CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members
Planning Committee

WARD(S) AFFECTED: WARD 14

COMMITTEE DATE: August 13, 2013

SUBJECT/REPORT NO:
Appeal of the City of Hamilton Committee of Adjustment Decision to Approve
Severance Application FL/B-13:05, Spruce Court Farms Inc. (Owner), 2505 Highway 5
West (Flamborough) (PED13139) (Ward 14)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development
Department

PREPARED BY:
Daniel Barnett
(905) 546-2424 Ext. 4445

SIGNATURE:

RECOMMENDATIONS

That Council agrees to the following actions, as detailed in Report PED13139,
respecting the appeal of City of Hamilton Committee of Adjustment Severance
Application FL/B-13:05 (Spruce Court Farms Inc. (Owner), 2505 Highway 5 West
(Flamborough), as shown on Appendix “A” to Report PED13139, approved by the
Committee of Adjustment, but recommended for Denial by the Planning and Economic
Development Department:

(a) That Council of the City of Hamilton proceed with the appeal to the Ontario
Municipal Board (OMB) against the decision of the Committee of Adjustment to
approve Application FL/B-13:05;

(b) That Council directs appropriate Legal Services, Planning staff, to attend the
future OMB Hearing in opposition to the decision of the Committee of Adjustment
to approve Application FL/B-13:05.
Application FL/B-13:05, to permit a severance of an existing agricultural property in order to sever a 0.8ha parcel of land containing an existing farm residence, accessory buildings to a dwelling, and existing agricultural buildings; and to retain 42.8ha of land to be added to the agricultural property at 2461 - 2463 Highway 5 West (Flamborough), was considered by the City of Hamilton Committee of Adjustment on May 2, 2013.

Comments to the Committee of Adjustment from Planning staff did not support the application, as it was the opinion of staff that the proposal does not conform to the policies of the Greenbelt Plan, is not consistent with the Provincial Policy Statement, and does not conform to the policies of the Rural Hamilton Official Plan (see Appendix “B”). The Committee of Adjustment approved the severance application for the reasons set out in Appendix “C”. Due to the appeal period, Planning and Economic Development staff submitted an appeal letter and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process, subject to Council approval/ratification.

**Alternatives for Consideration - See Page 13.**

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)**

Financial: Planning and Economic Development Department staff has submitted the required fee of $125 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets. The Hearing would likely take between one to three days.

Staffing: One representative each from Planning, and Legal Services would be required for preparation and attendance at an OMB Hearing. One member of Planning staff, would attend as an expert witness at the Hearing, should Council support Option 1.

Legal: No legal implications are expected.

**HISTORICAL BACKGROUND (Chronology of events)**

Proposal:

The subject property is located at 2505 Highway 5 West (Flamborough) (see Appendix “A”).
The proposal is to sever 0.8ha of land containing an existing dwelling, accessory buildings, and agricultural buildings, and to add the lands to be retained to the property at 2461 - 2463 Highway 5 West (Flamborough) (see Appendix “D”).

Planning Division staff recommended denial of the application on the basis of non-conformity with the criteria in Section 51(24) of the Planning Act, non-conformity with the policies of the Greenbelt Plan for not being consistent with the policies of the Provincial Policy Statement, and non-conformity with the policies of the Rural Hamilton Official Plan. The proposed severance to sever the existing farm dwelling did not occur after the agricultural properties had merged and, therefore, did not occur as a result of a farm consolidation. In addition, the proposed lands to be severed contain an agricultural building (frame barn of approximately 270 sq. m.), which is not permitted in the Official Plan Policies, and the proposed lot size of the lands to be severed exceeds the minimum lot size needed for the provision of private services.

The Committee of Adjustment, at its meeting of May 2, 2012, approved the Severance application (see Appendix “C”).

**POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

**Planning Act:**

The application has been reviewed with respect to the criteria of the Planning Act.

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53(12) A Council or Minister, in determining whether a provisional consent is to be given, shall have regard to the matters under Sub-section 51(24).

51(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, and welfare of the present and future inhabitants of the municipality and to:

a) The effect of development of the proposed subdivision on matters of provincial interest, as reflected in Section 2;

b) Whether the proposed subdivision is premature or in the public interest;

c) Whether the plan conforms to the Official Plan and adjacent plans of subdivision, if any;

f) The dimensions and shape of the proposed lots.
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Primary Issue:

A severance must be reviewed against matters of provincial interest. Provincial interest, as expressed in the Greenbelt Plan and the Provincial Policy Statement, include the protection of Prime Agricultural lands, and establish criteria as to when a severance may occur so as to prevent the fragmentation of Prime Agricultural lands. This includes only permitting surplus farm dwelling severances, which are made surplus as a result of a farm consolidation. With respect to the subject lands, the farm properties had not been consolidated and, therefore, the proposed severance does not conform to Criteria a) of Sub-section 51(24) of the Planning Act.

A severance must conform to the policies of the Official Plan. The Rural Official Plan policies permit a surplus farm dwelling severance of a farm dwelling made surplus as a result of the merging in title of abutting parcels of land into one ownership. The applicant has not yet merged the properties into one ownership and, therefore the proposal does not conform to the policies of the Official Plan, and, therefore, the proposal does not conform to Criteria c) of Sub-section 51(24) of the Planning Act.

Secondary Issues:

A severance must conform to the policies of the Official Plan. With respect to surplus farm dwelling severances, the Official Plan policies prohibit agricultural buildings from being located on the severed lands unless the agricultural building is suitable to be used as an accessory building to a residence. The applicant is proposing to retain 1 of the existing agricultural buildings on the lands to be severed. The barn is of a substantial size and scale. The applicant has not submitted adequate justification to demonstrate that the large agricultural building is suitable as an accessory building to the existing residence. Therefore, the proposal does not conform to the Official Plan Policies, as per Sub-section 51(24) of the Planning Act.

The shape and dimension of the lot are considered when reviewing a severance. The applicant submitted a brief Hydrogeological Report, prepared by Harden Environmental, which identified a minimum lot size of 0.64ha (1.55 acres) to meet the servicing needs of the property. The applicant is proposing a lot size of 0.8ha (2 acres) and, as such, the shape and dimension of the lot exceeds what is required to meet the servicing needs of the property. As a result, the application, would remove more land out of potential agricultural production than is required to meet the minimum lot size to provide for sustainable private services. Staff comments to the Committee of Adjustment noted that the lot depth should be reduced by 15m, which would establish a lot size of 0.65ha. This would meet the minimum 0.64ha identified in the Hydrogeological study, while preserving as much agricultural land as possible. As such, the shape and dimension of the proposed lot does not conform to Criteria f) of Section 51(24) of the Planning Act.
Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS).

“2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Classes 1, 2, and 3 soils, in this order of priority.

2.3.3.2 In prime agricultural areas, all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.”

The policies of the Provincial Policy Statement seek to protect Prime Agricultural Land. The proposed severance seeks to establish a larger lot size for the existing dwelling than is necessary to meet the servicing needs of the property and, therefore, the proposed severance is not consistent with the Provincial Policy Statement direction to promote and protect Prime Agricultural Land.

“2.3.4.1 Lot creation in prime agricultural areas is discouraged, and may only be permitted for:

a. Agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area, and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;

b. Agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;

c. A residence surplus to a farming operation as a result of farm consolidation provided that the planning authority ensures that new residential dwellings are prohibited on any vacant 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; and,

d. Infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.
2.3.4.2 Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

2.3.4.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with Policy 2.3.1.1(c)."

The policies of the Provincial Policy Statement prohibit the creation of new residential lots in prime agricultural areas except for a residence surplus to a farming operation, which was made surplus as a result of a farm consolidation. To date, no consolidation has occurred and, therefore, the proposed severance is not consistent with the Provincial Policy Statement.

**Greenbelt Plan:**

The proposed severance was reviewed with respect to the policies of the Greenbelt Plan.

"4.6.3 Within the specialty crop area and prime agricultural area, lot creation is permitted for:

a) Agricultural uses where the severed and retained lots are intended for agricultural uses, and provided the minimum lot size is 40 acres within specialty crop area and 100 acres within prime agricultural areas;

b) Existing and new agricultural-related uses, provided that any new lot will be limited to the minimum size needed to accommodate the use, including a sewage and water system appropriate for such a use;

c) The severance of a residence surplus to a farming operation as a result of a farm consolidation, which residence was an existing use as of the date this Plan came into force, provided that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered."

A severance of a residence surplus to a farming operation is permitted to be severed only as a result of a farm consolidation; to date no consolidation has occurred and, therefore, the proposed severance does not conform to Policy 4.6.3 c) of the Greenbelt Plan.
Places to Grow Plan:

The application has been reviewed with respect to the Places to Grow Plan. The following policies would apply:

“2.2.9 Rural Areas:

1. Rural Settlement Areas are key to the vitality and economic well-being of rural communities. Municipalities are encouraged to plan for a variety of cultural and economic opportunities within Rural Settlement Areas to serve the needs of rural residents and area businesses.

2. Development outside of Settlement Areas may be permitted in Rural Areas, in accordance with Policy 2.2.2.1(i).

4. For lands within the Greenbelt Area, the applicable policies in the Greenbelt, Niagara Escarpment, and Oak Ridges Moraine Conservation Plans apply.

2.2.2 Managing Growth:

1. Population and employment growth will be accommodated by:

   i. Directing development to Settlement Areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in Settlement Areas.”

As the proposal is for a severance that does not comply to the policies of the Greenbelt Plan, the proposal does not conform to the policies of the Places to Grow Plan.

Rural Hamilton Official Plan:

The subject property is designated as “Agricultural” within the Rural Hamilton Official Plan.

“D.2 The agricultural designation applies to lands designated “Agricultural” on Schedule D - Rural Land Use Designations. The primary intent of the “Agricultural” designation is to protect the prime agricultural areas for agricultural uses over the life of this Plan.”
The proposed severance is to add prime agricultural land, to the abutting agricultural property.

“F.1.14.2.2 An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided that:

a) In cases of a farm dwelling made surplus as a result of merging, in title, of abutting parcels of land into one ownership on which farm operations are conducted, applications for severance shall comply with the following conditions:

i) The owner and operator of the farm maintains another existing dwelling on land that has been merged in title;

ii) In cases where one of the farm parcels does not contain an existing farm dwelling, Policy F.1.14.2.2 a) i) shall not apply.

iii) The area of the merged farm parcel after the surplus farm dwelling lot is severed shall be a minimum of 8.1ha (20 acres) in size for lands designated “Specialty Crop on Schedule D - Rural Land Use Designations”, or 16.2ha (40 acres) in size for lands designated “Agricultural or Rural on Schedule D - Rural Land Use Designations”;

b) The lot to be created for the surplus farm dwelling shall comply with the provisions of Section F.1.14.2.2 d) of the Plan.

d) In all cases where surplus farm dwellings are to be severed, the following conditions shall also apply:

i) 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.

ii) The surplus dwelling shall be a minimum of 0.4ha (1 acre), or such larger area as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.
iii) A private water well and private sewage disposal system shall be provided, in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.

iv) The shape and dimension of the surplus farm dwelling shall:

1. Not impair agricultural operations on the retained lands; and,
2. Generally not exceed a depth of 122m (400 ft.);

v) 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 purpose.

vi) Where a barn or other farm building exits within the immediate vicinity of the surplus residence, the City may require the demolition of the barn.”

Primary Issue:

The subject property at 2505 Highway 5 West has not been merged, in title, with the property at 2461-2463 Highway 5 West, which is contrary to the Rural Official Plan policies, which require that the lands be merged, in title, and that severance be for a farm residence that is made surplus as a result of a farm consolidation. Therefore, as the severance is to sever a farm residence that is not a surplus farm dwelling as a result of farm consolidation (i.e. acquisition of the farm lands), the proposal does not conform to the policies of the Rural Hamilton Official Plan.

Secondary Issues:

The size of the lot exceeds the minimum lot size required for the provision of private services and, therefore, adding additional lands to the severed lands removes additional land from agricultural production, and the excess land should remain with the agricultural operation on the retained lands.

Furthermore, the policies prohibit the surplus dwelling lot from including barns or other farm buildings unless they are suitable to be used as accessory structures to a residential use. The applicant is proposing to retain one of the previous barns on the severed land, and based on the size and scale of the building, staff is concerned that the building is beyond the size and scale of a typical accessory building to a residential
dwelling. The applicant has not provided any evidence to indicate how or why the building should be considered accessory to the residential use.

“C.5.1.3 All development requiring approval under the Planning Act that is dependent upon sustainable private services shall comply with the following:

b) An application for the severance or subdivision of a lot utilizing an existing or proposed private sewage disposal system shall include sufficient land to accommodate a reserve discharge site or leaching bed for the system effluent in the event of a failure of the primary discharge site or leaching bed.

c) An application for the severance or subdivision of a lot that includes an existing or proposed sewage disposal system shall be a minimum, 0.4ha (1 acre) in size, or such larger lot area as may be required by environmental or cumulative land use conditions associated with the site for the discharge and dispersion of sewage system effluent to a standard equal to or exceeding those set out under the Ontario Environmental Protection Act and Safe Drinking Water Act Guidelines.

D.1.3 Preserve and enhance prime agricultural areas and specialty crop areas exclusively for farming.

D.1.4 Encourage all lands used for agriculture to remain in agriculture.”

Secondary Issue:

Based on the Hydro Geological Study, prepared by the applicant, a minimum lot size of 0.64ha (1.55 acres) is required for the provision of private services, however, the proposed lot exceeds the minimum lot size required for the provision of private services and, therefore, the proposed severance does not preserve prime agricultural land, nor does it encourage agricultural land to remain in agriculture.

RELEVANT CONSULTATION

- Legal Services Division.
ANALYSIS / RATIONALE FOR RECOMMENDATION

The approved severance severs 0.8ha of land for the existing dwelling and adds 42.5ha (105 acres) to the abutting agricultural property at 2461 - 2463 Highway 5 West (Flamborough) (see Appendix “D”).

Primary Issues:

The policies of the Provincial Policy Statement, Greenbelt Plan, and the Rural Hamilton Official Plan permit the severance of a surplus farm residence created as a result of a farm consolidation. The property at 2505 Highway 5 West has not yet been merged in title and the severance of the farm residence is not as a result of a farm consolidation and, therefore, does not constitute a surplus farm dwelling severance. In the staff Report to the Committee of Adjustment, staff noted that this application was premature until the subject property has merged in title with the property at 2461 - 2463 Highway 5 West, and that the application should be Tabled (see Appendix “B”). The applicant, in their verbal submissions to the Committee of Adjustment, opposed merging the properties first on the basis that this would create 2 dwellings on 1 lot. The applicant comments indicated they were willing to merge the retained farm lands as a condition of consent, but were not willing to consolidate the properties first (see Appendix “E”). The position of the applicant as to why they did not wish to consolidate the farm parcels first was that they did not wish to create a second dwelling on 1 lot. This reasoning is contrary to the basic concept of a surplus farm dwelling, and is not consistent with the policies of the Provincial Policy Statement, does not conform to the Greenbelt Plan Policies, and the Rural Hamilton Official Plan policies.

Despite the fact the application is not consistent with the Provincial Policy Statement, and does not conform to the policies of the Greenbelt Plan and Rural Hamilton Official Plan, the Committee of Adjustment approved the severance of the existing farm dwelling without the properties having previously been merged and the farm dwelling being deemed surplus. As this decision was, in the opinion of staff, inconsistent with the policies of the Provincial Policy Statement, and did not conform to the policies of the Greenbelt Plan and Rural Hamilton Official Plan, staff appealed the Decision of the Committee of Adjustment to the Ontario Municipal Board.
Secondary Issues:

The policies of the Provincial Policy Statement, Greenbelt Plan, and Rural Hamilton Official Plan seek to preserve prime agricultural lands and promote the continued use of prime agricultural lands for agricultural purpose. Based on the Hydro Geological Report, prepared by Harden Environmental, a minimum lot size of 0.64ha (1.55 acres) is required to meet the private servicing needs of the property. The proposed severance seeks to sever 0.8ha (2 acres), which exceeds the 0.64ha required for private services. In the staff Report to the Committee of Adjustment, staff noted that if the lot depth was reduced by 15m (50 ft.), the lot size would be reduced to 0.65ha (1.6 acres) and would maintain a setback of 3.2m from the large existing metal clad building, which the applicant indicated that they planned to demolish, 8.1m from the small existing clad building that the applicant wishes to retain, and 10.2m from the existing frame barn that the applicant wishes to maintain (see Appendix “B”). The 10.2m and 8.1m setbacks from the buildings that the applicant wishes to maintain are appropriate, and the reduced lot size preserves and protects the greatest amount of prime agricultural land by keeping the land as part of an agricultural property.

The policies of the Rural Hamilton Official Plan prohibit the retention of agricultural buildings on the severed surplus farm dwelling lot unless the agricultural building is suitable to be used as an accessory building to a dwelling and the building or structure shall not be used for commercial or industrial purposes. The applicant is proposing to retain the existing frame barn on the severed surplus farm dwelling lot based on the size and scale of the existing frame barn, and given the fact that the applicant is seeking to maintain other buildings on the property, including the small metal clad building, staff does not consider that these buildings would be accessory to the residential use. Insufficient justification was submitted in support of the agricultural buildings being retained for uses accessory to the residential occupation of the dwelling. Furthermore, there was a previous RV storage business being operated from the barn, which has since been discontinued but does increases the concern that the barn may be used for a commercial or industrial uses. In the staff Report to the Committee of Adjustment, staff noted that if the applicant intends to keep one of the barns on the severed surplus farm dwelling lot, then the applicant would be required to provide adequate justification to demonstrate that the large barn could be used as a suitable accessory building (see Appendix “B”).

If the subject property was to be merged prior to severance approval and, therefore, constitute a surplus farm dwelling severance, and the lot area was reduced to 0.65ha, and the frame barn was either demolished or the applicant adequately demonstrated that the agricultural barn can be converted to an accessory building for a residence, it would be the position of staff that the amended application would be consistent with the
Provincial Policy Statement, would conform to the policies of the Greenbelt Plan and Rural Hamilton Official Plan and, therefore, the severance could be supported.

As the proposal is not consistent with the Provincial Policy Statement, does not conform to the policies of the Greenbelt Plan, and does not conform to the policies of the Rural Hamilton Official Plan, staff recommended that the severance, as proposed, be Denied and recommended that the Appeal to the Ontario Municipal Board be allowed to proceed.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

**Option 1:**

Council could proceed with the appeal and direct appropriate Legal Services and Planning staff to attend the OMB Hearing in opposition to the approved variance application, as recommended in this Report.

**Option 2:**

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decisions of the Committee of Adjustment, to the OMB.

**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:**

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

**Strategic Priority #2:**

Valued & Sustainable Services

_We deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner._
Strategic Priority #3: Leadership & Governance

We work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective:

3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Development Planning Comments
- Appendix “C”: FL/B-13:05 Committee of Adjustment Decision
- Appendix “D”: Severance Sketch
- Appendix “E”: FL/B-13:05 May 2, 2013 Minutes

:DB
Attaches. (5)
Committee of Adjustment

Subject Property
2505 Highway No. 5 West
- Lands to be Conveyed
- Lands to be Retained

City of Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
May 2nd, 2013

CONSOLIDATION REPORT
SEVERANCES

The attached comments have been reviewed with regard to Committee of Adjustment Severance File **FL/B-13:05 (2505 Highway 5 West, Flamborough)** 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. The lands to be retained shall be registered in the same name and title as the lands to which they are to be added (known municipally as 2461 - 2463 Highway 5 West).

3. If any barn is to be demolished these structures shall be documented for archival purposes prior to demolition, to the satisfaction of the Manager of Development Planning.

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

5. 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).

6. The owner/applicant shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

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

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 proponent is advised to conduct an 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 Site-Specific Assessment and Stage 4 Mitigation of Development Impacts may be required, as determined by the Ontario Ministry of Tourism, Culture and Sport (MTCS). All Archaeological Reports shall be submitted to the City of Hamilton for review concurrent with their submission to MTCS.

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).
May 2nd, 2013

Re-scheduled
FL/B-13:05 (2505 Highway 5 West, Flamborough)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning - West:

The applicant is proposing to sever a surplus farm dwelling and merge the farm lands with the property at 2461 - 2463 Highway 5 West.

Greenbelt Plan:

The subject property is designated “Protected Countryside” in the Greenbelt Plan. Policy 4.6.3 c) states: “The severance of a residence surplus to a farming operation as a result of a farm consolidation, which residence was an existing use as of the date this Plan came into force, provided that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwelling on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.”

Policy 4.6.3 d) states: “The surplus dwelling policy in 4.6.3 c) also applies to rural areas as defined by municipal Official Plans. The severance should be limited to the minimum size needed to accommodate the dwelling, including existing and reserve areas for individual sewage and water services.”

As the retained lands will be merged in title with the property at 2461 - 2463 Highway 5 West, it is ensured that a residential dwelling will not be permitted in perpetuity on the retained farm lands.

Based on discussions with Infrastructure and Source Water Protection staff, a lot minimum lot size of approximately 0.63ha (1.55 acres) would be required for the provision of private services, in accordance with MOE Guidelines. The proposed lot size of 0.8ha (2 acres) is greater than the approximate lot area outlined by Infrastructure and Source Water Protection staff. Staff notes that the applicant has reduced the size of the lot to bring it closer to the minimum lot size required for private servicing, but still exceed the minimum lot size by 0.17ha. It is the opinion of staff that the severance should be limited to the minimum size needed to accommodate the dwelling, in accordance with Official Plan Policy. Therefore, it is the opinion of staff that the proposed lands to be severed do not comply with Policy 4.6.3. d).
**Provincial Policy Statement:**

The proposed severance was reviewed with respect to the Provincial Policy Statement. Policy 1.1.4.1 states: “In rural areas located in municipalities:

a) Permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development, and other rural land uses;

b) New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae;

c) Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;

d) Locally-important agricultural and resource areas should be designated and protected by directing non-related development to areas where it will not constrain these uses;

e) Opportunities should be retained to locate new or expanding land uses that require separation from other uses; and,

f) Recreational, tourism, and other economic opportunities should be promoted.

Policy 2.3.1 states: “Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Classes 1, 2, and 3 soils, in this order of priority.

Policy 2.3.3.2 states: “In prime agricultural areas, all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected, in accordance with provincial standards.”

Policy 2.3.4.1 states: “Lot creation in prime agricultural areas is discouraged and may only be permitted for:

a. Agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;

b. Agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
c. A residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant 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; and,

d. Infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

The proposed severance is for a residence surplus to a farming operation and as the retained lands will be merged in title with the property at 2461 - 2463 Highway 5 West, a new residential dwelling will not be permitted on the lands to be retained. It is however the opinion of staff that the large 0.8ha lot size proposed for the lands to be severed does not protect prime agricultural land and the lands to be severed should be reduced in size to preserve agricultural land.

Rural Hamilton Official Plan:

The subject property is designated “Agricultural” in the Rural Hamilton Official Plan. Policy D.2.1 states: "Uses permitted in the Agricultural designation are limited to agricultural uses, agricultural-related commercial and agricultural-related industrial uses, and on-farm secondary uses.

Policy D.2.1.1 states: “Agricultural uses, including all types of farming; related on-farm buildings and structures, including a farm residence; and farm labour residence when the size and nature of the farm operation requires additional on-site employment; the growing of crops; the raising of livestock and other animals for food, fur, or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; nurseries; and maple syrup production, are permitted subject to the policies of this Plan."

Policy F.1.14.2.2 states: “An existing farm dwelling that is a residence surplus to a farming operation as a result of a farm consolidation may be severed provided that:

a) In case of a farm dwelling made surplus as a result of merging, in title, of abutting parcels of land into one ownership on which farm operations are conducted, applications for severance shall comply with the following conditions:

i) The owner and operator of the farm maintains another existing dwelling on land that has been or is to be merged in title;

ii) In cases where one of the farm parcels does not contain an existing farm dwelling, Policy F.1.14.2.2 a) i) shall not apply;
iii) The area of the merged farm parcel after the surplus farm dwelling is severed shall be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D - Rural Land Use Designation, or 16.2 hectares (40 acres) in size for lands designated Agricultural or Rural on Schedule D - Rural Land Use Designations; and,

b) The lot to be created for the surplus farm dwelling shall comply with the provisions of Section F.1.14.2.2 d) of this Plan.”

F.1.14.2.2 d) states: “In all cases where surplus farm dwellings are to be severed, the following conditions shall also apply:

i) 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 surplus farm dwelling severance, and shall meet the City’s standards for occupancy without requiring substantial demolition and new construction.

ii) The surplus dwelling shall be a minimum of 0.4 hectares (1 acre), or larger area, as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;

iii) A private water well and private sewage disposal system shall be provided, in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan;

iv) The shape and dimension of the surplus farm dwelling lot shall:

1. Not impair agricultural operations on the retained land; and,

2. Generally not exceed a depth of 122m (400 ft.);

v) 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 building or structures shall be used for industrial or commercial purposes.

vi) Where a barn or other farm building exists within the vicinity of the surplus residence, the City may require the demolition of the barn.

Policy C.5.1.3 states: “All development requiring approval under the Planning Act that is dependent upon sustainable private services shall comply with the following:

c) An application for severance or subdivision of a lot that includes an existing or proposed sewage disposal system shall be a minimum, 0.4 hectares (1 acre) in size, or such larger lot area as may be required by environmental or cumulative land use
conditions associated with the site for the discharge and dispersion of sewage system effluent to a standard equal to or exceeding those set out under the Ontario Environmental Protection Act and Safe Drinking Water Act guidelines;

d) All applications for severance or subdivision of a new lot or creation of a new land use requiring amendment to this Plan or the Zoning By-law in an area not serviced by existing municipal water and wastewater systems shall include a servicing suitability study of groundwater and geotechnical conditions that includes an assessment of water supply and sewage disposal system impacts of existing and proposed development associated with the site that is prepared by a professional engineer, hydrogeological or similar qualified professional, which demonstrates, to the satisfaction of the City, that a private water well and private sewage disposal system with associated reserve discharge area can be established, in accordance with the sustainable private service definition of this Plan."

Staff notes that Policies F.1.14.2.2 and F.1.14.2.2 a) require that the lands be made surplus as a result of a consolidation, which requires that the lands be merged before the severance is approved rather than as a condition of approval. Therefore, the application is premature until the applicant demonstrates that the property at 2505 Highway 5 West is merged, in title, with the property at 2461 - 2463 Highway 5 West.

The applicant has submitted a Hydrogeological Study, which identified that as the lot is 0.8ha whereas 0.643ha has been identified, by the City of Hamilton Source Water Protection staff, as the lot size required for private services. For the purpose of surplus farm dwelling severances, the severed lot should be only as large as is necessary for the purpose of providing private services. If the Hydrogeological Study had identified that a large lot size of 0.8ha was required instead of the 0.643ha, this would have provided justification for the larger lot size, however, no such justification was provided. The applicant should reduce the depth of the lot by 15m, which would establish a lot size of 0.65ha, which would meet the minimum lot size needed to provide adequate private services, as outlined by Source Water Protection staff, while preserving the greatest amount of land for agricultural purposes.

Furthermore, staff notes that the applicant has revised the proposed lot line to maintain 1 of the barns on the retained farm parcel, however, the revised plan still shows 2 large barns on the lands to be retained. It is the understanding of staff, based on discussions with the applicant, that 1 of the barns is to be removed, but that the other is to be retained. If the applicant intends to keep 1 of the barns on the lands to be retained, the applicant is required to provide adequate justification to demonstrate that the large barn can be used as a suitable accessory building to the dwelling, and will not be used for agricultural purpose or for a commercial or industrial purpose. As the barns have been used, at some point, as part of an RV storage business, there is increased concern that the barns could be used for a purpose that is not accessory to a dwelling. In the absence of adequate justification that the barns can be converted to a use that is accessory to the dwelling, it is the opinion of staff that the application does not conform with Policy F.1.14.2.2 v) or the Rural Hamilton Official Plan.
It is the opinion of staff that a 0.8 hectare lot is oversized, removing farm land/potential farm land out of production and, therefore, the lands to be severed are of a shape and dimension that impairs agricultural operations on the retained land. Therefore, it is the opinion of staff that the proposed severance does not conform to the policies of the Rural Hamilton Official Plan, and the applicant should table the application to undertake to revise the lot lines to maintain a suitable size lot and provide adequate justification with respect to the retention of the agricultural building.

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

1) Within 300m of a primary watercourse or permanent waterbody, 200m of a secondary watercourse or seasonal waterbody, or 300m of a prehistoric watercourse or permanent waterbody; and,

2) 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, which would normally require an Archaeological Assessment. However, no new lot will be created through this application, and continued farming operations will not result in significant soil disturbance. If this severance is granted, the City does not require an Archaeological Assessment, but may require one for any future applications on the subject property under the Planning Act. However, staff requires that the Committee of Adjustment include Note No. 1, as stated below.

The subject property is included in the City’s Inventory of Buildings of Architectural and/or Historical Interest.

The proponent proposes to permit the severance of a lot containing the existing dwelling, and to retain a parcel of agricultural land to be merged, in title, with the lands to the east for agricultural purposes.

Staff is of the opinion that the heritage attributes of the heritage property will be conserved on the severed portion, as the house is proposed to remain. Staff encourages the retention of at least 1 barn as a component of the historic farm complex. If the barn(s) are to be demolished to meet the requirements of the Official Plan, staff requires that these structures be documented for archival purposes.

**Town of Flamborough Zoning By-law:**

The subject property is zoned Agricultural “A” Zone in the Town of Flamborough Zoning By-law, to which the proposed use complies.

It is, however, noted that there appears to be a RV storage business operating on the lands to be severed, which is not permitted in the agricultural Zone.
The proposed lands to be severed and lands to be retained will comply with the minimum lot area requirement of 2,000 sq. m. and minimum lot frontage requirement of 30 m. The existing agricultural buildings that the applicant wishes to retain on the lands to be severed would not comply with the minimum side and rear yard setback requirement of 15 m. As retaining an agricultural building on the property containing the surplus residence is contrary to the Official Plan, staff requires that the buildings be removed or the buildings be converted and demonstrated that they will function as an accessory building to the dwelling.

If the agricultural buildings are retained on the lands to be severed as an accessory building to a dwelling, the buildings will need to conform to the setback, coverage, and height requirements of accessory building in the Flamborough By-law. Based on the height of the accessory building that the applicant wishes to retain, the building would not conform to the maximum height of 4.6 m and would, therefore, require minor variance approval to retain the building. Staff cannot determine if the building would meet the maximum lot coverage of 5% for all accessory buildings.

Staff notes that there was a previous Formal Consultation Application FC-12-089 that was heard at the Development Review Committee meeting of August 29, 2012, in which the lands to be severed were to be 1.5 acres (0.6 ha) and not 2.0 acres (0.8 ha), as is now being requested. Furthermore, in the Formal Consultation document staff noted “the subject lands that are to be consolidated must merge with the abutting farm property, prior to the submission of a severance application for the surplus dwelling.”

**Recommendation:**

It is the opinion of staff that the severance application is premature until the subject property has merged, in title, with the property at 2461 - 2463 Highway 5 West, and that the severance application should be revised to reduce the lot size to the minimum that is required to meet the servicing needs of the property 0.64 ha, and that the applicant adequately justify that any agricultural building that is to be retained on the severed lands can be converted and used for a purpose that is accessory to the dwelling. Therefore, staff recommends that the application be Tabled.

If the applicant wishes to proceed with the application at this time, staff makes the following recommendation:

It is the opinion of staff that the proposed lot does not conform to the policies of the Greenbelt Plan, is not consistent with the Provincial Policy Statement, and does not conform to the policies of the Rural Hamilton Official Plan and, therefore, staff recommends that the proposed severance be Denied.

**Conditions (If Approved):**

1) That if any barn is to be demolished, that these structures be documented for archival purposes, prior to demolition, to the satisfaction of the Manager of Development Planning.
2) That the lands to be retained be merged in the same name and title as the property municipally known as 2461 - 2463 Highway 5 West.

Note (To Be Included 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 proponent is advised to conduct an 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 Site-Specific Assessment and Stage 4 Mitigation of Development Impacts may be required, as determined by the Ontario Ministry of Tourism, Culture, and Sport (MTCS). All Archaeological reports shall be submitted to the City of Hamilton for review concurrent with their submission to MTCS.

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).

Building Services Division:

1. This application will permit the severance of a lot approximately 105.0m in width, 77.0m in depth, with an area of 0.8 hectares, containing the existing single family dwelling, and to retain a parcel of land with approximately 269.0m of lot width and an area of approximately 42.5 hectares being farm land, the retained lands are intended to be merged, in title, with the lands to the east, known municipally as 2461 - 2463 Highway #5 West, for agricultural purposes.

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

3. The lands to be retained shall be merged, in title, with the lands to the east, known municipally as 2461 - 2463 Highway #5 West for agricultural purposes.

4. Subject to the Minimum Distance Separation requirements for livestock facilities within agricultural areas, as set out in the Zoning By-law.
5. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with the Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be conveyed or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.

6. The “A” zoning district permits only limited agricultural uses. The applicant may wish to ensure that the proposed uses for the lands to be conveyed are permitted.

7. Variances for rear yard and side yard may be required for zoning compliance of the lands to be conveyed.

**CONDITIONAL UPON:**

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures, 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/applicant shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

**Development Engineering - West:**

No comment.

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

No comment.

**PUBLIC WORKS DEPARTMENT**

**Source Protection Planning:**

I&SWP reviewed the proposed severance application package, including associated report from Harden Environmental. I&SWP comments are as follows:
- The proposed lot size exceeds the minimum lot size of 1.55 ac to accommodate appropriate nitrate dilution of the sewage effluent - I&SWP will not require a Hydrogeological Study;

- Figures provided by the proponent on the attached Report indicate that the water well in the property is suitable to supply a residential dwelling - I&SWP will not require additional information;

- Report provided by the proponent indicates that the existing septic system complies with clearance requirements of Part 8 of the Ontario Building Code; the proponent should demonstrate, to the satisfaction of the Building Department, that the existing septic system complies with clearance requirements;

- The proponent should confirm if the two accessory structures are going to remain, and if they are used for livestock. If that is the case, then the proponent should confirm if a Nutrient Management Plan is in place.

**Traffic, Engineering, and Operations Division:**

Any new or change in Access requires an Access Permit. Details on the permit process can be obtained from Johanna Black at (905) 546-2424, Ext 4577.

**CORPORATE SERVICES:**

**Budgets, Taxation and Policy Outstanding Taxes):**

The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR Consent\LAND SEVERANCE

APPLICATION NO. FL/B-13:05
SUBMISSION NO. B-08/13

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 2505 Highway #5 West, formerly in the Town of
Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Herman Faber on behalf
of the owners Spruce Court Farms Inc., for consent under Section 53(1) of The Planning Act, R.S.O.
1990, Chapter 13, so as to permit the severance of a lot approximately 105m: in width, 77m: in depth
with an area of 0.61 hectares, containing the existing single family dwelling, and to retain a parcel of
land with approximately 209m: of lot width and an area of approximately 42.5 hectares being farm
land, the retained lands are intended to be merged in title with the lands to the east, known municipally
as 2461-2463 Highway #5 West, for agricultural 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 offend the intent of the Hamilton-Wentworth and Town of Flamborough
   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. The lands to be retained shall be registered in the same name and title as the lands to which
   they are to be added (known municipally as 2461-2463 Highway 5 West).
3. If any barn is to be demolished these structures shall be documented for archival purposes
   prior to demolition, to the satisfaction of the Manager of Development Planning.
4. The applicant shall ensure compliance with Ontario Building Code requirements regarding
   spatial separation distances of any structures to the satisfaction of the Planning and
   Economic Development Department (Building Services Division).
5. 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).
6. The owner/applicant shall submit survey evidence from a BCIN Qualified Designer (Part 8
   Sewage System) or Professional Engineer that the existing septic system complies with the
   clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and
   or retained, to the satisfaction of the Planning and Economic Development Department
   (Building Services Division), if required.

.../2
7. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

8. The owner shall demolish the metal clad building in the middle of the lot with permit, to the satisfaction of the Manager of Development Planning.

DATED AT HAMILTON this 2nd day of May, 2013.

M. Dudziak, Chairman

I. Dunlop

D. Smith

L. Gaddie

D. Senwuttuk

D. Drury

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS May 9th, 2013.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (May 9th, 2014) 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 May 29th, 2013.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

Note:

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 proponent is advised to conduct an 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 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Tourism, Culture and Sport (MTCS). All archaeological reports shall be submitted to the City of Hamilton for review concurrent with their submission to MTCS.

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).
May 2nd, 2013

FL/B-13:05 Spruce Court Farms Inc.  
2505 Highway 5 West, Flamborough

Appearances were: Herman Faber, Agent on behalf of the applicant; Lammert Koonstra, Applicant. Interested parties were: nil

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

The Secretary-Treasurer stated that the application was tabled at the meeting of March 21st, 2013 and has since been amended and re-circulated for new comments.

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

Letters were entered into the record from: nil

H. Faber 
- we were here a little while ago with a different proposal 
- we have done the studies and have a revised lot size because of the tile bed 
- staff comments say that they are concerned with the lot size 
- the lot would be very narrow if we were to cut it back further 
- it would also be hard to access a barn that the owner was hoping to save 
- this will create a total farm of 240 acres when the two are joined together 
- merging the farms first and then severing would end up with two houses on one lot 
- we are happy to do that as a condition of the consent 
- we are prepared to remove the metal clad building (large barn) 
- we would like to retain the bank barn on the far side because it has some historical characteristics and matches the house 
- the bank barn can be used for storage, a workshop or a play area 
- it would add to the character of the area to retain that barn 
- we are asking for approval of the application on the condition that the large metal building in the middle of the property be removed
Appendix “E” to Report PED13139 (Page 2 of 3)

D. Barnett
(staff) - this type of severance is only permitted as a result of
a farm consolidation which means the merger needs to take
place first
- with regard to the lot size there is 25m from the frame barn to
the rear of the property
- if the study came back and said they needed this size we
could have supported that
- staff doesn’t see the need for an additional 15m behind the
barn
- Cultural Heritage would also like the bank barn retained but
staff has to be assured that it can’t be used for agricultural
purposes
- there was a previous RV storage business on the property so
staff is concerned that that not happen again

V. Abraham
(Committee Member) - maybe 15m could be taken off the lot size and a
condition added to ensure merger

H. Faber - if you take 15m off then the lot line will come very close to the
back of the barn
- there’s a ramp to the 2nd storey which will be affected
- we’re only talking about .15 of a hectare

L. Koonstra - he has to be able to get into the barn

D. Barnett
(staff) - the intent is to maintain as much of the farm land in
agricultural production as possible

L. Koonstra - you’re not going to plant corn on the ramp to the barn

D. Smith
(Committee Member) - it’s always been his understanding that any barn that
can house farm animals has to be torn down

D. Barnett
(staff) - the original application had three barns
- Cultural Heritage staff want the bank barn retained
- one barn is being torn down
- one of staffs concerns is that it has to be justified that it can
be used accessory to the dwelling

I. Dunlop
(Committee Member) - he drove by the property and noticed a for-sale sign
- he wondered what that was all about
H. Faber - the for-sale sign relates to a very small lot that was severed by the previous owner and is not related to his clients’ property
- the garden shed serves some purpose but it could come down
- the frame barn would be more like a workshop or children’s play house

I. Dunlop (Committee Member) - this is a rural area and he doesn’t see 2 acres as being an unreasonable sized lot
- with regard to condition #6 he thinks the Committee has already been provided with that information

H. Faber - we can satisfy that condition

Following discussion it was moved by Mr. Abraham and seconded by Mr. Drury that the consent requested be APPROVED for the following reasons:

1. The proposal does not offend the intent of the Hamilton-Wentworth and Town of Flamborough 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.

The application shall be subject to the conditions as noted in the summary comment of the Planning and Economic Development Department with the following additions:

- the words “if required” shall be added to condition #6; and,

- the following condition shall be added: “The owner shall demolish the metal clad building in the middle of the lot with permit, to the satisfaction of the Manager of Development Planning.

CARRIED.