

# COMMITTEE OF ADJUSTMENT

## **CONSENT REPORT**

*STATUTORY AUTHORITY: Section 53 of the Planning Act, 1990*

**APPLICATION: B22/06(1712)**

**DATE OF MEETING: BY VIDEOCONFERENCE AND LIVE-STREAMING VIDEO ON THE TOWN'S WEBPAGE AT OAKVILLE.CA ON TUESDAY, NOVEMBER 29, 2022 AT 7:00 P.M.**

<u>Owner (s)</u>	<u>Agent</u>	<u>Location of Land</u>
AMIEL BEKKERS 3466 BURNHAMTHORPE RD W OAKVILLE ON, L6M 4H3	DAVID IGELMAN DESIGN PLAN SERVICES INC. 900 THE EAST MALL SUITE 300 TORONTO ON, M9B 6K2	3466 BURNHAMTHORPE RD W CON 1 NDS PT LOT 35 RP 20R4769 PART 1

**OFFICIAL PLAN DESIGNATION: GREENBELT - PARKWAY BELT  
WARD: 7**

**ZONING: GB  
DISTRICT: WEST**

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### **PURPOSE OF APPLICATION:**

Application has been made for Consent for the creation of a New Lot. The application is asking to convey a portion of land (Part 2) approximately 26670 sq m in area with an approximate frontage of 174.4 m (street limit – Burnhamthorpe Road West) and a depth of 189.43 m to be severed from CON 1 NDS PT LOT 35 RP 20R4769 Part 1. The current use of the proposed (Part 2) is a kennel. The retained parcel (Part 1) is approximately 55690 sq m in area with an approximate frontage of 208.45 m (street limit- Burnhamthorpe Road West) and a depth of 261.32 m and the use is a single –detached dwelling. The uses are proposed to remain unchanged as the purpose of this severance is to create one new lot so that each of the two uses are on separate lots.

The said parcels being more particularly described on the attached draft Severance Sketch prepared by Cunningham McConnell Limited, Ontario Land Surveyors, Plan 54-22-1 and dated June 17, 2022.

### **CIRCULATED DEPARTMENTS AND AGENCIES COMMENTS RECEIVED**

#### **Planning Services:**

**(Note:** Planning Services includes a consolidated comment from the relevant district teams including, Current, Long Range and Heritage Planning, Urban Design and Development Engineering)

#### **CONSENT**

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**To:** Heather McCrae, Secretary-Treasurer

**From:** Planning Services

**Date:** November 24, 2022

**Subject: Consent B22/08 (1335)**  
3466 Burnhamthorpe Road West  
CON 1 NDS PT LOT 35 RP 20R-4769 PART 1

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## RECOMMENDATION

That consent application B22/08 (1335) submitted by Design Plan Services Inc. on behalf of the owner to sever and convey a parcel of land (Part 2) having a lot area of approximately 2.64 ha with a lot frontage of 174.4 metres on Burnhamthorpe Road West and a depth of 189.43 m, from CON 1 NDS PT LOT 35 RP 20R-4769 PART, designated as Parts 1 and 2 on Plan 20R-4769, be refused.

## LOCATION

The subject lands are located southeast corner of Tremaine Road north (Regional Road 22) and Burnhamthorpe Road West. The legal description for the subject lands is CON 1 NDS PT LOT 35 RP 20R-4769, designated as Parts 1 and 2 on Plan 20R-4769. The subject lands are located within the agricultural area outside the Urban Area north of Highway 407, at the south-east intersection of Burnhamthorpe Road West and Tremaine Road. The subject lands currently contain two existing buildings, one being a detached dwelling and another a kennel, as seen in Figure 1.

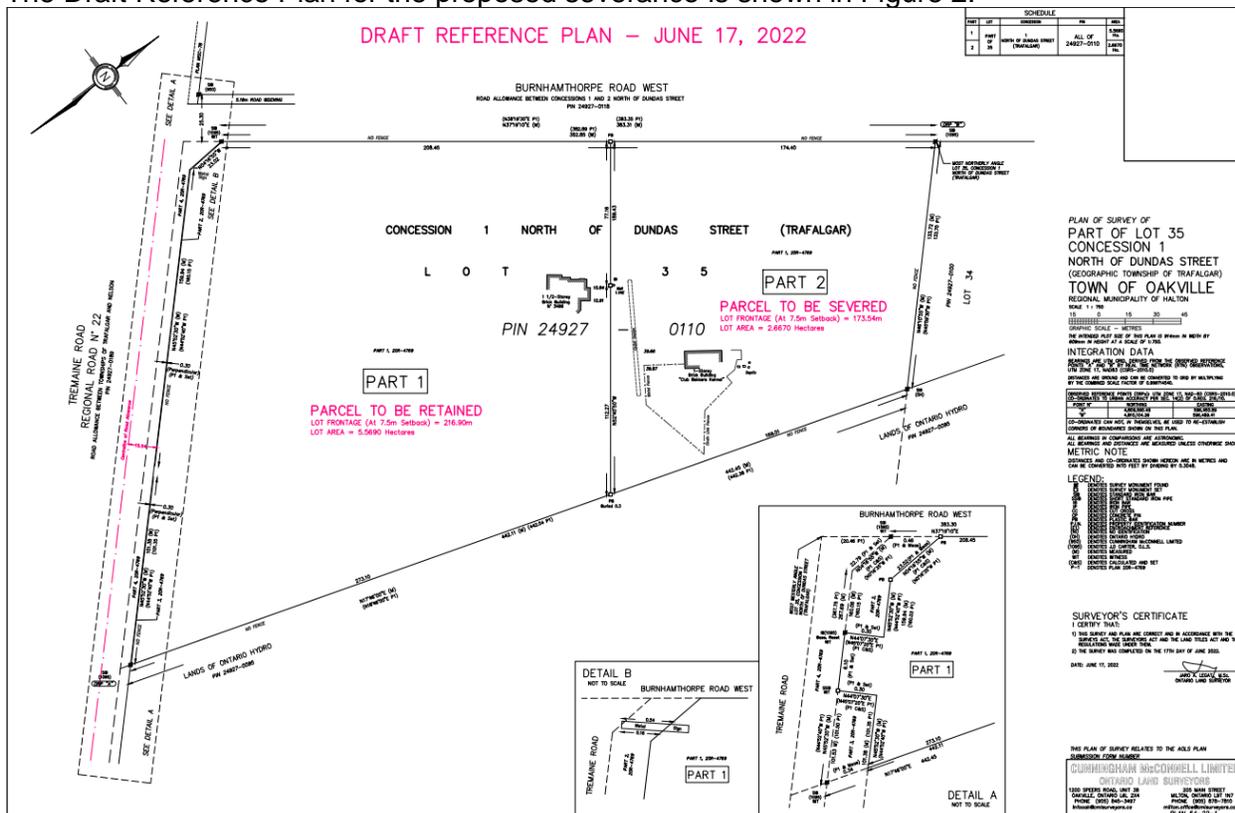


**Figure 1: Subject Lands**

**PURPOSE**

Consent application B22/08 (1335) proposes to sever a portion of the subject lands approximately 2.64 ha in area with a lot frontage of 174.4 metres on Burnhamthorpe Road West and a depth of 189.43 m for the purpose of creating a new lot (Part 2) with the existing kennel. The retained parcel (Part 1) would be approximately 5.56 ha in area with a lot frontage on Burnhamthorpe Road West of approximately 216.90 m and a depth of approximately 261.32 m, which contains with an existing single detached dwelling. The uses are proposed to remain unchanged as the purpose of this severance is to create one new lot so that each of the two uses are on separate lots.

The Draft Reference Plan for the proposed severance is shown in Figure 2:



**Figure 2: Sketch Showing Proposed Severance**

**PROVINCIAL POLICY STATEMENT (PPS), 2020**

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest regarding land use planning and development and sets the policy foundation for regulating land use and development of land. All decisions affecting planning matters shall be ‘consistent with’ policy statements issued under the *Planning Act*.

The agricultural policies apply to the subject lands as they are located within agricultural area outside the Urban Area.

Section 2.3.1 describes how prime agricultural areas shall be protected for long term agricultural use.

*“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 Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.”*

Section 2.3.3.2 describes how 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.

Section 2.3.4.1v (c) describes how lot creation in prime agricultural areas is discouraged and may only be permitted for a residence surplus to a farming operation, provided that:

1. The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. The planning authority ensures that new residential dwellings are prohibited on any 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.

*“Section 2.3.4.1 c) a residence surplus to a farming operation as a result of farm consolidation, provided that:*

*the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*

*the planning authority ensures that new residential dwellings are prohibited on any 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”*

Section 2.3.4.2 of the PPS speaks to lot adjustments in prime agricultural areas being permitted for legal or technical reasons.

*“Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons”.*

Section 6.0 of the PPS defines a legal or technical reason as:

*“severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.”*

The above policies discourage the creation of new lots in the agricultural area and permits non-agricultural uses in prime agricultural areas for the extraction of resources and for limited non-residential uses or severances for surplus farm dwellings. The proposed consent would fragment an undersized agricultural parcel and make it less viable for agricultural production, as it is not being consolidated with another agricultural operation. Furthermore, the proposed lot area and frontage of the retained lands which contain the existing dwelling, is oversized in relation to its residential use as noted in policy 2.3.4.1v (c) 1.

In the implementation of the PPS, all relevant policies shall be applied to each situation and the Regional Official Plan is the most important tool to achieve the objectives of the PPS with regards to this matter. On this basis the policies that directly affect this proposal are imbedded in the Regional Official Plan and Livable Oakville Plan and it is Staff's opinion that the proposed consent is not consistent with the policies of the PPS.

## **GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE, 2020**

The Growth Plan for the Greater Golden Horseshoe provides a framework implementing the Province's vision for building stronger, prosperous communities by better managing growth. The Plan directs growth to built-up areas through intensification where development proposals can efficiently use existing transportation and servicing infrastructure.

The subject lands are within the "Greenbelt Area" – Schedule 2: Places to grow Concept. The geographic area identified as Greenbelt Area in Ontario Regulation 59/05 under the Greenbelt Act, 2005.

Section 2.2.1, b) mentions that the growth will be limited in settlement areas that are in the Greenbelt Area and it is to be governed by the Greenbelt Plan.

Section 2.2.1.2 (b) of the Growth Plan describes how growth will be limited on lands that are not serviced by existing or planned municipal water and wastewater system.

*"b) growth will be limited in settlement areas that:*

- i. are rural settlements;*
- ii. are not serviced by existing or planned municipal water and wastewater systems; or*
- iii. are in the Greenbelt Area;"*

Section 4.2.6.4 of the Growth Plan describes how the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced.

### *"4.2.6 Agricultural System*

*4. The geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced."*

Section 4.2.6.5 of the Growth Plan speaks to the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged.

*"5. The retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged."*

The policies in the Growth Plan indicates limited development in the settlement areas which are located in the Greenbelt Area governed by the policies of Greenbelt Plan. The subject lands are within the agricultural area and Natural heritage system which constraints its development and growth. Therefore, it is Staff's opinion that the proposed consent does not conform to the policies of the Growth Plan.

## **Parkway Belt West Plan (PBWB) & Greenbelt Plan, 2017**

The subject lands are designated as "Protected Countryside" within the Greenbelt Plan 2017.

*“Section 2.3 of the Greenbelt Plan details that “the requirements of the Parkway Belt West Plan, deemed to be a development plan under the Ontario Planning and Development Act, 1994, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, with the exception of sections 3.2 and 3.3.”*

*Section 3.2.2 ss.3 of the Greenbelt Plan confirms that new development in the Natural Heritage System shall demonstrate that there will be no negative impacts on key natural heritage features of key hydrologic features or their functions.*

*Section 3.2.5 of the Greenbelt Plan details that key natural heritage features include: Habitat of endangered species and threatened species; Fish habitat; Wetlands; Life science areas of natural and scientific interest (ANSIs); Significant valleylands; Significant woodlands; Significant wildlife habitat (including habitat of special concern species); Sand barrens, savannahs and tallgrass prairies; and Alvars.*

*Section 3.2.5 ss.1 of the Greenbelt Plan does not permit development in key hydrologic features and key natural heritage features within the Natural Heritage System.”*

The Subject lands are also within the Parkway Belt West Plan. The Parkway Belt West Plan (hereafter referred to as PBWB) reserves land for infrastructure, the separation of urban areas, and the connection of open spaces.

*“Section 5.1.6 of the PBWB strictly limits the creation of new lots within the area covered by the Plan.”*

The Greenbelt Plan restricts the development in the natural heritage area and restricts the creation of new lots. The proposed consent application does not fall within the exempted listed within the Provincial Policy and not consistent with the Provincial Plans.

### **Halton Region Official Plan, 2009**

The Subject Lands are designated “Regional Natural Heritage System (Greenbelt Plan)” in the Map 1 (Regional Structure) and in the Halton Region Official Plan (“ROP”). Section 117.1 of the ROP outlines the permitted uses in the RNHS. All development, however, is subject to the policies of the ROP. Halton Region staff have reviewed the applications and are not satisfied that the consent application B22/08(1335) conforms to the severance and prime agricultural area policies of the plan. The Regional Plan strictly limits the creation of new lots, and this proposal does not fall within any exemptions listed within ROP.

### **LIVABLE OAKVILLE PLAN**

The subject lands are designated as Greenbelt-Parkway Belt in figure Schedule K - 407 North Land Use in the Livable Oakville Plan. The related policies for the Greenbelt-Parkway Belt are mentioned below:

#### *“3.2 Parkway Belt and Greenbelt*

*The Parkway Belt and the Greenbelt are areas within the Town where development is limited in accordance with Provincial policy. Lands in the Parkway Belt in Oakville are primarily designed to provide a linked system of open space and recreational facilities and to achieve other objectives including, but not limited to, the protection of infrastructure corridors, utilities, and an inter-urban transitway. Lands in the Greenbelt are part of a broad area of land that is permanently protected, primarily for the purpose*

*of protecting the natural heritage and water resource systems within. Lands in the Greenbelt that are also within the Parkway Belt are only subject to Greenbelt Plan policies 3.2 Natural System and 3.3 Parkland, Open Space and Trails.*

#### *4.6 Lands Outside of the Urban Area*

*All of the lands north of Highway 407 are outside of the urban area. The use of these lands is governed by the Parkway Belt West Plan, 1978. The majority of the lands are also subject to the Greenbelt Plan, 2005.*

### *19. PARKWAY BELT WEST*

*The Parkway Belt West Plan, 1978, applies to lands designated as Parkway Belt West on the accompanying schedules.*

*19.1.1 The policies within the Parkway Belt West Plan, 1978, shall govern the use of land within the Parkway Belt West designations on the accompanying schedules.*

*19.1.3 The Town will encourage the Province to continue to remove lands subject to the Parkway Belt West Plan from its jurisdiction. Any such lands will then be under the jurisdiction of the Town and this Plan, unless superseded by another Provincial plan.*

*27.3.6 The policies of the Parkway Belt West Plan shall govern the use of land until such time that the lands are removed from the Parkway Belt West Plan and come under the jurisdictions of the Town and this Plan.*

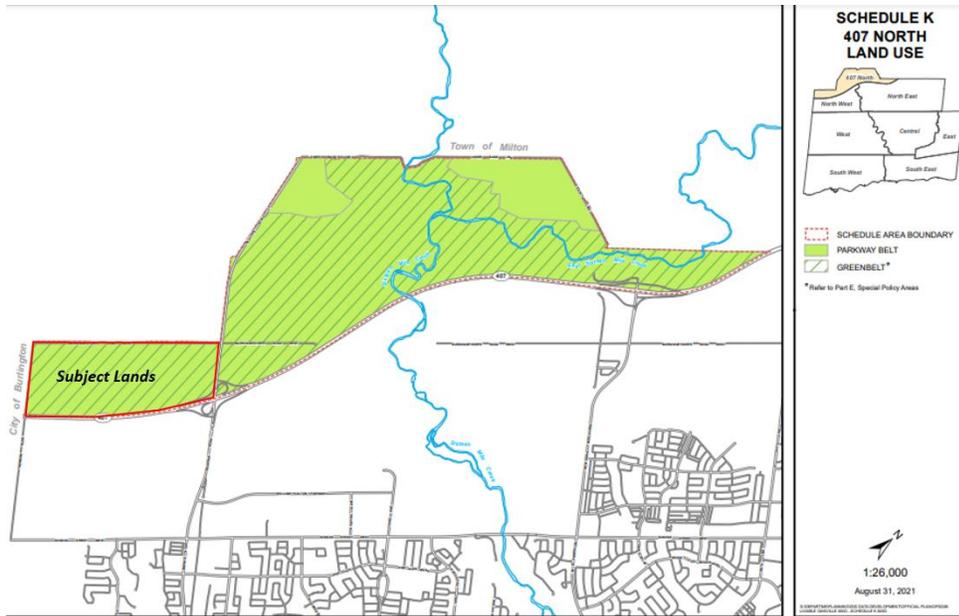
#### *27.3.8.3 Land Use Policies*

##### *a) Parkway Belt West Plan*

*i) The lands identified by Parkway Belt – Overlay form part of the Parkway Belt West Plan. Until such time that these lands are removed from the Parkway Belt West Plan and come under the jurisdiction of the Town and this Plan, the policies of the Parkway Belt West Plan shall govern the use of land.*

*29.1.6 In the case of a conflict between this Plan and a Provincial plan, such as the Parkway Belt West Plan, 1978, or the Greenbelt Plan, 2005, the applicable Provincial plan shall prevail.”*

The subject property is designated as Greenbelt-Parkway Belt and is located outside the Urban area governed by the Parkway Belt West Plan, 1978. The lands have limited development opportunities with Provincial policies. These lands are designated to primarily support open spaces and recreational facilities, amongst other infrastructure and transit related uses. The lands under Parkway Belt are subjected to Green Belt Plan 2005 and Parkway Belt West Plan, 1978 policies.



**Figure 3:** Livable Oakville Plan: Schedule K 407 North Land Use

The consent policies contained within Section 28 provides direction on when the creation of a new lot can be granted. Policy 28.14.2 states:

*“Applications for consent to create new lots may only be granted where:*

- a) a plan of subdivision is not necessary;*
- b) the number of resulting lots is three or less;*
- c) the lot can be adequately serviced by water, wastewater and storm drainage facilities;*

The proposed consent does not demonstrate how each lot is proposed to be serviced by private facilities that are acceptable to the Region of Halton and are of an excessive size to accommodate the residential use and private sewage and water services

- d) no extension, improvement or assumption of municipal services is required;*
- e) the lot will have frontage on a public street and access will not result in traffic hazards;*
- f) the lot will not restrict the ultimate development of adjacent lands;*

The proposed consent does not demonstrate if the creation of a new lot would comply with the Provincial Minimum Distance Separation (MDS) Guidelines or create impacts on surrounding properties.

- g) the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and is compatible with adjacent lots; and,*

The proposed consent results in the fragmentation of agricultural land, with the retained parcel being oversized in relation to its proposed residential use. The excessive size of the retained parcel does not separate the residential use (i.e. dwelling) from the

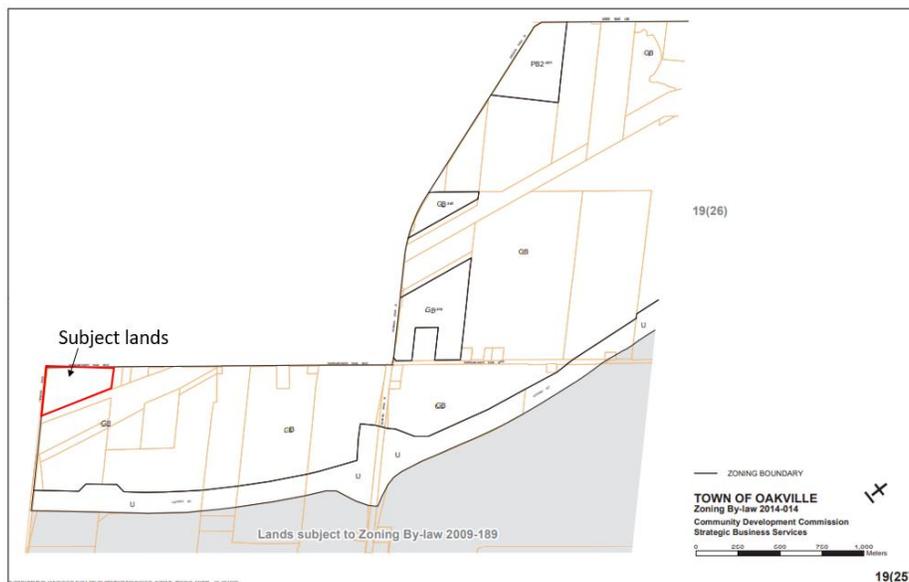
agricultural uses (i.e. kennel and surrounding farmland) in a manner that is being consolidated with another agricultural operation (i.e. similar to a surplus farm dwelling).

*h) the consent conforms to all relevant policies of this Plan.”*

As the Livable Oakville Plan relies on Regional and Provincial policies in this case, it is noted that the proposed consent is not consistent with and does not conform to the applicable upper-tier policies with regards to this matter.

## ZONING BY-LAW

The subject lands are currently zoned Greenbelt – GB in Zoning By-law 2014-014. The GB Zone permits Legal uses of land, buildings, and structures existing on the lot as of December 16, 2004, and the lands have currently existing dwelling and Kennel.



**Figure 4:** Zoning By-Law Map 2014-014

## COMMENT

No public concerns were raised as a result of the public circulation of the notice of Hearing. Halton Region and Halton Conservation Authority have provided comments which are included in the Appendix A of this report.

## CONCLUSION

Consent application B22/08(1335) is not an appropriate form of development, is not consistent with matters of Provincial interest, does not conform to Provincial or Regional policies or the Livable Oakville Plan. The proposed consent would result in fragmentation and loss of agricultural land outside of the Urban Area. On this basis, Staff recommends refusal of Consent application B22/08(1335). Staff and agency comments are included in Appendix A of this report.

Submitted by:

Reviewed by:

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Shradha Arun, B.Arch, MCP  
**Planner**

Charles McConnell, MCIP, RPP  
**Manager, Current Planning (West)**

*Approved by:*

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*Gabe Charles, MCIP, RPP*  
Director, Planning Services Department

**APPENDIX A – DEPARTMENT/AGENCY COMMENTS**

The following Departments/Agencies have indicated no comments or concerns with the proposal:

- **DEVELOPMENT ENGINEERING**
- **ZONING**
- **LEGAL**
- **FINANCE**
- **PARKS AND OPEN SPACE**
- **Hydro One**

**REGION OF HALTON:**

Legislative & Planning  
Services  
Planning Services  
1151 Bronte Road  
Oakville, ON L6M 3L1  
Fax: 905-825-8822

September 30, 2022

Jasmina Radomirovic, Assistant Secretary-Treasurer  
Planning and Development Department  
Town of Oakville  
1225 Trafalgar Road  
Oakville, On L6H0H3

Dear Jasmina Radomirovic:

**RE: Region of Halton Comments – 1<sup>st</sup> Submission  
Consent Application  
Files: B22/08 (1335)  
A. Bekkers  
3466 Burnhamthorpe Road West, Town of Oakville**

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Regional staff are forwarding comments in response to the circulation of the 1st submission for the above-noted application circulated on September 8, 2022. The application proposes the creation of a new lot. The application is asking to convey a portion of land (Part 2) approximately 26670 sq m in area with an approximate frontage of 174.4 m (street limit – Burnhamthorpe Road West) and a depth of 189.43 m to be severed from CON 1 NDS PT LOT 35 RP 20R4769 Part 1. The current use of the proposed (Part 2) is a kennel. The retained parcel (Part 1) is approximately 55690 sq m in area with an

approximate frontage of 208.45 m (street limit - Burnhamthorpe Road West) and a depth of 261.32 m and the use is a single detached dwelling.

Regional staff understand that the uses are proposed to remain unchanged and there is no new construction proposed, as the purpose of this severance is to create one new lot so that each of the two uses are on separate lots.

Regional staff are not in a position to provide a favourable recommendation on this application as the proposal does not conform to Provincial or Regional planning policy.

### **Matters of Provincial and Regional Interest:**

The Provincial Policy Statement (PPS) and the Greenbelt Plan identifies and protects the subject lands for long-term agricultural use. The PPS, PBWB and Greenbelt Plan all restricts the creation of new lots. The subject lands fall within Greenbelt Protected Countryside and Greenbelt Natural Heritage System on Schedule 4 of the Greenbelt Plan.

### ***Provincial Policy Statement, 2020:***

The PPS provides clear direction on land use planning in Ontario to promote strong communities, a strong economy, and a clean healthy environment.

Regional staff notes 'development' is defined within the PPS as follows:

*"the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act, but does not include: a) activities that create or maintain infrastructure authorized under an environmental assessment process; b) works subject to the Drainage Act; or c) for the purposes of policy 2.1.4(a), underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion 5E, where advanced exploration has the same meaning as under the Mining Act. Instead, those matters shall be subject to policy 2.1.5(a)."*

### *Natural Heritage System*

Section 2.1.5 e) of the PPS states development and site alteration shall not be permitted in significant areas of natural and scientific interest, unless no negative impacts have been demonstrated.

### *Agricultural Policies*

Section 2.3.4.1 of the PPS outlines that lot creation in prime agricultural areas is discouraged and may only be permitted for agricultural uses, agricultural-related uses, a residence surplus to a farming operation, or infrastructure.

Section 2.3.4.3 of the PPS details that the creation of new residential lots in prime agricultural areas shall not be permitted.

Section 2.3.1 of the PPS supports prime agricultural areas to be protected for long-term use for agriculture.

Section 2.3.3.3 of the PPS provides protection for prime agriculture areas through requiring the creation of new lots to comply with the minimum distance separation formulae.

Further, section 2.3.6.1 of the PPS directs planning authorities to only permit non-agricultural uses in prime agricultural areas for the extraction of resources and for limited non-residential uses, provided that the following is demonstrated: the land does not comprise a speciality crop area, there is compliance with the minimum distance separation formulae, there is an identified need, and alternative locations have been evaluated (which consideration is made for avoidance of prime agricultural areas).

***Parkway Belt West Plan:***

The Parkway Belt West Plan (hereafter referred to as PBWB) reserves land for infrastructure, the separation of urban areas, and the connection of open spaces.

Section 5.1.6 of the PBWB strictly limits the creation of new lots within the area covered by the Plan.

***Greenbelt Plan, 2017:***

The Greenbelt Plan identifies where urbanization should not occur to ensure there is permanent protection of the agricultural land base and the ecological and hydrological features.

Section 2.3 of the Greenbelt Plan details that *“the requirements of the Parkway Belt West Plan, deemed to be a development plan under the Ontario Planning and Development Act, 1994, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, with the exception of sections 3.2 and 3.3.”*

Section 3.2.2 ss.3 of the Greenbelt Plan confirms that new development in the Natural Heritage System shall demonstrate that there will be no negative impacts on key natural heritage features of key hydrologic features or their functions.

Further section 3.2.5 of the Greenbelt Plan details that key natural heritage features include: Habitat of endangered species and threatened species; Fish habitat; Wetlands; Life science areas of natural and scientific interest (ANSIs); Significant valleylands; Significant woodlands; Significant wildlife habitat (including habitat of special concern species); Sand barrens, savannahs and tallgrass prairies; and Alvars.

Further, section 3.2.5 ss.1 of the Greenbelt Plan does not permit development in key hydrologic features and key natural heritage features within the Natural Heritage System.

***Summary:***

The planning direction within the PPS and the Greenbelt Plan identifies and protects the subject lands for long-term agricultural use. Further, the subject lands are provided the highest priority for protection as they form part of the Prime Agricultural Area. The subject lands contain a Provincial Life science areas of natural and scientific interest (ANSIs), which the Greenbelt Plan restricts development in key natural heritage features. The planning direction within the PPS, PBWB and Greenbelt Plan all strictly limit the creation of new lots. Finally, the proposal from this consent application does not fall within any exemptions listed within Provincial policy.

Staff note the proposed application would allow for prime agricultural lands to be fragmented, which would restrict any potential for future farm uses. Additionally, as the proposed application creates smaller parcels of land, this creates less viable agricultural lands. Finally, the proposed

application creates a new buildable lot, which would allow for a new residential dwelling to be constructed in the future.

Regional staff have reviewed the submitted materials in support of the applications within the context of the policies of the PPS, PBWB, and Greenbelt Plan and are of the opinion that the proposed development is not consistent with and/or does not conform to the Provincial Plans (as outlined in this letter).

### ***Region of Halton Official Plan, 2009:***

The Regional Official Plan (ROP) provides goals, objectives, and policies to direct physical development and change in Halton.

#### *Planning Context and Land Use:*

The subject lands fall within the Greenbelt Plan and are designated as Protected Countryside.

The proposed development are located on the lands that are designated as 'Regional Natural Heritage System' in the 2009 ROP. Section 117.1 of the ROP outlines the permitted uses in the RNHS. Additionally, the subject lands contain or are adjacent to:

- Features identified as Key Features, as illustrated on Map 1G of the 2009 ROP and potential unmapped features, including:
  - Candidate significant woodlands;
  - Potential habitat of endangered or threatened species;
  - Significant areas of natural and scientific interest;
  - Potential significant wildlife habitat; and
  - Potential fish habitat.
- Watercourse and floodplain areas regulated by Conservation Halton (CH).
- Areas identified as Prime Agricultural Areas, as illustrated on Map 1E of the 2009 ROP.
- Areas identified as Greenbelt Natural Heritage System on Schedule 4 of the provincial Greenbelt Plan (2017).
- Areas identified as Greenbelt Protected Countryside on Schedule 4 of the provincial Greenbelt Plan (2017).

'Development' is defined within the ROP as follows:

*“the creation of a new lot, a change in land use, or the construction of buildings and structures, any of which requires approval under the Planning Act, or that are subject to the Environmental Assessment Act, but does not include: (1) activities that create or maintain infrastructure authorized under an environmental assessment process, (2) works subject to the Drainage Act, or (3) within the Greenbelt Plan Area, the carrying out of agricultural practices on land that was being used for agricultural uses on the date the Greenbelt Plan 2005 came into effect.”*

### **Primary Conformity Issues**

#### *Lot Creation Policies*

Section 66 of the ROP outlines that new lots may be created for the purpose of: acquisition by a public body, consolidating lots, adjusting lot lines, conservation purposes as part of the Bruce Trail, and for an existing residence surplus to a farm operation.

Regional staff note the proposed consent application does not fall into one of the exemptions outlined above for lot creation.

### *Agricultural Policies*

Sections 114.1 (3.2) and 118 (22) of the ROP directs agriculture as a primary activity within Prime Agricultural Areas and provides policy to protect lands within Prime Agricultural Areas.

Sections 139.9.1 and 139.9.2 of the ROP supports the agricultural industry by preserving open space character and landscape of Halton's non-urbanized area, and prohibiting non-agricultural uses within Prime Agricultural Areas within the Greenbelt Plan Area respectfully.

Further, sections 99(1)-(5) of the ROP supports the Agricultural System with the following objectives: recognizing agriculture as the primary activity, preserving Prime Agricultural Areas, to maintain lands for existing and future farm uses, and to reduce fragmentation of lands suitable for agriculture.

Staff note the proposed application could allow for the creation of a new residential dwelling in the future through the creation of a new buildable lot, thus promoting the fragmentation and creating less viable agricultural lands. Regional staff notes the current use of the lands (for non-agricultural purposes) does not diminish its potential for future agricultural operations, given its identification within the Prime Agricultural Area promoting the lands are suitable for agriculture.

### *Summary:*

Regional staff are **not** satisfied that the submitted Consent Application conforms to the severance and prime agricultural area policies of the ROP. The planning direction within the ROP strictly limits the creation of new lots and this proposal does not fall within any exemptions listed within the ROP.

### **Other Matters of Regional Interest**

Notwithstanding our position that the consent does not conform to Provincial and Regional policy in relation to protection of agricultural lands and general consent policy, there are further technical issues that would need to be addressed in order to ensure conformity with the ROP.

### *Regional Natural Heritage System:*

The consent application would trigger a scoped Environmental Impact Assessment (EIA) in accordance with Sections 118 (3) and (3.1)c) of the ROP.

The purpose of an EIA is to demonstrate that the proposed development will result in no negative impacts to that portion of the RNHS or unmapped Key Features affected by the development or site alteration by identifying components of the RNHS as listed in Section 115.3, 115.4 and their associated ecological functions and assessing the potential environmental impacts, requirements for impact avoidance and mitigation measures, and opportunities for enhancement. The EIA, shall, as a first step, identify Key Features on or near the subject site that are not mapped on Map 1G. Guidelines for preparation of EIAs are provided on the Region's website as follows: <https://www.halton.ca/Repository/Environmental-Impact-Assessment-Guideline-2020>

The scope of work to be completed as part of EIA may vary depending on the nature and sensitivity of natural features and areas in the vicinity of the proposed works, the scale of the proposed development, and the magnitude of likely impacts. The D-2 Scoping Checklist to

assist the EIA practitioner who will be preparing the EIA to inform the prepared of a Terms of Reference (ToR) can be found [here](#). The EIA practitioner must prepared the draft ToR in accordance with Appendix D-2 of EIA Guidelines to establish an agreed upon scope for this study. The ToR must be submitted to the satisfaction of the Lead Planning Authority for review in consultation with other agencies prior to the start of the study.

Effective January 1<sup>st</sup> 2022, the Region of Halton's 2022 fee by-law has come into force and effect. The 2022 fee by-law includes applications requiring natural heritage review and their associated fees. Fees are in accordance with the Conservation Halton Interim Service Delivery Agreement for Ecological Review Service fees incurred by the Region of Halton. The 2022 fee by-law is outlined below:

- Applications requiring SIS/EIR/FSS Review: \$8,200.00
- Applications requiring scoped EIA-Major (medium/ large-scale development and/or large-scale site alterations): \$5,650.00
- Applications requiring scoped EIA (small scale development): \$2,825.00
- Applications requiring Terms of Reference Review (incl. Appendix D2 – Scoping & TOR Checklist of Region's EIA Guidelines): \$565.00
- Applications requiring Waiving Checklist assessment (Appendix D1 of Region's EIA Guidelines): \$452.00

Further, section 276.4(2) of the ROP details that significant means: "in regard to coastal wetlands and areas of natural and scientific interest, an area identified as provincially significant by the Ontario Ministry of Natural Resources using evaluation procedures established by the Province, as amended from time to time."

Please note that Conservation Halton (CH) provides comments for matters within their regulatory jurisdiction related to Conservation Authority legislation, regulations, and guidelines. As such, it is recommended that CH staff concerns relating to these matters be addressed to their satisfaction.

*Archaeological Potential:*

It should be noted that the subject lands are identified as having archaeological potential. However, it is acknowledged that the proposed development area has been previously disturbed with current development and no new development is being proposed with this Consent application.

Although an archaeological assessment is not required by Halton Region, the proponent is cautioned that during development activities, should archaeological materials be found on the property, the Ontario Ministry of Heritage, Sport, Tourism, Culture Industries should be notified immediately (416-212-8886 or [archaeology@ontario.ca](mailto:archaeology@ontario.ca)). In the event that human remains are encountered during construction, the proponent should immediately contact the appropriate authorities (police or coroner) and all soil disturbance must stop to allow the authorities to investigate and the Registrar of Cemeteries to be consulted.

***Private Servicing:***

Regional Staff have considered the submitted development proposal from the perspective of impacts to groundwater resources in accordance with ROP policy and implementing Guidelines. Further assessment is also required to ensure any new lot on private servicing is self-sufficient and self-sustaining, according to the Regional Guidelines for Hydrogeological Studies and Best Management Practices for Groundwater Protection.

A Stage 1 Hydrogeological Study (for both the retained and severed portions of the subject lands), in accordance with the requirements as set out in the Regional guidelines would be required in order to be able to adequately assess a consent application of this nature.

Further, staff note detailed information about septic designs and locations would also be required. The results of the study would inform best practices and make recommendations for the private services. Implementation of the recommendations from the Stage 1 Hydrogeological Study would be required, which may result in a prohibition or restriction of the proposed use, or an agreement to adopt best management practices as prescribed by the Region. Region's Hydrogeology and Best Management Guidelines contains Halton Region's requirements for hydrogeological studies for development based on private water and sewage systems.

Section 67 of the ROP states that the creation of new building lots on private services must meet minimum criteria set forth by the Region's Guidelines for Hydrogeological Studies and Best Management Practices for Groundwater Protection under Section 101(1.4) of the ROP. When reviewing development applications, Regional staff need to ensure, among other things, minimum lot sizes (taking into account infiltrative capacity of the soils and hydrogeological information), impacts on water quality and quantity, and the design standards of the current private services for both the proposed severed and retained lots have been secured to the satisfaction of the Region.

Please be advised that Hydrogeological Studies are peer reviewed by the Region's peer reviewer at the applicant's expense.

Given a study has not been submitted in this regard, we are not able to determine if the policies of the ROP and requirements of our Guidelines are met.

### **Other Regional Comments:**

#### ***Transportation Planning:***

Regional Staff has considered the proposed development from a transportation planning perspective and offer the following comments.

#### **Land Dedication Requirements:**

Any lands within 21 metres of the centreline of Tremaine Road (Regional Road 22) that are part of the subject property shall be dedicated to the Regional Municipality of Halton for the purpose of road right-of-way widening and future road improvements.

A daylight triangle measuring 15 metres along Tremaine Road (Regional Road 22) and 15 metres along Burnhamthorpe Road shall be dedicated to the Regional Municipality of Halton for the purpose of road right-of-way widening and future road improvements. Regional staff note the daylighting triangle must be measured from the ultimate Tremaine Road right-of-way limit.

All lands to be dedicated to Halton Region shall be dedicated with clear title (free and clear of encumbrances) and a Certificate of title shall be provided, in a form satisfactory to the Director of Legal Services or his/her designate.

#### **Access Requirements:**

It is to be noted that no new access(es) are proposed. Access to the retained and severed lots are via Burnhamthorpe Road.

***Finance:***

The Owner will be required to pay all applicable Regional Development Charges (DCs) in accordance with the Region of Halton Development Charges By-law(s), as amended. If a subdivision (or other form of development) agreement is required, a portion of the Regional DCs for residential units may be payable upon execution of the agreement or in accordance with the terms and conditions set out in the agreement. In addition, commencing January 1, 2017 every owner of land located in Halton Region intended for residential development will be subject to the Front-ending Recovery Payment. Residential developments on lands located in Halton Region that prior to January 1, 2017 are part of a Regional allocation program, or have an executed Regional/Local Subdivision or consent agreement, or have an executed site plan agreement with the Local Municipality, or received a notice in writing from the Local Municipality that all requirements under the Planning Act have been met, or obtained a building permit are not subject to the Front-ending Recovery Payment.

The above note is for information purpose only. All residential development applicants and every owner of land located in Halton Region assume all of the responsibilities and risks related to the use of the information provided herein.

Please visit our website at <https://www.halton.ca/The-Region/Finance-and-Transparency/Financing-Growth/Development-Charges-Front-ending-Recovery-Payment> to obtain the most current information which is subject to change.

**Conclusion:**

In conclusion, given the above, **Regional staff are not in a position to support the Consent application** as the proposed development does not conform to Provincial and Regional policies.

We trust that these comments are of assistance. Should you have any questions or require additional information, please do not hesitate to contact the undersigned. **Please send a copy of the Town's decision on this application.**

Sincerely,

*Michaela Campbell*

Michaela Campbell  
Intermediate Planner  
[michaela.campbell@halton.ca](mailto:michaela.campbell@halton.ca)

cc: Bernie Steiger, Acting Manager – South (via email)  
Matt Krusto, Transportation Development Review Supervisor (via email)  
Ayesha Khan, Transportation Planning Coordination (via email)

**Conservation HALTON:**

October 6, 2022  
Jasmina Radomirovic,  
Assistant Secretary Treasurer  
Committee of Adjustment  
1225 Trafalgar Road  
Oakville, ON L6J 5A6



Planning & Watershed Management

905.336.1158 | Fax: 905.336.6684  
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**BY E-MAIL ONLY ([Jasmina.radomirovic@oakville.ca](mailto:Jasmina.radomirovic@oakville.ca))**

To Jasmina Radomirovic:

**Re: Consent Application**  
**File Number: B22/08 (1335)**  
**3466 Burnhamthorpe Road West, Oakville**  
**Applicant: David Ingleman c/o Design Plan Services Inc.**  
**Owner: Amiel Bekkers**

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Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under Ontario Regulation 162/06; provincially delegated responsibilities under Ontario Regulation 686/21 (i.e., represent provincial interests for Sections 3.1.1-3.1.7 of the Provincial Policy Statement (PPS)); the Memorandums of Understanding (MOUs, 1999 and 2018) and Interim Ecological Services Agreement (IESA, 2021) with Halton Region; and as a public body under the *Planning Act*. These responsibilities are not mutually exclusive. Comments that pertain to items contained in the MOUs and IESA may also apply to areas regulated under Ontario Regulation 162/06. Comments under Ontario Regulation 162/06 are clearly identified and are requirements. Other comments are advisory.

### **Proposal**

The severance proposal is seeking to create two lots to create a new separate lot for each of the two existing buildings on the subject property at 3466 Burnhamthorpe Road West. No new development is proposed through this severance application and the current uses of the existing buildings are to remain unchanged. The retained parcel will have an area of 5.59 hectares and the severed lot will have an area of 2.64 hectares.

### **Ontario Regulation 162/06**

CH regulates all watercourses, valleylands, wetlands, Lake Ontario and Hamilton Harbour shoreline and hazardous lands, as well as lands adjacent to these features. The subject property is traversed by a tributary of Fourteen Mile Creek and contains a Provincially Significant Wetland (PSW), part of the North Oakville-Milton West Wetland Complex. CH regulates a distance of 7.5 metres from the limit of the greatest hazard associated with the Fourteen Mile Creek tributary and 120 metres from the limit of the PSW. Permission is required from CH prior to undertaking any development within CH's regulated area and must meet CH's *Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document*, dated April 27, 2006 (last amended, November 26, 2020) (<https://conservationhalton.ca/policies-and-guidelines>).

CH staff note that both the retained and severed lots will continue to be regulated by CH. The retained lot will remain regulated as it will contain the Fourteen Mile Creek tributary and the severed lot will remain regulated as it will contain the PSW. The proposed severance meets CH Policy 3.1.6 and the regulated hazards and features will not be severed. As such, CH staff has no concerns with the proposed severance, however any future development proposed on each of the new lots may be constrained and may require a CH permit in accordance with CH regulatory policies prior to development.

### **Provincial Policy Statement (Sections 3.1.1-3.1.7)**

CH reviews applications based on its delegated responsibility to represent the Province on the natural hazard policies of the PPS (3.1.1-3.1.7). Policy 3.1.1 of the PPS states that “development shall generally be directed to areas outside of... b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.”

From a PPS perspective, CH staff does not have concerns with this application.

**Recommendation**

Given the above, from a Regulatory/PPS perspective, CH staff has **no objection** to this consent application. A CH permit may be required as part of any future development on both of the subject properties in accordance with CH regulatory policies.

**Please note that CH has not circulated these comments to the applicant, and we trust that you will provide them as part of your report.**

We trust the above is of assistance. Please contact the undersigned with any questions.

Sincerely,



Matthew Lauzon, M.Pl  
Planning and Regulations Analyst  
[mlauzon@hrca.on.ca](mailto:mlauzon@hrca.on.ca)



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Jasmina Radomirovic  
Assistant Secretary-Treasurer  
Committee of Adjustment