

June 20, 2022

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File no. H231150

City of Hamilton Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Committee Members:

**Re: 2943 Jerseyville Road West, Ancaster
Application for Consent/ Land Severance No. AN/B-21:94**

We are the lawyers for 2296544 Ontario Inc. (the “**Owner**”), the applicant under the above noted application and owner of the property at 2943 Jerseyville Road West, Ancaster (the “**Subject Lands**”).

The Owner applied for a severance of the Subject Lands, to sever the portion of the Subject Lands that contains the residential dwelling (the “**Severed House Lands**”) from the remainder of the lands, being farm lands (the “**Retained Farm Lands**”). We are attaching a sketch of the Subject Lands showing the Severed House Lands in yellow, the Retained Farm Lands in blue and the adjoining lands (also owned by the same client through a different corporation), being 3011 Jerseyville Road West (the “**Adjoining Lands**”) in red.

The Committee of Adjustments provided the Owner with their Notice of Decision approving its request for severance on several conditions, including the requirement to receive approval of a Zoning Bylaw Amendment Application (“**ZBA Application**”) (condition #4) and of a Rural Hamilton Official Plan Amendment Application (“**OPA Application**”) (condition #5) to create a “no build” zone on the Retained Farm Lands. The Committee included these no build zone conditions to prevent the creation of a new building lot.

These two conditions were included as a result of our client receiving incorrect information about losing a right to build a home on the Adjoining Lands when submitting their original application for the severance of the Subject Lands.

The original application could have included a requirement to merge the Retained Farm Lands with the Adjoining Lands. A merger of these lands would eliminate the need for both the ZBA Application and the OPA Application because (i) the Adjoining Lands currently only have the right to build one dwelling and (ii) after the merger, the new parcel would still only have the right to build one dwelling. Therefore, there would be no need to amend the existing zoning to prevent a new building lot from being created by the severance.

We have confirmed with Charlie Toman of the City of Hamilton that this merger would eliminate the need for both the ZBA Application and the OPA Application. He also confirmed that the building rights for the

Adjoining Lands would be unchanged. We attach a copy of the email chain with Charlie Toman for your reference.

We are asking the Committee to amend the conditions for severance to:

1. delete conditions 4 & 5 (being the requirement for the ZBA Application & the OPA Application);
2. include a new condition to merge the Retained Farm Lands with the Adjoining Lands; and
3. include a new condition to deliver an Undertaking from the solicitor for the Owner to provide proof of the merger.

We are enclosing herewith our cheque in the amount of \$200.00 for the recirculation fee. Please confirm receipt of the enclosed cheque via email to pamela.green@gowlingwlg.com and let us know if you require any additional information.

Sincerely,

Gowling WLG (Canada) LLP



Pamela A. Green
Partner

PG/mc
Encl.



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COMMITTEE OF ADJUSTMENT NOTICE OF DECISION

APPLICATION FOR CONSENTLAND SEVERANCE

**APPLICATION NO. AN/B-21:94
SUBMISSION NO. B-94/21**

APPLICATION NUMBER: AN/B-21:94

SUBJECT PROPERTY: 2943 Jerseyville Rd. W., Ancaster

APPLICANT(S): Agent Kirk McPherson
Owner 2296544 Ontario Inc.

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land for existing residential use and to retain a vacant parcel of land for agricultural-related use. Existing single family dwelling and detached garage to remain.

Severed lands:
137.69m± x 88.27m± and an area of 1.03 per ha±

Retained lands:
232.00m± x 170.00m± and an area of 5.31 per ha±

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED**, for the following reasons:

1. The proposal does not conflict with the intent of the Urban Hamilton Official Plan.
2. The Committee considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

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 submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)

4. The owner shall submit and receive final and binding approval of a Zoning Bylaw Amendment Application for the subject lands, in order to prevent any future residential development on the retained farm lot and to recognize its reduced lot area, to the satisfaction of the Manager, Development Planning
5. The owner shall submit and receive final and binding approval of a Rural Hamilton Official Plan Amendment application for the subject lands, in order to recognize the reduce lot area of the retained farm lot to the satisfaction of the Manager, Development Planning
6. The owner shall demolish the existing agricultural outbuildings on the lands to be conveyed to the satisfaction of the Manager of Development Planning.
7. The owner provides documentation confirming the total land area comprising of the consolidated farm operation to the satisfaction of the Manager of Development Planning.
8. To the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report. Scope of the report will include but may not be limited to:
 1. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licenced-well-contractors>
 2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>
 3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.
9. The existing right-of-way at the subject property is approximately 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Jerseyville Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Jerseyville Road is to be 26.213 metres.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).
10. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination).
11. 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).

12. The applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the “A1” zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
13. The owner shall submit survey evidence that the lands to be severed, including: the location of any existing structure(s) including accessory buildings; parking (including number of spaces, size, aisle width, access driveway, location and setback of parking spaces); lot coverage of accessory buildings; height of accessory buildings and vehicular entrance and access driveway to accessory buildings; and, Minimum Distance Separation Formula, 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).
14. 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, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).
15. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
16. That the Owner submits an assessment prepared by a qualified professional to demonstrate that the existing private services i.e. water well and septic system, if any, are in good working condition to continue to support the existing dwellings and that the lot size is sufficient to provide for a reserve septic bed and/or a new water well if required all supported by the existing soil conditions to the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.

DATED AT HAMILTON this 20 day of January 2022.

D. Smith (Chairman)

N. Mleczko

D. Serwatak

L. Gaddy

M. Dudzic

B. Charters

M. Switzer

T. Lofchik

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS January 27, 2022.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN TWO (2) YEAR OF THE DATE OF THIS NOTICE OF DECISION (January 27, 2024) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **February 16, 2022**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

Note from Cultural Heritage: Cultural Heritage support the retention of the circa 1876 built heritage resource, however, the contextual value of the agricultural landscape will be impacted through a severance. Staff have no further comments on the application as circulated.

AN/B-21:94 – 2943 Jerseyville Rd. W., Ancaster

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 submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. The owner shall submit and receive final and binding approval of a Zoning Bylaw Amendment Application for the subject lands, in order to prevent any future residential development on the retained farm lot and to recognize its reduced lot area, to the satisfaction of the Manager, Development Planning
5. The owner shall submit and receive final and binding approval of a Rural Hamilton Official Plan Amendment application for the subject lands, in order to recognize the reduce lot area of the retained farm lot to the satisfaction of the Manager, Development Planning
6. The owner shall demolish the existing agricultural outbuildings on the lands to be conveyed to the satisfaction of the Manager of Development Planning.
7. The owner provides documentation confirming the total land area comprising of the consolidated farm operation to the satisfaction of the Manager of Development Planning.
8. To the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report. Scope of the report will include but may not be limited to:
 1. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment

Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licenced-well-contractors>

2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>
 3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.
- 9 The existing right-of-way at the subject property is approximately 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Jerseyville Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Jerseyville Road is to be 26.213 metres.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

10. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination).
11. 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).
12. The applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the "A1" zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
13. The owner shall submit survey evidence that the lands to be severed, including: the location of any existing structure(s) including accessory buildings; parking (including number of spaces, size, aisle width, access driveway, location and setback of

parking spaces); lot coverage of accessory buildings; height of accessory buildings and vehicular entrance and access driveway to accessory buildings; and, Minimum Distance Separation Formula, 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).

14. 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, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).
15. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).
16. The Owner must enter into with the City of Hamilton and register on title, a Consent Agreement, having an administrative fee of \$4,500.00 (2022 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches, relocation of any existing infrastructure and any damage during construction (unknown costs at this time), to the satisfaction of the City's Manager of Development Approvals. Cash payments mentioned above are subject to change.
17. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the "New Roads Servicing Rate" at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.
18. That the Owner submits an assessment prepared by a qualified professional to demonstrate that the existing private services i.e. water well and septic system, if any, are in good working condition to continue to support the existing dwellings and that the lot size is sufficient to provide for a reserve septic bed and/or a new water well if required all supported by the existing soil conditions to the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.

January 20th, 2022

Note from Cultural Heritage: Cultural Heritage support the retention of the circa 1876 built heritage resource, however, the contextual value of the agricultural landscape will be impacted through a severance. Staff have no further comments on the application as circulated.

AN/B-21:94 – 2943 Jerseyville Rd. W., Ancaster

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural

The purpose of this application is to permit the conveyance of a parcel of land for existing residential use and to retain a vacant parcel of land for agricultural-related use. Existing single family dwelling and detached garage to remain.

Severed lands:

137.69m± x 88.27m± and an area of 1.03 per ha±

Retained lands:

232.00m± x 170.00m± and an area of 5.31 per ha±

Provincial Policy Statement

The subject property is located within a Prime Agricultural Area. The application has been reviewed against the policies that speak to lot creation within agricultural areas, namely Section 2.3.4.1 which speaks to farm severances as a result of surplus farm dwelling severances.

- “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
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective;”

Greenbelt Plan:

For lands falling within the Protected Countryside, the following policies shall apply:

“4.6 Lot Creation

- 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:
 - iii. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and
 - iv. 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.”

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 apply:

- 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 Agriculture, Rural, Specialty Crop, and Open Space designations, and designated Rural Settlement Areas, as shown on Schedule D – Rural Land Use Designations: (OPA18)
 - 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,
 - 2) Policies F.1.14.2.1 b) iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed;
- “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:
 - 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 purposes.

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;

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.

If the land owner grants a restrictive covenant in favour of the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.”

Staff note that the applicant is severing the residential parcel with the intent to keep the retained parcel for farming operations, therefore the proposed consent is to facilitate a

surplus farm dwelling severance as recognized under the Section F1.14.2.8 of the Rural Hamilton Official Plan. Planning staff have reviewed the information provided with the Consent application and have identified the following conditions to ensure that the severance conforms with the Rural Hamilton Official Plan:

- Require the applicant obtain approval of a Rural Hamilton Official Plan Amendment to establish a site specific policy area to recognize the retained agricultural parcel which is undersized and does not conform to F1.14.2.8 c) iii).
- Require the applicant to obtain approval of a Zoning By-law Amendment in order to prohibit construction of a new dwelling unit on the retained agricultural parcel, as per section F1.14.2.8 c) iv) 2, in perpetuity and to recognize the reduced lot area.
- Require the applicant to remove existing agricultural outbuildings on the severed surplus farm dwelling property as per section F1.14.2.8 a) vii).
- Require the applicant to provide documentation to planning staff confirming the total land area comprising of the consolidated farm operation as per section F1.14.2.8 c) ii).

Hamilton Zoning By-law No. 05-200

The subject lands are zoned A1 (Agriculture) Zone to which the proposed uses comply. The proposed retained farm parcel does not comply with the minimum lot area requirements, (40.4 ha double check) therefore the owner will have to amend Zoning By-law 05-200.

Cultural Heritage

The subject property contains a circa 1876 farmhouse and is included in the City's Inventory of Heritage Buildings. The subject property is also adjacent to 2938, 2956, 3002 and 3011 Jerseyville Road West, properties included in the City's Inventory of Heritage Buildings.

Accordingly, the following sections of the Rural Hamilton Official Plan, Volume 1, apply:

- B.3.4.1.3 "Ensure that all new development, site alterations, building alterations, and additions are contextually appropriate and maintain the integrity of all on-site or adjacent cultural heritage resources." and,
- B.3.4.2.1(g) "Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals."
- B.3.4.2.1(h) "Conserve the character of areas of cultural heritage significance, including designated heritage conservation districts and cultural heritage landscapes,

by encouraging those land uses, development and site alteration activities that protect, maintain and enhance these areas within the City.”

The applicant proposes to convey a parcel of land for existing residential use and to retain a vacant parcel of land for agricultural-related use. The existing single-family dwelling and detached garage to remain.

Staff have reviewed the application and support the retention of the circa 1876 built heritage resource, however, the contextual value of the agricultural landscape will be impacted through a severance. Staff have no further comments on the application as circulated.

Source Water Protection

Given the proposed severance exceeds 1 ha in lot area, we have no concerns related to the sustainability of the proposal as it relates to managing pollution risks from the existing septic system. As a condition of approval to the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report. Scope of the report will include but may not be limited to:

1. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here:

<https://www.ontario.ca/page/find-licenced-well-contractors>

2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>

3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

Recommendation

Based on the preceding information, Staff recommend approval with the following conditions are met:

1. The owner shall submit and receive final and binding approval of a Zoning Bylaw Amendment Application for the subject lands, in order to prevent any future residential development on the retained farm lot and to recognize its reduced lot area, to the satisfaction of the Manager, Development Planning
2. The owner shall submit and receive final and binding approval of a Rural Hamilton Official Plan Amendment application for the subject lands, in order to recognize the reduce lot area of the retained farm lot to the satisfaction of the Manager, Development Planning
3. The owner shall demolish the existing agricultural outbuildings on the lands to be conveyed to the satisfaction of the Manager of Development Planning.
4. The owner provides documentation confirming the total land area comprising of the consolidated farm operation to the satisfaction of the Manager of Development Planning.
5. To the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report. Scope of the report will include but may not be limited to:
 1. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licenced-well-contractors>
 2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>
 3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

Note from Cultural Heritage: Cultural Heritage support the retention of the circa 1876 built heritage resource, however, the contextual value of the agricultural landscape will be impacted through a severance. Staff have no further comments on the application as circulated.

Building Division:

1. The applicant shall clarify the uses (including the uses in all buildings on the lands to be conveyed) on both the lands to be conveyed and the lands to be retained in order to determine zoning compliance as the application indicates the proposed use on the lands to be conveyed is “unknown/agricultural?” although it does also states a house and garage are existing building. The applicant shall ensure that the proposed uses for the lands to be conveyed and retained are permitted.
2. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
3. Subject to the Minimum Distance Separation requirements for livestock facilities within agricultural areas as set out in the Zoning By-Law.
4. 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 conveyed 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.
5. The building setbacks shown on the survey submitted for the lands to be conveyed are illegible. Further, the survey also does not provide details respecting the uses, gross floor areas and heights for the buildings on the lands to conveyed. As such, this Division cannot confirm zoning compliance.
6. A variance for lot area will be required for zoning compliance of the lands to be retained as a minimum lot area of 40.4ha is required for an agriculture use and a lot area of 5.31ha is proposed.
7. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.
8. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance Review and pay the relevant fees.

CONDITIONAL UPON:

1. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination).
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 applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the “A1” zone or alternatively apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
4. The owner shall submit survey evidence that the lands to be severed, including: the location of any existing structure(s) including accessory buildings; parking (including number of spaces, size, aisle width, access driveway, location and setback of parking spaces); lot coverage of accessory buildings; height of accessory buildings and vehicular entrance and access driveway to accessory buildings; and, Minimum Distance Separation Formula, 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).
5. 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, to the satisfaction of the Planning and Economic Development Department (Building Division –Plan Examination Section).
6. The owner shall apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Division – Zoning Section).

Development Engineering:

According to our GIS records, there are currently no existing municipal water, sanitary or storm sewer services along Jersey Road West. The site is located outside the Urban boundary.

Jerseyville is classified as a Rural Collector Road per the Rural Hamilton Official Plan. Please refer to Transportation Planning comments for right-of-way widening, access and/or daylight triangle related comments, if any.

Currently, the existing street has a rural cross section. Therefore, as a condition of approval the owner is required to provide a cash payment to the City for the future urbanization of the street based on the “New Road Servicing Rates”.

Both severed and retained lots shall have self contained drainage, with their respective, separate stormwater outlets. Furthermore, both lots are to have separate private water and sewage services.

Recommendations:

1. The Owner must enter into with the City of Hamilton and register on title, a Consent Agreement, having an administrative fee of \$4,500.00 (2022 fee) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), driveway approaches, relocation of any existing infrastructure and any damage during construction (unknown costs at this time), to the satisfaction of the City’s Manager of Development Approvals. Cash payments mentioned above are subject to change.
2. That the owner provides a cash payment to the City for the future urbanization of the street based on the frontage of the severed portion of the property and the “New Roads Servicing Rate” at the time of payment to the satisfaction of the Manager of Engineering Approvals Section.
3. That the Owner submits an assessment prepared by a qualified professional to demonstrate that the existing private services i.e. water well and septic system, if any, are in good working condition to continue to support the existing dwellings and that the lot size is sufficient to provide for a reserve septic bed and/or a new water well if required all supported by the existing soil conditions to the Source Water Protection Section staff and the Manager of the Engineering Approvals Section.

Source Water Protection:

Given the proposed severance exceeds 1 ha in lot area, we have no concerns related to the sustainability of the proposal as it relates to managing pollution risks from the existing septic system. As a condition of approval to the satisfaction of Director, Hamilton Water, the applicant shall submit a Scoped Hydrogeological Report. Scope of the report will include but may not be limited to:

1. It is assumed a private well supports the existing dwelling and its water servicing. As a result, the applicant shall forward the Ministry of Environment Water Well Record for the existing well to Source Protection Planning for our review. If the

Water Well Record can not be located OR if the well is more than 10 years old, it shall be inspected by a licensed water well contractor for its condition and its sustainable pumping rate verified to demonstrate that the existing well can sustainably support the residential use. Any improvements to the condition of the well suggested by the water well contractor shall be implemented and associated documentation shall be forwarded to Source Protection Planning for review. Find licensed water well contractors here: <https://www.ontario.ca/page/find-licenced-well-contractors>

2. The water well contractor or other qualified professional (P.Eng, P.Geo) shall obtain water quality samples from the onsite well. Parameters to be analyzed shall be at minimum, general chemistry, major ions, nutrients, and metals, E. coli, total coliforms. Find licensed laboratories here: <https://www.ontario.ca/page/list-licensed-laboratories>
3. A revised site plan shall indicate the location of the well and septic system components (tank(s) and leaching bed) and demonstrate that the locations conform with minimum clearance distances within Part 8 of the Ontario Building Code. A reserve area bed shall also be delineated to conform to Rural Hamilton Official Plan requirements.

Transportation Planning:

1. Transportation Planning has no objection to the land severance application, provided the following conditions are met:
 - a. The existing right-of-way at the subject property is approximately 20.0 metres. Approximately 3.0 metres are to be dedicated to the right-of-way on Jerseyville Road, as per the Council Approved Rural Official Plan: Schedule C-1 - Future Right-of-Way Dedications. Jerseyville Road is to be 26.213 metres.

A survey conducted by an Ontario Land Surveyor and at the Applicant's expense will determine the ultimate dimensions for the right-of-way widening(s).

See attached for additional comments.



Sam Brush, Urban Forest Health Technician
City Centre, 77 James Street North, Suite 400
Hamilton, ON L8R 2K3
Phone (905) 546-2424 Ext. 7375, Fax (905) 546-4473
Email – Sam.Brush@hamilton.ca

Hamilton

Forestry & Horticulture Section
Environmental Services Division
Public Works Department

Date: January 12, 2022

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: 2943 Jerseyville Rd. W., Ancaster
File: AN/B-21:94

PREAMBLE

In response to your Agenda listing for the upcoming meeting on Thursday, January 20, 2022, 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 through this application; 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 and cursive.

Sam Brush
Urban Forest Health Technician

From: [sue hunter](#)
To: [Committee of adjustment](#)
Subject: [****POSSIBLE SPAM]LAND SEVERANCE APPLICATION AN/B-21:94
Date: January 7, 2022 4:18:04 PM

To whom it may concern,

This is in reference to the severance application of 2943 Jerseyville Road West, Ancaster, Ontario. This property is directly across the road from us.

We have been residents for over 40 years and having seen a massive home, too big for the lot, at 2938 Jerseyville Road West, being built recently we are opposed to any more building in our rural area. This makes a huge impact on our quiet way of life here.

We do not want to see this open the floodgates for massive realstate grabs here which will have a domino affect . Rural property in this area was supposed to be protected but now with the ridiculous cost of realty it threatens to destroy this way of life. We are a fully functioning farm community and we would like to keep it that way.

Sincerely
Dave and Sue Hunter
2956 Jerseyville Road West
Ancaster, Ontario

From: [sue hunter](#)
To: [Committee of adjustment](#)
Subject: LAND SEVERANCE APPLICATION AN/B-21:94
Date: January 17, 2022 9:37:29 AM

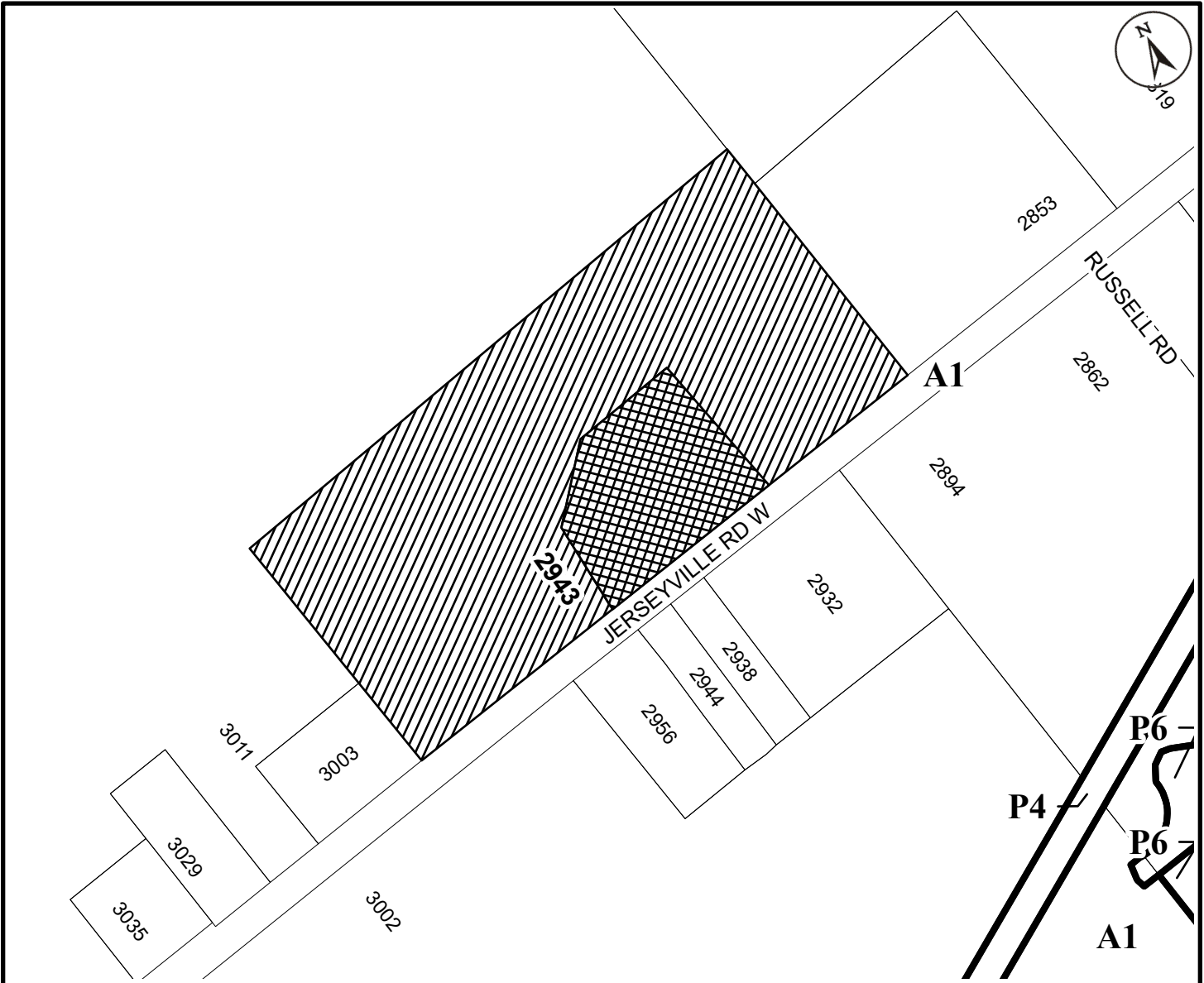
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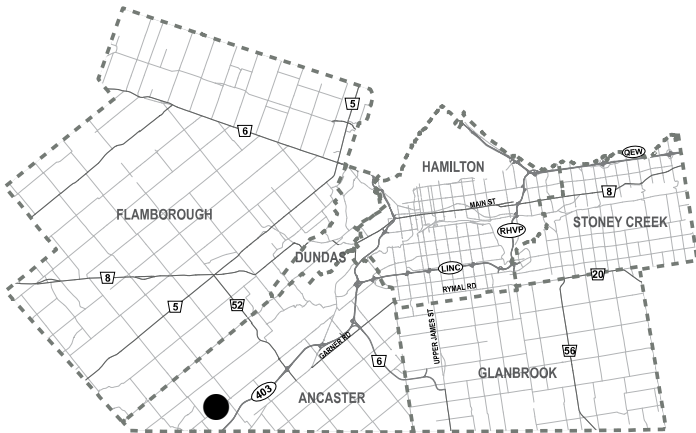
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We do not want to see this open the floodgates for massive real estate grabs here which will have a domino effect. Rural property in this area was supposed to be protected but now with the ridiculous cost of realty it threatens to destroy this way of life. We are a fully functioning farm community and we would like to keep it that way.

Sincerely
Dave and Sue Hunter
2956 Jerseyville Road West
Ancaster, Ontario



● Site Location





City of Hamilton

Committee of Adjustment

Subject Property

2943 Jerseyville Road West, Ancaster
(Ward 12)

 Lands to be Retained

 Lands to be Severed

File Name/Number:
AN/B-21:94

Date:
January 13, 2022

Technician:
AL

Map Not To Scale

Appendix "A"



Hamilton