcel to restrict new residential development. The rezoning Application will not result in the development of any new sensitive land uses. As such, the proposal complies with Policy B.3.6.3.2.

#### Cultural Heritage

The surplus farm dwelling on the subject lands is a circa 1896 farm house which is included in the City's Inventory of Heritage Buildings. The following policies, amongst others, apply to the proposal.

- "3.4.2.1 The City of Hamilton shall, in partnership with others where appropriate:
- (a) Protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes for present and future generations."

The proposal will facilitate the retention of this built heritage resource and as such complies with this policy.

Therefore, the proposal complies with the RHOP.

#### City of Hamilton Zoning By-law No. 05-200

The subject lands are currently zoned Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone under City of Hamilton Zoning By-law No. 05-200. Permitted uses under the Agriculture (A1) Zone include Agriculture and a Single Detached Dwelling. Section 12.1.3.1 a) of the Zoning By-law establishes a minimum lot area of 40.4 ha.

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The purpose of the Zoning By-law Amendment is to add a site specific exception to the Agriculture (A1) Zone, Conservation/Hazard Land-Rural (P7) Zone and Conservation/Hazard Land-Rural (P8) Zone to prohibit the development of a single detached dwelling and residential care facility and to recognize the reduced lot area of the retained agricultural lot as identified in Appendix “B” attached to Report PED22087.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
<ul style="list-style-type: none"><li>• Niagara Peninsula Conservation Authority;</li><li>• Canada Post; and,</li><li>• Alectra.</li></ul>		No Comment
	<b>Comment</b>	<b>Staff Response</b>
Development Engineering Approvals Section, Planning and Economic Development Department	Given the proposed lot size meets the minimum requirements, as a condition of approval Hamilton  Water requires a Scoped Hydrogeological Report completed by a qualified professional.	A scoped Hydrogeological Report is required as a condition of the Consent Application GL/B-21:19.
Growth Planning Section, Planning and Economic Development Department	The existing address of 1640 Trinity Church Road will continue to be used for the lands proposed for severance through Consent to Sever Application GL/B-21:19, and the preliminary address of 1800 Trinity Church Road has been assigned to the retained lands. 1800 Trinity Church Road will become final upon issuance of the final certificate of Consent to Sever Application GL/B-21:19.	Noted.
Forestry & Horticulture Section, Public Work Department	There are municipal tree assets on site although it is determined that no impacts are anticipated through this Application. No Landscape Plan required.	Noted.
Landscape Architectural Services, Public Works Department	Cash-in-lieu of parkland dedication is requested, if applicable.	Noted.

## **Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 15 property owners within 120 m of the subject lands on January 21, 2022 and the Applicant posted a public notice sign on the property on January 26, 2022. No public comments were received on the Application.

The Public Notice sign was updated with the Public Meeting date on April 6, 2022. Finally, the Notice of Public Meeting was mailed to 15 property owners within 120 m of the subject lands on April 14, 2022.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

- (1) The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:
  - (a) The proposed amendment is consistent with the lot creation policies of the PPS (2020) and conforms to the Greenbelt Plan (2017);
  - (b) It complies with the lot creation policies of the RHOP;
  - (c) The requested modification has merit as it complies with the minimum lot area established under Section F.1.14.2.8 c) ii) of the RHOP; and,
  - (d) The proposed amendment satisfies Condition Nos. 5, 6 and 8 of Consent for Severance Application GL/B-21:19 which was approved by the Committee of Adjustment on December 9, 2021 (see Appendix “C” attached to Report PED22087).
- (2) The policies of the PPS and Greenbelt Plan (2017) indicate that an existing residence may be severed as surplus to a farming operation consolidation. It is the opinion of Staff that the Application is consistent with the PPS and conforms to the Greenbelt Plan (2017) by restricting the development of a single detached dwelling and residential care facility on the retained lands. The proposed lot severance is appropriately sized to manage private sewage and water services and preserves the existing farming operation of the Applicant.

Staff support the proposed Zoning By-law Amendment.

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment be denied, the conditional approval of Consent Application GL/B-21:19 will lapse, and the Applicant will not be able to sever the surplus dwelling from the property.

## **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.

### **Healthy and Safe Communities**

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

### **Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED22087 – Location Map

Appendix “B” to Report PED22087 – Amendment to Zoning By-law No. 05-200

Appendix “C” to Report PED22087 – Notice of Decision for GL/B-21:19

CT:sd