TO: Chair and Members Planning Committee

COMMITTEE DATE: February 4, 2014

SUBJECT/REPORT NO: Application for Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 769 Stone Church Road West (PED14019) (Ward 8)

WARD(S) AFFECTED: Ward 8

PREPARED BY: Daniel Barnett (905) 524-2424 Ext. 4445

SUBMITTED BY: Joe-Anne Priel Acting General Manager Planning and Economic Development Department

SIGNATURE:

RECOMMENDATION

That approval be given to Zoning Application ZAR-13-037, by Giuseppa Puma, Owner, for a change in zoning from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District, to facilitate the severance of a lot for the creation of one additional single detached residential lot, on lands located at 769 Stone Church Road West (Hamilton), as shown on Appendix “A” to Report PED14019, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED14019, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593.

(c) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS), and conforms to Places to Grow and the Urban Hamilton Official Plan (UHOP).
EXECUTIVE SUMMARY

The purpose of this application is for a change in zoning to fulfil a condition of approval of Consent Application HM/B-11:111, which was approved by the Committee of Adjustment to subdivide the existing lot to create one additional lot for a new single detached dwelling (Condition 4 in Appendix “C”).

The proposal has merit and can be supported as it is consistent with the PPS, and conforms to Places to Grow and the UHOP. The proposal is considered to be compatible with the existing development in the surrounding area.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Consent Application HM/B-11:111:

On December 14, 2011, the applicant submitted an application for severance in order to divide the subject lands into two lots to allow for the construction of one additional single detached dwelling. Through the review of the severance, it was noted that the proposed lots would not comply with the Agricultural “AA” District, with respect to lot area and lot frontage for both the lands to be severed and lands to be retained. As a result, given the nature and scale of the required modifications to the existing standards, and as the proposal is to establish residential lots, staff recommend, amongst other conditions, that the applicant apply for and receive final approval of an application for rezoning as a condition of consent approval.

On January 26, 2012, the application was considered by the Committee of Adjustment. Due to the proximity of the property to an Environmentally Significant Area (ESA), staff recommended that the application be tabled in order for the applicant to undertake an Environmental Impact Study (EIS), in order to demonstrate that the proposed severance and new construction would not negatively impact the ESA. Staff were also of the opinion that, if the application were to move forward in the absence of an EIS, the application should be denied. The application was tabled by the Committee of Adjustment.
Following the Committee of Adjustment meeting, the applicant undertook an EIS. The EIS dated January 18, 2013, was submitted to City staff and reviewed within the context of the severance application. The severance application was brought back before the Committee of Adjustment on March 7, 2013. Staff comments confirmed that they were satisfied that the proposed severance will not impact the ecological features and functions of the Core Area, and stated that they have no further concerns with the severance from an environmental perspective. However, staff were of the opinion that the rezoning should precede severance approval, and recommended that the application be tabled again. The Committee of Adjustment approved the application subject to, amongst other conditions, a condition that the lands be rezoned (Condition “4” in Appendix “C”).

Proposal

The subject property is zoned “AA” (Agricultural) District. The subject property is located on the south side of Stone Church Road West and west of Upper Paradise Road. The lands to be conveyed will have a lot frontage of 12.2 m. and a lot area of 706 sq. m. The lands to be retained will have a lot frontage of 14 m. and a lot area of 810 sq. m. (see Appendix “D”). The “AA” (Agricultural) District requires a minimum lot area of 12,000 sq. m. and a minimum lot frontage of 60 m., which both the severed and retained lands do not meet. As such, the applicant is seeking to rezone the lands to the “C” (Urban Protected Residential, etc.) District, which requires a minimum lot frontage of 12 m. and a minimum lot area of 360 sq. m. Both the severed and retained lands will meet or exceed these By-law provisions. No site specific modifications are required for the existing or proposed dwellings.

Chronology

December 14, 2011: The applicant applied for a Consent Application (HM/B-11:111) to subdivide the property at 769 Stone Church Road West in order to create one additional single detached dwelling lot, fronting on Stone Church Road West.

January 26, 2012: The severance application was considered by the Committee of Adjustment and was tabled in order for the applicant to undertake an EIS.

March 7, 2013: The severance application was approved by the Committee of Adjustment subject to conditions, including a condition of rezoning.

September 10, 2013: The applicant applied for a rezoning application to facilitate the condition of severance approval.

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.
October 2, 2013: The rezoning application was deemed complete.

October 16, 2013: Notice of Complete Application was mailed to 83 property owners within 120 m. of the subject property.

October 25, 2013: The public notice sign was posted on the subject property.

January 8, 2014: The public notice sign was updated to include the Public Meeting date.

January 17, 2014: Notice of Public Meeting given in accordance with the Planning Act.

**Details of Submitted Application**

**Location:** 769 Stone Church Road West (Hamilton)

**Owner:** Giuseppa Puma

**Applicant:** Sal Randazzo

**Property Description:**
- **Frontage:** 26.32 m.
- **Lot Depth:** 63.4 m.
- **Area:** 1,668.6 sq. m.

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Single Detached Residential Dwelling</td>
<td>“AA” (Agricultural) District</td>
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<tr>
<th>Surrounding Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
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<td>“C” (Urban Protected Residential, etc.) District</td>
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<tr>
<td>South</td>
<td>Single Detached Residential Dwelling</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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<tr>
<td>East</td>
<td>Single Detached Residential Dwelling</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS)

The application has been reviewed with respect to the PPS policies that contribute to the development of healthy, livable, and safe communities, as contained in Section 1.1.1. The subject lands are considered to be within a Settlement Area, as defined by the PPS. As such, the application is consistent with Policy No. 1.1.3.1 with respect to focusing growth and regeneration within existing Settlement Areas. As the proposal is to facilitate a severance for the creation of one additional single detached residential dwelling within the Urban Area, the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application conforms with the policies that manage growth within the built up area, as per the policies contained in Section 2.2.2.

Urban Hamilton Official Plan (UHOP)

The subject property is designated “Neighbourhoods” on Schedule “E” – Urban Structure and Schedule “E-1” – Urban Land Use Designations. The Ontario Municipal Board (OMB) has approved the majority of the UHOP. The following policies are now in force and effect:

“E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.

E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:

a) Residential dwellings, including second dwelling units and housing with supports.”

As the proposal is to facilitate the creation of one additional single detached residential lot, the proposal conforms to Policy No. E.3.2.3.
Section F of the Plan contains the consent policies:

“F.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 - Urban Land Use Designation, shall be permitted provided the following conditions are met:

c) The lots are in conformity with the Zoning By-law or a minor variance is approved;

d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;

e) The lots are fully serviced by municipal water and wastewater systems; and,

f) The lots have frontage on a public road.”

The proposed lots will enhance and be compatible to the scale and character of the residential neighbourhood and, as the properties will have full municipal services and frontage on a public road, the proposal conforms to the Urban Hamilton Official Plan.

The following relevant policies represent the direction and position of Council, but are still under appeal and, therefore, not in force and effect.

“E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.”

The proposed lands to be severed and lands to be retained will be similar in size and scale to other residential lots in the neighbourhood, which are generally 12-13 m. in width. However, staff note larger lots exist on the south side of Stone Church Road West which are larger than 700 sq. m., while along the north side of Stone Church Road West, many of the lots are an average 370 sq. m. in size. In addition, similar sized lots exist immediately adjacent to the proposed lots. As such, staff consider that the proposed lots will enhance and be compatible to the scale and character of the existing neighbourhood and, as a result, the proposal conforms to the policies of the UHOP.
RELEVANT CONSULTATION

Agencies/Departments Having no Comment or Objections

- Forestry and Horticulture Section (Public Works Department)

Traffic Engineering Section (Public Works Department):

In review of the rezoning application, Traffic Engineering staff noted that driveway access should be located along the east lot line. This will be secured through the required access permit.

Hamilton Municipal Parking Services:

In review of the rezoning application, Hamilton Municipal Parking Services noted that an Access Permit for the new driveway would be required.

Operations Support, Strategic Planning Section (Public Works Department):

Comments from Operations Support staff noted that waste collection will not be changed for the existing dwelling and that the new single detached dwelling will be eligible for municipal curb side waste collection, as per municipal by-laws.

Public Consultation:

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities.

The subject rezoning application is part of the implementation of Consent Application HM/B-11:111, which was approved by the Committee of Adjustment on March 7, 2013. Therefore, preliminary circulation was not required. However, Notice of Complete Application was circulated to 83 property owners within 120 m. of the subject lands, on October 16, 2013, and a Public Notice Sign was posted on the subject lands on October 25, 2013. At the time of preparation of this Report, staff have not received any correspondence from members of the public with respect to the proposed rezoning application.
ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
   
   i) It is consistent with the PPS, and conforms to Places to Grow Plan and the UHOP.
   
   ii) It is compatible with the type and form of development in the surrounding neighbourhood.

2. The subject property is located on the south side of Stone Church Road West. There is an existing dwelling on the subject property (See Appendix “D”).

The rezoning application will amend the zoning of the property from the “AA” (Agricultural) District to the “C” (Urban Protected Residential) District. The use of the property as a single detached dwelling is a use permitted in the current “AA” District, and a use permitted in the proposed “C” District.

The proposed lot frontage of 12 m. is consistent with the lot frontages of the lots to the east of the subject property and the lots to the north of the subject property. Due to the large depth of the subject property, the lot area for both the severed and retained lots will exceed the minimum lot area requirement of the “C” District with lot areas of 706 sq. m. for the lands to be severed, and 810 sq. m. for the lands to be retained, whereas only 360 sq. m. is required. The 810 sq. m. and 706 sq. m. lot sizes will be similar in size to the properties to the east, and significantly larger than the lots to the north.

The front yard setback requirements of the “C” District are the same as the lots to the east and north which are also zoned “C” District. It is noted that, as a result of the depth of the lot, the existing and proposed dwelling will greatly exceed the minimum rear yard setback of 7.5 m., with a rear yard setback of 27.4 m. for the lands to be severed, and 38.4 m. for the lands to be retained. As such, no site specific modification will be required with respect to rear yard setback.

It is noted that the existing dwelling currently has a 12.1 m. front yard setback. However, as the applicant is required to dedicate a 5.4 m. road widening, the front yard setback of the existing dwelling will be reduced to 6.7 m. The existing dwelling will not be altered as a result of the proposed severance and rezoning, and currently maintains a similar front yard setback to other dwellings along Stone Church Road West and, therefore, maintains the streetscape character of the area. The proposed dwelling on the lands to be severed will be set back 17.6 m. from the current front lot line and will be set back 12.2 m. from the new lot line after the road widening has been taken. It is further noted that, since the 6.7 m. front yard setback for the existing dwelling and 12.2 m. for the proposed
The side yard setback requirement of the “C” District is 1.2 m., which the existing dwelling and the proposed dwelling will maintain. The dwellings to the east and north are also zoned “C” District and maintain similar side yard setbacks to that proposed for the existing and proposed dwelling. As the side yards of the existing and proposed dwelling will meet or exceed 1.2 m., no site specific modifications will be required.

3. The subject property is located adjacent to an ESA and, as such, a concern was raised when the severance application was first brought forward that the proposed severance and the new proposed dwelling may negatively impact the ESA. The application for severance was tabled, and an EIS was undertaken by the applicant and submitted to City staff for review. Through the EIS, a potential building envelope was identified. The proposed dwelling will be subject to Site Plan Control and the recommendations of the EIS will need to be implemented as part of the Site Plan approval process. These recommendations include:

   “i) Installation of sedimentation and erosion controls during construction, to prevent runoff of sediment-laden water into the ESA;

   ii) Construction of a permanent fence along the western property boundary to prevent intrusion/encroachment into the ESA;

   iii) Provision of a landscaped side yard of at least 1.22 m. (4 ft.) between the completed dwelling and property line to maintain existing runoff and infiltration, mitigate shading of the ESA vegetation by the dwelling, provide a zone for extension of roots of ESA edge vegetation and allow space for future maintenance/repair of the dwelling without the need for off-site encroachment; and,

   iv) Notification of prospective buyers of the occurrence of ESA and Endangered Butternut trees adjacent to the property, the corresponding importance of the fence, the need to avoid intrusion or encroachment of any sort, and the importance/function of the landscaped side yard setback, including advice/recommendations for native species plantings in the side yard and elsewhere on the property.”

The side yard setback requirement will be established under the By-law requirement of the “C” (Urban Protected Residential, etc.) District and the remaining recommendations will be implemented through the site plan approval process.
4. The required road allowance width of Stone Church Road West is 30.48 m. The applicant is required to dedicate to the City sufficient lands to establish the property line approximately 18.2 m. from the centreline of the road, which based on the existing lot lines constitutes approximately 5.4 m., as a condition of development approval.

There are existing watermains, sanitary sewers, and storm sewers in front of the subject lands. Each lot must be independently serviced with full municipal services. A servicing permit may be required for the installation of the services to the property line.

5. The subject property is located adjacent to Stone Church Road West which is a potential noise source and, as such, staff are requiring that a noise warning clause, advising potential purchasers that there may be occasional noise impacts due to increased road traffic, be included within the consent agreement for the subject lands (Condition 2 in Appendix “C”).

6. It is noted that, through the consent approval process, staff required the inclusion of a condition of road widening in order to establish the property line 18.2 m. from the centreline of the road, and that the applicant enter into a consent agreement with the City of Hamilton to deal with and address issues including but not limited to: grading and drainage, urbanization of the adjacent road, cost recoveries for existing, above, and/or underground services, and driveway approaches (see Page 11 of Appendix “E”). However, these two requested conditions were not carried over onto the master list of conditions and, ultimately, were not included in the decision of the Committee of Adjustment. Staff have discussed this with the applicant in the hopes of amending the conditions to include these conditions in the final approval of the severance. However, no resolution to this has been finalized.

ALTERNATIVES FOR CONSIDERATION

If the proposed rezoning application is not approved, the applicant would not be able to finalize Consent Application HM/B-11:111, and could continue to utilize the property for residential purposes in the form of one single detached dwelling.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community
WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.
Strategic Objective

1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Draft By-law and Schedule A Map
- Appendix “C”: Decision for Consent Application HM/B-11:111
- Appendix “D”: Concept/Survey Plan
- Appendix “E”: Staff Comments for Consent Application HM/B-11:111

:DB
Attaches (5)
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities, and the Official Plan of the former regional municipality, continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which By-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report of the Planning Committee, at its meeting held on the day of 2014, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan, approved by the Minister under the Planning Act on March 16, 2011;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. W-37C of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), are amended:
(a) by changing from the “AA” (Agricultural) District, to the “C” (Urban Protected Residential, etc.) District, for the lands comprised of Block 1;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this [date] day of [date], 2014.

______________________________   ________________________________
R. Bratina                        R. Caterini
Mayor                            Clerk

ZAR-13-037
Appendix “B” to Report PED14019 (Page 3 of 3)

This is Schedule "A" to By-law No. 14-

Passed the .......... day of ....................., 2014

Mayor

Clerk

Subject Property

769 Stone Church Road West
Lands to be rezoned from the "AA" (Agricultural) District to the "C" (Urban Protected Residential, Etc.) District

Schedule "A"

Map Forming Part of
By-law No. 14-_____

to Amend By-law No. 653

Scale: N.T.S.

File Name/Number: ZAR-13-037

Date: Oct. 1, 2013

Planner/Technician: DB/DB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. HM/3-11:111
SUBMISSION NO. B-111/11

IN THE MATTER OF the Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as 769 Stone Church Road West in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Sal Randazzo on behalf of the owner Giuseppa Puma, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the creation of a vacant parcel of land with a frontage of 12.1m, a depth of 63.3m and an area of approximately 772.9m² to be used for residential purposes and to retain a parcel of land with a frontage of 14.1m, a depth of 63.3m and an area of approximately 892.0m² containing the existing single detached dwelling to be used for residential purposes.

THE DECISION OF THE COMMITTEE IS:

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

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Hamilton Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

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

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria."
3. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, smudging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of..."
Appendix "C" to Report PED14019 (Page 2 of 2)

the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

4. That the applicant receive Rezoning Approval to the satisfaction of the Manager of Development Planning,

5. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation to the satisfaction of the Planning and Economic Development Department (Building Services Division).

6. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

7. The owner shall submit survey evidence that the existing structures located on the lands to be retained conforms to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

8. The accessory building (shed) on the lands to be conveyed shall either be demolished in its entirety or relocated to the lands to be retained in compliance with the accessory building regulations to the satisfaction of the Planning and Economic Development Department (Building Services Division), or, a successful application for minor variance shall be required to permit an accessory building to be located on lands where no principal use has been established. May be subject to the issuance of a demolition or building permit issued in the normal manner.

9. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

10. The owner submit to the Committee of Adjustment office an administration fee of $10.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 7th day of March, 2013.

M. Diodo, Chairman

L. Godfrey

D. Semetuk

D. Drury

W. Pearce

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS March 14th, 2013.

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (March 14th, 2013) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS April 3rd, 2013.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 772 Stone Church Road West, and that the lands to be retained will remain as 769 Stone Church Road West.

2. That the owner/applicant is advised that the dwelling for the lands to be conveyed will require site plan approval before a building permit can be issued.
PROPOSED MAX BUILDING ENVELOPE

769 STONE CHURCH RD WEST

EXISTING HOME

TO BE GIVEN TO CITY

CATHOLIC CHURCH LANDS

SCALE: 1 CM = 1 FT
CONSOLIDATION REPORT
SEVERANCES

The attached comments have been reviewed with regard to Committee of Adjustment Severance File HM/B-11:111 (769 Stone Church Road West, Hamilton) and the following is submitted:

Should the Committee grant the severance, an approval should be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.

2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria."

3. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

4. That the applicant receive Rezoning Approval to the satisfaction of the Manager of Development Planning.

5. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation to the satisfaction of the Planning and Economic Development Department (Building Services Division).
6. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

7. The owner shall submit survey evidence that the existing structures located on the lands to be retained conforms to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

8. The accessory building (shed) on the lands to be conveyed shall either be: demolished in its entirety or relocated to the lands to be retained in compliance with the accessory building regulations to the satisfaction of the Planning and Economic Development Department (Building Services Division), or, a successful application for minor variance shall be required to permit an accessory building to be located on lands where no principal use has been established. May be subject to the issuance of a demolition or building permit issued in the normal manner.

9. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

10. The owner submit to the Committee of Adjustment office an administration fee of $16.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 773 Stone Church Road West, and that the lands to be retained will remain as 789 Stone Church Road West.

2. That the owner/applicant is advised that the dwelling for the lands to be severed will require site plan approval before a building permit can be issued.
Re-Scheduled
HM/B-11:111 (769 Stone Church Road West, Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant is proposing to sever the property in order to create a single detached residential lot with a frontage of 12.1m, a depth of 63.3m, and an area of approximately 772.9m². The retained parcel would have a frontage of 14.1m, a depth of 63.3m and an area of approximately 892m² containing an existing residential dwelling and accessory building.

The applicant intends to rezone the property to the “C” Urban Protected Residential District.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognises that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are to be developed for residential purposes and are located adjacent to Stone Church Road West. As such, should the Committee approve the subject application, Staff require the fulfilment of condition No. 1 stated below.

In addition, Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. Staff note that the subject lands are located within an area of archaeological potential and as such, should the Committee approve the subject application, staff require the fulfilment of condition No. 2 stated below.

Further, Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Staff note that the subject lands are located adjacent to the Tiffany Creek Headwaters Environmentally Significant Area (ESA # 46).

An EIS was submitted by LGL Limited on October 24, 2012. On January 18, 2013, in response to City staff comments, a revised EIS was submitted. This EIS was approved by City staff on
January 29, 2013. Staff is satisfied that the proposed severance will not impact the ecological features and functions of the Core Area and have no further concerns with the severance from an environmental perspective. However, staff note that the proposed dwelling on the lands to be severed is subject to site plan which will ensure that the dwelling is located in an appropriate manner and that the recommendations to mitigate impacts on the Core Area (such as a permanent fence and suitable west side yard setback), are implemented.

Hamilton-Wentworth Official Plan

The subject property is designated as "Urban Area" within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

However, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As noted above, the subject lands are located within an area of archaeological potential.

As per Map No. 4 of the Regional Official Plan, the subject property is located directly adjacent to an Environmentally Significant Area.

Policy C.1.2.2 states: "Apply the following policies in assessing the merits of proposed changes in land use within and adjacent to Environmentally Significant Areas;

a) land use changes in or adjacent to Environmentally Significant Areas will only be permitted where, in addition to meeting other policies in this plan, such development:

   i) will not adversely affect, degrade or destroy any of the qualities which are the basis for the area’s designation;

   ii) will not cause any significant impacts upon water quality and quantity; and,

   iii) will not adversely affect the implementation of any resource protection policies or plans.

b) in assessing the appropriateness of the proposed change, the proponent may be required to submit an Environmental Impact Statement which may include plans/studies, environmental analyses, cumulative impact assessments, buffer requirements, or other associated documentation considered necessary by ESAIEG."

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Staff note that a General Vegetation Inventory and Tree Protection Plan will also be required as part of the rezoning review process.

While the land use designation will remain residential, the addition of a residential dwelling directly adjacent to an Environmentally Significant Area does constitute a change in land usage. The current usage of the severed portion of the property is largely as a natural area and side yard. There are currently no built features on the severed portion of the lot, so the construction of a new residential dwelling has the potential to degrade the natural qualities of the Environmentally Significant Area.

The subject property abuts a Core Area (Significant Woodland, Environmentally Significant Area, and Provincially Significant Wetland) in the Natural Heritage System in the Urban Hamilton Official Plan. The property also abuts the Tiffany Creek Headwaters Environmentally Significant Area (ESA) in the Region of Hamilton-Wentworth Official Plan.

As discussed above, an EIS was submitted by LGL Limited on October 24, 2012. On January 18, 2013, in response to City staff comments, a revised EIS was submitted. This EIS was approved by City staff on January 29, 2013. Staff is satisfied that the proposed severance will not impact the ecological features and functions of the Core Area and have no further concerns with the severance from an environmental perspective. However, staff note that the proposed dwelling on the lands to be severed is subject to site plan which will ensure that the dwelling is located in an appropriate manner and that the recommendations to mitigate impacts on the Core Area (such as a permanent fence and suitable west side yard setback), are implemented.

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

1) Within 250 metres of known archaeological sites;
2) In the vicinity of distinctive or unusual landforms; and
3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this severance is granted, staff require the inclusion of condition No. 2 as stated below.

City of Hamilton Official Plan

The subject property is designated “Residential” in the City of Hamilton Official Plan. Policy A.2.1.1 states “The primary uses permitted in the areas designated on Schedule “A” as Residential will be for dwellings. Various types of dwellings are included within this designation while preference will be given to the locating of similar densities of development together.”

Policy C.7.3 iii) states: “Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing
building stock and/or physical infrastructure that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;"

The size of the proposed severed and retained lot is in keeping with the character of the surrounding neighbourhood. Lot frontages of 12-14 metres are present in the easterly adjoining lots, lots facing the subject property, and in other lots in the general vicinity.

The applicant intends to construct a 1-1/2 storey single detached house on the severed portion of the property. This proposal is in keeping with the general character of the area, as the surrounding homes are typically single detached houses that do not exceed 2 stories.

The lands to the southwest are designated Open Space in the City of Hamilton Official Plan. Policy A.2.4 states: "Open spaces are an essential part of the fabric of our City, providing common linkages between communities and complementing and enhancing our built environments. Planning Policies are needed to ensure that sufficient and viable open spaces are retained, enhanced, expanded and appropriately acquired. Such Policies are necessary to achieve the environmental, social, economic, health and aesthetic benefits that parklands and open space provide for our communities."

Policy A.2.1.9 iii) states: "Council will encourage the design of RESIDENTIAL areas which complement the natural features of the area and utilize energy saving measures such as, but not limited to Retention of existing trees and other vegetation;"

The area designated as Open Space is in a woodlot that extends to the western border of the subject property (Although the Open Space designation does not extend to the border). In addition to the Open Space designation, the woodlot abutting the subject property is an Environmentally Significant Area as defined in the Hamilton-Wentworth Regional Official Plan.

Policy A.3.2.1 states: "ENVIRONMENTALLY SIGNIFICANT AREAS will be preserved in a natural or undisturbed state, unless a study is carried out to determine the feasibility of development in these AREAS as required in Section C.1.2 of the Regional Official Plan."

Policy A.3.2.2 states that "Land abutting ENVIRONMENTALLY SIGNIFICANT AREAS will be developed in a manner to protect and complement the adjacent hazard and/or natural attributes."

As discussed above, staff are satisfied that the ecological impacts with respect to the ESA have been satisfactorily addressed and will be further reviewed through the rezoning and site plan approval. Therefore, as the proposal is to create 1 additional lot for the purpose of constructing a single detached dwelling, and as the proposal will not negatively impact the Environmentally Significant Area, the proposal conforms to the policies of the City of Hamilton Official Plan.

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New Urban Hamilton Official Plan

The subject lands are in a designated Neighbourhood land use area as per Schedule E-1 of the Official Plan. The New Urban Hamilton Official Plan has been appealed to the Ontario Municipal Board and is not currently in effect. However, the relevant policies are council direction and refine the intent of the City of Hamilton Official Plan and the Hamilton-Wentworth Official Plan.

The lands adjacent to the subject property are designated as an Environmentally Significant Area, and a Significant Woodlot in the New Urban Hamilton Official Plan.

Policy C.2.5.5 states "New development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in Section C.2.5.2 to C.2.5.4 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there shall be no negative impacts on the natural features or on their ecological functions."

Policy C.2.5.8 states "New development or site alteration subject to Policies C.2.5.3 to C.2.5.7 requires, prior to approval, the submission and approval of an Environmental Impact Statement which demonstrates to the satisfaction of the City and the relevant Conservation Authority that:

a) There shall be no negative impacts on the Core Areas or their ecological functions.

b) Connectivity between Core Areas shall be maintained, or where possible, enhanced for the movement of surface and ground water, plants and wildlife across the landscape.

c) The removal of other natural features shall be avoided or minimized by the planning and design of the proposed use or site alteration wherever possible.

Policy C.2.5.9 states "An Environmental Impact Statement shall propose a vegetation protection zone which:

a) has sufficient width to protect the Core Area and its ecological functions from impacts of the proposed land use or site alteration occurring during and after construction, and where possible, restores or enhances the Core Area and/or its ecological functions; and

b) is established to achieve, and be maintained as natural self-sustaining vegetation.

Policy C.2.5.10 f) states: "Significant woodlands – 15-metre vegetation protection zone, measured from the edge (drip line) of the significant woodland"
As discussed above, staff are satisfied that the ecological impacts have been satisfactorily addressed and will be further reviewed through the rezoning and site plan approval. Therefore, as the proposal is to create 1 additional lot for the purpose of constructing a single detached dwelling, and as the proposal will not negatively impact the Environmentally Significant Area, the proposal conforms to the policies of the Urban Hamilton Official Plan.

Falkirk West Neighbourhood Plan

The subject lands are within the Falkirk West Neighbourhood Plan and designated Single and Double Residential, and are located adjacent to an Environmentally Sensitive Area. The Plan permits densities of up to 15 units per hectare and lot frontages ranging from 12-16.8 metres (40-50 feet). As the lots will have a lot frontage of more than 12m and a density of approximately 12.8 units per hectare the proposal conforms to the policies of the Falkirk West Neighbourhood Plan.

City of Hamilton Zoning Bylaw 06593

The subject property is currently in an Agricultural "AA" District, to which the proposed use complies.

The AA District requires a minimum lot area of 12,000m² and a minimum lot width of 60 metres. Furthermore, the "AA" District requires a minimum side yard setback of 4.5m to which the existing dwelling would not comply. Given the scale and extent of the required modifications to the By-law, staff are of the opinion that a successful rezoning application would be required. As such, staff have determined that the application is premature until such time as a successful rezoning has been attained.

Recommendation:

It is the opinion of staff that the proposed severance is premature and should be Tabled until such time as the applicant has applied and received approval of a rezoning application.

Conditions (To Be Included If Approved):

1. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

   "Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

2. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No
demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

3. That the applicant receive Rezoning Approval to the satisfaction of the Manager of Development Planning.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 773 Stone Church Road West, and that the lands to be retained will remain as 769 Stone Church Road West.

2. That the owner/applicant is advised that the dwelling for the lands to be severed will require site plan approval before a building permit can be issued.

Building Services Division:

1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.

2. The frontage and lot area shown for the lands to be severed on the submitted consent application appears to be incorrect based on the February 7, 2013 survey. Additionally, it appears that a 5.49m (18') road widening may be required to be taken along the Stone Church Road West front lot line. If so, the applicant shall re-confirm the lot area for both the lands to be conveyed and retained. Further, the lot width of both the lands to be conveyed and retained shall be re-calculated at 9.0m back from the front lot line once the road widening has been conveyed to the City of Hamilton. The applicant shall also re-confirm the front yard depth setback of the existing dwelling including the front concrete porch to the front lot line for the lands to be retained once the road widening has been taken.

3. Variances for lot width and lot area for both the lands to be conveyed and the lands to be retained and a variance for a westerly side yard width of 1.2m for the lands to be retained...
will be required for zoning compliance. A variance will also likely be required for the front yard depth for the lands to be retained as a road widening is to be taken. Be advised that if the applicant cannot locate the proposed dwelling on the lands to be conveyed in compliance with the "AA" district zone regulations, additional variances may be necessary.

4. According to the February 7, 2013 survey submitted, a shed is shown on the lands to be conveyed. An accessory building is not permitted on lands where no principal use has been established. As such, the shed shall either be: demolished; relocated to the lands to be retained lands in compliance with the accessory building regulations, or, a successful application for minor variance shall be required to permit an accessory building to be located on lands where no principal use has been established.

5. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

**CONDITIONAL UPON:**

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation to the satisfaction of the Planning and Economic Development Department (Building Services Division).

2. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

3. The owner shall submit survey evidence that the existing structures located on the lands to be retained conforms to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

4. The accessory building (shed) on the lands to be conveyed shall either be: demolished in its entirety or relocated to the lands to be retained in compliance with the accessory building regulations to the satisfaction of the Planning and Economic Development Department (Building Services Division), or, a successful application for minor variance shall be required to permit an accessory building to be located on lands where no principal use has been established. May be subject to the issuance of a demolition or building permit issued in the normal manner.

**Development Engineering – West:**

**Information:**

1. The future width of this section of Stone Church Rd W is 100 feet (30.48 meters). Presently, Stone Church Rd W has an 82.676 feet (25.2 meters) road allowance width adjacent to the...
subject lands. Therefore, the owner will be required to dedicate sufficient lands to establish the north property line 50 feet (15.24 meters) from the existing centerline of Stone Church Road West. We would like to note that in accordance with City’s Road Widening Policy for Consent Application, effective February 23, 2005, required widening shall be taken from all lands subject to the application.

2. There are existing 600 mm diameter and 400mm diameter watermains on Stone Church Road West adjacent to the subject lands. We would like to note that no individual service connection to the existing 600mm diameter will be allowed.

3. There is an existing 250 mm diameter sanitary sewer and an existing 525 mm diameter storm sewer on Stone Church Rd W adjacent to the subject lands to service the site directly.

**Recommendations:**

1. That the applicant dedicate to the City of Hamilton by deed sufficient lands from the lands to be severed and retained for road widening purposes to establish the north property line 50 feet (15.24 meters) from the existing centerline of Stone Church Road West.

2. That the Owner enters into and the City of Hamilton registers a Consent Agreement to deal with and address issues including, but not limited to: grading and drainage; cash payment requirements for items such as trees, urbanization of the adjacent road, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.

**Source Water Protection**

No Comment

**Hamilton Municipal Parking System (Parking Services):**

No Comment

**PUBLIC WORKS DEPARTMENT**

**Traffic, Engineering and Operations Division:**

Separate access is retained for the retained and severed lands. An Access Permit from Municipal Parking will be required. Details about the permit process can be obtained from Dave Lavalle at ext 4578

Access to the severed lands must be at the east lot line for proper separation between the driveway and the roundabout.
CORPORATE SERVICES:

Budgets, Taxation & Policy (outstanding taxes):

The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.