To: Chair and Members
Economic Development and Planning Committee
PED09062

From: Tim McCabe
General Manager
Planning and Economic Development Department

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Date: January 30, 2009

Re: Chronology of Consent Applications GL/B-07:94 and GL/B-08:144 (Sepe), 1441 Guyatt Road, Glanbrook (PED09062) (Ward 11)

Council Direction:

At the Economic Development and Planning Committee Meeting, dated January 20, 2008, with respect to Item 9.1, Proposal to Waive Fees Respecting Severance Application (GL/B-08:144), the following Motion was passed:

That staff be directed to prepare a chronology of events surrounding the application, and that the chronology and Motion be considered at the February 3, 2009 meeting.

Information:

The following is a chronology of events concerning Consent Applications GL/B-07:94 and GL/B-08:144 (Sepe), for the property known municipally as 1441 Guyatt Road, in the former Township of Glanbrook. The purpose of these applications was for consent to sever a dwelling surplus to a consolidated farm operation.

- May 8, 2007: Staff report to the Economic Development and Planning Committee on draft decision.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 30, 2007</td>
<td>Consent Application GL/B-07:94 considered and approved by the Committee of Adjustment.</td>
<td>An excerpt of the Minutes of the Committee of Adjustment Meeting, dated August 30, 2007, is attached as Appendix “B”.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A copy of the Decision (as set out in the Notice of Decision) is attached as Appendix “A”.</td>
</tr>
<tr>
<td>September 6, 2007</td>
<td>Notice of Decision issued by the Committee of Adjustment.</td>
<td>No appeals were received on this application, therefore, the effective date of the decision is the date of the Notice of Decision (September 6, 2007).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All conditions must be met within one year of the date of the Notice of Decision or the application is deemed refused (i.e. the approval lapses).</td>
</tr>
<tr>
<td>March 14, 2008</td>
<td>Zoning By-law Amendment Application ZAR-08-018 received by the Planning Division.</td>
<td></td>
</tr>
<tr>
<td>April 7, 2008</td>
<td>ZAR-08-018 application deemed complete.</td>
<td></td>
</tr>
<tr>
<td>April 14, 2008</td>
<td>ZAR-08-018 application circulated to various internal departments and external agencies for comments.</td>
<td></td>
</tr>
<tr>
<td>September 6, 2008</td>
<td>Approval for Consent Application GL/B-07:94 lapses.</td>
<td></td>
</tr>
<tr>
<td>December 4, 2008</td>
<td>Consent Application GL/B-08:144 considered and approved by the Committee of Adjustment.</td>
<td>An excerpt of the Minutes of the Committee of Adjustment Meeting, dated December 4, 2007, is attached as Appendix “C”.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A copy of the Decision (as set out in the Notice of Decision) is attached as Appendix “D”.</td>
</tr>
<tr>
<td>December 11, 2008</td>
<td>Notice of Decision issued by the Committee of Adjustment.</td>
<td></td>
</tr>
</tbody>
</table>
No appeals were received on this application, therefore, the effective date of the decision is the date of the Notice of Decision (December 11, 2008).

All conditions must be met within one year of the date of the Notice of Decision or the application is deemed refused (i.e. the approval lapses).

December 24, 2008 - Minister of Municipal Affairs and Housing modified and approved the Rural Official Plan, as modified.

January 7, 2009 - Ministry of Municipal Affairs and Housing provided Notice of Approval of Rural Official Plan and posted notice on the Environmental Registry.


Tim McCabe
General Manager
Planning and Economic Development Department

:PD/MS
Attachs. (4)
Committee of Adjustment Minutes dated August 30, 2007

August 30th, 2007

GLB-07:94
Yolanda Sepe
1441 Guyatt Road, Glenbrook

Appearances were:
J. Ariens, agent on behalf of the owner. Interested parties were: Councillor Mitchell, Councillor’s Office; R. Bohaychuk, 1413 Guyatt Rd. RR 1 Binbrook, ON L0R 1C0; L. Giannobile, 1359 Guyatt Rd., RR 1 Binbrook, ON L0R 1C0.

Those members present for the hearing of this application were: M. Dudzic (Chairman), V. Abraham, D. Drury, D. Smith, L. Geddy, L. Tew, C. Lewis, M. Switzer.

A revised summary comment from the Planning and Development Division together with comments from other departments and agencies were entered into the record.

Letters were entered into the record from: A. Barkovic, First Ave. RR 1 Vineland Str., Vineland, ON L0R 2E0

J. Ariens
- consolidation of a farming operation
- farm has a number of fruit trees in conjunction with a bakery and canning facility
- new PPS encourages farmers to expand and when a new farm is bought with a dwelling on it, it’s considered surplus and dwelling can be severed
- application meets the PPS and Greenbelt policies
- staff also note the this complies with the Rural OP, but unfortunately this OP is not complete yet, but is certain that it will be within the year
- asked that the Committee impose the condition that the application be approved conditional on adoption and compliance with the new Rural OP and his clients are here to proceed
- in his opinion by the time the rezoning application is brought to Council, everything would come together within the year time frame
- instead of tabling would like the committee to impose the condition
- asked the Committee to delete variance #4 respecting minor variance application as variances will be dealt through the zoning process
- is confident that the Rural OP would fall into place and this will keep the planning process moving

Councillor Mitchell
- fully support Ms. Sepe in her application and is expecting the new Rural OP to be passed within the one year time frame

R. Bohaychuk
- what will be done with the property that is being retained, asked which of the properties would retain the orchard?
- not sure how a non-abutting farm could be considered surplus land

Son (representing his mother)
L. Giannobile
- misled by Mr. Ariens and Councillor Mitchell
- Ms. Sepe is not farming the land but is leasing the land
- in his opinion the farm on Golf Club Road is also being leased
- there were previous severances in the immediate neighbourhood that were allowed by the OMB and is his opinion are an embarrassment

.../2
C. Mitchell

- feels that his integrity is being challenged and is concerned that the previous speaker has a lack of knowledge with respect to farming
- a farm can be leased not to mention that 53 acres would be retained which is ample land for a viable farm

Y. Sepe

- feels they have been misjudged, bought the farm for a reason; she loves to cook and bake
- she fell in love with the property and building, but had no experience in operating an orchard and the first year lost an substantial amount of money that is the reason leasing became the option
- planted tomatoes and received a license for the canning and baking operation
- unfortunately the location of this establishment is located away from the main road which only generates revenue during the warmer weather
- took possession of the new farm in April; moved there 3 weeks ago and is leasing the farm
- would like to open a similar operation on Highway 56 where she can make a living all year round

J. Ariens

- If the condition respecting the new Rural OP is not complied with, then Ms. Sepe will lose
- farming issues of Paletta International and Ms. Sepe’s are different; different farming, different individuals
- bake shop was a permitted use and was established
- Ms. Sepe lived at 1441 Guyatt Road when she first came to the Committee 2 years ago now she resides 5 minutes away from 1441 Guyatt Road
- the Sepe’s are looking for assurance, rezoning will still be required and can go concurrent until the new Rural OP comes into effect

Following discussion it was moved by Ms Lewis and seconded by Mr. Switzer that the consent requested be APPROVED with the addition of condition #2 (subject to adoption and compliance with the new rural Official Plan policies) and with the deletion of condition #4 (respecting variances).

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

The application shall be subject to the conditions as noted in the revised summary comment of the Planning and Development Department.

Mr. Abraham & Mr. Goddy were opposed to the decision for approval

CARRIED.
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. GL/B-07:94
SUBMISSION NO. B-94/07

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 Municipal number 1441 Guyatt Road, formerly in the Township of Glenbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Planning & Engineering Initiatives Ltd., on behalf of the owner Yolanda Sepé, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land having a frontage of 45.00m (147.63') and an area of 4050.00m² (1.0 acres) containing an existing single family dwelling for residential (surplus farm dwelling) purposes and to retain a parcel of land having a frontage of 94.00m (308.39') and an area of 21,5014.00m² (53.13 acres) containing existing farm buildings for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee having regard to the evidence is of the opinion that the goals of the Provincial Policy Statement are met as the requested severance will facilitate the consolidation of farmland into economically viable parcels and therefore further sustainability.

2. The Committee is of the opinion that the severance application has regard to all relevant matters set out in Section 51(24) of The Planning Act.

3. The Committee is satisfied that the proposal represents good planning and is in the public interest.

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.

2. Subject to adoption and compliance with the new Rural Official Plan policies.

3. That the owner/applicant shall apply for a rezoning application to prohibit any new residential development on the retained portion.

4. That the owner/applicant shall confirm to the satisfaction of the Director of Planning, of the City of Hamilton, that the proposed severance is in conformity with the Minimum Distance Separation Formulas.

5. The septic system shall be located entirely within the lands to be retained/conveyed to the satisfaction of the Planning and Economic Development Department (Building Services Division).
6. That the owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the applicant is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MOL) should be notified immediately (519.675.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MOL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.528.8592).

2. Based on the application being approved and all conditions met, the lands to be conveyed will remain as 1441 Guyatt Road. The lands to be retained will be assigned the municipal address of 1433 Guyatt Road.

DATED AT HAMILTON this 30th day of August, 2007.

M. Dudzić, Chairman

M. Switzer

C. Lewis

G. Tew

D. Smith

D. Drury

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (September 6th, 2008) 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 September 26th, 2007.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
Committee of Adjustment Minutes dated September 4, 2008

December 4th, 2008

GL/B-08:144  Yolanda Sepe
1441 Guyatt Road, Glanbrook

Appearances were:  J. Ariens, agent on behalf of the applicant. Interested parties were: Councillor D. Mitchell, Councillor’s Office 2nd Floor City Centre

Those members present for the hearing of this application were: M. Dudzic, (Chairman), D. Drury, L. Gaddye, V. Abraham, L. Tew, M. Switzer, D. Smith, D. Serwatuk

A summary comment from the Planning and Development Division together with comments from other departments and agencies were entered into the record.

Letters were entered into the record from: nil

J. Ariens
- applicant was here before the Committee of Adjustment in August
- client owns a market garden and fruit operation
- client would like to sever off the surplus dwelling, which was approved at the meeting in August
- at that time he had suggested a condition be imposed because of the New Rural Official Plan was in the works
- his client was unable to clear the condition within the 1 year time frame and application lapsed
- the New Rural Official Plan is still not in place at this time would ask that the Committee approve the application
- would like the Committee to approve application but with the deletion of conditions 4 & 5

Councillor Mitchell
- it’s a shame that the application has to go through this process again
- provincial staff stated that the rural official plan would be in place and the applicant put the farm house up for sale the deal fell thru, then the applicant was told that the New Rural Official Plan would be in place in June so they put the home up for sale once again
- now they are being told that the New Rural Official Plan may be put in place in 2010
- supports the application and asks that the Committee approve with the deletion of conditions 4 & 5
- he is also bringing a motion to Council to refund the applicant the costs for the application
Appendix "C" to Report PED09062 (Page 2 of 3)

staff
- there is certain criteria the Local Official Plan states that the property must abut to be considered surplus land
- the property has to be owned for a minimum of 10 years which the applicant has owned it for 5 years
- staff's recommendation has been consistent and requesting tabling the application until the Rural Official Plan and Local Official Plan is obtained

J. Ariens
- Official Plan deals with numbers, viable farm operation cannot read on numbers but intent
- Palettas applications have been approved

D. Smith
- need guidance cannot go on numbers alone
- this is to be considered a new application not a continuance from the previous application
- would the area requirements and the 10 year ownership apply in the New Rural Official Plan

J. Ariens
- number issue was not a problem back in August and the Committee was satisfied

M. Sergi
- yes, the same criteria with respect to area requirements and ownership will still be an issue under the New Rural Official Plan

J. Ariens
- all that is being asked is to reinstate a severance application that was approved 1 year ago

M. Sergi and J. Ariens were satisfied that if approved condition #4 can be deleted and condition #5 be amended to read "That the owner/applicant apply for and receive approval of the appropriate Official Plan Amendments.

Following discussion it was moved by Mr. Abraham and seconded by Mr. Drury that the consent requested be APPROVED with the deletion of condition #4 and the rewording of condition #5 as noted above for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the goals of the Provincial Policy Statement are met as the requested severance will facilitate the consolidation of farmland into economically viable parcels and therefore further sustainability.

.../3
2. The Committee is of the opinion that the severance application has regard to all relevant matters set out in Section 51(24) of The Planning Act.

3. The Committee is satisfied that the proposal represents good planning and is in the public interest.

The application shall be subject to the conditions as noted in the summary comment of the Planning and Development Department.

CARRIED.
Committee of Adjustment
Hamilton City Centre
4th floor, Suite 400, 77 James St. N.
Hamilton, ON L8R 2K3
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT: LAND SEVERANCE

APPLICATION NO. GL/B-08:144
SUBMISSION NO. B-144/08

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 Municipal number 1441 Guyatt Road, formerly in the Township of Glanbrook, now in the City of Hamilton:

AND IN THE MATTER OF AN APPLICATION by the agent IBI Group on behalf of the owner Yolanda Sepe, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land having a frontage of 45.0m± (147.63±) and an area of 4050.0m² (1.0 acres) containing an existing single family dwelling for residential (surplus farm dwelling) purposes, and to retain a parcel of land having a frontage of 94.00m± (308.39±) and an area of 21.5ha± (53.13 acres±) containing existing farm buildings for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the goals of the Provincial Policy Statement are met as the requested severance will facilitate the consolidation of farmland into economically viable parcels and therefore further sustainability.

2. The Committee is of the opinion that the severance application has regard to all relevant matters set out in Section 51(24) of The Planning Act.

3. The Committee is satisfied that the proposal represents good planning and is in the public interest.

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.

2. That the owner/applicant receive final approval of a rezoning application ZAR-08-018.

3. That the owner/applicant shall confirm to the satisfaction of the City of Hamilton, Director of Planning, that the proposed severance is in conformity with the Minimum Distance Separation Formualae.

4. That the owner/applicant apply for and receive approval of the appropriate Official Plan Amendments.

5. The septic system shall be located entirely within the lands to be retained/conveyed to the satisfaction of the Building & Licensing Division.

6. That the owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lot.

.../2
DATED AT HAMILTON this 4th day of December, 2008.

M. Dudzic, Chairman

D. Serwatuk

D. Drury

L. Tew

V. Dunham

L. Gaddye

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 11th, 2008.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS
NOTICE OF DECISION (December 11th, 2009) 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 December 31st, 2008.

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

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that
archaeological resources may be encountered during any demolition, grading, construction activities, landscaping,
staging, stockpiling or other soil disturbances and the applicant is advised to conduct a Stage 1 and 2 archaeological
assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource
removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an
Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If
archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as
determined by the Ontario Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the
Ontario Ministry of Culture (MCL) should be notified immediately (519.675.7742). In the event that human remains are
encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar of
Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (418.328.8392).

2. Based on the application being approved and all conditions met, the lands to be conveyed will remain as 1441 Guyott
Road. The lands to be retained will be assigned the municipal address of 1433 Guyott Road.