That Council agrees to the following actions, as detailed in Report PED12008, respecting the appeal of the City of Hamilton Committee of Adjustment Consent/Land Severance Application GL/B-11:96 by Dave L. Mitchell, 1308 Guyatt Road, former Township of Glanbrook, as shown on Appendix “A” to Report PED12008, 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 GL/B-11:96.

(b) That Council directs appropriate Legal Services and Planning staff to attend the future Ontario Municipal Board (OMB) Hearing to support the appeal.
EXECUTIVE SUMMARY

Application GL/B-11:96 was considered by the City of Hamilton Committee of Adjustment on November 24, 2011. Comments to the Committee of Adjustment from the Planning and Economic Development Department did not support the application, as it was the opinion of staff that the proposal did not conform to the severance policies as set out in the Greenbelt Plan, the Provincial Policy Statement, the Hamilton-Wentworth Official Plan, and the Former Township of Glanbrook Official Plan. The Committee of Adjustment approved the application, subject to conditions on November 24, 2011, (see Appendix “C”). Due to the appeal period, Planning and Economic Development Department 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's approval/ratification.

Alternatives for Consideration - See Page 14.

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

Financial: Planning and Economic Development Department staff has submitted the required fee of $125.00 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. Therefore, no additional funds would be required.

Staffing: One representative from each of Development Planning and Legal Services would be required for preparation and attendance at an Ontario Municipal Board Hearing.

Legal: No legal implications are expected.

HISTORICAL BACKGROUND (Chronology of events)

Chronology:


December 18, 2007: Appeal filed by City of Hamilton.

January 15, 2008: Appeals forwarded to Ontario Municipal Board.

February 5, 2008: PED08031 presented to Economic Development and Planning Committee requesting confirmation to proceed with appeal.

February 13, 2008: Council confirms minutes of Economic Development and Planning Committee (Minutes 08-003) to proceed with appeal.

February 25, 2008: Ontario Municipal Board issues Order allowing appeal and provisional consent is not given since applicant did not wish to proceed with the matter.


November 24, 2011: Consent Application GL/B-11-96 approved by Committee of Adjustment.

December 21, 2011: Last date for appeals to be filed.

Proposal

The subject property is located at 1308 Guyatt Road (former Township of Glanbrook). The application proposes to convey a parcel of land (Part 1), having a frontage of 64.15m± (210'±) and an area of 5,104m²± (1.26 acres ±), containing an existing single family dwelling (farm help house) for residential purposes, and to retain a parcel of land (Parts 2 and 3), having a frontage of 445.65m± (1,462'±) and an area of 590,727.47m²± (145.9 acres±), containing an existing single family dwelling and accessory farm buildings for Agricultural purposes, as shown on Appendix “B”.

The application was reviewed against all applicable planning policy documents which included the Provincial Greenbelt Plan, the Provincial Policy Statement, the Hamilton-Wentworth Official Plan, and the Former Township of Glanbrook Official Plan. Planning and Economic Development Department staff recommended denial of the application on the basis of non-conformity with the above noted policy documents.

The Committee of Adjustment approved the application on November 24, 2011, subject to conditions (see Appendix “C”).
Details of Submitted Application:

**Location:**
1308 Guyatt Road (Glanbrook)

**Owner/Applicant:**
David L. Mitchell

**Property Description:**
- **Frontage:** Approximately 529.8 metres
- **Depth:** Approximately 1,127 metres
- **Area:** Approximately 59.55 hectares

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture with a</td>
<td>Farm Help House, and Barns</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>Single Detached Dwelling</td>
<td></td>
<td></td>
</tr>
</tbody>
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Surrounding Lands:

<table>
<thead>
<tr>
<th>North</th>
<th>Agriculture and Twenty Mile Creek</th>
<th>General Agricultural “A1” Zone and Open Space “OS3” Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Agriculture and Single Detached Dwellings</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Agriculture and Single Detached Dwellings</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Agriculture and Single Detached Dwellings</td>
<td>General Agricultural “A1” Zone</td>
</tr>
</tbody>
</table>

POLICY IMPLICATIONS

**Provincial Greenbelt Plan**

The subject application has been reviewed with respect to the Greenbelt Plan. Staff notes that the lands to be severed are designated as “Protected Countryside - Prime Agricultural Area” under the Greenbelt Plan. Policy 3.1.3.1 states that “within prime agricultural areas, as identified in municipal Official Plans, normal farm practices and a full range of existing and new agricultural, agricultural-related, and secondary uses are supported and permitted.” Further, Policy 3.1.3.4 states that “new land uses and the
creation of lots, as permitted by the policies of this Plan, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae."

Staff notes that the proposed severance would result in a new separate residential lot that could be non-compliant to the requirements of the MDS formula as the retained agricultural structures have housed and are, therefore, capable of housing livestock.

Typically, in order to satisfy Minimum Distance Separation requirements, a condition of approval is applied to require a Zoning By-law Amendment to prohibit livestock operations within any existing barns. It should be noted, that no condition was included in the Conditions of Approval (see Appendix “C”) for the applicant/owner to demonstrate conformity to the Agricultural Code of Practice, Minimum Distance Separation Formula.

Policy 4.6 addresses lot creation for lands falling within the Protected Countryside. Policy 4.6.3 c) states that within the specialty crop area and prime agricultural area, lot creation is permitted for:

“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.”

The subject application proposes the severance of a farm help house, as indicated in Question 10.2 of the application form. The establishment of this farm help house was approved in 1997, through Site Plan Application D-2-108, and its use defined through a Development, Maintenance and Use Agreement, which was registered on title as Instrument Number LT452378.

Staff notes that the Greenbelt Plan defines a residence surplus to a farm operation as “an existing farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation)”. Further, the Plan defines existing uses as “uses legally established prior to the date that the Greenbelt Plan came into force”.

In light of the foregoing, staff finds that while the farm help house was legally established, it was not established as a farm residence and, as such, cannot be deemed to be a residence surplus to a farm operation as a result of a farm consolidation. Further, and based on the application submitted, the subject application is not a result of a farm consolidation. As such, staff finds that the subject application does not conform to the Greenbelt Plan.
Provincial Policy Statement (PPS)

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Policy 2.3.3.3 states that “new land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the minimum distance separation formulae.” As mentioned within the Provincial Greenbelt Plan section above, the applicant/owner has not demonstrated that the proposed residential lot would be in compliance with the required setbacks of the MDS.

Policy 2.3.4 addresses lot creation and lot adjustments within agricultural areas. Specifically, Policy 2.3.4.1 c) states that lot creation in prime agricultural areas is discouraged, and may 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.”

Further, Policy 2.3.4.3 states that the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with Policy 2.3.4.1 (c).

As noted above, the subject application proposes the severance of a farm help house, as indicated in Question 10.2 of the application form. The establishment of this farm help house was approved in 1997, through Site Plan Application D-2-108, and its use defined through a Development, Maintenance and Use Agreement, which was registered on title as Instrument Number LT452378.

Staff notes that the PPS defines a residence surplus to a farm operation as “an existing farm residence that is rendered surplus, as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation)”.

In light of the foregoing, staff finds the farm help house not to be a farm residence and, as such, cannot be deemed to be a residence surplus to a farm operation as a result of a farm consolidation. Further, and based on the application submitted, the subject application is not a result of a farm consolidation. As such, staff finds that the subject application is not consistent with the PPS.
In addition, Policy 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. Staff notes that the subject property contains buildings identified as being of architectural and/or historical interest, and are listed within Hamilton’s Heritage Volume II. Further, staff notes Policy 2.6.2 of the PPS with respect to archaeology.

**Hamilton-Wentworth Official Plan**

The subject lands are designated as “Rural Area - Prime Agricultural Area” in the Hamilton-Wentworth Official Plan. Policy C-3.2.2 states that agriculture will continue to be the predominant use in the rural areas of the Region. Policy D-8 of the Plan addresses land severances, and states that the severance of land on prime agricultural lands is generally inconsistent with the principles of sustainable development. In addition, Policy D-8.1.1 states that policies related to Rural Settlement Areas, mineral aggregate areas, separation distances from watercourses, the Agricultural Code of Practice, consolidation of agricultural lands, surplus farm houses, continued farm viability, and lots limited to appropriate size of intended use must be incorporated into the Area Municipal Official Plans.

However, Policy B-9.2 states: “consider protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment.” Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As noted above, the subject property contains buildings identified as being of architectural and/or historical interest, and are listed within Hamilton’s Heritage Volume II.

As discussed in the sections above and below, the proposed severance is not a result of a farm consolidation, but rather for the separation of a farm help house, which is contradictory to the policies of the Hamilton-Wentworth Official Plan.

**Former Township of Glanbrook Official Plan**

The subject lands are designated Agricultural on Schedule “A” - Land Use Plan in the Glanbrook Official Plan. The proposed application is to sever a parcel of land containing a surplus farm dwelling, which was established as a “permanent farm help house” under Site Plan Application D2-108.
The following policies are applicable:

“D.2  RURAL AREA POLICIES

D.2.1  General Policies

Consent for severance within the Rural Area, as identified on Schedule "A" - Land Use Plan, will be given consideration only if the applicant demonstrates that his or her application for consent is warranted and in conformity with the following policies:

D.2.1.1  Consents for non-farm uses and supporting or ancillary agricultural uses in the Rural Area must comply with the relevant policies in Section B.1 of this Plan.

D.2.1.2  Consent for a severance must comply with the minimum distance requirements of the Agricultural Code of Practice, and be sufficiently separated from nearby incompatible land uses to minimize adverse environmental effects.

D.2.2  Agricultural Policies

D.2.2.1  Any parcel severed in the Agricultural area shall:

(a)  Be located on the least productive portion of the applicant's land holding, where possible;

(b)  Have appropriate frontage on a maintained public road; and,

(c)  Not interfere with the efficient agricultural operation of the remaining lands and adjacent lands.

D.2.2.2 On prime agricultural lands in relation to a viable farm operation, the size of the parcel severed shall be limited to the requirements of the intended use and generally shall not be larger than the lot size requirements of Section D.1.4 of this Plan.

D.2.2.3 No severance shall prejudice the viability of a farm unit.

D.2.2.4 Consent to provide a lot for farm help shall be prohibited. A farm residence(s) for farm help may be permitted in accordance with the policies of Section B.1.1.8 of this Plan, and through appropriate Zoning regulations without the necessity for a severance.
D.2.2.5  No severance shall be permitted which creates an infilling situation under the provisions of this Plan.

D.2.2.6  A consent may be considered if it is necessary for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the size of, or establishing a viable farming operation.

D.2.2.7  Consents for residential purposes, in accordance with other policies of the Plan, may be considered from viable farming operations provided that:

(a) The applicant has owned, resided on, and actively farmed the property for the last 10 years; and,

(b) The remaining property, or for the retiring farmer, the conveyed property, is a viable farming operation and not less than 18 hectares (approximately 45 acres) in size, unless the farm operation is of a specified nature and is considered viable under Section H.5.21 of this Plan.

D.2.2.8  Consents considered under Section D.2.2.7 shall be limited to one of the following:

(a) One retirement lot for a bona fide farmer who is retiring from an active farming life so long as the farmer retains a residential lot with the existing farm dwelling, and continues to live therein and conveys the remaining lands; or the farmer retains a residential lot to build a retirement dwelling for himself, and conveys the farm, including the existing farm dwelling.

(b) One lot to a child of a bona fide farmer, so long as the child's assistance is essential to the farming operation as his or her principal activity, and no severance has been granted from the land within the last 10 years.

However, the applicant is encouraged to construct a second residence on the farm in accordance with the provisions of Section B.1.1.8 of this Plan rather than severing a lot, in order to retain the land and the residence as an asset of the existing farm operation.

D.2.2.9  In addition to Section D.2.2.8, and subject to Section D.2.2.7, a severance may be considered for a surplus farm house created as a result of a farm consolidation under Section D.2.2.6 of this Plan provided that:

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
(a) No severances have been granted from the lands consolidated to the farm within the last 3 years; and,

(b) The location of the proposed severance does not interfere with the farm operation.

D.2.2.10 Lands in areas having soil Classes 5, 6, 7, and 0, as defined in the Canada Land Inventory, which are not part of a viable farming operation, shall only be considered for a residential consent if the application;

(a) Has a property of at least 18 hectares (approximately 45 acres);

(b) Has owned the property for at least 10 years;

(c) Has had no consents granted from the land within the last 10 years; and,

(d) Conforms with the other policies of this Plan.

D.2.2.11 In addition to Section D.2.2.8 to D.2.2.10, inclusive, a consent to sever a property for one residential dwelling, on an infilling basis, may be considered provided:

(a) The land fronts on a public roadway;

(b) The land is situated between two residential dwellings, fronting on the same side of the road, which are not more than 60 metres (approximately 200 feet) apart, provided that such existing dwellings are not located on or form part of an existing farming operation;

(c) The land is situated within a linear development of three or more existing non-farm residential dwellings grouped on the same side of a public roadway; and,

(d) The application conforms with the other policies of this Plan.

D.2.2.12 In addition, to Sections D.2.2.8 to D.2.2.10 inclusive, a consent for a residential lot may be considered if the total existing property is not greater than 0.8 hectares (approximately 2 acres) in size and contains more than one residential dwelling."
As noted above, the applicant/owner has not demonstrated that the proposed residential lot would comply with the requirements of the MDS formula and, therefore, may not conform to Policy D.2.1.2. The application to sever a surplus dwelling (farm help house) from an active farming operation, that also has a principal dwelling on the property, does not conform to the Glanbrook Official Plan.

Rural Hamilton Official Plan

The City of Hamilton Rural Official Plan was adopted by Council on September 27, 2006, and approved, with modifications, by the Province on January 7, 2009. The Plan has been appealed to the OMB. An interim Order of the Board was issued June 28, 2011, bringing the majority of the plan into full force and effect, with the exception of the land division policies and some site-specific appeals that have yet to be resolved. As a result, the land division policies are not in force and effect, but do represent Council’s direction for lot creation in the rural area. Accordingly, staff has reviewed the proposal with regard to these policies for information purposes only.

The subject lands are designated as “Agriculture” under the Ministerial approved Rural Hamilton Official Plan.

Policy F.1.14.2.1 states that consents for new lot creation in the Agriculture and Specialty Crop designations, except surplus farm dwelling severances, shall be permitted provided the following conditions are met:

“a) The permitted agricultural use or agricultural-related use shall comply with the policies of Sections D.2, Agriculture; and D.3, Specialty Crop of this Plan;

b) The minimum lot size for newly created lots and retained lots within the:
   i) Agriculture designation shall be 40.4 hectares (100 acres), except as provided in Section D.2.2.2 D.2.1 [Mod 28(g)].
   ii) Specialty Crop designation shall be 16.2 hectares (40 acres), except as provided in Section D.2.2.2 D.2.1 [Mod 28(g)].

c) The minimum lot size requirements of the Agriculture designation and Specialty Crop designation may also include lands designated as “Open Space” on Schedule D - Rural Land Use Designations, or identified within the Natural Heritage System on Schedule B - Natural Heritage System.
d) New lots and lot additions shall be considered for agricultural uses only, and shall
demonstrate by a report prepared by an accredited professional knowledgeable
in farm economics, such as an agrologist or agronomist, that the proposed
agricultural uses on the severed and retained lots are each of sufficient size and
nature to be reasonably expected to:

i) Sustain a commercially viable farm operation;

ii) Allow farm operators the flexibility to change the existing and proposed
farm operation in the event of business failure; and,

iii) Allow farm operators the flexibility to diversify and intensify the production
of agricultural commodities in response to changing economic conditions
and trends in agriculture.

The City may request comments on this report from the Ministry of Agriculture,
Food and Rural Affairs, or other independent peer reviewer, prior to
consideration of the new lot or lot addition for severance approval."

For information purposes, staff notes that the subject application is not for any of the
aforementioned permitted severance forms. In addition, F.1.14.2.2 states that an
existing farm dwelling that is a residence surplus to a farm operation as a result of a
farm consolidation may be severed, subject to specific requirements. One of the
specific requirements is:

“F.1.14.2.2c)vii) Barns and farm buildings situated on the land retained as a result of
surplus farm severances shall comply with the Minimum Distance
Separation 1 formula of the Province.”

As noted above, the applicant/owner has not demonstrated that the proposed
residential lot would comply with the requirements of the MDS formula and, therefore,
may not conform to this Policy.

Furthermore, the subject application is not a surplus farm dwelling severance. As such,
staff finds that the subject application would not conform to the Lot Creation policies of
the Ministerial approved Rural Hamilton Official Plan.

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

1) Within 300 metres of a primary watercourse or permanent waterbody, 200
metres of a secondary watercourse or seasonal waterbody, or 300 metres of a
prehistoric watercourse or permanent waterbody;
2) Local knowledge associates areas with historic events/activities/occupations; and,

3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act, and Section 2.6.2 of the Provincial Policy Statement apply to the subject application, which would normally require an Archaeological Assessment. This application will not result in significant soil disturbance. If this severance is granted, the City does not require an Archaeological Assessment, but retains the authority to require one for any future applications on the subject property under the Planning Act, and staff requires that inclusion of Note #1 below.

The original farmhouse and barn are listed in the City’s Inventory of Buildings of Architectural and/or Historical Interest. Staff encourages the applicant to retain the historical farmhouse and barn.

**Former Township of Glanbrook Zoning By-law No. 464**

The subject lands are zoned General Agricultural “A1” Zone in the Former Township of Glanbrook Zoning By-law No. 464. The lands to be conveyed and retained meet the minimum lot frontage and area requirements of the Zone.

### RELEVANT CONSULTATION

- N/A.

### ANALYSIS / RATIONALE FOR RECOMMENDATION

(Include Performance Measurement/Benchmarking Data, if applicable)

**Roles and Responsibilities of the Committee of Adjustment (PD02116(a))**

In December 2002, City Council endorsed a staff report related to the roles and responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an Information Report to the Committee of the Whole when an appeal is made to the Ontario Municipal Board, of a decision made by the Committee of Adjustment to deny an application(s) that was supported by staff. In response to such a report, Council may determine its position on the Committee of Adjustment decision and may instruct Legal..."
Services to attend the Ontario Municipal Board Hearing, in support of the Committee's decision, and to retain outside professional(s) accordingly."

The situation with the subject Guyatt Road application is one in which the Committee of Adjustment "approved" an application that was "not" supported by staff. What is consistent between the above resolution and the subject application is that the Committee of Adjustment decided against the staff recommendation. As a result, the above application is being brought to the attention of Council for their consideration and direction.

Due to the short appeal time frame regulated through the Planning Act, the prescribed fee and appeal letter were submitted to begin the appeal process, subject to confirmation of this action from Council.

The farm help house to be severed was approved in May 1997, as an accessory structure to the principal, retained dwelling under Site Plan D2-108 since the policies of the applicable Glanbrook Official Plan prohibited consent to provide a lot for farm help. In addition, since the proposed lot to be severed is closer to livestock facilities than existing non-farm dwellings, the proposed lot may not comply with the Minimum Distance Separation (MDS) requirements. Therefore, the proposal is not consistent with the policies of the Provincial Policy Statement and does not conform to the policies of the Provincial Greenbelt Plan, Hamilton-Wentworth Official Plan, Glanbrook Official Plan, and the Council adopted Rural Hamilton Official Plan.

The applicant and agent have advised staff that it is their intent to amend the application at the OMB to permit the severance of a surplus farm residence (farm help house) on the basis of a farm consolidation. To date, staff has not completed a review of the applicable Provincial and Municipal policy documents to make an informed opinion on the merits of any such revised application. However, technically, the farm has not yet been consolidated, as it is subject to a conditional offer of purchase and sale. Accordingly, it is recommended that the appeal of the application proceed. Staff will advise Committee of any further developments in this regard.

**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 severance application, as recommended in this Report.
Option 2

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decision of the Committee of Adjustment to the OMB. However, it should be noted that a third party appeal has also been submitted and received by the Committee of Adjustment.

CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Healthy Community

• Plan and manage the built environment.

APPENDICES / SCHEDULES

• Appendix “A”: Location Map
• Appendix “B”: GL/B-11:96 Severance Sketch
• Appendix “C”: GL/B-11:96 Severance Decision

:PD
Attachs. (3)
Committee of Adjustment

Subject Property
1308 Guyatt Road

- Lands to be Retained
- Lands to be Severed

City of Hamilton

File Name/Number: GUB-11:96
Date: Nov. 14, 2011
Technician: KA
Map Not to Scale
Appendix "A"

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GLB-11.96
SUBMISSION NO. B-95/11

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

AND IN THE MATTER OF the Premises known as Municipal number 1306 Guyatt Road, formerly in the Township of (Binbrook) Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owner David L. Mitchell, for consent under Section 52(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land (Part 1 on attached sketch) having a frontage of 64.15m (210'3") and an area of 5104m² (1.26 acres) containing an existing single family dwelling for residential purposes, and to retain a parcel of land (Parts 2 & 3 on attached sketch) having a frontage of 445.65m (1462'2") and an area of 590,727.47m² (145.0 acres) containing a single family dwelling and accessory farm buildings, for agricultural purposes.

Note: This application is a resubmission of Consent GLB-07/128, which was granted by the Committee of Adjustment (see attached decision) and appealed to the Ontario Municipal Board. The Ontario Municipal Board upheld the appeal and Ordered that the provisional consent not be given.

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 Committee, having regard to the evidence, is of the opinion that this proposal is for the severance of a residence surplus to the farming operation, whereby no new building lot is being created, and is therefore satisfied that the proposal does not offend the intent of the Hamilton-Wentworth and Township of Glanbrook Official Plans.

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. The owner shall satisfy ALL requirements financial and otherwise of the City of Hamilton, Planning and Economic Development Department, Development Planning (East) Division.

3. The owner shall submit survey evidence that the existing structures located on both the lands to be conveyed and the lands to be retained 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-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

4. 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 retained, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

5. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.30, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

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

CERTIFIED A TRUE COPY

SECRETARY-TREASURER
DATED AT HAMILTON this 24th day of November, 2011.

M. Dudzic, Chairman

L. Gaddye D. Serwatuk

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 1st, 2011.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 1st, 2012) 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 21st, 2011.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE:

"That prior to any further approvals under the Planning Act or any construction requiring a building permit issued by the City of Hamilton, the property owner shall carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Tourism and Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

The subject lands are considered to be of archaeological potential, and should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (519.675.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.328.8392)."