TO: Chair and Members Planning Committee

WARD(S) AFFECTED: WARD 11

COMMITTEE DATE: January 14, 2014

SUBJECT/REPORT NO:
Application for an Amendment to Township of Glanbrook Zoning By-law No. 464 for the Lands Located at 1660 Hall Road (Glanbrook) (PED14008) (Ward 11)

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

PREPARED BY:
Danielle Stevens
(905) 546-2424 Ext. 1285

SIGNATURE:

RECOMMENDATION

That approval be given to **Zoning Application ZAA-13-031, by David Earl Barlow, Owner**, for a change in zoning from the General Agriculture “A1” Zone to the General Agriculture “A1-280” Zone, with a Special Exception, in order to prohibit the construction of any residential dwelling(s), for the lands located at 1660 Hall Road (Glanbrook), as shown on Appendix “A” to Report PED14008, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED14008, 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 Schedule “D” of Zoning By-law No. 464.

EXECUTIVE SUMMARY

The purpose of the application is to address the condition of approval associated with a severance of a surplus farm dwelling as result of a consolidation of non-abutting farm
parcels. In particular, in accordance with the Rural Hamilton Official Plan, the purpose of the application is to prohibit the development of a new residential dwelling on the consolidated farm parcel, as approved under Committee of Adjustment Consent Application GL/B-13:09 (see Appendix “C” - Condition #2). The requested amendment is required to satisfy the lot creation policies of the Provincial Policy Statement (PPS), Provincial Greenbelt Plan, and the Rural Hamilton Official Plan.

The proposed application has merit and can be supported as it is consistent with the PPS, and conforms to the Provincial Greenbelt Plan and Rural Hamilton Official Plan.

*Alternatives for Consideration – See Page 8.*

**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 GL/B-13:09**

Consent Application GL/B-13:09 proposed to sever a 1.28 ha. parcel containing the existing farm dwelling from the subject lands, on the basis that the dwelling was deemed to be surplus as a result of a farm consolidation of a non-abutting farm parcel, being 2040 Hall Road, 210 Barlow Road, 345 Bell Road, and a vacant farm lot on Regional Road 9A (see Appendix “D”). However, in review of the application, the Infrastructure and Source Water Protection Section determined that a minimum lot area of 1.52 ha. was required to meet the Ministry of the Environment Guidelines.

Without any further comments or issues being raised, the Committee of Adjustment was of the opinion that the change in configuration, as suggested by the Infrastructure and Source Water Protection Section, was minor and would be the least intrusive on the adjacent farmland. It is noted that under the *Planning Act*, no additional notice of an amendment is required where in the opinion of the approval authority (i.e. Committee of Adjustment), the change is minor.

As such, based on the foregoing, the application was conditionally approved by the Committee of Adjustment on April 4, 2013, with the ultimate lot size to be provided...
through the submission of a reference plan, to the satisfaction of the Secretary Treasurer of the Committee of Adjustment, and subject to the requirement for an amendment to Zoning By-law No. 464 (see Appendix “C” - Condition #2). The final lot size was submitted prior to the application’s appeal period being completed, and the final lot size was included in the Notice of Decision, and after consultation with Source Water Protection, deemed satisfactory by the Secretary Treasurer of the Committee of Adjustment.

Proposal

The subject Zoning By-law Amendment Application ZAA-13-031 has been submitted to satisfy Condition #2 regarding Severance Application GL/B-13:09 (see Appendix “C”).

Accordingly, the applicant has applied for a change in zoning to By-law No. 464 from the General Agricultural “A1” Zone to a site-specific General Agricultural “A1-280” Zone for the retained parcel at 1660 Hall Road. The purpose of this modification is to prohibit future residential uses on the retained farm parcel, as required by the lot creation policies of the PPS, Provincial Greenbelt Plan, and the Rural Hamilton Official Plan.

Chronology:

April 4, 2013: Severance Application GL/B-13:09 for 1660 Hall Road conditionally approved by the City of Hamilton Committee of Adjustment.

May 2, 2013: Confirmation that no appeals have been received within the appeal period for Severance Application GL/B-13:09 and application is final and binding.


September 9, 2013: Application ZAA-13-031 is deemed complete.

September 16, 2012: Circulation of Notice of Complete Application and Preliminary Circulation for ZAA-13-031 to all residents within 120 m. of the subject lands.

October 3, 2013: Public Notice Sign was erected on the subject lands.

December 20, 2013: Circulation of Notice of Public Meeting to all residents within 120 m. of the subject lands.
Details of Submitted Application

Location: 1660 Hall Road, Glanbrook (see Appendix “A”)

Applicant/Owner(s): E. Barlow Farms, c/o David Earl Barlow

Property Description: Total Lot Area: ± 49.5 ha.

Total Lot Frontage: Approximately 562.47 m. (Irregular)

Lot Depth: Approximately 883.5 m. (Irregular)

Servicing: Existing private services and storm ditches.

EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
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<tbody>
<tr>
<td>Agricultural and Single</td>
<td>Agricultural and Single Detached Dwelling</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>Detached Dwelling</td>
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Surrounding Lands:

<table>
<thead>
<tr>
<th>North</th>
<th>Agricultural and Single Detached Dwelling</th>
<th>General Agricultural “A1” Zone and Open Space “OS3”</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Agricultural</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Agricultural and Single Detached Dwelling</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Agricultural and Single Detached Dwelling</td>
<td>General Agricultural “A1” Zone</td>
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POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

Provincial Policy Statement

The PPS provides policy direction of provincial interest related to land use planning and development. Policy 2.3.4.1 c) states:
“Lot creation in prime agricultural areas is discouraged, and may only be permitted for:

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.”

Based on the foregoing, as the subject application is to address the required prohibition of future residential dwellings on the retained farm parcel, the proposal is consistent with the policies of the PPS.

**Greenbelt Plan**

Severance Application GL/B-13:09 was reviewed in accordance with the Lot creation policies contained in Section 4.6 of the Greenbelt Plan. In particular, Policy 4.6.3 (c) states:

“More specifically, within specialty crop and prime agricultural areas, lot creation is permitted for:

(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 a 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.”

Severance Application GL/B-13:09 conforms to the above noted policy, as the subject application is to address the required prohibition of future residential dwellings on the retained farm parcel. Accordingly, the proposal conforms to the Provincial Greenbelt Plan.

**Rural Hamilton Official Plan**

The subject lands are designated “Agriculture” on Schedule “D” - Rural Land Use Designations. Section F.1.14.2.2 contains policies for the severance of surplus farm dwellings. In particular, Section F.1.14.2.2(c) provides policies for severance of a surplus dwelling as the result of a non-abutting farm consolidation; in this case, being 2040 Hall Road, 210 Barlow Road, 345 Bell Road, and a vacant farm lot on Regional Road 9A (see Appendix “D”).
It is noted that Sub-Policy (i) of Section F.1.14.2.2(c) requires that the owner and operator of the farm maintains an existing dwelling on the land that is part of the consolidated farm operation. It is noted that the existing dwelling at 2040 Hall Road, is located on the consolidated farming operation, and shall be maintained.

With respect to the remaining policies, the retained farm parcel, being 48 hectares, conforms to the minimum retained farm parcel of 16.2 hectares and forms part of the consolidated holding, totalling approximately 1800 hectares, which conforms to the minimum consolidated farm parcel of 38.4 hectares. Lastly, as the subject application is an amendment to the Zoning By-law to prohibit any future residential dwellings, the proposal conforms to Section F.1.14.2.2(c).

Section F.1.14.2.2(d) applies to all forms of farm consolidation. In review, the surplus dwelling approved under Severance Application GL/B-13:09 was constructed prior to December 16, 2004; was habitable as of the date of the original severance application; has a minimum lot area of 0.4 ha.; and proposes a lot configuration that does not impair the agricultural operation of the retained farm parcel. The approved severance does not include any farm buildings/barns, and will be supported with sustainable private services with an established minimum lot area of 1.52 ha., as required by the City of Hamilton Infrastructure and Source Water Planning Section. Based on the foregoing, the proposal conforms to the Rural Hamilton Official Plan.

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<th>RELEVANT CONSULTATION</th>
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The following Departments and Agencies had no comments or objections:

- Corridor Management, Public Works Department
- Hamilton Municipal Parking Systems
- Niagara Peninsula Conservation Authority

**Tax Administration/Banking Section, Corporate Services Department** advised that there are outstanding taxes for the property. Staff note that any outstanding taxes must be paid prior to finalizing the Consent Application (see Appendix “C”, Condition 8).

**Public Consultation**

In accordance with Council’s Public Participation Policy, preliminary circulation of the application was not required since the property was also the subject of a Consent Application within the last year, which is a Public Process. No letters were received in response to the circulation of the severance application, and no members of the public attended the Committee of Adjustment Meeting.
In accordance with the new provisions of the Planning Act, Notice of Complete Application for the Zoning By-law Amendment was circulated to 17 property owners within 120 m. of the subject property on September 20, 2013. At the time of the preparation of this report, no comments or concerns have been received.

Furthermore, a Public Notice sign for the Zoning By-law Amendment was posted on the property on October 3, 2013. Finally, Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / 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 the policies of the Provincial Greenbelt Plan;

   (ii) It conforms with the policies of the Rural Hamilton Official Plan; and,

   (iii) The proposed amendment satisfies a condition of approval for Consent Application GL/B-13:09, which was approved by the Committee of Adjustment on April 4, 2013 (see Appendix “C” - Condition 2).

2. The policies of the PPS and Greenbelt Plan permit the severance of a residence surplus to a farming operation, as a result of a farm consolidation. In this regard, the PPS and Greenbelt Plan require that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained farm parcel created by this form of severance.

   As such, the retained farm parcel will continue to be zoned for agricultural uses under a site-specific General Agricultural “A1-280” Zone prohibiting any new residential dwelling.

3. With respect to the Rural Hamilton Official Plan, the subject application conforms to the requirements for Surplus Farm Dwelling Severances for Non-abutting Lands, as established by Sections F.1.14.2.2(c) and (d).

   Based on the foregoing, staff support the proposal to prohibit residential uses on the retained farm parcel which, by definition, would also preclude any home occupations, home professions, home industries, bed and breakfast establishments, and farm help houses.

   Although prohibited by definition, staff have included these uses within the amending By-law for clarity purposes (see Appendix “B”).
ALTERTIVIES FOR CONSIDERATION

In the event Council does not support the proposed application, the conditional approval of Consent Application GL/B-13:09 will lapse, and the applicant will not be able to sever the surplus dwelling from the property. The use of the subject property would continue to be regulated by the existing General Agriculture “A1” Zone provisions contained in Zoning By-law No. 464.

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

1.1 Continue to grow the non-residential tax base.

APPENDICES / SCHEDULES

• Appendix “A”: Location Map
• Appendix “B”: Draft By-law
• Appendix “C”: Committee of Adjustment Decision for GL/B-13:09
• Appendix “D”: Map of Other Lands Forming Part of the Consolidated Farm Operation

: DMS
Attaches. (4)
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 area municipality known as “The Corporation of the Township of Glanbrook” 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 of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 14- of the Planning Committee, at its meeting held on the day of , 2014, recommended that Zoning By-law No. 464 (Glanbrook), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Rural Hamilton Official Plan, approved by the Minister under the Planning Act on March 7, 2012.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule “D”, appended to and forming part of By-law No. 464 (Glanbrook), is amended by changing the zoning from the General Agricultural “A1” Zone to the General Agricultural “A1-280” Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Section 44, “Exceptions to the Provisions of the By-law”, of Zoning By-law No. 464, be amended by adding a new special provision, “A1-280”, as follows:

“A1-280” 1660 Hall Road

Notwithstanding SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, Sub-section 8.1 - PERMITTED USES, the following uses shall be prohibited on the lands zoned “A1-280”:

(a) A Single Detached Dwelling
(b) Farm Help Houses
(c) Home Occupations and Home Professions
(d) Home Industries
(e) Bed and Breakfast Establishments

3. 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 ___ day of ___, 2014.

_______________________________  _______________________________
R. Bratina                              R. Caterini
Mayor                                  Clerk

ZAA-13-031
This is Schedule "A" to By-law No. 14-
Passed the .......... day of ................., 2014

Schedule "A"
Map Forming Part of
By-law No. 14-______
to Amend By-law No. 464

Subject Property
1660 Hall Road
Lands to be rezoned from the General Agriculture "A1" Zone to the General Agriculture "A1-280" Zone
Committee of Adjustment
Hamilton City Hall
71 Main Street West, 9th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-3434, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-13:09
SUBMISSION NO. B-09/13

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 1660 Hal Road, formerly in the Town of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners David & Joan Barlow, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the severance of a parcel of land measuring 63.8m in width along Hal Road, with a depth of 239m and an area of 1.52 hectares containing the existing farm house and accessory workshop, and to retain a parcel of vacant farm land with an area of 48 hectares. The retained lands are intended to be consolidated with other farm operations owned by the applicant consisting of 210 Barlow Road (Lot 32, Conc. 9), 2040 Hall Road (Lot 24, Conc. 8), 260 Bell Road (Lot 31, Conc. 8) and a vacant farm lot on Regional Rd 9A (Lot 33, Conc. 10).

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 Township of Glanbrook 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 applicant/owner apply for and receive final approval of a Zoning By-law Amendment application to prohibit the development of a dwelling on the lands to be retained to the satisfaction of the Manager of Development Planning, Heritage and Design.

3. 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).

4. 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).

5. The owner shall submit survey evidence that the existing structures located on the lands to be conveyed conform to the requirements of the Zoning By-law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-

.../2
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 severed and or retained to the satisfaction of the Planning and Economic Development Department (Building Services Division).

7. That the owner/applicant apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Services Division).

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

9. 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.

DATED AT HAMILTON this 4th day of April, 2013.

[Signatures]

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS April 11th, 2013.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (April 11th, 2014) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(4)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS May 1st, 2013.

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

NOTE (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 remain as 1880 Hill Road and that the lands to be retained will be assigned the municipal address of 1700 Hill Road.

2. 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 development, grading, construction activities, landscaping, grading, 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 (OMTCS). All archaeological reports shall be submitted to the City of Hamilton for review concurrent with their submission to MTCM.

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 (1-800-214-7143). 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 Cemetery Regulation Unit of the Ministry of Small Business and Consumer Services (416-328-8900).