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The Regional Municipality of Durham Report

To: Planning and Economic Development Committee
From: Commissioner of Planning and Economic Development
Report: #2024-P-8
Date: April 2, 2024

Subject:

Decision Meeting Report

Application to Amend the Durham Official Plan, submitted by Clark Consulting Services, on behalf of Thornlea Holsteins Ltd., to permit the severance of a farm dwelling rendered surplus as a result of the consolidation of non-abutting farm properties, in the Municipality of Clarington, File: OPA 2023-002 (Regional Official Plan Amendment #198).

Recommendation:

That the Planning and Economic Development Committee recommends:

- A) That Amendment #198 to the Durham Regional Official Plan, to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels, be adopted as contained in Attachment #3 to Commissioner's Report #2024-P-8;
 - B) That "Notice of Adoption" be sent to the applicant, the applicant's agent, the Municipality of Clarington, the Ministry of Municipal Affairs and Housing and all other person or public bodies who requested notification of this decision; and
 - C) That the Minister of Municipal Affairs and Housing be requested to modify the Council adopted Durham Regional Official Plan as shown on Attachment 4 so that the approvals granted by Regional Council through Amendment #198 are carried forward and properly reflected in the Region's new Official Plan which is currently pending approval by the Minister.
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Report:**1. Purpose**

- 1.1 On January 27, 2023, Clark Consulting Services on behalf of Thornlea Holsteins Ltd. submitted an application to amend the Regional Official Plan (ROP) to permit the severance of a dwelling rendered surplus as a result of the consolidation on non-abutting farm parcels in the Municipality of Clarington.

2. Previous Reports and Decisions

- 2.1 On April 4, 2023, the Planning and Economic Development Committee received the Public Meeting Report #2023-P-9, which includes details of the proposed non-abutting surplus farm dwelling severance.

3. Site Description

- 3.1 The subject site is located on the north side of Concession Road 5, west side of East Townline Road. The property is municipally known as 4854 Concession Road 5 and is located at Part of Lot 1, Concession 5 in the Municipality of Clarington (refer to Attachment #1).
- 3.2 The subject site is a rectangular shape and is approximately 39.7 hectares (98 acres) in size. The southern portion of the site contains an existing house, barn, driveshed and a silo. The existing silo is to be removed. A wooded area is located in the northeast portion of the site. The existing house is rented to a tenant who is not involved with the farming operation.
- 3.3 The surrounding land uses to the subject site includes:
 - a. North - Agricultural land, wooded area, and rural residences
 - b. East – East Townline Road, agricultural land, rural residences
 - c. South – Concession Road 5, rural residences, agricultural land, woodlot
 - d. West – Wooded area, agricultural areas, and rural residences

4. Background

- 4.1 Thornlea Holsteins Ltd. has applied to amend the Durham Regional Official Plan (ROP) to permit the severance of a 0.3 ha (0.7 acre) rural residential parcel of land containing a farm dwelling, driveshed and the barn from a 39.7 hectare (98 acre) farm parcel.

- 4.2 The applicant has submitted a concurrent related Zoning By-law Amendment Application with the Municipality of Clarington to rezone the proposed retained farm parcel to prohibit any further severances, and the construction of any new dwellings, and rezone the barn to prohibit its use for livestock.

5. Reports Submitted in Support of the Application

- 5.1 A Planning Justification Report/Agricultural Assessment prepared by Clark Consulting Services Ltd. dated January 27, 2023, has been submitted in support of the application. The report concludes that the proposed amendment meets the objectives and requirements of the Provincial Policy Statement, the Greenbelt Plan, the Regional Official Plan, the Ganaraska Region Conservation Authority, and the Provincial Minimum Distance of Separation (MDS) requirements.
- 5.2 An Environmental Site-Screening Questionnaire dated December 21, 2023, completed by GHD Ltd., reported the subject land as having low level of environmental concerns and no further assessment is required.

6. Provincial Plans and Policies

- 6.1 The subject site is located within the Protected Countryside designation of the Greenbelt Plan. Both the Provincial Policy Statement, 2020, and Greenbelt Plan permit the severance of a residence surplus to a farming operation as a result of farm consolidation, provided the planning authority ensures that a residential dwelling is not permitted on the proposed retained farm lot created by the severance and will be limited to the minimum size needed to accommodate the use.

7. Durham Regional Official Plan (ROP) Context

- 7.1 The subject site is located within the “Prime Agricultural Areas” designation in the current ROP. Severance applications for the agricultural uses may be considered in accordance with the relevant policies of the Sub-Section 9A of the current ROP.
- 7.2 Policy 9A.2.10 of the current ROP permits the severance of a farm dwelling rendered surplus as a result of a farmer acquiring a non-abutting farm, provided that:
- a. the dwelling is not need for a farm employee;
 - b. the farm parcel is a size which is viable for farming operations;
 - c. for sites within the Protected Countryside of the Greenbelt Plan, the dwelling was in existence as of December 16, 2004; and

- d. the farm parcel is zoned to prohibit any further severance or the establishment of any residential dwelling.

The current ROP also states that no further severance shall be permitted from the acquired farm parcel.

8. Planning Analysis

- 8.1 Thornlea Holsteins Ltd. owns a total of six agricultural properties in the Municipality of Clarington. The house located on the subject site is not utilized by a farm employee and is surplus to the farm operations as a result of the consolidation of non-abutting farm parcels.
- 8.2 The severance of the surplus dwelling will not have an impact on the current farming operation. The proposed retained farm parcel will continue to remain a viable farm size for agriculture use. The subject dwelling existed prior to December 16, 2004, when the Greenbelt Plan came into effect.
- 8.3 The proposed Amendment to the Regional Official Plan requires that the retained farm parcel be rezoned to prohibit any further severances, the construction of any new dwellings, and rezone the barn to prohibit its use for livestock.
- 8.4 The proposed amendment is consistent with the PPS (2020) and conforms with the Greenbelt Plan (2017) and the Durham Regional Official Plan.

9. Public Meeting and Submissions

- 9.1 In accordance with the Planning Act, a notice of public meeting regarding this application was published in the appropriate newspaper, mailed to those who own lands within 120 metres (400 feet) of the subject lands, and a public meeting was held on April 4, 2023. Commissioner's Report #2023-P-9 provides information on the application.
- 9.2 The Region did not receive any written submissions from the public related to the proposed amendment application. The applicant's consultant was present at the Public Meeting to answer questions of Committee.

10. Consultation

- 10.1 On February 26, the Municipality of Clarington provided supporting comments for the proposed Regional Official Plan Amendment application.

10.2 The Ministry of Municipal Affairs and Housing, the Ganaraska Region Conservation Authority, the Regional Health Department, the Regional Works Department, the Durham Agricultural Advisory Committee and the Municipality of Port Hope have also indicated they have no concerns with the approval of the proposed application.

10.3 No comments or concerns were received from any member of the public.

11. Notice of Meeting

11.1 Written notification of the meeting time and location of the Planning and Economic Development Committee was sent to all that requested notification, in accordance with Regional Council procedure.

11.2 The recommendation of the Planning and Economic Development Committee is scheduled to be considered by the Regional Council on March 5, 2024. If Council adopts the proposed Amendment, notice will be given by the Regional Clerk and Council's decision will be final unless appealed to the Ontario Land Tribunal (OLT).

12. Relationship to Strategic Plan

12.1 In the processing of ROPA amendment applications, the objective is to ensure responsive, effective and fiscally sustainable service delivery in accordance with Goal 5 of the Durham Region Strategic Plan, "Service Excellence".

12.2 Goal 3 of the Durham Region Strategic Plan promotes Economic Prosperity. The application specifically supports the Goal 3.5 "Provide a supportive environment for agriculture and agricultural food industries".

13. Conclusion

13.1 The proposed amendment is consistent with the Provincial Policy Statement and conforms with the policies of the Greenbelt Plan and the current Durham Regional Official Plan. The required implementing Zoning By-law will prohibit any further severances and the construction of new dwellings on the retained farm parcel. Accordingly, it is recommended that Amendment #198 to the ROP, as shown on Attachment #3, be adopted.

13.2 During the transition period between the current and in-effect ROP (2020 consolidation) and prior to the Minister of Municipal and Housing's approval of the Council adopted ROP (Envision Durham), it is recommended that the Ministry of Municipal Affairs and Housing also be requested to include an amendment, as

contained in Attachment 4, as a modification to the adopted Regional Official Plan through its approval process.

14. Attachments

Attachment #1: Location Sketch

Attachment #2: Applicant's Total Land Holdings

Attachment #3: Amendment #198 to the Durham Regional Official Plan

Attachment #4: Modification to Council adopted ROP (Envision Durham)

Respectfully submitted,

Original signed by

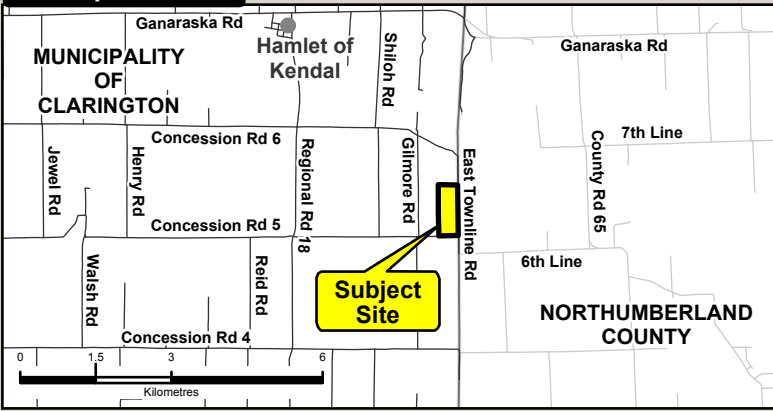
Brian Bridgeman, MCIP, RPP, PLE
Commissioner of Planning and
Economic Development

Recommended for Presentation to Committee

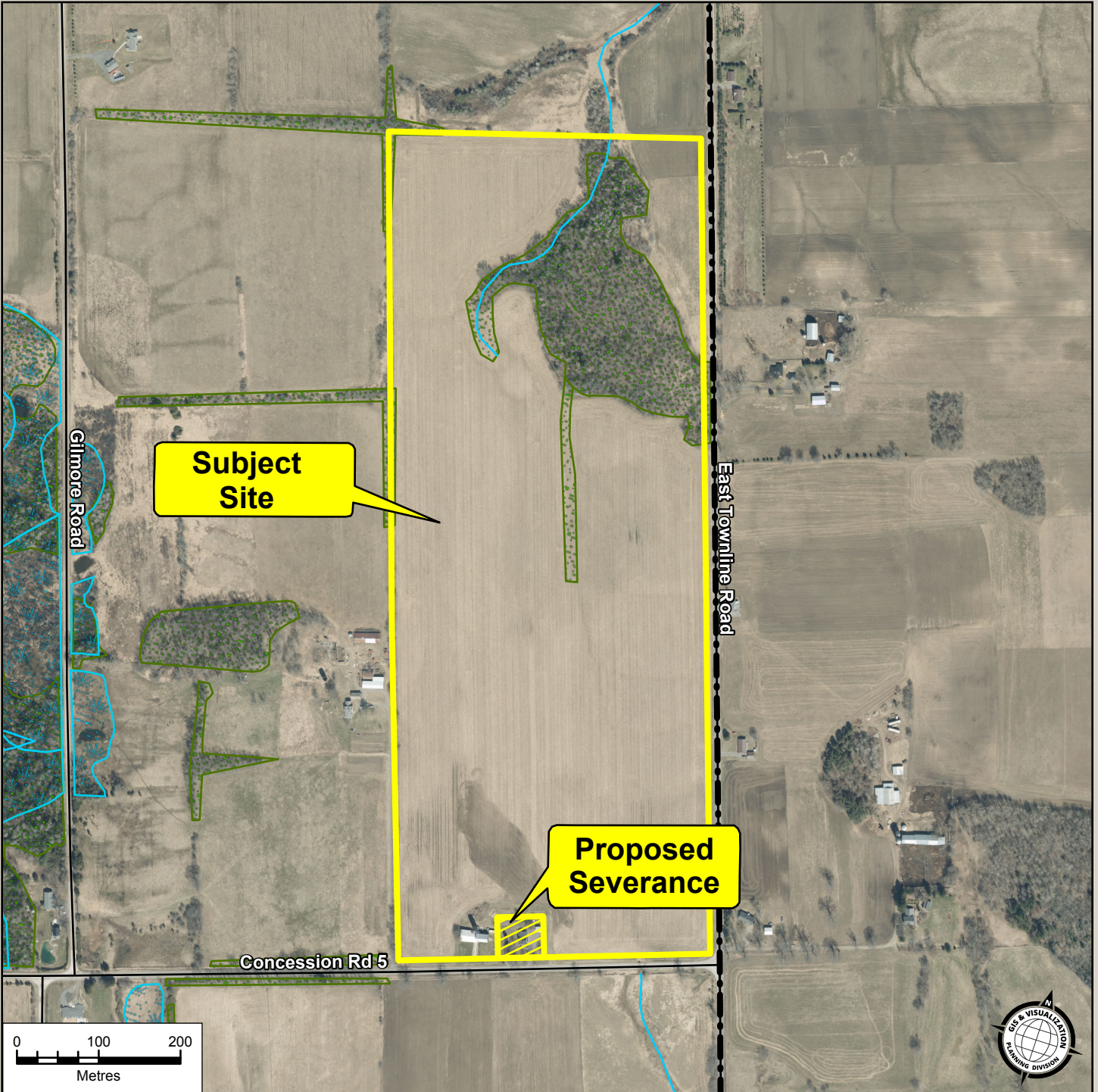
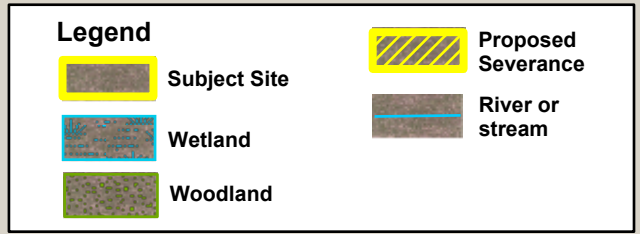
Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

Municipal Context



Attachment #1
Commissioner's Report: #2024-P-8
File: ROPA 2023-002
Municipality: Municipality of Clarington



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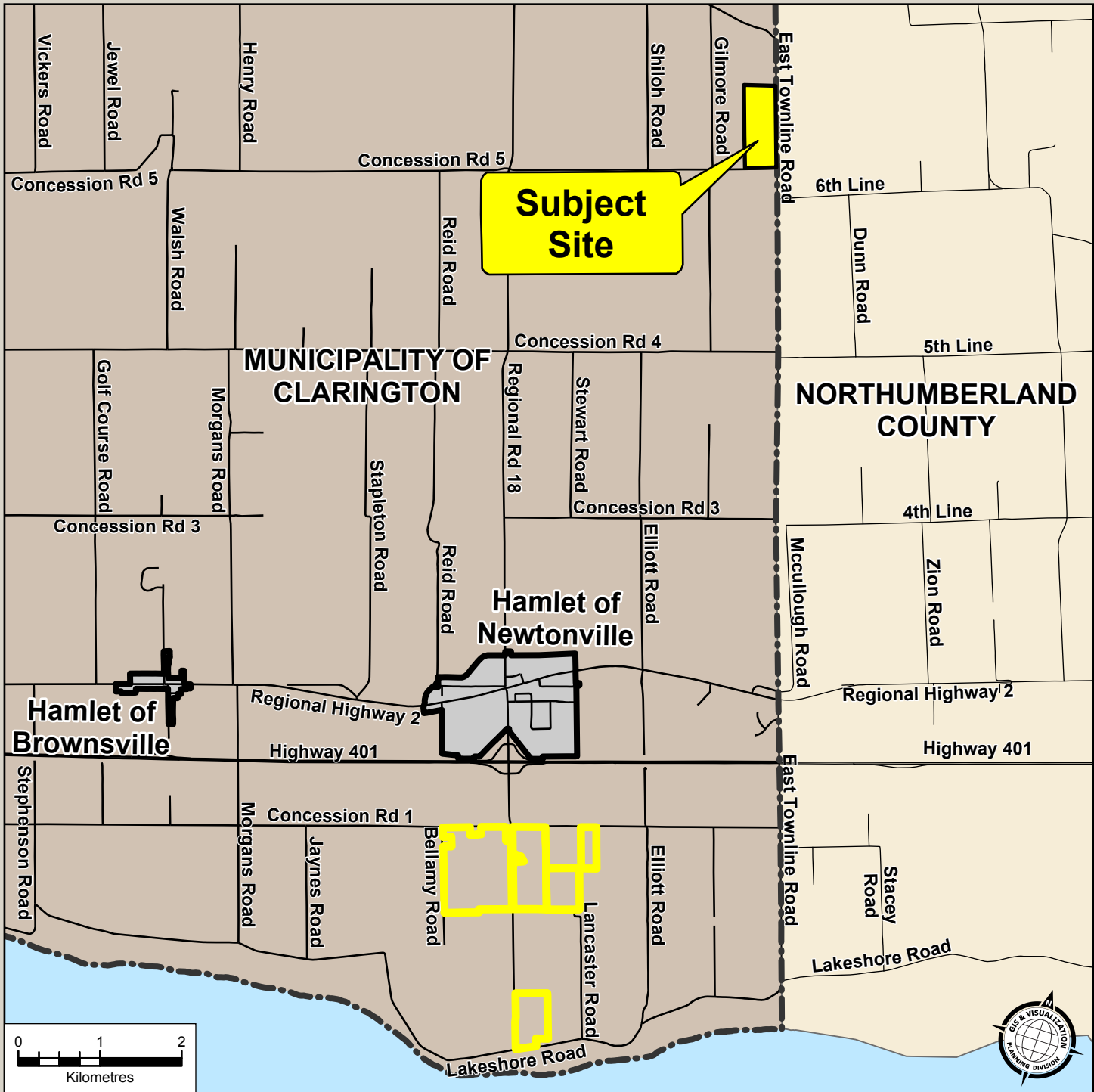
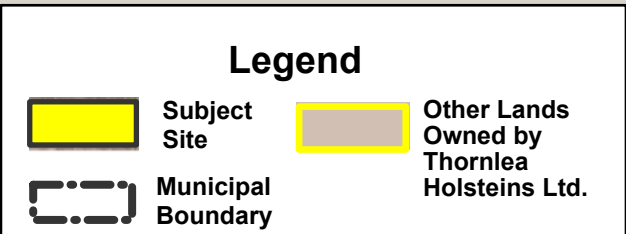
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Municipal Context



Attachment #2
Commissioner's Report: #2024-P-8
File: ROPA 2023-002
Municipality: Municipality of Clarington

Legend



Data Sources:
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Amendment #198 to the Durham Regional Official Plan

Purpose and Effect: The purpose and effect of this Amendment is to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels on lands designated as “Prime Agricultural Areas.”

Location: The subject site is located on the north side of Concession Road 5, west side of East Townline Road. The property is municipally known as 4854 Concession Road 5 and is part of Lot 1, Concession 5 in the Municipality of Clarington.

Basis: The residential dwelling on the subject site is not required by and is a surplus to the farm operation. The amendment conforms with the Durham Regional Official Plan, the Greenbelt Plan, and the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.

Amendment (Current Regional Official Plan- 2020 Consolidation):

The Durham Regional Official Plan is hereby amended by adding the following policy exception to Section 9A.3.2:

“9A.3.2 (iii) A surplus farm dwelling rendered surplus from the parcel identified as Assessment No. 18-39-050-005-28300 located in Part of Lot 1, Concession 5 in the Municipality of Clarington, subject to the inclusion of the provisions in the zoning by-law to prohibit the construction of any new dwelling on the retained parcel; and the use of the existing barn for housing livestock. In accordance with Provincial and Regional policies, no further severances of the property are permitted.

Implementation: The provisions set forth in the Durham Regional Official Plan regarding the implementation of the Plan shall apply in regards to this Amendment.

Interpretation: The provisions set forth in the Durham Regional Official Plan regarding the interpretation of the Plan shall apply in regards to this Amendment.

Request by Durham Region Council to the Minister of Municipal Affairs and Housing to Modify the Durham Regional Official Plan

Request: Durham Region Council hereby requests the Minister of Municipal Affairs and Housing modify the new Durham Regional Official Plan as adopted on May 17, 2023 by adding the following policy exception to Section 10.4:

“10.4.20 iii) a surplus farm dwelling rendered surplus from the parcel identified as Assessment No. 18-39-050-005-28300 located in Part of Lot 1, Concession 5, in the Municipality of Clarington, subject to the inclusion of the provisions in the zoning by-law to prohibit the construction of any new dwelling on the retained parcel; and the use of the existing barn for housing livestock. In accordance with Provincial and Regional policies, no further severances of the property are permitted;”

Rationale: On May 17, 2023, Durham Region Council adopted a brand new Regional Official Plan which is currently before the Minister of Municipal Affairs and Housing pending approval. On April 24, 2024, Durham Regional Council adopted Amendment #198 to the currently in effect (the “old”) Official Plan to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels in the Municipality of Clarington. This requested modification to the new Official Plan will enable the permissions granted by Amendment #198 to be carried forward and property reflected in the new Official Plan.