



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING
Minor Variance

You are receiving this notice because you are either:

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

APPLICATION NO.:	A-24:171	SUBJECT PROPERTY:	1248 Concession 6 West Millgrove, Hamilton
ZONE:	Agriculture (A1) and Conservation/Hazard Land - Rural Zone (P6)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200

APPLICANTS: Owner: Phil & Marlene Elgersma
Agent: Ruchika Angrish (The Angrish Group)

The following variances are requested:

1. A minimum lot area of 28 hectares instead of 40.4 hectares required.

PURPOSE & EFFECT: To sever an existing Single Detached dwelling from a Agricultural parcel of land.

Notes:

- i) Please be advised zoning is unable to determine if the proposal complies to Section 4.8.1.2 b) Gross Floor Area for accessory buildings and Section 5 – Parking as there was not enough details on the site plan, additional variances may be required.

ii) Variances written as requested by the applicant.

This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.

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

DATE:	Tuesday, August 20, 2024
TIME:	2:00 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	City Hall Council Chambers (71 Main St. W., Hamilton)

	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment
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For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th floor City Hall, 71 Main St. W., Hamilton

PUBLIC INPUT

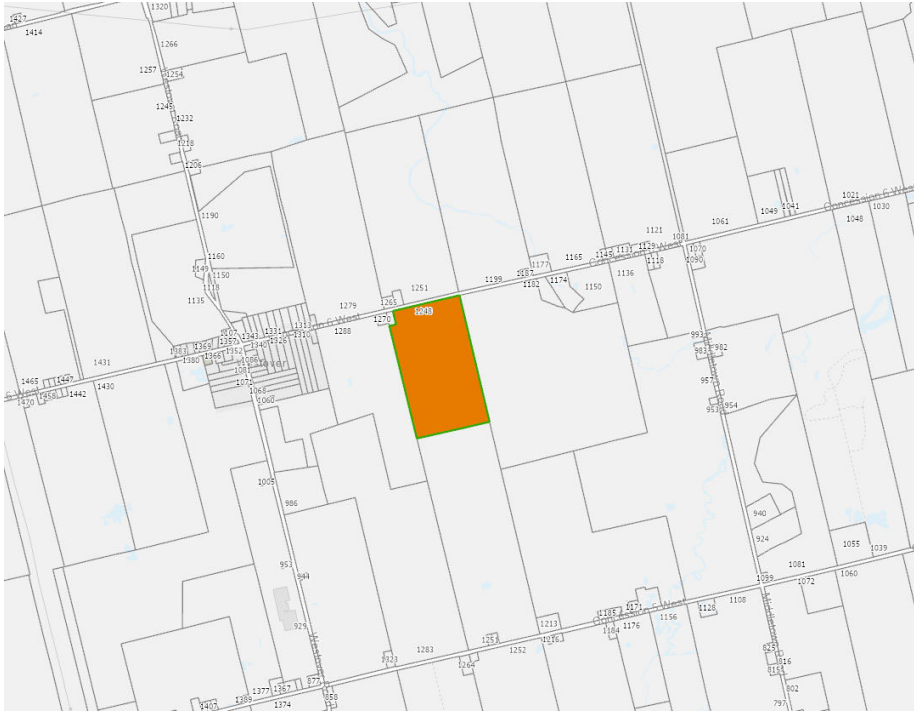
Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than noon August 16, 2024

Orally: If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than noon August 19, 2024

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding A-24:171, you must submit a written request to cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.



 Subject Lands

DATED: August 1, 2024

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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



Hamilton

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City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

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PARTICIPATION PROCEDURES

Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.**

Comments are available the Friday prior to the Hearing and are available on our website: www.hamilton.ca/committeeofadjustment

Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

1. Virtual Oral Submissions

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing** to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email cofa@hamilton.ca. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

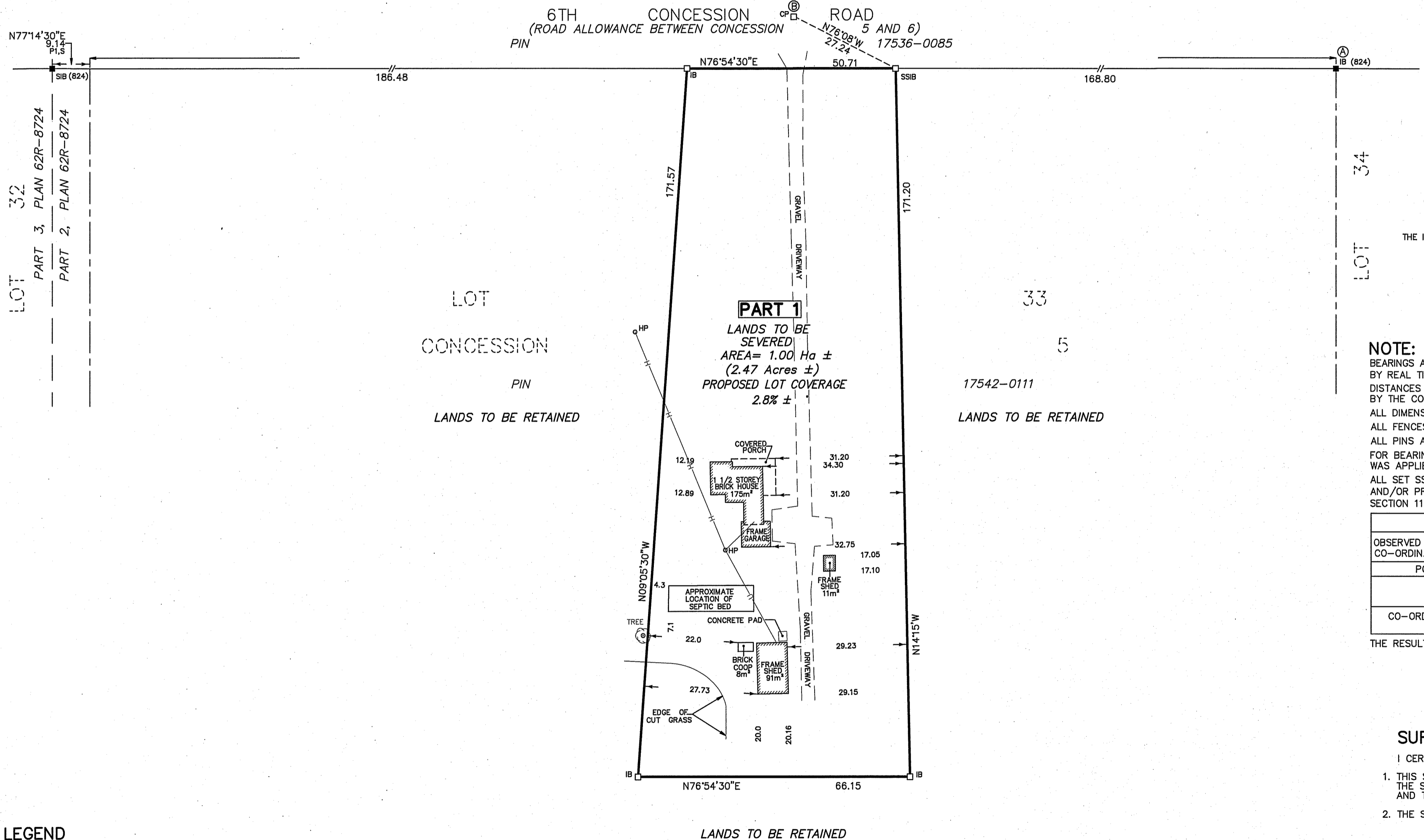
We hope this is of assistance and if you need clarification or have any questions, please email cofa@hamilton.ca.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.

METRIC
 DISTANCES AND CO-ORDINATES SHOWN ON
 THIS PLAN ARE IN METRES AND CAN BE
 CONVERTED TO FEET BY DIVIDING BY 0.3048.

SCHEDULE				
PART	LOT	CONCESSION	PIN	AREA IN HECTARES
1	PART OF 33	5	17542-0111	1.00

PART 1 COMPRISES PART OF PIN 17542-0111.



**PLAN OF SURVEY OF
 PART OF LOT 33
 CONCESSION 5**
 (GEOGRAPHIC TOWNSHIP OF BEVERLY)
 NOW IN THE TOWN OF FLAMBOROUGH
 CITY OF HAMILTON
 SCALE 1:750

THE INTENDED PLOT SIZE OF THIS PLAN IS 609mm IN WIDTH BY 457mm IN HEIGHT WHEN PLOTTED AT A SCALE OF 1:750

MacAULAY, WHITE & MUIR LTD.

NOTE:
 BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B BY REAL TIME NETWORK OBSERVATION, UTM ZONE 17, NAD83 (CSRS) (2010). DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9996354.
 ALL DIMENSIONS ARE MEASURED UNLESS QUALIFIED.
 ALL FENCES ARE "ON LINE" UNLESS TIES TO THE PROPERTY LINE ARE SHOWN.
 ALL PINS ARE (LT) UNLESS NOTED (R).
 FOR BEARING COMPARISONS, A ROTATION OF 00°02'50" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON PLAN 62R-14943.
 ALL SET SSIB AND PB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.REG. 525/91.

INTEGRATION DATA		
OBSERVED REFERENCE POINTS (ORP): UTM ZONE 17, NAD83 (CSRS) (2010) CO-ORDINATES TO URBAN ACCURACY PER SEC. 14(2) OF O. REG 216/10.		
POINT ID	NORTHING	EASTING
A	4798519.81	575426.18
B	4798356.45	575270.44
CO-ORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.		
THE RESULTANT TIE BETWEEN ORP A AND ORP B IS N78°35'26"E W 193.44.		

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 7TH DAY OF MARCH, 2024.

JUNE 6, 2024
 JOHN W. MUIR
 ONTARIO LAND SURVEYOR

- LEGEND**
- SIB - STANDARD IRON BAR
 - SSIB - SHORT STANDARD IRON BAR
 - IB - IRON BAR
 - CC - CUT CROSS
 - PB - PLASTIC BAR
 - CP - CONCRETE PIN
 - - PLANTED
 - - FOUND
 - - ROUND
 - WT - WITNESS
 - S - SET
 - 824 - A.T. MCLAREN, O.L.S.
 - P1 - PLAN 62R-9259

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER V-

<p>MacAulay, White & Muir Ltd. ONTARIO LAND SURVEYORS - CANADA LANDS SURVEYORS A Wholly Owned Subsidiary of J.D. Barnes Limited 440 HARDY ROAD, UNIT 2, BRANTFORD, ON N3T 5L8 T: (519) 752-0040 www.jdbarnes.com</p>	DRAWN:	LD
	CHECKED:	JW
	Ref. No.	24-50-051-00



+/-405m

+/-76m

+/-37m

+/-639m


+/-721m

+/-413m

Severance

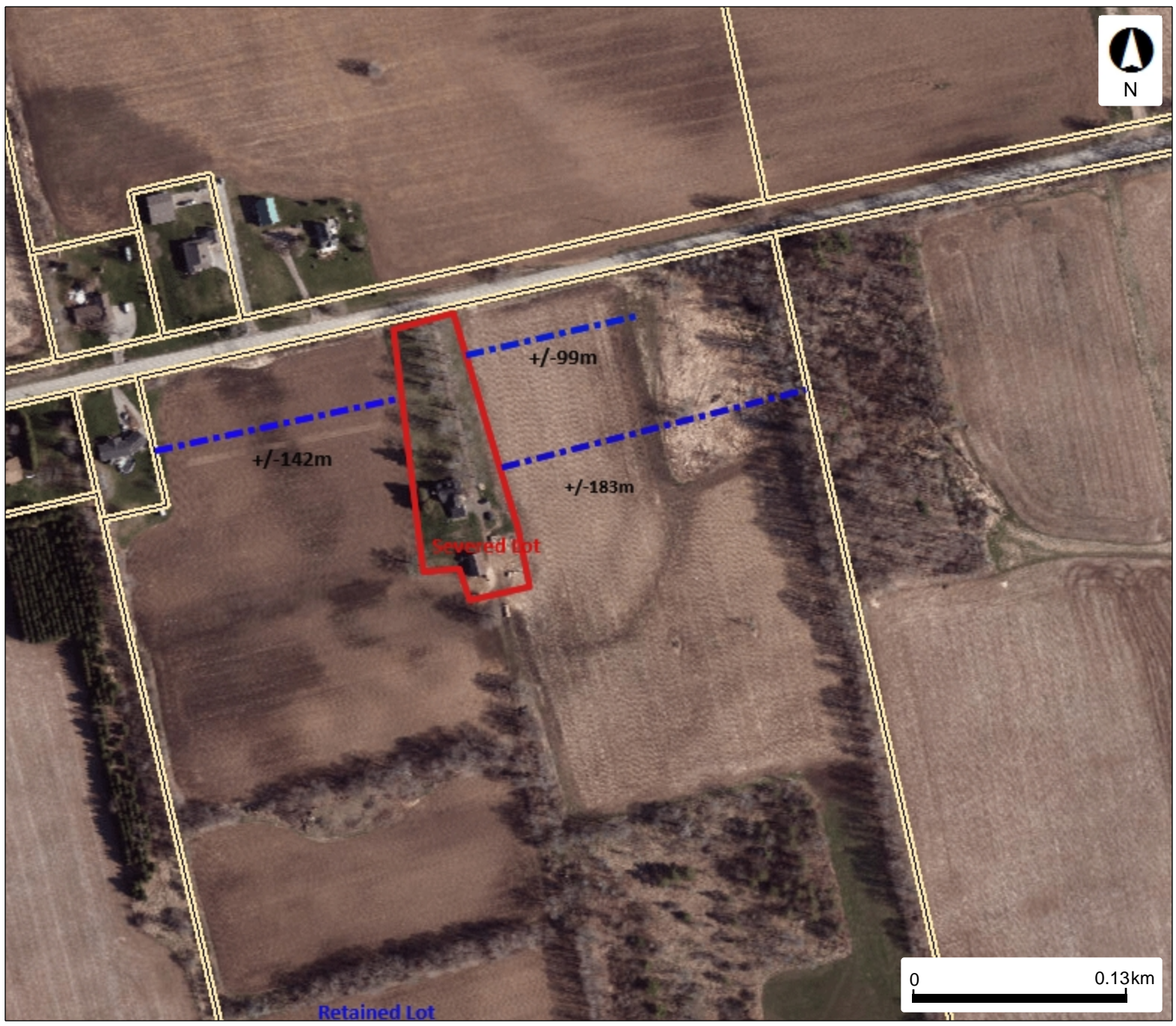


Legend


 Assessment Parcel

This map should not be relied on as a precise indicator of routes or locations, nor as a guide to navigation. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) shall not be liable in any way for the use or any information on this map. of, or reliance upon, this map.

Approximate Distances



Legend

 Assessment Parcel

This map should not be relied on as a precise indicator of routes or locations, nor as a guide to navigation. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) shall not be liable in any way for the use or any information on this map. of, or reliance upon, this map.



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Building Division
71 Main Street West
Hamilton, Ontario, Canada, L8P 4Y5
Phone: 905.546.2720 Fax: 905.546.2764
www.hamilton.ca

July 9th, 2024

FOLDER: ALR
ATTENTION OF: Morgan Gowans
EMAIL: morgan.gowans@hamilton.ca

The Angrish Group c/o Ruchika Angrish
156 Charing Cross Street
Brantford, ON N3R 2J4

Attention:

Re: Applicable Law Review – Zoning By-law Compliance
Zoning District: Agriculture (A1) and Conservation/Hazard Land - Rural Zone (P6)
Zoning By-law: Hamilton Zoning By-law No. 05-200
Address: 1248 Concession Road 6 West

An Applicable Law Review respecting zoning by-law compliance pursuant to an Application for Minor Variance and Severance has been completed and the following comments are provided.

COMMENTS:

- 1. The proposal is to sever a single detached dwelling from a Agricultural parcel as a Surplus Farm Dwelling.
2. The subject lands are zoned Agriculture (A1) Zone and a small portion in the north-east corner is Conservation / Hazard Land - Rural Zone (P6) Zone in Hamilton Zoning By-law 05-200.
3. A small portion of the north-east corner of the property is regulated by Hamilton Conservation, Please contact them at 905-525-2181 for further information.
4. Sign details have not been provided. All signage shall conform to Hamilton Sign By-law 10-197. A building permit(s) is required for all signage.
5. Fencing details have not been provided. All fencing shall conform to Hamilton Fence By-law 10-142.
6. The designer shall ensure that the fire access route conforms to the Ontario Building Code.
7. The proposed development has been reviewed and compared to the standards of the A1 zone; as shown on the following chart below:

Table with 4 columns: Required By The By-Law, Provided, Conforming/ Non-Conforming, and a header row for Section 12.1- A1 REQUIREMENTS and Section 12.1.3.1: AGRICULTURAL AND VETERINARY SERVICE – FARM ANIMAL REGULATIONS.

	Required By The By-Law	Provided	Conforming/ Non-Conforming
Minimum Lot Area [as per section 12.1.3.1(a) of Hamilton Zoning By-law 05-200]	i) 40.4 hectares; ii) Notwithstanding i) above, for the lots delineated on Figure "7.0" – Specialty Crop of Schedule "F" – Special Figures, the minimum Lot Area shall be 16.2 hectares.	28 hectares	Non-conforming
Minimum Front Yard [as per section 12.1.3.1(b) of Hamilton Zoning By-law 05-200]	15.0m	Does appear there are any existing buildings on the retained lands	N/A
Minimum Side Yard [as per section 12.1.3.1(c) of Hamilton Zoning By-law 05-200]	15.0m	Does appear there are any existing buildings on the retained lands	N/A
Minimum Rear Yard [as per section 12.1.3.1(d) of Hamilton Zoning By-law 05-200]	15.0m	Does appear there are any existing buildings on the retained lands	N/A
Maximum Lot Coverage [as per section 12.1.3.1(e) of Hamilton Zoning By-law 05-200]	i) 20%	Does appear there are any existing buildings on the retained lands	N/A
	ii) Notwithstanding i) above, the maximum lot coverage for greenhouse operations shall be 70%.	Please note, the proposed use of the retained lands not provided	Please note
Outdoor Storage [as per section 12.1.3.1(f) of Hamilton Zoning By-law 05-200]	i) Shall not be permitted in any minimum Front Yard or minimum Flankage Yard;	No outdoor storage proposed as part of this proposal	N/A
	ii) Shall be located a minimum of 10m from any lot line, and screened by a visual barrier in accordance with Section 4.19 of this By-law;		
	iii) Sections i) and ii) above do not apply to the storage or parking of Agricultural vehicles or equipment.		
Small Scale Retailing of Agricultural Products [as per section 12.1.3.1(i) of Hamilton Zoning By-law 05-200]	i) The total maximum gross floor area of all buildings and structures devoted to retailing or agricultural products grown primarily as part of the farm operation, exclusive of Farm Produce/Product Stand, shall be 200.0m ²	No retail associated with a agricultural use is proposed as part of this proposal	N/A
	ii) Shall not be permitted within a Dwelling or a Farm Labour Residence.		
	iii) In addition to Section 12.1.3.1 i) i), the total maximum gross floor area of a Farm Produce/Product Stand shall be 18.5m ² .		

	Required By The By-Law	Provided	Conforming/ Non-Conforming
	iv) Notwithstanding Sections 12.1.3.1 b), c) and d) and Section 4.8.2 a), a Farm Produce/Product Stand shall be permitted in any yard.		
Farm Labour Residence [as per section 12.1.3.1(j) of Hamilton Zoning By-law 05-200]	i) A maximum of one Farm Labour Residence shall be permitted on a lot;	No Farm Labour Residence is proposed as part of this proposal	N/A
	ii) <i>Where a Farm Labour Residence in the form of a Temporary Detached Dwelling or Temporary Bunk House, the following regulations shall apply;</i>		
	1. Shall be located within 30m of the farm dwelling;		
	2. Shall have a maximum building height of 10.5m;		
	3. Shall utilize the existing driveway access to the farm dwelling;		
	4. Any temporary detached dwelling shall have a minimum floor area of 65.06m ² and a maximum floor area of 116.2m ²		
	5. Any temporary bunk house shall have a minimum gross floor area of 65.06m ² or 8.36m ² per resident, whichever is greater.		
iii) Where a Farm Labour Residence is in the form of an accessory apartment attached to and forming part of the principal farm dwelling, the accessory apartment shall not exceed 25% of the gross floor area of the principal farm dwelling.			
Mushroom Operations [as per section 12.1.3.1(k) of Hamilton Zoning By-law 05-200]	i) Notwithstanding Sections 12.1.3.1 b), c), and d) above, any buildings or structures used for a Mushroom Operation shall be set back a minimum of 30.0m from any lot line;	No Mushroom Operation is proposed as part of this proposal	N/A
	ii) No stockpiles of waste, manure, fertilizers or compost shall be permitted within 30.0m of any lot line.		
Nursery [as per section 12.1.3.1(l) of Hamilton Zoning By-law 05-200]	i) Retailing of horticultural products and bulk material shall be in accordance with Section 12.1.3.1 i);	A Nursery is not proposed as part of this proposal	N/A
	ii) The outdoor storage of unenclosed piles of bulk product for retail purposes shall not exceed an		

	Required By The By-Law	Provided	Conforming/ Non-Conforming
	aggregate area of 100.0m ²		
Cannabis Growing and Harvesting Facility [as per section 12.1.3.1(m) of Hamilton Zoning By-law 05-200]	i) The maximum gross floor area of all new buildings and structures devoted to a Cannabis Growing and Harvesting Facility shall not exceed 2,000.0m ² .	A Cannabis Growing and Harvesting Facility is not proposed as part of this proposal	N/A
	ii) Notwithstanding Section 12.1.3.1 m) i) above, existing buildings may be used for a Cannabis Growing and Harvesting Facility		
	iii) The testing, packaging and shipping shall be accessory to the Cannabis Growing and Harvesting Facility		
	iv) <i>Notwithstanding Section 4.12 d), any building, structure used for a Cannabis Growing and Harvesting Facility shall be setback a minimum of 150.0m from:</i>		
	1. Any portion of a lot line abutting Residential, Institutional, Commercial and Mixed Use Zones, Settlement Residential (S1), Settlement Commercial (S2), or Settlement Institutional (S3) zone; or 2. Any residential dwelling unit existing on the date of passing of the by-law, any building used for farm labour residence, mobile home, educational establishment, residential care facility, place of worship, daycare or park.		
	v) Notwithstanding Section 12.1.3.1 b), c), and d) above, all buildings or structures associated with the use shall be setback a minimum of 30.0m from any lot line;		
	vi) Notwithstanding Sections 12.1.3.1 f) i), ii), iii) above, outdoor storage shall not be permitted;		
	vii) Notwithstanding Sections 12.1.3.1(i) i), ii), iii) and iv) above, retail sales shall not be permitted.		
SECTION 12.1.3.3: SINGLE DETACHED DWELLING AND RESIDENTIAL CARE FACILITY REGULATIONS			
Minimum Lot Area [as per section	0.4 hectares	2.47 acres (0.99 hectares)	Conforms

	Required By The By-Law	Provided	Conforming/ Non-Conforming
12.1.3.3(a) of Hamilton Zoning By-law 05-200]			
Minimum Lot Width [as per section 12.1.3.3(b) of Hamilton Zoning By-law 05-200]	30.0m	50.71m	Conforms
Maximum Building Height [as per section 12.1.3.3(c) of Hamilton Zoning By-law 05-200]	10.5m	Unable to determine, existing condition on site	Existing Condition
Minimum Front Yard [as per section 12.1.3.3(d) of Hamilton Zoning By-law 05-200]	10.0m	Greater than 10.0m	Conforms
Minimum Side Yard [as per section 12.1.3.3(e) of Hamilton Zoning By-law 05-200]	3.0m	Both side yards greater than 3.0 metres	Conforms
Minimum Rear Yard [as per section 12.1.3.3(f) of Hamilton Zoning By-law 05-200]	10.0m	Greater than 10.0m	Conforms
Maximum Capacity for Residential Care Facility [as per section 12.1.3.3(g) of Hamilton Zoning By-law 05-200]	Shall not exceed 10 residents	N/A	N/A
Home Business Regulations [as per section 12.1.3.3(h) of Hamilton Zoning By-law 05-200]	In accordance with the requirements of Section 4.21 of this By-law.	Doesnt appear a home business is being proposed as part of this development	N/A
Section 4.8 Accessory Buildings in All Zones			
Human Habitation [as per section 4.8a) of Hamilton Zoning By-law 05-200]	Unless otherwise provided for in this By-law, Accessory Buildings shall not be used for human habitation.	Does appear any accessory building is used for Human Habitation	N/A
Location – Front Yard and Flankage Yard [as per section 4.8b) of Hamilton Zoning By-law 05-200]	Accessory Buildings shall not be permitted within a front or flankage yard.	Accessory buildings not within the front yard. The property is a interior lot	Conforms
Building used as a Station for Parking Attendants or Security Personnel [as per section 4.8c) of	Notwithstanding Subsection 4.8 b), a building used as a station for parking attendants or security personnel shall be permitted within a front or flankage yard.	N/A	N/A

	Required By The By-Law	Provided	Conforming/ Non-Conforming
Hamilton Zoning By-law 05-200]			
Where a Zone contains a Maximum Setback [as per section 4.8d) of Hamilton Zoning By-law 05-200]	Notwithstanding any other provisions in this By-law, where a zone contains a maximum setback requirement from a street line, the maximum setback requirement shall not apply to Accessory Buildings.	No maximum setback in the A1 Zone	N/A
Mixed Use Building [as per section 4.8e) of Hamilton Zoning By-law 05-200]	In the event of a conflict between regulations where an Accessory Building is provided for a mixed use building, the most restrictive regulations shall apply.	N/A	N/A
Prior to the Erection of the Principal Building or Structure [as per section 4.8f) of Hamilton Zoning By-law 05-200]	Except as permitted in Subsection 4.18 a), an Accessory Building shall not be erected prior to the erection of the principal building or structure on the lot.	The single detached dwelling is remaining on the sever lands and there is no structures proposed on the retained lands	Conforms
Maximum Building Height [as per section 4.8g) of Hamilton Zoning By-law 05-200]	All Accessory Buildings shall have a maximum height of 4.5 metres.	Existing Condition, 4.8.1.2 A) below applies	Existing Condition
Eave and Gutter Encroachment [as per section 4.8h) of Hamilton Zoning By-law 05-200]	Notwithstanding Subsection 4.6a), an eave or gutter of any Accessory Building may encroach into any required yard to a maximum of 0.45 metres.	Existing Condition	Existing Condition
Rooftop Amenity Area [as per section 4.8i) of Hamilton Zoning By-law 05-200]	Rooftop amenity area shall be prohibited on all Accessory Buildings.	N/A	N/A
Gazebos, Pergolas, and Carports [as per section 4.8j) of Hamilton Zoning By-law 05-200]	Gazebos, pergolas, and carports shall be considered as Accessory Buildings, but shall not be subject to the Lot Coverage or Gross Floor Area requirements of the applicable zones in which they are located.	N/A no Gazebos, pergolas, and carports are proposed or existing	N/A
Children's Play Structures and Sports Bleachers [as per section 4.8k) of Hamilton Zoning By-law 05-200]	Children's play structures and sports bleachers shall not be considered Accessory Buildings and shall not be subject to the regulations of Subsection 4.8.1, 4.8.2, 4.8.3, 4.8.4 and 4.8.5 or the regulations of the zones in which they are located.	N/A	N/A
4.8.1.2 Buildings Accessory to Single Detached Dwellings and Residential Care Facilities in <u>A1 and A2 Zones</u>			
Maximum Building Height [as per section 4.8.1.2a)	Notwithstanding Subsection 4.8 g), all Accessory Buildings shall have a maximum height of 6.0 metres.	Existing Condition, unable to determine accessory structures height	Existing Condition

	Required By The By-Law	Provided	Conforming/ Non-Conforming
of Hamilton Zoning By-law 05-200]			
Gross Floor Area [as per section 4.8.1.2b) of Hamilton Zoning By-law 05-200]	The aggregate Gross Floor Area of all Accessory Buildings shall not exceed 200 square metres, or 5% lot coverage, whichever is the lesser.	Unable to determine compliance lot coverage not provided	Unable to determine compliance
Accessory to Single Detached Dwelling [as per section 4.8.1.2c) of Hamilton Zoning By-law 05-200]	All buildings accessory to a Single Detached Dwelling shall have a minimum setback of 1.0 metre from a rear or side lot line.	All accessory structures are greater then 1.0 metres from side and rear lot lines	Conforms
Vehicular Entrance [as per section 4.8.1.2d) of Hamilton Zoning By-law 05-200]	In addition to Subsection 4.8 b) and notwithstanding Subsection 4.8.1.2 c), where a vehicular entrance to an Accessory Building faces a street line or where an access driveway leads to an Accessory Building which faces a street line, the Accessory Building shall be setback a minimum of 6.0 metres from the street line.	All accessory buildings are setback greater then 6.0 metres from the street line. Unable to determine if any accessory buildings have a vehicular entrance.	Conforms
Parking - <i>In accordance with the requirements of Section 5 of Hamilton Zoning By-law 05-200</i>			
Parking details not provide on site plan, unable to determine if parking for the existing detached dwelling is being maintained.			Unable to determine compliance

Yours truly

*Morgan Gowans*_____
for the Manager of Building Engineering and Zoning

Soil Solutions Plus
66 High Street
PO Box 1003
St. George, ON, N0E 1N0

Barn Livestock Capability Report

April 3, 2024

Phil Elgersma
1248 6th Concession West
Lot 33, Concession 5, Beverly
City of Hamilton

Description of Plan:

Phil Elgersma intends to sever a surplus farm dwelling. The new lot will contain a residence and small barn. The remaining property is farmland.

On April 2nd I visited the site and reviewed the existing small barn.

Note that alongside the barn there is a small brick shed and fenced yard area containing Poultry. The shed is less than 10 square metres which is the smallest size to which an MDS setback is required for a building permit. The capacity of the structure is below the flock size of any Poultry Quota requirements and below the 5 Nutrient Unit floor where the Nutrient Management Act would apply. The small brick shed and fenced yard area are not part of this report.

The small barn is approximately 26' X 48' a wood siding structure sitting on top of a stone wall base foundation. The roof is steel with steel roof top vents. There is a small feed bin in front of the barn not connected to the barn. The barn is currently divided into Firewood storage and machine storage.

The Minimum Distance Separation (MDS) Document provides guidance on the Structural Capability of Housing Livestock in section 8.5 the following are applicable:

Details of the small barn at 1248 6th Concession West:

Structural Considerations

Foundation

Is it crumbling, missing mortar and in disrepair? Yes.

At the time of inspection the south end foundation walls were crumbling and in need of repair.

Would reasonable people avoid spending money to repair the foundation properly? Yes.

The cost for repair to bring this back to use for livestock would be prohibitive considering the age and style of the barn.

Walls

Do the windows need replacement? Yes.

All window openings were degraded or covered over with wood

Is there missing insulation, or was there never any insulation at all? Yes.

There is no insulation present.

Is there a modern ventilation system with exhaust fans, controlled air inlet systems or thermostatic controls? No.

There are no fans or controls suitable for livestock.

Would reasonable people avoid spending money to repair the walls properly? Yes.

The style of barn is not up to the current standards and it is not feasible to repair the walls.

Internal Structure

Does the floor entirely need to be replaced? Yes.

The shop portion of the floor is wood panels and not suitable for livestock.

“Reasonable Capable” Considerations

Size and Shape of the Barn

Is the barn quite small for the type of livestock typically housed in that type of barn? Yes.

The barn is too small for Livestock production today.

Era of the Barn

Would reasonable people avoid spending money to repair the barn given its construction era? Yes.

These barns are no longer practical as they are simple too small and the repair cost would be better spent on a new facility.

Current Use of the Barn

Is the barn used now as storage for machinery, boats feed, lumber, etc. ? Yes.

The barn is now used for firewood storage and machinery storage.

Have interior features of the barn been removed and must now be replaced? Yes.

There are no gates or penning inside the buildings all would need to be replaced.

Other Livestock Facilities and Related Buildings

Is there missing 'supporting infrastructure' on site? Yes.

There is no manure storage present.

Would reasonable people avoid spending money to replace or upgrade infrastructure on site?
Yes.

Result:

This structure is no longer Structurally or Reasonably capable for Housing Livestock.

Yours Truly,



Matt Robillard
Soil Solutions Plus
PH (905)297-5328

Enclosures:

- AOSPD Certificate for Matt Robillard
- Photos of the Structure taken April 2024

Environmental Management Branch

**AGRICULTURAL OPERATION STRATEGY OR PLAN DEVELOPMENT CERTIFICATE
#AOSPDC19312**

Pursuant to Section 100 of Ontario Reg. 267/03 (the 'Regulation'), made pursuant to the Nutrient Management Act, 2002, S.O. 2002 c.4 (the 'Act'), this Agricultural Operation Strategy or Plan Development Certificate is issued, subject to the terms and conditions attached hereto, to:

Matt Robillard

Your certificate number is AOSPDC19312.

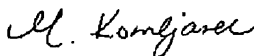
Your Agricultural Operation Strategy or Plan Development Certificate will expire on July 11, 2024.

This Agricultural Operation Strategy or Plan Development Certificate was issued to you on July 11, 2019 as you have:

- paid the fee as identified in Section 100(2)(a);
 - successfully completed courses specified by the Director as required by Section 100(3) 1;
 - obtained a passing grade on an examination specified by the Director as required by Section 100(3)3;
 - has obtained a passing grade on at least one and not more than three assignments, specified by the Director as required by Section 100(3)2;
- OR
- as an applicant who holds a certificate that has not been suspended or cancelled, paid the fee as identified in Section 100(2)(a) and obtained a passing grade on an examination specified by the Director, as required by Section 100(5)1.

Section 107 and Section 109 of the Regulation requires the Director to provide 15 days written notice to the holder of a Certificate of the Director's intention to cancel the Certificate. Further, a notice to amend, suspend or cancel the Certificate must set out the procedures for appeals under Section 9 of the Act. All notices under Section 107 and Section 109 must set out the reasons for the Director's intentions.

DATED *this 15th day of July*, 2019



Mari Komljanec
Director
Part X of Ontario Regulation 267/03, and
Section 8 and Section 9 of Nutrient Management Act, 2002















THE ANGRISH GROUP

156 Charing Cross Street, Brantford, ON, N3R 2J4

Planning Justification Report

1248 Concession 6 West, Millgrove

Prepared For: Phil & Marlene Elgersma

Prepared By: The Angrish Group

July 12, 2024

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1. Introduction

The Planning Justification Report (PJR) has been prepared by The Angrish Group on behalf of Phil and Marlene Elgersma, owners of the property, in support of Consent and Minor Variance applications required for severance of the lands municipally known as 1248 Concession 6 West in Millgrove, Hamilton, Ontario.

The report outlines a request for a surplus farm dwelling severance on the existing agricultural property. Minimum Distance Separation and Barn Livestock Capability reports have been prepared by Soil Solutions Plus and accompany the Consent and Minor Variance applications.

The PJR will provide an analysis of the provincial and municipal planning framework and provide a professional planning opinion related to the proposed Consent and Minor Variance Applications for the surplus farm dwelling severance.

2. Location and Description

The Subject Lands are described as Part Lot 33, Concession 5 geographic Township of Beverly, Town of Flamborough, City of Hamilton.

The property is approximately 29.58 hectares (+/-73.08 acres) in size, with a frontage of 405.99 meters (+/-1,331.99 feet) on Concession 6 West.

The Subject Lands contain a single residential dwelling with an attached garage, two (2) frame sheds used for storage, and a small brick chicken coop. The dwelling is two storeys, has an area of approximately 175 square meters, and is serviced by private well and private septic system. The property contains wetlands at the north-east corner.

The immediate surrounding area consists of large agricultural parcels with farm dwellings and farm related structures. The village of Westover is approximately 500 metres to the west of the Subject Lands.

Figure 1 shows the location and outlines the boundaries of the Subject Lands. **Figure 2** and **Figure 3** show the Subject Lands looking south from Concession 6 West.

Figure 1: Location of Subject Lands



Figure 2 – Property Looking South from Concession 6 West



Figure 3 – Property Looking South from Concession 6 West



3. Proposal

The property is currently zoned Agricultural (A1) in the City of Hamilton Comprehensive Zoning By-law 05-200. The proposal is to sever the existing single detached dwelling with an attached garage and two (2) frame sheds, from the farmlands, as a surplus farm dwelling severance since the dwelling is not an asset to the owners' agricultural operation. The proposed severed lot will be transferred to a family member. A Restrictive Covenant is proposed to be granted in favour of the City for the retained parcel so no new dwelling can be constructed on the lands. The City will amend the zoning of the retained lands via a housekeeping zoning amendment to restrict residential uses on the farm lands.

The severed parcel will be approximately 1.0 hectare (2.47 acres) in size with a frontage of approximately 50.71 meters on Concession 6 West. The retained lands will be approximately 28.58 hectares (70.61 acres) with a frontage of approximately 326 meters on Concession 6 West and will continue to be used for agricultural purposes. As per Section 12.1.3 of Zoning By-law 05-200, the Subject Lands are presently deemed to be undersized in the A1 zone, and thus the retained parcel will also be deficient in lot area. As such, a Minor Variance is proposed for the following:

- a) Reduced lot area of 28.58 hectares for the retained lands whereas a minimum lot area of 40.4 hectares is required.

Figure 4 shows the proposed severance, **Figure 5** shows an aerial photo of the lands to be severed and **Figure 6** shows a draft survey of the proposed severance.

Figure 4: Proposed Severance

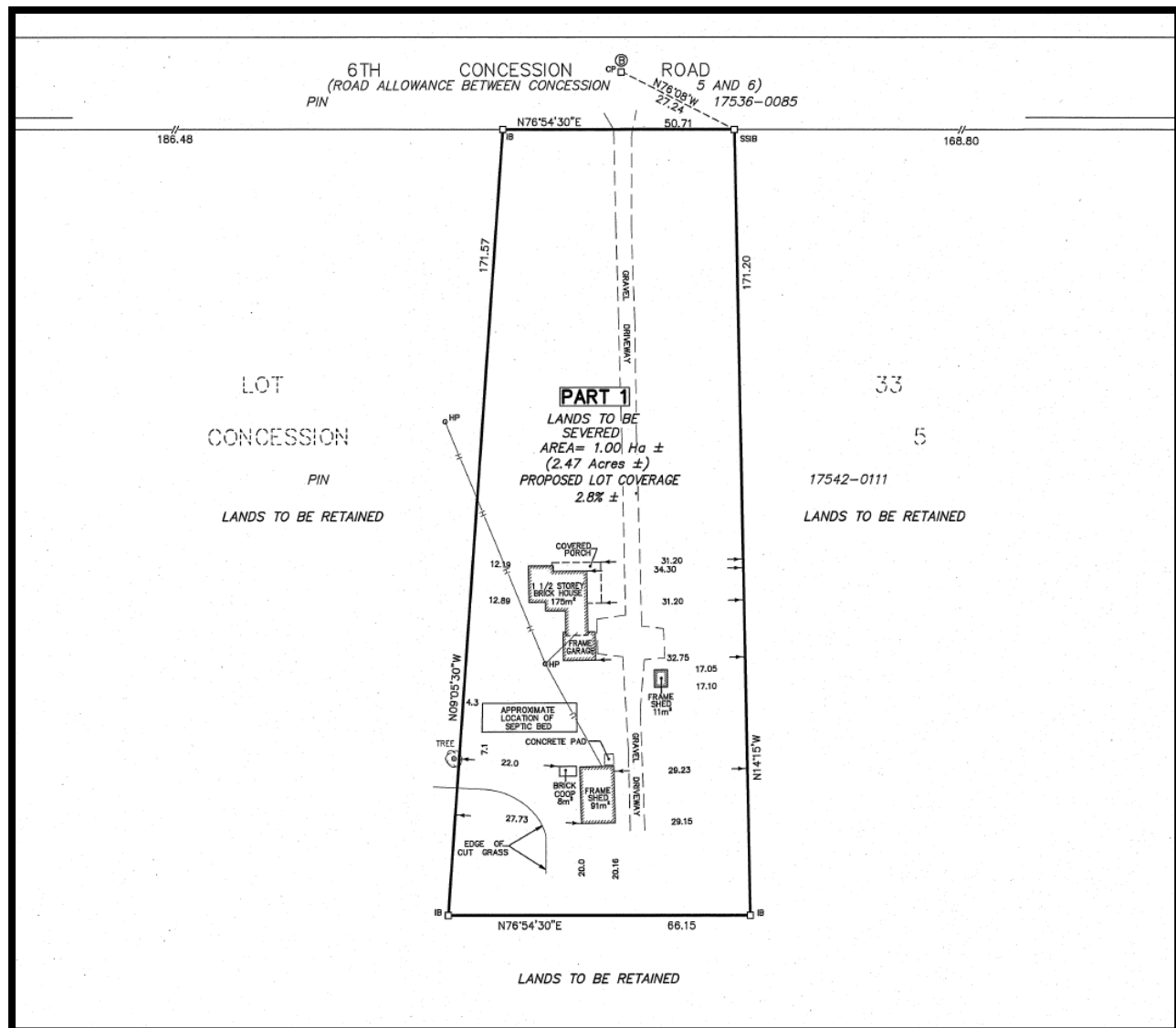


The owners of the Subject Lands are dairy farmers. They own, farm, and reside at another property located at 954 Westover Road, in Branchton, which is within a five-minute drive to the Subject Lands, making this house surplus to their needs.

Figure 5: Aerial of lands to be severed



Figure 6: Proposed Severance



Natural Heritage features are present on the north-east corner of the Subject Lands and will be maintained with the Retained land. The Natural Heritage features are identified regulated under Ontario Regulation 41/24, as administered by the Hamilton Conservation Authority. The severed lands will be a minimum of 120 meters away from the Natural Heritage features on the retained lands.

The dwelling located at 1248 Concession 6 West is serviced by private well and septic system, which will be fully contained on the severed parcel.

The dwelling is nearly 150 years old, built in 1878, and has been well maintained, remaining in habitable condition. Family members of the owners presently reside in the home. No

alterations or changes to the existing dwelling are proposed through the applications. Below are multiple photos of the existing house (**Figures 7 to 9**) – to establish the house is in a good repair and is habitable at the time of the applications. The two frame sheds are accessory to the dwelling and used for storage purposes.

Figure 7: Dwelling Photos No. 1 - Exterior



Figure 8: Dwelling Photos No. 2 – Interior

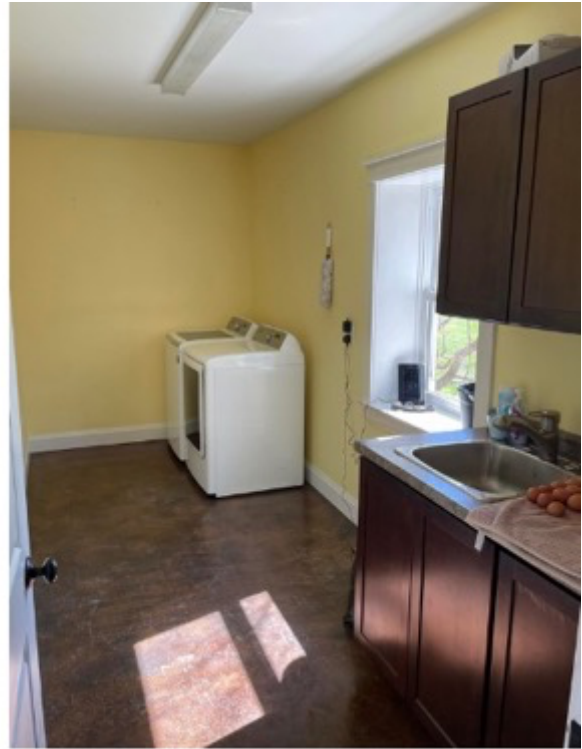
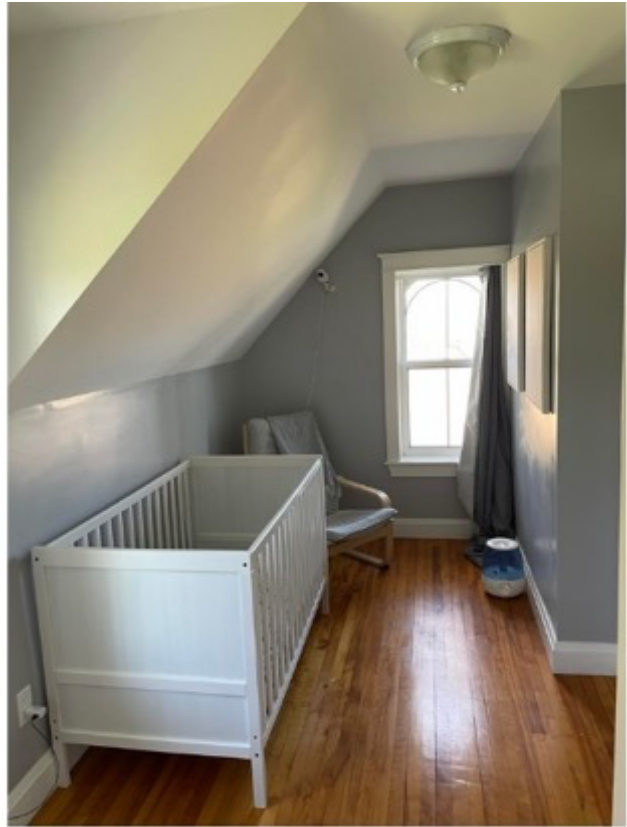


Figure 9: Dwelling Photos No. 3 – Interior



A Minimum Distance Separation (MDS) Report prepared by Soil Solutions Plus, dated April 2, 2024 and a Barn Livestock Capability Report prepared by Soil Solutions Plus, dated April 3, 2024 accompany the Consent and Minor Variance applications. The Subject Property is in proximity to two livestock operations that were visited by Soil Solutions Plus, one to the north-east and one to the east of the Subject Lands. The MDS report concludes there are no MDS I setbacks to observe for the planned severed or retained parcels. Further, it has been determined that the frame sheds located on the proposed severed lands are no longer structurally or reasonably capable of housing livestock. The second shed has been utilized for storage of machinery and equipment and are not considered viable for housing livestock. As such, the current proposal will not result in setback constraints to nearby livestock operations or the potential of utilizing the existing agricultural structures for livestock.

No trees are proposed to be removed or impacted as a result of the applications.

All parking is accommodated on site and the severed lot is able to accommodate any additional parking if required.

4. The Policy Context

The applications are subject to the provisions of the Planning Act, as amended. All Planning Act applications are evaluated to ensure the proposal is consistent with the Provincial Policy Statement (2020), conforms with the policies of the Greenbelt Plan (2005), conform to the Growth Plan for the Greater Golden Horseshoe (2020) and is in conformity with the municipal Official Plan. This section demonstrates the proposed Consent and Minor Variance applications are consistent with, and conform to, the applicable provincial and local planning policy framework.

4.1. Planning Act

The Planning Act provides the legislative framework for land use planning in Ontario. The applicable sections of the Planning Act that apply to these applications are as follows:

Section 2 - The Minister, the council of a municipality, a local board, a planning board, and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features, and functions;
- (b) the protection of the agricultural resources of the Province;

- (d) the conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest;

Section 3 Requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 45 allows for Minor Variances and Section 53 Allows for Consent to sever.

The proposed Consent and Minor Variance applications align with the framework and interests of the Planning Act by protecting the prime agricultural uses in the City. The proposal does not create any new residential uses in agricultural areas as prohibitions will be in place through a Restrictive Covenant for construction of any dwelling units on the retained lands. The new lot lines do not conflict with the existing buildings on the Subject Lands and ensure no negative impact on the existing cultural resource. No changes to the existing dwelling or the accessory structures are proposed. No new private services will be required as the existing well and septic system is sufficient to service the severed lands.

The natural heritage features on the Subject Lands remain protected on the retained parcel. The new lot lines are approximately 100 meters away from the natural features.

No site alterations, additions or any new buildings or structures are proposed through these applications.

It is my professional opinion that the proposed applications comply with the direction and regulations of the Planning Act.

4.2. Provincial Policy Statement (2020)

The Provincial Policy Statement, 2020 (PPS) is issued in accordance with Section 3 of the Planning Act and came into effect on May 1, 2020. Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” the PPS.

The PPS provides policy direction on matters of provincial interest related to land use planning and development in Ontario and sets the policy foundation for regulating the development and use of land. The PPS encourages efficient development patterns that support sustainability by promoting strong, livable, healthy, and resilient communities,

protecting the environment and public health and safety, and facilitating economic growth. The wise use and management of natural heritage resources, water resources, agricultural resources, mineral resources, and cultural heritage and archaeological resources over the long term is a key provincial interest.

Section 2.0 of the Provincial Policy Statement's intent is to ensure Ontario's wise use and management of resources for long-term prosperity, environmental health, and social well-being by conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral, and cultural heritage, and archaeological resources for their economic, environmental, and social benefits.

The Subject Lands are located in a Prime Agricultural Area of the City and designated and zoned as such in the Official Plan and the Zoning By-law respectively. No changes to the current agricultural operations are proposed through the applications.

Sections 2.1 and 2.1.2 focus on the long-term protection, maintenance, restoration and, where possible, improvements of natural features, and ensuring diversity and connectivity of natural features in the area.

The Subject Lands contain protected natural features, specifically wetlands, on the north-east portion of the property. The proposed severance is approximately 100 meters west of the natural feature. The proposed severance will not have any negative impacts on the protected natural heritage feature.

Section 2.1.9 ensures nothing in policy 2.1 are intended to limit the ability of agricultural uses.

The owners' children have resided on the proposed severed lands for many years and the dwelling has been occupied for decades. All buildings and private services are located in a cluster, which do not interfere with farming operations. This proposal will not cause any negative impacts or take away from any agricultural land. The proposed surplus farm dwelling does not impact the retained lands or the surrounding land uses.

Section 2.3 of PPS provides policies for Prime Agricultural Areas and highlights the importance of protecting the agricultural resources of Ontario. Permitted uses and activities include agricultural uses, agriculture-related uses, and on-farm diversified uses.

The Subject Lands are located within the Protected Countryside of the City of Hamilton and are designated as Agricultural in the Rural Hamilton Official Plan (2012). The Property is serviced by a private well and private septic system. The lands are approximately 29.58 hectares (+/-73.08 acres) and contain one (1) single-detached dwelling with an attached garage, two (2) sheds, and a brick coop.

A Livestock Compatibility Assessment has been completed by Soil Solutions Plus and the existing accessory structures are been deemed unfit for housing livestock.

The dwelling is a permitted use within the Prime Agricultural Area, and severing the surplus farm dwelling will not cause any negative impacts to the agricultural uses of these lands. A Restrictive Covenant will be granted in favour of the City on the retained lands to prohibit a dwelling as a condition of consent to ensure protection of Ontario's agricultural resources.

A Minor Variance is required to recognize the reduced lot area of the retained parcel.

Section 2.3.3.3 of PPS states that “new land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.”

A Minimum Distance Separation Report prepared by Soil Solutions Plus has been included with the applications. The report concludes the parcel is in proximity to two (2) livestock operations. None of the livestock operation setbacks require further observation for the proposed severance and the proposal will not have any negative impacts on the surrounding livestock operations. The proposed severed lot complies with the MDS setback requirements, and no variances to the MDS setbacks are required for the applications.

Section 2.3.4 of PPS notes the policies for 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
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;

The owners of the Subject Lands own and farm multiple properties in the area, deeming the house on this parcel surplus to their needs. The farm consolidation results in this surplus farm dwelling severance, while the retained parcel will continue to be farmed by the owners.

The proposed surplus farm dwelling severance will create a lot of 1.0 hectare in size. The proposed severed lot will contain the existing dwelling, the accessory structures, and the existing well and septic systems. The size of the proposed lot is sufficient for the existing structures and associated services.

The proposed severance does not remove any actively farmed lands from the property or cause any negative impacts on the prime agricultural lands or the natural heritage lands within the surrounding areas. The retained lands will be approximately 28.58 hectares and will continue to be farmed.

As a result of the surplus farm dwelling severance, a Restrictive Covenant will be granted in favour of the City for the retained lands to prohibit a dwelling as a condition to ensure protection of Ontario's agricultural resources.

A Minor Variance is required to recognize the reduced lot area of the retained lands. The retained lands will be approximately 28.58 hectares, whereas the minimum lot size in the Agricultural 1 (A1) zone is 40.4 hectares.

The natural heritage features located on the retained parcel will remain protected and the severance will have no impacts on the natural features.

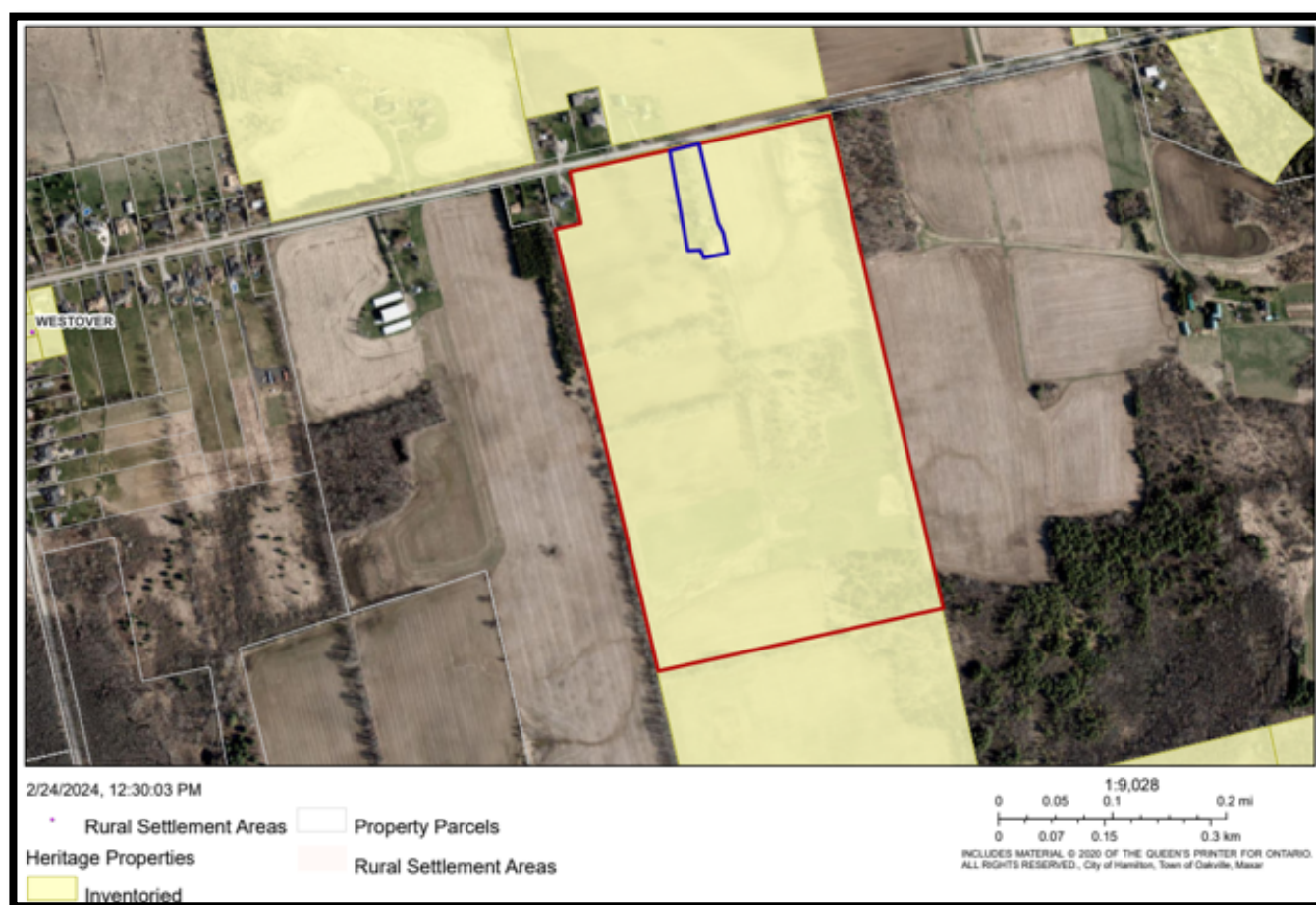
Policy 2.6 of PPS provides direction on Cultural Heritage and Archaeology.

The dwelling on the proposed severed lands is nearly 150 years old and is identified as "Inventoried Heritage Lands" by the City of Hamilton (Figure 10). Section 2.6.1 of the Provincial Policy Statement speaks to conserving significant built heritage resources and cultural heritage landscapes.

By severing the house and accessory structures as a surplus farm dwelling, no changes are proposed to the dwelling. The dwelling will continue to be maintained and inhabited by family members of the current owner, ensuring the continuous protection of the historic home.

There is no site alteration, additions or demolition proposed on the severed or retained parcels, and thus no impact on the cultural resource. No new buildings are proposed to be constructed on the severed lot, therefore views of the existing dwelling will be maintained.

Figure 10: Heritage Inventory Map



It is my professional opinion that the surplus farm dwelling severance, and accompanying minor variance, are consistent with the Provincial Policy Statement (2020).

4.3. Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) (the “Growth Plan”) is prepared under the Places to Grow Act, 2005. The Growth Plan provides policy direction for growth and development that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life. It implements Ontario’s vision for building stronger, prosperous communities by better managing growth in the region. The Growth Plan recognizes the significance of the natural areas and agricultural lands that provide significant contribution to the Ontario’s resilience and ability to adapt to a changing climate. The Growth Plan notes agricultural lands will be protected for the provision of healthy, local food for future generations.

The Subject Lands are designated Agriculture in the Rural Hamilton Official Plan. The proposed surplus farm dwelling severance, and associated minor variance, do not remove any agricultural areas from the inventory. The retained parcel will continue to be farmed and there are no changes to the land uses proposed through these applications.

Policy 4.2.2 sets out the requirements within the Growth Plan to ensure Natural Heritage Systems are protected. Section 3(a) states: new development or site alterations will demonstrate there are no negative impacts regarding key natural heritage features or hydrologic features and their functions.

A natural heritage feature is located on the north-east corner of the retained lands, over 120 meters away from the proposed severed parcel. The natural heritage feature is not proposed to be altered and the proposed surplus farm dwelling severance, and associated minor variance, will have no negative impacts on the natural heritage features.

Policy 4.2.6 of the Growth Plan details protection and enhancement of the Agriculture Systems. Sections 2 and 5 speak to the protection of prime agricultural areas for long-term use for agriculture, and the retention of existing lots for agricultural uses and the discouragement of non-agricultural uses on these lands.

The surplus farm dwelling severance does not remove any active agricultural lands from the inventory. The severed lot will contain the existing dwelling and accessory structures, which will not have any negative impacts on the farming operations of the retained lands or surrounding agricultural uses. There will be no non-agricultural uses added to these lands.

The lot size is appropriate to accommodate the existing buildings and structures and the private services (well and septic system).

The intent of the applications is to sever the dwelling which is surplus to the needs of the farming operations. The owner owns multiple farms in the area and the farm consolidation deems the dwelling surplus to farmer's needs. A Restrictive Covenant, in accordance with the City's Official Plan, will be granted in favour of the City for the retained lands to prohibit residential dwelling as a permitted use to ensure protection of Ontario's agricultural resources.

Both severed and retained lands will continue to maintain a frontage on a public road, Concession 6 West, and no land-locked parcels are created through these applications.

No impact to the existing dwelling is envisioned through the proposed severance. There are no changes to land uses, or site alterations proposed that will conflict with the dwelling, an identified cultural resource. Furthermore, there are no impacts on the natural heritage features as a result of these applications.

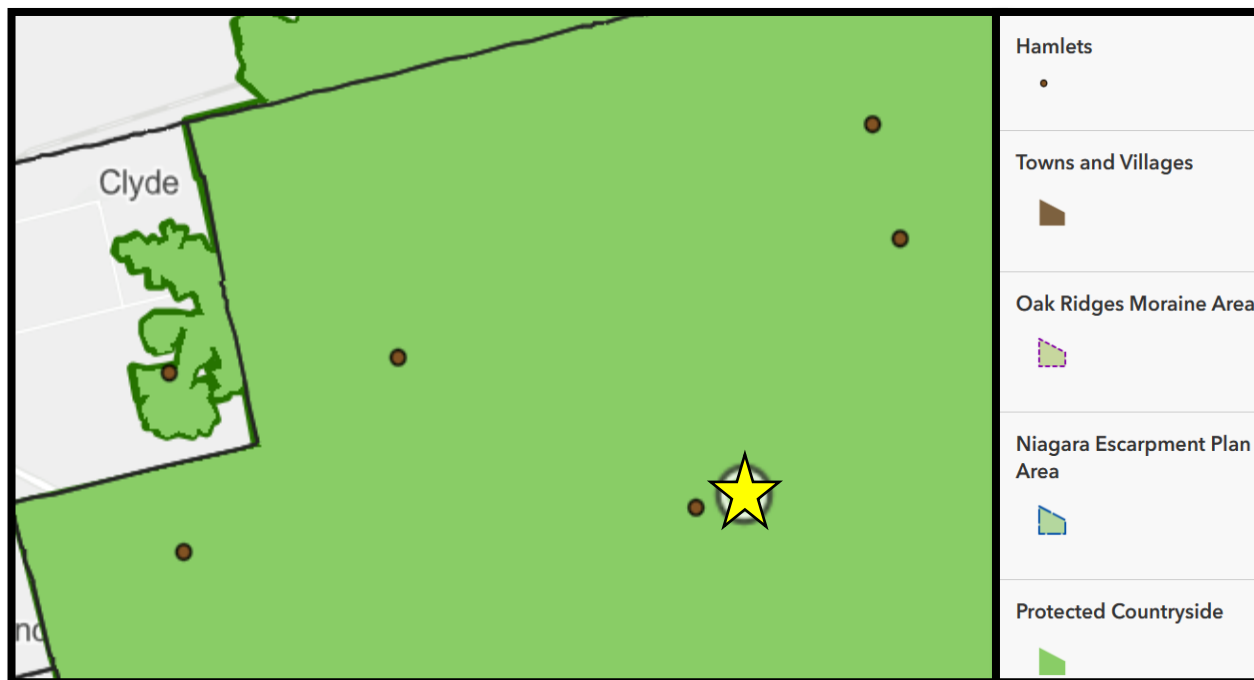
It is my professional opinion that the proposed applications are in conformity with the policies of the Growth Plan for Greater Golden Horseshoe (2020).

4.4. Greenbelt Plan (2017)

The Greenbelt Plan was introduced in 2005 to help shape the future of this region. The Greenbelt Plan is the cornerstone of Ontario's Greater Golden Horseshoe Growth Plan (Growth Plan) which is an overarching strategy that provides clarity and certainty about urban structure, where and how future growth should be accommodated and what must be protected for current and future generations. With the rapid growth in this region, urban development and sprawl have become a major threat to natural and rural areas in the landscape. The Greenbelt Plan has been designed in conjunction with the Growth Plan to protect natural and rural areas from the risks of urban sprawl and development.

Figure 11 identifies the Subject Land as being located within the "Protected Countryside" area of the Greenbelt Plan. Protected Countryside allows agricultural uses and existing dwellings.

Figure 11: Excerpt from the Greenbelt Plan



Policy 1.2.2 notes Visions and Goals for Protected Countryside:

To enhance the overall quality of life within the urban and rural areas.

Section 1 provides policies for the viability and protection of the Protected Countryside:

c) Protection of prime agricultural areas by preventing further fragmentation and loss of the agricultural land base caused by lot creation and the redesignation of prime agricultural areas.

The dwelling is surplus to the needs of the owner and the proposed surplus farm dwelling severance does not take away any prime agricultural lands. The proposal does not result in redesignation of prime agricultural areas. To ensure there is no loss of agricultural lands, a restrictive covenant will be granted in favour of the City for the retained lands so no new residential dwellings are constructed. Further, the retained lands will continue to be used for agricultural purposes.

f) Enhancing the strengths of the Agricultural System, including thorough consideration for the impacts of development on agriculture and planning for local food and near-urban agriculture.

By severing the surplus farm dwelling, the proposal contributes to enhancing the strengths of the Agricultural Systems by ensuring that no new residential uses will be permitted on the retained agricultural lands through the restrictive covenant put in place as a condition of severance, allowing for long-term protection of the prime agricultural lands.

General policies for Protected Countryside are noted in Section 4; policies specific to the current proposal are noted in Section 4.6.

1. Lot creation is discouraged and may only be permitted for:

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 farmlands created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmlands may be recommended by the province, or municipal approaches that achieve the same objective should be considered.

The proposed severance is a residence surplus to a farming operation. The owner of the Subject Lands owns multiple farms in the surrounding area which are used for agricultural purposes. The dwelling on the Subject Lands is surplus to the owner's needs.

The severance is approximately 1.0 hectare (2.47 acres) in size, large enough to contain the existing dwelling, accessory structures, private well and septic systems, and the driveway. The larger lot size is as a result of location of the existing buildings and structures that were co structured further away from the road. The severed lot is large enough to allow proper functioning of the existing private well and septic systems. The dwelling is currently habitable, and pictures of the dwelling are included in this report. The retained lands are 28.58 hectares (70.62 acres) in size and remain a viable farm operation.

There are no site alterations, nor land use changes proposed through these applications, thus protecting the dwelling which is noted on the City's heritage inventory as the dwelling was constructed nearly 150 years ago.

The severance will have no negative impacts on the prime agricultural nor on the natural features located on the retained lands. There are no trees proposed to be removed from the site as a result of these applications.

A restrictive covenant will be granted in favour of the City as a condition of severance to ensure no new residential dwellings are permitted on the retained agricultural lands.

It is in my professional opinion that the proposed applications are in conformity with the Greenbelt Plan.

4.5. Hamilton Conservation Authority, Ontario Regulation 41/24

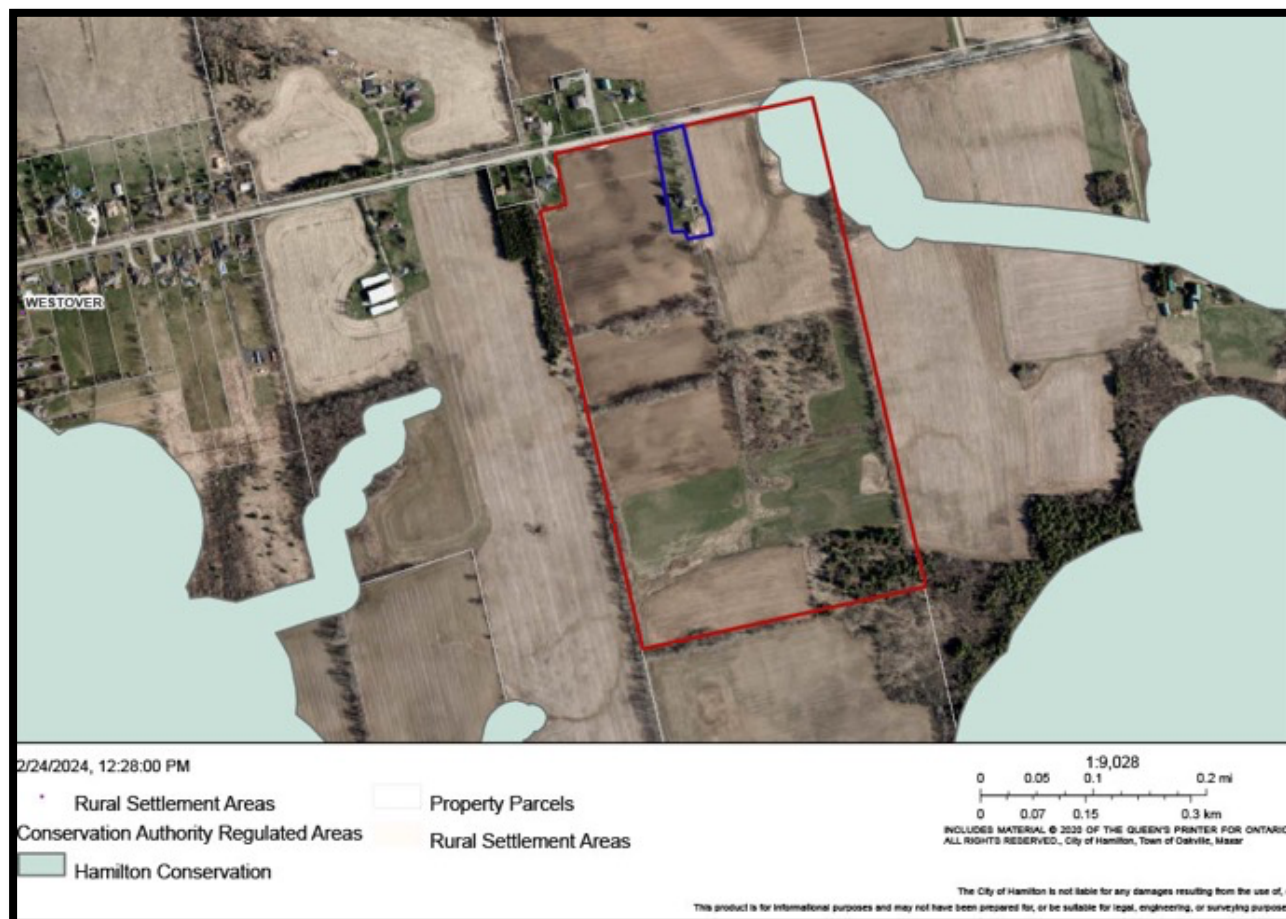
Ontario Regulation 41/24 (“the Regulation”) is prepared under the Conservation Authorities Act (1990), as approved by the Minister of Natural Resources. The purpose of the Regulation is to prevent loss of life, minimize property damage and social disruption, and avoid public and private expenditure for emergency operations, evacuation and restoration due to natural hazards and associated processes. Further, the Regulation prohibits development which, singularly or cumulatively, may restrict riverine channel capacities to pass flood flows, reduce storage capacity in floodplains and wetlands resulting in increased flood levels, and create potential danger to upstream and downstream landowners.

A portion of the Subject Lands is regulated under Ontario Regulation 41/24, as administered by the Hamilton Conservation Authority (HCA). The Subject Lands contain natural hazard and natural heritage features, including wetlands and the regulated allowance adjacent to the wetlands.

Figure 12 below shows an excerpt from the HCA Regulation 41/24 mapping.

On April 1, 2024, Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits) and Part VI of the Conservation Authorities Act came into effect. This regulation replaces the Hamilton Conservation Authority’s previous “Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses” regulation. As such, amendments to the Hamilton Conservation Authority’s Planning & Regulation Policies and Guidelines (October 6, 2011) will be forthcoming to reflect this new framework.

Figure 12: Hamilton Conservation Authority Regulation Mapping



Section 3.1.7 Wetlands of the HCA Planning & Regulation Policies and Guidelines, October 2011, states:

- (a) Development, site alteration, and/or interference with wetlands will generally not be permitted:
 - i. In or on the areas of non-provincially significant wetlands;
 - iii. Within the adjacent lands of non-provincially significant wetlands.

Based on the Interim Policy Guidelines for the Administration and Implementation of Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits), Section 3.1.7 appears to remain valid, despite the policy change. Section 4 of the Interim Policy states: Reducing the regulated area surrounding provincially significant wetlands from 120m to

30m. The other areas in which development activities are prohibited are within 30m of all wetlands in the Hamilton Conservation Authority's area of jurisdiction.

All development, including the severance of the surplus farm dwelling, is proposed outside of the wetland and the adjacent 30 metres buffers. No site alterations are proposed as part of the consent and minor variance applications.

It is my professional opinion that the proposed applications are in conformity with the policies of Ontario Regulation 41/24.

4.6. Minimum Distance Separation Guidelines

Minimum Distance Separation (MDS) Guidelines are prepared by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and represents the Minimum Distance Separation Formulae as defined in the Provincial Policy Statement, 2020 (PPS). The MDS Document is a land use planning tool, the objective of which is to prevent land use conflicts and minimize nuisance odour complaints.

While MDS setbacks are an important and effective tool for addressing nuisance issues related to odour, these do not eliminate all potential odour complaints.

MDS I formula determines setbacks between proposed new development and existing livestock facilities and MDS II formula determines setbacks between proposed new, enlarged, or renovated livestock facilities and other existing or approved development.

Guideline #9 provides MDS I Setbacks for Lot Creation for a Residence Surplus to a Farming Operation. For a proposed severance of a residence surplus to a farming operation, an MDS I setback is always required for the proposed lot with an existing dwelling.

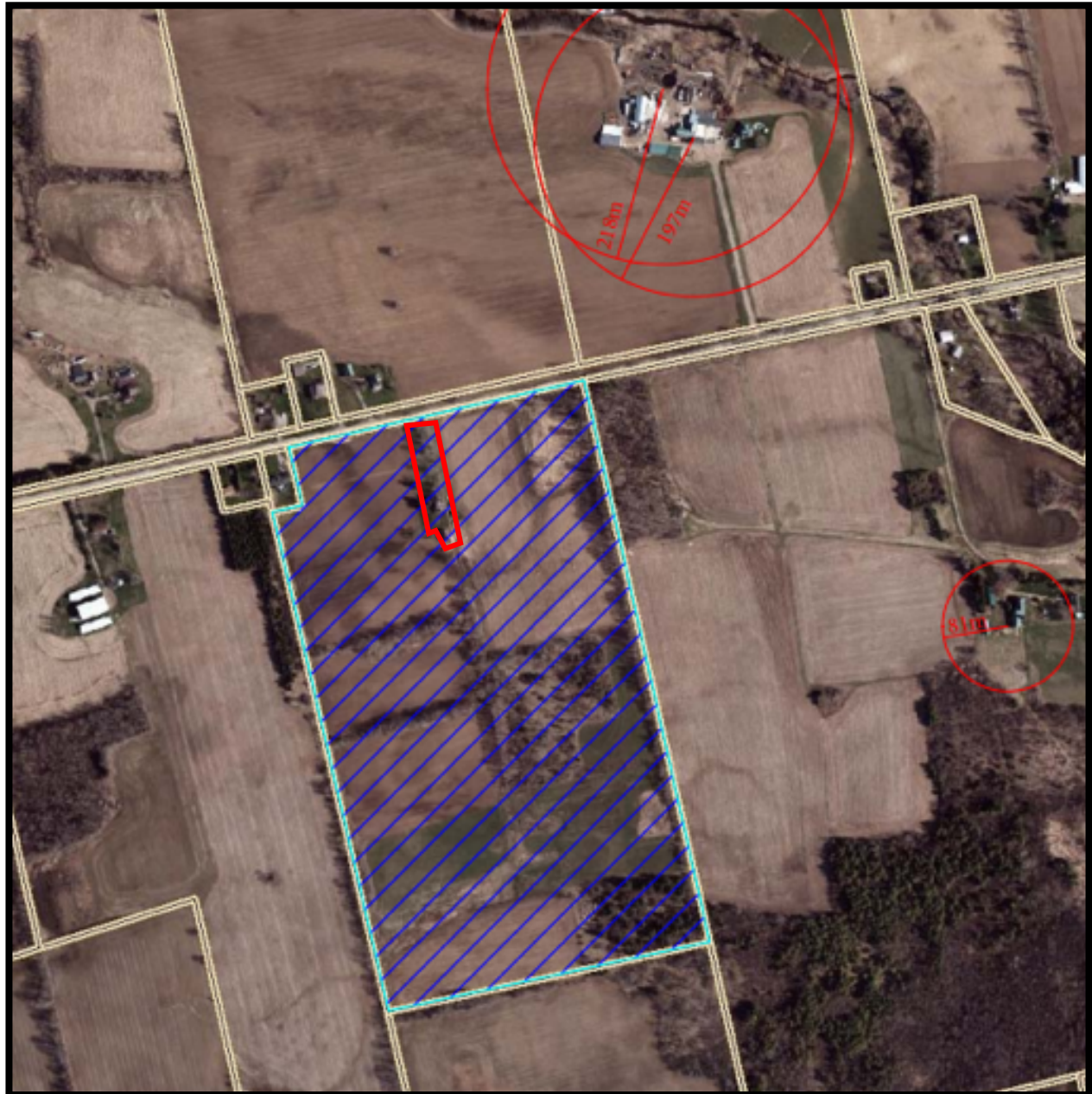
The Subject Lands contain one (1) existing dwelling and accessory agricultural structures. The lands are proposed to be severed as a residence surplus to a farming operation. The lands to be severed contain the single detached dwelling and two (2) frame sheds, and one (1) brick coop.

The lands are located within proximity of two (2) livestock operations. A Minimum Distance Separation (MDS) Report has been prepared by Soil Solutions Plus which has been included as part of the current submission (Figure 13).

Based on the Minimum Distance Separation (MDS) Report, there are no further setbacks required for the proposed severance as such the proposed severance will be in compliance with the Minimum Distance Separation standards.

Figure 13 shows the MDS setbacks from the livestock operations and delineates the location of the proposed severed lot.

Figure 13: MDS Setbacks



A Barn Livestock Capability Report was completed by Soil Solutions Plus and is included with the Consent and Minor Variance applications. The Barn Livestock Capability Report explored the viability of the frame shed located on the proposed severed lands for accommodating livestock. It was determined the existing frame shed is no longer structurally or reasonably capable of housing livestock.

Based on the Barn Livestock Capability Report, there are no existing structures on the proposed severed lands to which MDS setbacks apply that would impact neighbouring residences or the new lot lines.

It is my professional opinion that the proposed surplus farm dwelling severance, and associated minor variance, is keeping with the intent of Minimum Distance Separation Guidelines.

4.7. Official Plan, 2012

The Rural Official Plan (the “Official Plan”) of the City of Hamilton was adopted by Council on September 27, 2006 and was approved by the Ministry of Municipal Affairs and Housing on December 24, 2008. The Official Plan came in effect on March 7, 2012. The City has completed its review of the current Rural Official Plan and By-law 22-146 was adopted by City Council on May 25, 2022. The revised document was prepared to update policies reflecting current updates to the provincial policies. The amendments were approved by the Ministry of Municipal Affairs and Housing in November 2022.

The Official Plan is a guiding document for the City to achieve its vision. The plan provides direction and guidance on the management of communities, land use change and physical development over the next 30 years. The Official Plan provides a framework of objectives and strategies, land use designations and policies intended to guide the future growth and development in the City supporting Vision 2020 for a vibrant, healthy, and sustainable city. The Rural Official Plan applies to all lands within Rural Hamilton (OPA 26).

The Subject Property is designated as Agricultural and Greenbelt Natural Heritage System in the Rural Official Plan. The lands are identified within the prime agricultural area of the City and within the Protected Countryside of the Greenbelt Plan.

Figure 14 provides an excerpt of the Rural Official Plan Schedule A showing the Protected Countryside designation. Figure 15 is an excerpt from Schedule B,

noting the Natural Heritage System and Figure 16 depicts the Agriculture designation on the lands as identified on Schedule D of the Official Plan.

Figure 14: Excerpt from Rural Official Plan Schedule A

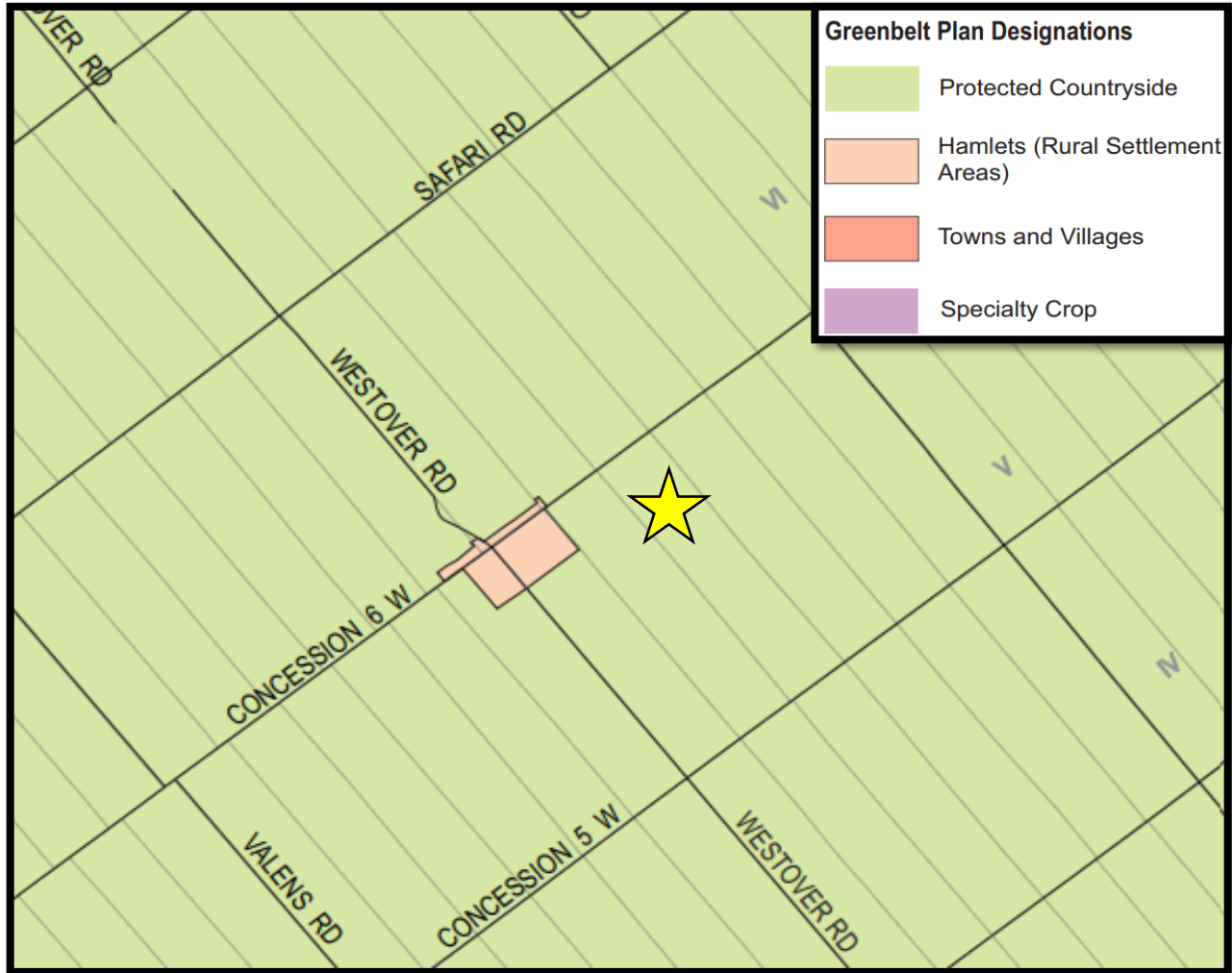


Figure 15: Excerpt from Rural Official Plan Schedule B-4

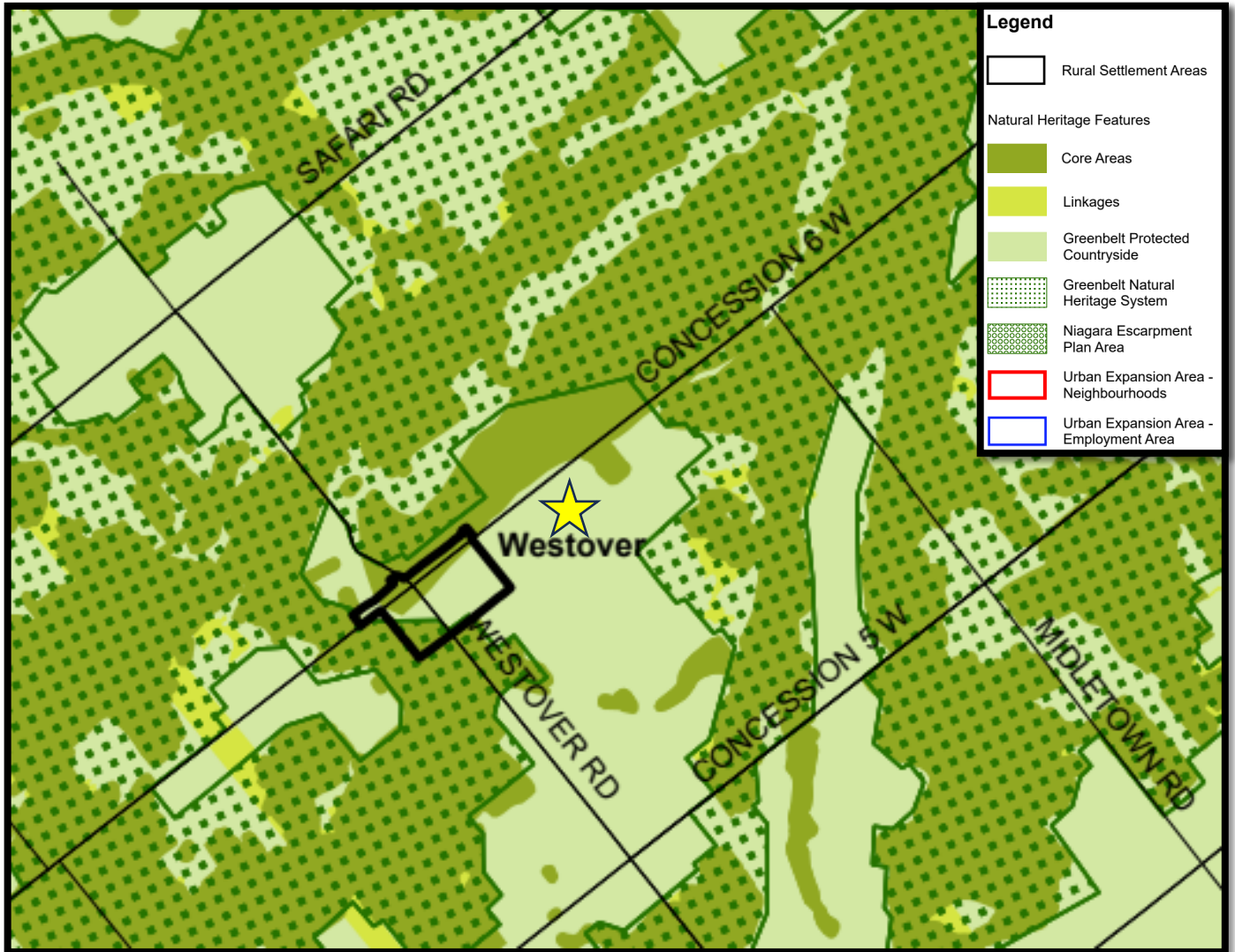
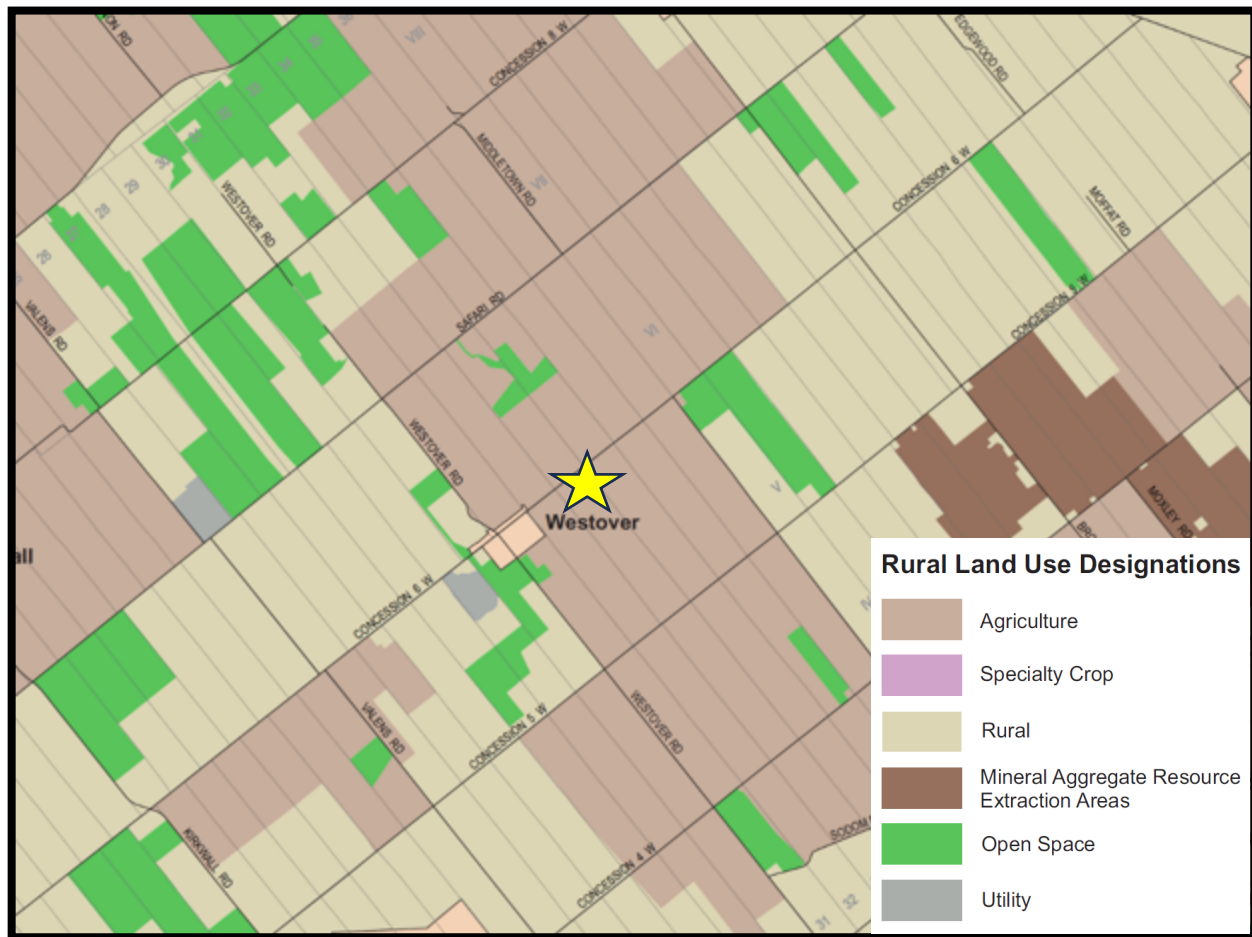


Figure 16: Excerpt from Rural Official Plan Schedule D



All proposals of development or site alterations within the Protected Countryside on Schedule “A” and/or “D” must meet all requirements, with the exception of “c”, of the Greenbelt Plan for protecting the countryside. For residential lot creation, and surplus farm dwelling proposals, the plan must be in compliance with sections F.1.14.2, and C.5.

Provided within Section 4.4 of this report, the residential surplus farm dwelling severance conforms with all applicable policies of the Greenbelt Plan. The proposed severance is within the Protected Countryside of the rural part of Hamilton (Figure 14), which contains three geographic specific policy areas including: agricultural systems, natural systems and settlement area.

Chapter C

The City of Hamilton contains natural areas and features identified as part of the Natural Heritage System of the Protected Countryside in the Greenbelt Plan; Section C.2.0 is dedicated to these systems. These Natural Heritage System is protected through this plan by ensuring the natural areas are managed as an integrated system, enhancing key features as well as supporting the environmental objectives. The City also identifies locally and provincially significant natural areas that warrant similar consideration. Natural Heritage Systems identified on Schedule B - Natural Heritage Systems, of this plan consist of the Greenbelt Natural Heritage System, the Greenbelt Protected Countryside, and the Core Areas within and outside of the Greenbelt Area. Collectively the provincial and local planning have an objective to protect and restore the Natural Heritage Systems and focus on protecting and restoring these features and natural functions for a permanent environmental resource of the Communities.

Section 2.1 sets out the Policy Goals that apply to designation and management of the Natural Heritage Systems in Rural Areas, these include:

- 2.1.1 To protect and enhance biodiversity and ecological functions.
- 2.1.2 To achieve a healthy, functional ecosystem.
- 2.1.3 To conserve the natural beauty and distinctive character of Hamilton's landscape.
- 2.1.4 To maintain and enhance the contribution made by the Natural Heritage System to the quality of life of Hamilton's residents.
- 2.1.5 To restore and enhance connections, quality, and amount of natural habitat.
- 2.1.7 To monitor and periodically assess the condition of Hamilton's natural environment.

The Subject Lands are identified Protected Countryside in the Official Plan (Figure 14). As per Section C.2.2.2, the policies do not prohibit the continuation of the existing agricultural uses within or adjacent to the Natural Heritage System lands. The Subject Lands are currently in agricultural uses and are proposed to continue as such. The proposed surplus farm dwelling severance, and associated minor variance, will not have any impact on the natural heritage system as no site alterations are being proposed in, or adjacent to, the natural features. No development, new buildings or structures, or land use changes are being proposed that will impact the natural environment. The creation of the new lot will occur outside the identified natural heritage features.

The objective of Section C.5.1 is to ensure all rural developments have established and maintained sustainable private services.

The lands being proposed for severance will be approximately 1.0 hectare in size, meeting the required 0.4 hectare minimum size considered adequate to accommodate the private water system and private sewage disposal system servicing the Property. The larger size of the proposed severed lot is due to the placement of existing buildings and structures that are approximately 110 meters from the road.

The lands to be severed are currently serviced by private well and sewage systems and will continue to run on these pre-existing systems. There will be no changes proposed to the private services and they will be able to continue to function with no negative impacts to the lands or surrounding areas. No new development or construction of buildings or structures is proposed through these applications.

Chapter D

The Subject Lands are located within the rural part of Hamilton and are subject to Chapter “D” of the Rural Hamilton Official Plan. These lands are primarily resource related providing opportunities for agriculture, non-renewable and natural heritage resources, while also providing homes for residence living within the rural setting not directly involved in resource related activities. These policies are set out to protect all rural resources while still recognizing settlement areas, and providing resource based commercial, industrial, and recreational uses.

The goals set out for the Rural systems land use designations detailed in Schedule D applicable to the current proposal include the following;

- 1.1 Reinforce and support the significant contribution agriculture makes to the lifestyle, environment, and economy of the City.
- 1.2 Maintain and promote the right-to-farm throughout Rural Hamilton.
- 1.3 Preserve and enhance prime agricultural areas and specialty crop areas for farming.
- 1.4 Encourage all lands used for agricultural uses to remain in agricultural uses.

The proposed severance, and associated minor variance, will not remove active agricultural lands from production. The proposed severance of a surplus farm dwelling is the result of farm consolidation. The agricultural activities will be preserved and continue to function as normal on the retained lands. There will

be a restrictive covenant put on the retained lands to ensure no new dwellings can be constructed on these lands. The minor variance will address an existing minimum lot area deficiency for the retained parcel.

The severed lot does not interfere with the existing natural or cultural heritage features on the lands. No impact on the agricultural uses will occur through the severance of the existing dwelling.

Chapter F

Section 1.14.2 of Chapter “F” within the Rural Official Plan speaks to policies related to Lot Creations.

Severances in Agricultural Areas are prohibited except in instances where a lot is created as a residential surplus to the farming operations and as a result of farm consolidation. The proposed severance of a surplus farm dwelling meets the intent of these policies.

Policy 1.14.2.C notes the policies that apply to all severances:

- i) comply with the policies of this Plan including a rural settlement area plan where one exists;
- ii) be compatible with and not hinder surrounding agricultural operations;
- iii) conform to the Zoning By-law;
- iv) only be permitted when both severed and retained lots have frontage on a public road; and,
- v) meet the requirements of Section C.5.1, Private Water and Wastewater Services.

The proposed severance is compatible with the surrounding agricultural operations. A MDS Study has been conducted and notes no negative impact to the proposed lot as a result of the existing surrounding livestock operations.

The proposed severance does not remove any active agricultural lands from production. There will be a restrictive covenant granted in favour of the City to ensure no future residential uses are permitted on the retained lands. Further, a Minor Variance is proposed to address an existing minimum lot area deficiency for the retained parcel.

The severed lot complies with the regulations of the Zoning By-law 05-200. The retained lot is deficient in minimum lot area, with a parcel of 28.58 hectares,

whereas 40.4 hectares is required. A Minor Variance to recognize the deficient lot area is proposed. Both severed and retained lands will have frontage on Concession 6 West.

The private water and wastewater requirements in Section C.5.1 have been addressed within this section of the report.

Policy 1.14.2.8 is dedicated to surplus farm dwelling severances.

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.

The owner of the Subject Lands owns multiple farms in the area. The retained lands will be approximately 28.58 hectares (70.62 acres) in size. The retained lands will not be merged with adjoining parcels. A Minor Variance is proposed to recognize a deficiency in minimum lot area for the retained parcel.

- 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.

The applications are a result of farm consolidation as the dwelling is surplus to the needs of the owners and the farming operation.

- 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.

The dwelling was built nearly 150 years ago and is currently occupied by family members of the owners. The dwelling is habitable as of the date of these applications, pictures of which have been included in the submission. No

construction or demolition is proposed or required to allow for the existing dwelling to be habitable.

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;

The lands being proposed for severance will be approximately 1.0 hectare in size and are adequate to accommodate the water system and sewage disposal systems of the property. The well and septic system are located south of the existing dwelling along with the accessory structures that will be included with the severed parcel. No lands are taken away from the production, and the proposed lot size is triggered as a result of the location of the existing buildings and structures.

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;

The lands being proposed for severance will be approximately 1.0 hectare in size and are adequate to accommodate the existing water system and sewage disposal systems servicing the property. The well and septic system are located south of the dwelling along with accessory structures that will be included on the severed parcel.

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);

The severed parcel will be approximately 1.0 hectare (2.47 acres) in size, with a frontage of approximately 50.71 meters on Concession 6 West and a depth of 171.57 meters. The severed parcel does not extend into the arable lands. The size of the lot is limited to the buildings, services, and appropriate rear and side yard setbacks. The severed lot does not interfere with the agricultural operations.

It is noted the depth of the proposed lot marginally exceeds the suggested general depth of 122 metres. The additional 49.57 metres depth beyond the

suggested general depth does not extend beyond the existing residential area, no agricultural lands is included in the severed parcel. The depth accommodates retention of the septic system and accessory structures with the dwelling and allows for appropriate rear yard setbacks between the accessory structures and proposed rear property line.

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.

The frame sheds included with the severed parcel are used for personal storage and is suitable to be used as accessory to the residential use. The accessory structures are not used for any commercial or industrial uses. The Barn Livestock Capability Report, prepared by Soil Solutions Plus, indicates the small structure is no longer structurally or reasonably capable for housing livestock.

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.

The frame sheds included with the severed parcel are used for personal storage and are suitable as accessory to the residential use. The structures are no longer structurally or reasonably capable of housing livestock.

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;

The owner and operator of the farm does not reside on the Subject Lands and the dwelling on the Subject Lands is surplus to the farm operations. The owner owns and resides on a farm on Westover Road with a lot area of approximately 39 hectares.

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;

The Subject Lands are approximately 29.58 hectares (73.08 acres). The severed lands will be approximately 1.0 hectare (2.47 acres) and the retained lands will be approximately 28.58 hectares (70.62 acres). The retained lands are approximately 74% of the generally recommended farm operation minimum of 38.4 hectares (95 acres).

The farm consolidation will result in a lot area of approximately 67.58 hectares, meeting the policy direction of the Official Plan.

The arable lands will continue to be a viable acreage for a farm operation, especially given the additional farms within the surrounding area owned by the applicants.

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;

The Subject Lands are approximately 29.58 hectares (+/-73.08 acres) in size. This exceeds the general lot minimum of 16.2 hectares (40 acres) for lands designated Agriculture on Schedule D of the Rural Hamilton Official Plan.

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 landowner shall apply for and receive final approval to rezone the farm parcel to prohibit the construction of a dwelling unit; or
2. The landowner shall grant in favour of the City, a restrictive covenant which prohibits the construction of any dwelling unit. If the landowner grants a restrictive covenant in favour of the City, the City shall rezone the farm parcel to prohibit the construction of any dwelling unit.

A Restrictive Covenant will be granted in favour of the City for the retained lands to ensure no new dwellings are permitted. The City will rezone the retained lands to prohibit residential uses in the housekeeping amendment to the Zoning By-law.

It is my professional opinion that the proposed surplus farm dwelling severance, and associated minor variance, conform with the policies of the Rural Hamilton Official Plan.

4.8. Zoning By-Law, 05-200

The City of Hamilton's Comprehensive Zoning By-law No. 05-200 came into effect on May 25, 2005 and is being implemented in stages.

Zoning By-law No. 05-200 is comprised of several sections including definitions, general provisions, parking regulations as well as the various zones. The zones are structured to identify permitted and prohibited uses as well as the regulations applicable to a permitted use. Definitions, general provisions, and parking regulations work in conjunction with the zones and need to be reviewed for all development applications to determine compliance.

The Subject Lands are zoned Agricultural (A1) in the Zoning By-law 05-200. Single Detached Dwellings are permitted within the A1 zone.

As per Section 4.8 of the Zoning By-law for "Accessory Buildings in all Zones", the following regulations shall apply:

- a) Unless otherwise provided for in the By-law, Accessory Buildings shall not be used as a dwelling unit.
- b) Accessory Buildings shall not be permitted within a front or flankage yard.
- c) Notwithstanding Subsection 4.8 b), a building used as a station for parking attendants or security personnel shall be permitted within a front or flankage yard.
- d) Notwithstanding any other provisions in this By-law, where a zone contains a maximum setback requirement from a street line, the maximum setback requirement shall not apply to Accessory Buildings.
- e) In the event of a conflict between regulations where an Accessory Building is provided for a mixed use building, the most restrictive regulation shall apply.
- f) Except as permitted in Subsection 4.18 a), an Accessory Building shall not be erected prior to the erection of the principal building or structure on the lot.
- g) All Accessory Buildings shall have a maximum height of 4.5 metres.
- h) Notwithstanding Subsection 4.6 a), an eave or gutter of any Accessory Building may encroach into any required yard to a maximum of 0.45 metres.
- i) Rooftop amenity area shall be prohibited on all Accessory Buildings.
- j) Gazebos, pergolas, and carports shall be considered as Accessory Buildings, but shall not be subject to the Lot Coverage or Gross Floor Area requirements of the applicable zones in which they are located.

- k) Children's play structures and sports bleachers shall not be considered Accessory Buildings and shall not be subject to the regulations of Subsections 4.8.1, 4.8.2, 4.8.3, 4.8.4 and 4.8.5 or the regulations of the zones in which they are located.

Two (2) accessory structures exist on the proposed severed parcel. Neither accessory building will be used as a dwelling unit. Both units are located in the rear yard, not within the front or flankage yard. Neither of the accessory buildings will be used for parking attendants or security personnel. Maximum setbacks from a street line and mixed-use buildings are not applicable for the current proposal.

The principal building exists on the proposed severed lands.

As the Subject Lands are within the A1 zone and Section 4.8.1.2 is applicable, the accessory structures are 1-storey and 2-storey and are less than 6.0 meters in height, meeting the zoning provisions of the by-law. The accessory structures are a minimum 2.83 metres from side yard lot lines and a minimum 10.26 metres from the rear lot line and thus the eaves and gutters do not encroach into any required yard.

No rooftop amenity area exists, or is proposed, on the Accessory Buildings. The Subject Lands do not contain gazebos, pergolas, and carports nor do they contain children's play structures or sports bleachers.

As per Section 4.8.1.2 of the Zoning By-law for 'Buildings Accessory To Single Detached Dwellings And Residential Care Facilities in A1 And A2 Zones', the following regulations apply:

- a) Notwithstanding Subsection 4.8 g), all Accessory Buildings shall have a maximum height of 6.0 metres.
- b) The aggregate Gross Floor Area of all Accessory Buildings shall not exceed 200 square metres, or 5% lot coverage, whichever is the lesser.
- c) All buildings accessory to a Single Detached Dwelling shall have a minimum setback of 1.0 metre from a rear or side lot line.
- d) In addition to Subsection 4.8 b) and notwithstanding Subsection 4.8.1.2.c), where a vehicular entrance to an Accessory Building faces a street line or where an access driveway leads to an Accessory Building which faces a street line, the Accessory Building shall be setback a minimum of 6.0 metres from the street line.

Two (2) accessory structures exist on the proposed severed parcel. The accessory structures are 1-storey and 2-storey and are less than 6.0 meters in height. The accessory structures are a minimum 2.83 metres from side yard lot lines and a minimum 10.26 metres from the rear lot line. The combined footprint of the two (2) structures is approximately 102 metres square (1,098 sq. ft) and represents less than 1.0% of the severed lands lot coverage for accessory uses.

With reference to Sections 4.8 and 4.8.1.2 as they relate to accessory structures, the proposed severed lands adhere to the Zoning By-law regulations. No accessory structures exist on the proposed retained lands.

As per Section 12.1.3.1 of the By-law outlining regulations for A1 Zone, the following apply to the retained lands:

- a) Minimum Lot Area 40.4 hectares
- b) Minimum Front Yard 15.0 metres
- c) Minimum Side Yard 15.0 metres
- d) Minimum Rear Yard 15.0 metres
- e) Maximum Lot Coverage 20%

The proposed retained parcel is compliant with the above requirements, except for the minimum lot area of 40.4 hectares. The current agricultural parcel is undersized, with an area of approximately 29.58 hectares. With the proposed surplus farm dwelling severance, the resulting retained parcel is approximately 28.58 hectares. As such, a variance is proposed to recognize the deficient lot area being approximately 71% of the required lot area in the A1 zone, or 11.82 hectares smaller. It is noted the lot as exists is deficient in area and the current proposal of a surplus farm dwelling severance decreases the lot area marginally by the severance of 1.0 hectare.

As per Section 12.1.3.3 of the By-law outlining regulations for Single Detached Dwellings in the A1 Zone, the following apply to the proposal:

- a) Minimum Lot Area 0.4 hectares
- b) Minimum Lot Width 30.0 metres
- c) Maximum Building Height 10.5 metres
- d) Minimum Front Yard 10.0 metres
- e) Minimum Side Yard 3.0 metres
- f) Minimum Rear Yard 10.0 metres

The proposed severed lot has a width of 66.15 meters, and an area of 1.0 hectare. The existing dwelling is 2 storeys and is less than 10 meters in height. The front yard setback is approximately 98 meters, rear yard is approximately 56 meters, and minimum side yard is 12.19 meters. The severed lot meets all regulations of the By-law.

The reduction in the lot area of the of the proposed retained parcel meets the general intent and purpose of the City of Hamilton Rural Official Plan and Zoning By-law 05-200. The proposed minor variance is minor in nature and is appropriate for the severance of a surplus farm dwelling, protecting the viability of the agricultural lands. The proposed minor variance is compatible with the neighbourhood and will not result in adverse impacts on surrounding properties.

5. Minor Variance

A Minor Variance Application is required for the Retained lot for the following:

1. reduced Lot Area of 28.0 hectares whereas 40.4 hectares is required.

For the purposes of the variance, the lot area of the retained lands have been rounded down to 28.0 hectares.

In accordance with the requirements of the Planning Act, in the consideration of an application for Minor Variance, there are “four (4) tests” which are required to be satisfied, they are:

1. Does the application conform to the general intent of the Official Plan?
2. Does the application conform to the general intent of the Zoning Bylaw?
3. Is the application desirable for the appropriate development of the lands?
4. Is the application minor?

5.1. Official Plan Conformity

The lands are designated Agricultural and Greenbelt Natural Heritage System in the Rural Official Plan. The policies of this designation allow for agricultural uses and expansion of agricultural related uses.

The variance will allow for reduced lot area for the retained parcel and will not have any negative impact on the surrounding area. There will be no impact on the existing natural heritage features as no new development, including lot lines, or site alteration are proposed

within the natural heritage features. No trees are being removed or impacted as a result of these applications.

No farmland is being removed from production as a result of the associated surplus farm dwelling severance application. The farm consolidation will result in a total lot area of approximately 67.58 hectares, meeting the policy direction of the Official Plan for protection of agricultural areas.

It is my opinion that the intent of the Official Plan is maintained through the requested variance.

5.2. Conformity with the General Intent of the Zoning By-Law

The Zoning By-Law requires a minimum lot area of 40.4 hectares for agricultural parcels. The Subject Lands are currently undersized. The proposed retained parcel will continue to be undersized with a lot area of approximately 28.0 hectares.

The retained parcel is the entirety of the arable lands and thus there will be no negative impact on the viability of the farming operations. The farm consolidation will result in a total lot area of approximately 67.58 hectares, meeting the intent of the Zoning By-Law. The severed lands will meet the lot area requirements for a single detached dwelling in the A1 zone.

It is my opinion that the variance is needed for efficient use of the land and would maintain the general intent of the Zoning By-Law as there are no negative impacts to the surrounding properties.

5.3. Appropriateness of the Minor Variance for the Desirable Development of the Lot

From a public interest perspective, there are no impacts to neighbouring properties as a result of the proposed Minor Variance. The variance required to bring the retained lot into conformance allows for the severance of the surplus farm dwelling as a result of farm consolidation. The severance of the dwelling from the broader land holding allows for the continued viability of both the dwelling as well as the agricultural lands.

The requested variance will not result in any negative impact on the surrounding neighbourhood. The variance is required for the efficient use of lands and is in keeping with the form of development in the surrounding area.

It is my opinion that the proposed variance provides for the desirable use of the lands.

5.4. Proposed Variance is Minor in Nature

Based on the review of the Official Plan policies, Zoning By-Law regulations, and a review of the appropriateness of the proposed variance in the surrounding area along with the three (3) tests as outlined in this report, it is my opinion that the request for variance is minor in nature and is required for the efficient use of the lands.

6. Summary and Recommendations

The proposed applications are to create a surplus farm dwelling severance on 1248 Concession 6 West. The dwelling is surplus to the needs of the owner as they own and operate multiple farms in the vicinity and reside in a nearby dwelling. The dwelling is currently occupied by one of the owners' children who will continue to live in the house while assisting with the farming operations.

The size of the severed lot meets the regulations of the By-law, and is sufficient to accommodate existing buildings, and private services. The larger size is as a result of the location of existing buildings, structures and the private services, however no farmland is being removed from production due to these applications. A Minor Variance is requested to recognize the reduced lot size for the retained farm parcel.

A restrictive covenant on the retained portion of the parcel will be granted to the City to ensure no future residential uses will be permitted on the retained lands.

A Minimum Distance Separation, and Barn Livestock Capability report have been prepared by Soil Solutions Plus and note no conflicts with the surrounding livestock operations.

It is my professional opinion that the proposed surplus farm dwelling severance and the accompanying minor variance applications are:

- consistent with the Provincial Policy Statement;
- in conformity with the Growth Plan for the Greater Golden Horseshoe;
- in conformity with the Greenbelt Plan;
- conform to the policies of the Rural Hamilton Official Plan; and
- in keeping with the regulations of the City of Hamilton Zoning By-law 05-200.

The proposed applications represent good planning, and it is requested to the Committee of Adjustment that the applications be approved.

Respectfully Submitted,

TAG – The Angrish Group



Ruchika Angrish, MPlan, B.Tech, MCIP, RPP
Co-Founder
CC: Phil and Marlene Elgersma

I hereby certify that this Planning Report was prepared by a Registered Professional Planner, within the meaning of the Ontario Professional Planners' Institute Act, 1994.



I hereby certify that this plan/report was prepared by a Registered Professional Planner, within the meaning of the Ontario Professional Planners Institute Act, 1994.

July 12, 2024
Date



Ruchika Angrish
Registered Professional Planner

July 12, 2024

Soil Solutions Plus
66 High Street
PO Box 1003
St. George, ON, N0E 1N0

MDS I Report

April 2, 2024

Phil Elgersma
1248 6th Concession West
Lot 33, Concession 5, Beverly
City of Hamilton

Description of Plan:

As part of a Farm Succession plan the applicant plans to sever a house from the workable acreage. The land is required for the livestock operation to remain viable and the house is being transferred to a non farming family member. This is "Lot creation for a residence surplus to a farming operation".

A livestock operation has been identified at 1199 Concession 6 West, the farm is North East of the subject property.

A livestock operation has been identified at 1182 Concession 6 West, the farm is East of the subject property.

Details of Livestock Operation at 1199 Concession 6 West :

To determine the livestock capacity I spoke with the farm owner Brad Nimijohn on Tuesday April 2, 2024.

The farm houses 50 Beef Cows with access to a barn from a yard with pasture access. Runoff from the yard area is directed to an uncovered liquid storage tank.

Using the Agricultural Information Atlas I confirmed the total lot size to be approximately 102 acres.

Details of Livestock Operation at 1182 Concession 6 West :

To determine the livestock capacity I spoke with the farm owner Liz Westerhof on Tuesday April 2, 2024.

Liz told me that she has 2 Beef Cows in the barn, at the time she was under the weather and without bothering her further I was able to observe that the animals were housed in the back of an old barn that is at the end of its life cycle. The Cows had pasture access and there was no structure that would be a permanent manure storage structure. Any increase in livestock capacity on this farm would require an application for a building permit for a new structure.

Using the Agricultural Information Atlas I confirmed the total lot size to be approximately 182 acres.

Properties investigated that do not require a calculation

1288 Concession 6 West

I visited this property on April 2 2024 and spoke with the owner Lloyd Veltkamp. I was told that the former chicken barns were converted to a shop and storage approximately 13 years ago. There is no potential that the barns could be returned to use for livestock.

1279 Concession 6 West

Neighbour Lloyd Veltkamp told me that Brad Stevens property has never had livestock.

1251 Concession 6 West

From the road I observed a small old barn that is being used as a garage. There was no animals or manure storage.

MDS I Sketch:

For planning purposes I plotted a circle from the manure storage at 1199 Concession 6 W, showing the setback of 715' (218m) and from the barn showing the setback of 646' (197m).

For planning purposes I plotted a circle from the west side of the barn at 1182 Concession 6 W, showing the setback of 266' (81m) for the barn.

Result:

There are no MDS I setbacks to observe for the planned severed parcel or remaining workable land.

Yours Truly,



Matt Robillard
Soil Solutions Plus
PH (905)297-5328

Enclosures:

- Minimum Distance Separation I (MDS I) Report,
- MDS I Report Sketch

1248 6th Concession West MDS I

General information

Application date Apr 2, 2024	Municipal file number	Proposed application Lot creation for a residence surplus to a farming operation (i.e. surplus dwelling severance)
Applicant contact information Phil Elgersma 954 Westover Road Hamilton, ON N0B 1L0 905-659-7800	Location of subject lands City of Hamilton City of Hamilton BEVERLY Concession 5 , Lot 33 Roll number: 251830154062000	

Calculations

1199 Conc 6 W

Farm contact information Brad Nimijohn Brae Lane Farm 1199 Concession 6 West Hamilton, ON L0R 1V0 905-961-9301	Location of existing livestock facility or anaerobic digester City of Hamilton City of Hamilton BEVERLY Concession 6 , Lot 34 Roll number: 251830164064400	Total lot size 102 ac
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Livestock/manure summary

Manure Form	Type of livestock/manure	Existing maximum number	Existing maximum number (NU)	Estimated livestock barn area
Solid	Beef, Cows, including calves to weaning (all breeds), Yard/Barn	50	50 NU	2500 ft ²

Setback summary

Existing manure storage	L1. Solid, outside, no cover, 18-30% DM, with uncovered liquid runoff storage		
Design capacity	50 NU		
Potential design capacity	150 NU		
Factor A (odour potential)	0.7	Factor B (design capacity)	363.89
Factor D (manure type)	0.7	Factor E (encroaching land use)	1.1
Building base distance 'F' (A x B x D x E) (minimum distance from livestock barn)	197 m (646 ft)		
Actual distance from livestock barn	328 m (1076 ft)		
Storage base distance 'S' (minimum distance from manure storage)	218 m (715 ft)		
Actual distance from manure storage	380 m (1247 ft)		

Farm contact information

Liz Westerhof
 1182 Conc 6 W
 Millgrove, ON
 L0R 1V0
 905-659-3605

Location of existing livestock facility or anaerobic

digestor
 City of Hamilton
 City of Hamilton
 BEVERLY
 Concession 5, Lot 35
 Roll number: 251830154062200

Total lot size

182 ac

Livestock/manure summary

Manure Form	Type of livestock/manure	Existing maximum number	Existing maximum number (NU)	Estimated livestock barn area
Solid	Beef, Cows, including calves to weaning (all breeds), Yard/Barn	2	2 NU	100 ft ²

Setback summary

Existing manure storage **V1. Solid, inside, bedded pack**
 Design capacity **2 NU**
 Potential design capacity **2 NU**

Factor A (odour potential) **0.7**
 Factor D (manure type) **0.7**

Factor B (design capacity) **150**
 Factor E (encroaching land use) **1.1**

Building base distance 'F' (A x B x D x E)
 (minimum distance from livestock barn)

81 m (266 ft)

Actual distance from livestock barn

448 m (1470 ft)

Storage base distance 'S'
 (minimum distance from manure storage)

No existing manure storage

Actual distance from manure storage

NA

Preparer signoff & disclaimer**Preparer contact information**

Matt Robillard
 Soil Solutions Plus
 6 High Street
 PO BOX 1003
 St. George, ON
 L0E 1N0
 905-297-5328
 matt@soil-solutions-plus.com

Signature of preparer


Matt Robillard,

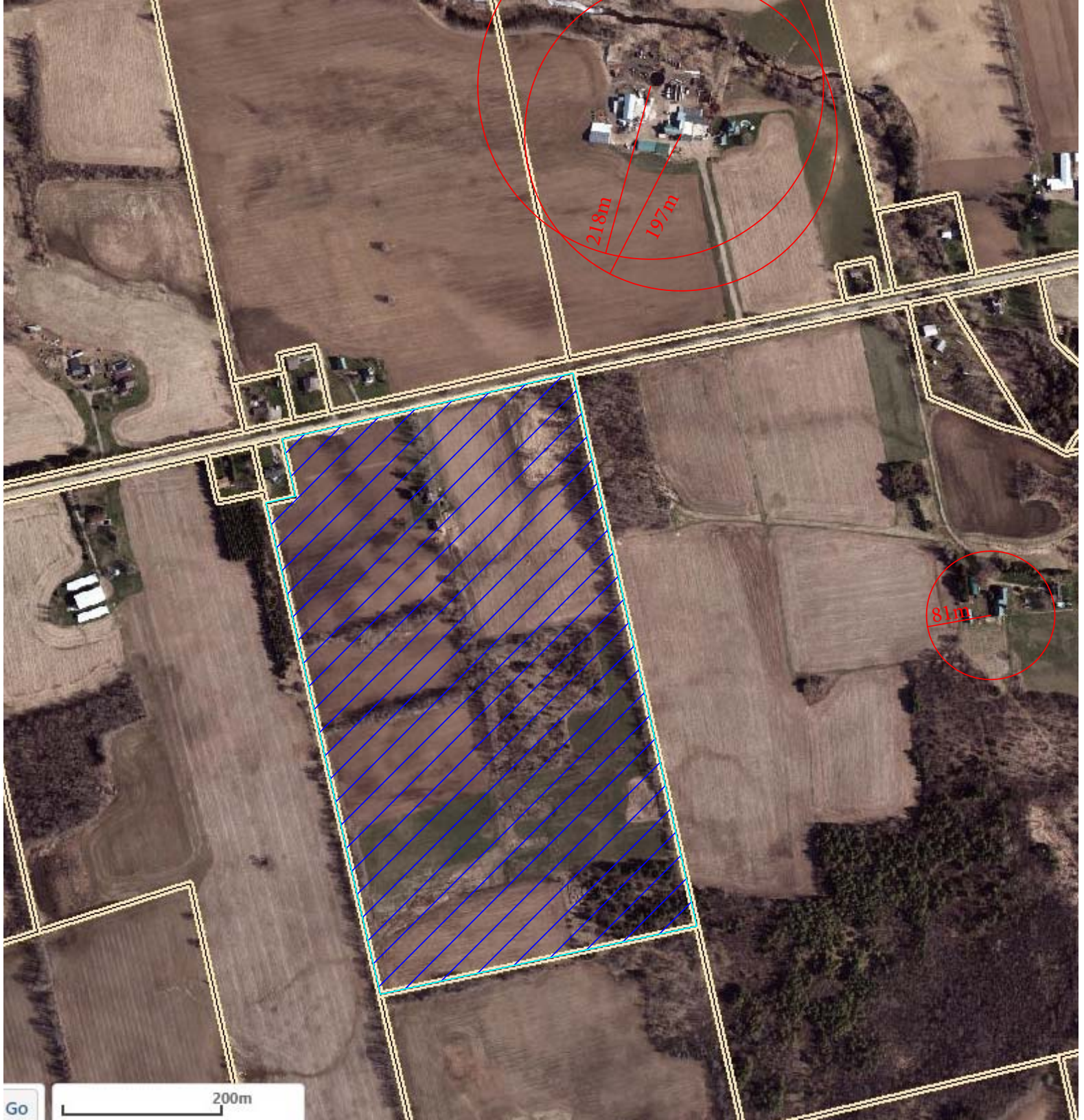
APR - 02 - 2024

Date (mmm-dd-yyyy)

Note to the user

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has developed this software program for distribution and use with the Minimum Distance Separation (MDS) Formulae as a public service to assist farmers, consultants, and the general public. This version of the software distributed by OMAFRA will be considered to be the official version for purposes of calculating MDS. OMAFRA is not responsible for errors due to inaccurate or incorrect data or information; mistakes in calculation; errors arising out of modification of the software, or errors arising out of incorrect inputting of data. All data and calculations should be verified before acting on them.

N



Go

200m



Hamilton

Committee of Adjustment

City Hall, 5th Floor,

71 Main St. W.,

Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221

Email: cofa@hamilton.ca

APPLICATION FOR A MINOR VARIANCE/PERMISSION

UNDER SECTION 45 OF THE *PLANNING ACT*

1. APPLICANT INFORMATION

	NAME	
Registered Owners(s)		
Applicant(s)		
Agent or Solicitor		
		Phone:
		E-mail:

1.2 Primary contact

Applicant

Owner

Agent/Solicitor

1.3 Sign should be sent to

Applicant

Owner

Agent/Solicitor

1.4 Request for digital copy of sign

Yes*

No

If YES, provide email address where sign is to be sent

1.5 All correspondence may be sent by email

Yes*

No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will be sent by email.

1.6 Payment type

In person

Credit over phone*

Cheque

*Must provide number above

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	1248 6th Concession Road West Millgrove, Hamilton, ON		
Assessment Roll Number	251830154062000		
Former Municipality	Beverly		
Lot		Concession	3
Registered Plan Number		Lot(s)	33
Reference Plan Number (s)		Part(s)	

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes No

If YES, describe the easement or covenant and its effect:

3. PURPOSE OF THE APPLICATION

Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

The owners have submitted concurrent Consent Application to sever the existing dwelling, two accessory structures, and 1 brick coop as a surplus farm dwelling. The subject lands are currently undersized as per A1 zone requirements, and a variance is

Second Dwelling Unit Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

The retained parcel will have a reduced lot area of 28 hectares, whereas 40.4 hectares (minimum) is required.

3.3 Is this an application 45(2) of the Planning Act.

Yes No

If yes, please provide an explanation:

4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
+/-405m	+/-721m	+/-29.58 ha	NA

4.2 Location of all buildings and structures on or proposed for the subject lands:
(Specify distance from side, rear and front lot lines)

Existing:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Brick House with attached	+98m	+47m	12.19m, 31.2m	NA
Frame shed	+100m	20m	27.73m, +29.15m	NA
Frame shed	+100m	+35m	+35m, 17.10m	NA
Brick coop	+100m	+20m	22m, +30m	NA

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
NO NEW				
PROPOSED				

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

Existing:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
Brick House with attached		175 sq.m	2	
Frame shed		11 sq.m	1	
Frame shed		91 sq.m	2	
Brick Coop		8 sq.m	>0.5	

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
NO NEW				
PROPOSED				

- 4.4 Type of water supply: (check appropriate box)
- publicly owned and operated piped water system
 - privately owned and operated individual well

- lake or other water body
- other means (specify)

- 4.5 Type of storm drainage: (check appropriate boxes)
- publicly owned and operated storm sewers
 - swales

- ditches
- other means (specify)

4.6 Type of sewage disposal proposed: (check appropriate box)

publicly owned and operated sanitary sewage

system privately owned and operated individual

septic system other means (specify) _____

4.7 Type of access: (check appropriate box)

provincial highway

right of way

municipal road, seasonally maintained

other public road

municipal road, maintained all year

6th Concession Road W

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):
Agricultural

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):
Agricultural

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

July 26, 2013

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

Agricultural, single detached dwelling, accessory structures

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)

Agricultural (dwelling and accessory structure to be severed)

7.4 Length of time the existing uses of the subject property have continued:

unknown

7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): Agricultural and Greenbelt Natural

Rural Settlement Area: NA

Urban Hamilton Official Plan designation (if applicable) NA

Please provide an explanation of how the application conforms with the Official Plan.

The application causes no negative impacts on the existing agricultural lands. The

7.6 What is the existing zoning of the subject land? NA

7.8 Has the owner previously applied for relief in respect of the subject property?
(Zoning By-law Amendment or Minor Variance)

Yes

No

If yes, please provide the file number: NA

7.9 Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes

No

If yes, please provide the file number: unknown, submitted concurrently

8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: 1

8.2 Number of Dwelling Units Proposed: 0

8.3 Additional Information (please include separate sheet if needed):

All current structures (existing dwelling with attached garage, 2 accessory structures, 1 brick coop) will be severed and the variance is required for the retained farmland for minimum lot area.

Please see PJR for more information

11 COMPLETE APPLICATION REQUIREMENTS

11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
 - Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
 - Minimum Distance Separation Formulae (data sheet available upon request)
 - Hydrogeological Assessment
 - Septic Assessment
 - Archeological Assessment
 - Noise Study
 - Parking Study
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