

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



20-201-LPAT Schedule B

ISSUE DATE: September 21, 2020

CASE NO(S): PL190477

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	John & Eva Vuckovic
Subject:	Application to amend Zoning By-law No. 05-200 - Refusal or neglect of City of Hamilton to make a decision
Existing Zoning:	Agricultural A1 Zone
Proposed Zoning:	Site specific, to be determined.
Purpose:	To permit a single detached dwelling
Property Address/Description:	2282 Westbrook Road
Municipality:	City of Hamilton
Municipality File No.:	ZAA-18-053
LPAT Case No.:	PL190477
LPAT File No.:	PL190477
LPAT Case Name:	Vuckovic v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	John & Eva Vuckovic
Subject:	Consent
Property Address/Description:	2282 Westbrook Road
Municipality:	City of Hamilton
Municipal File No.:	B-58/18
LPAT Case No.:	PL190477
LPAT File No.:	PL190499

Heard: July 31, 2020 via Video Hearing

APPEARANCES:**Parties**

Eva and John Vuckovic

City of Hamilton

Counsel

A. Toumanians

P. MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY STEVEN COOKE ON
JULY 31, 2020 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The matter before the Tribunal is a settlement between Eva and John Vuckovic (“Applicants”) and the City of Hamilton (“City”). The Applicants had purchased 57.04 hectare farm parcel located at 2282 Westbrook Road (“Subject Lands”) to add to their existing farm operations. Having no personal need for the existing dwelling located on the Subject Lands, the Applicants filed an application for Consent and an application for a Zoning By-law Amendment (“ZBA”) with the City. The Applicants appealed to the Tribunal the City’s denial of the Consent application and the City’s failure to make a decision on the ZBA within the statutory time period.

[2] The proposed settlement would sever 1.822 hectares with a 65.8 metre frontage. The severed parcel will consist of the existing Two-storey dwelling and a converted barn. The remaining accessory structures located in the retained farm parcel will be demolished.

[3] ZBA No. 05-200 will be amended to rezone the Subject Lands. The retained parcel will have Special Policy 642 that will prohibit any further dwellings. Special Policy 709 will permit the existing converted barn to the severed parcel of the Subject Lands while all other existing farm structures be demolished.

THE HEARING

[4] Angela Buonamici was qualified by the Tribunal to give expert land use planning evidence and opinion.

[5] In Ms. Buonamici opinion, the proposal is consistent with the policies of the Provincial Policy Statement 2020 (“PPS”) and conforms with the Growth Plan for the Greater Golden Horseshoe 2019 (“Growth Plan”), the Greenbelt Plan 2017 (“Greenbelt Plan”) and the parent policies of the City Rural Official Plan (“ROP”).

[6] The proposed Consent and ZBA would provide protection of agricultural lands by separating the residential portion of the Subject Lands as well as adding a restriction against future residential development on the retained farm parcel.

[7] By doing so, it is Ms. Buonamici’s opinion that the proposed settlement has sufficient regard to the applicable matters in section 2 of the *Planning Act* such as:

(a) the protection of ecological systems, including natural areas, features and functions;

(b) the protection of the agricultural resources of the Province;

(c) the conservation and management of natural resources and the mineral resource base.

[8] The Consent to Sever creates a new lot that is compatible with the rural landscape. While the Consent to Sever creates a new parcel, there is very little physical changes to the Subject Lands and uses. The proposed settlement will include measures that will help protect agricultural land in accordance to the PPS (2020).

[9] Ms. Buonamici stated to the Tribunal that as the dwelling already exists, the severance would only accommodate the separation of the ongoing farm operation and the dwelling. As the farm operations would remain the same, and there will be no

livestock, any additional setbacks would not be required to the retained parcel or the existing natural heritage features.

[10] It was her opinion that the proposed Consent and ZBA applications conform to the Growth Plan and the Greenbelt Plan by protection of the long-term agricultural use of the lands, the creation of the new lot would result in a farm consolidation, and as there would not be any major change to the current use of the Subject Lands the proposed settlement would continue to maintain the natural heritage system.

ANALYSIS AND FINDINGS

[11] In determining this matter, the Tribunal accepts and adopts the uncontested land use planning evidence and expert opinions provided Ms. Buonamici.

[12] The Tribunal finds that the proposal is consistent with the policy direction established by the PPS 2020, and conforms to the relevant directives established by the Growth Plan, conforms to the relevant directives established by the Greenbelt Plan and as maintained by the City ROP. The Tribunal is further satisfied that the proposal has due regard for matters of Provincial interest, is consistent with the principles of good land use planning and is in the greater public interest. More significantly, the proposal furthers the goals and objectives of the Provincial planning regime to the long-term protection and maintaining viable agricultural land.

ORDERS

[13] The Tribunal orders that the appeal for Consent to Sever is allowed and the provisional consent is to be given subject to the following conditions in Schedule A of Attachment 1.

[14] That the application to amend Zoning By-Law No. 05-200 be allowed in part and the City is directed to amend Zoning By-Law No. 05-200 as set out in Schedule B of Attachment 1 to this Order.

[15] So Orders the Tribunal.

“Steven Cooke”

STEVEN COOKE
MEMBER

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

August 15th, 2019

**CONSOLIDATION REPORT
SEVERANCES**

The attached comments have been reviewed with regard to Committee of Adjustment Severance File **GL/B-18:58 (2282 Westbrook Road, Glanbrook)** and the following is submitted:

Should the Committee grant the severance, an approval should be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. That the applicant / proponent receives final and binding approval of a Zoning By-law Amendment Application to the satisfaction of the Manager, Development Planning Heritage & Design.
3. That the applicant / proponent demolishes the structures labelled on the attached site plan by Rasch + Hide Ltd. Dated September 18, 2018, on the severed farm dwelling lot to the satisfaction of the Manager, Development Planning Heritage & Design.
4. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section) including the maximum building height and maximum area for accessory buildings.
5. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), conform to the requirements of the Zoning By-Law or alternatively apply for an receive final approval of any variances from the requirements of the Zoning By-Law as determine necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
6. The owner/applicant shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Division –Building Engineering Section).
7. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).

8. As a condition of approval to the satisfaction of Building Division and Hamilton Water, the applicant shall provide a revised site plan that demonstrates conformity with respect to minimum clearance distances set out by Part 8 of the Ontario Building Code. All water supply (ie. cistern) and septic system components (i.e.. tankage, leaching bed area) shall be delineated on the site plan.
9. The Owner is required to dedicate sufficient lands to the City of Hamilton for road widening purposes to establish the east property line 43 feet (13.165m) off the original centreline of the street to the satisfaction of the Manager of Engineering Approvals Section.
10. As a condition of approval, to the satisfaction of Director, Hamilton Water, the applicant shall delineate a reserve area bed as per Rural Hamilton Official Plan requirements.
11. The owner submits to the Committee of Adjustment Office an administration fee of \$18.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.
12. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

Growth Management:

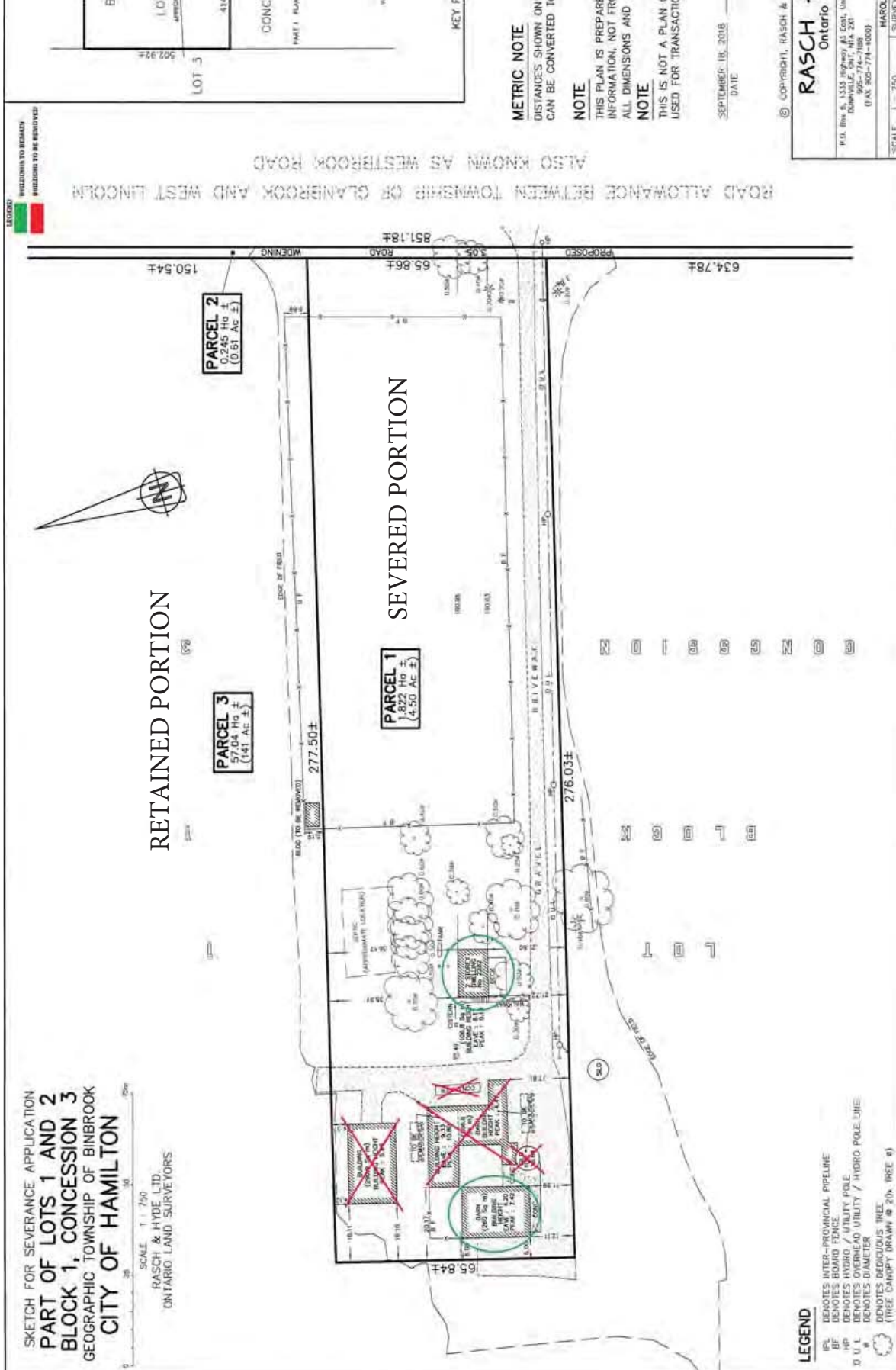
Note: Based on these applications being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed (Parcel 1) will remain as **2282 Westbrook Road, Hamilton (Glanbrook)**, and the lands to be retained (Parcel 3) will be assigned the address of **2350 Westbrook Road, Hamilton (Glanbrook)**. If at a future date it is discovered that a building is to be constructed on Parcel 3, north of the existing dwelling at 2282, the address will be required to be changed by contacting Paul Toffoletti at 905-546-2424 Ext. 4348 or paul.toffoletti@hamilton.ca.

SKETCH FOR SEVERANCE APPLICATION
PART OF LOTS 1 AND 2
BLOCK 1, CONCESSION 3
 GEOGRAPHIC TOWNSHIP OF BINBROOK
 CITY OF HAMILTON

SCALE 1:1,750
 RASCH & HYDE LTD.
 ONTARIO LAND SURVEYORS

RETAINED PORTION

SEVERED PORTION



LEGEND
 WITH LINES TO BE REMOVED
 WITH LINES TO BE REMOVED

ALSO KNOWN AS WESTBROOK ROAD
 ROAD ALLOWANCE BETWEEN TOWNSHIP OF GLANBROOK AND WEST LINCOLN

KEY PLAN SCALE 1:10000

METRIC NOTE
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

NOTE
 THIS PLAN IS PREPARED FROM COMPILED AND CALCULATED INFORMATION, NOT FROM AN ACTUAL SURVEY. ALL DIMENSIONS AND AREAS ARE APPROXIMATE.

NOTE
 THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR TRANSACTION OR MORTGAGE PURPOSES.

SEPTEMBER 18, 2018 DATE
 HAROLD D. HYDE ONTARIO LAND SURVEYOR

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RASCH & HYDE LTD.
 Ontario Land Surveyors

P.O. Box 6, 1333 Highway #1 East, Unit B
 DUNFRIES, ONT. M2A 2X1
 (905) 774-1188
 (905) 774-1880

P.O. Box 500, 74 Jarvis Street
 FORT BRIDGE, ONT. L2A 5Y1
 (905) 871-4737
 (905) 871-4748

HAROLD D. HYDE O.L.S.
 SURVEY 1: 18-009

SCALE 1:1,750

DRAWN BY: T. Matheson

20-201-LPAT Schedule B

Authority: Item ,
Report
(PED20002(a)/LS19044)
CM:
Ward: 11

Bill No.

CITY OF HAMILTON

BY-LAW NO.

**To Amend Zoning By-law No. 05-200 with respect to lands located at
at 2282 and 2350 Westbrook Road, Glanbrook**

WHEREAS pursuant to the Order/Decision of the Local Planning Tribunal Issued on September 21, 2020 under Tribunal File No. PL190477, approved that Zoning By-law No. 05-200 be amended as hereafter provided

AND WHEREAS this By-law conforms to the Rural Hamilton Official Plan;

NOW THEREFORE pursuant to the Order/Decision of the Local Planning Appeal Tribunal issued on September 21, 2020, under Tribunal File No. PL190477:

1. That Map No. 207 and 215 of Schedule "A" – Zoning Maps is amended by changing the zoning from the Agriculture (A1) Zone and Conservation / Hazard Land – Rural (P6) Zone to the Agriculture (A1, 642) Zone (Block 1), Conservation / Hazard Land – Rural (P6, 642) Zone (Block 2) and the Agriculture (A1, 709) Zone (Block 4), for the lands identified in Schedule "A" to this By-law.

2. That Schedule "C" - Special Exceptions of Zoning By-law No. 05-200 is amended by:

a) Adding the map reference "207 and 215," between the words "203" and "219" so that the wording is as follows:

"642. Within those lands zoned Agriculture (A1) Zone and Conservation/Hazard Land - Rural (P6) Zone, identified on Maps 130, 193, 203, 207, 215, 219, 223 and 255, of Schedule A – Zoning Maps and described as:"

b) Adding reference to "2350 Westbrook" and "Map 207 and 215" to the Property Address and Map Numbers table as follows:

Property Address	Map Numbers
2350 Westbrook	RU207 and RU215

3. That Schedule "C" Special Exceptions, of By-law No. 05-200 is amended by adding a special exception as follows:

709. Within those lands zoned Agriculture (A1) Zone, identified on Maps RU207 and RU215, of Schedule "A" – Zoning Maps and described as 2282 Westbrook Road (Block 4 on Schedule "A" to this By-law) the following provisions shall apply:

- i) Notwithstanding Section 4.8.2 c), for the lands located at 2282 Westbrook Road, only the converted barn existing on the date of the passing of the by-law having a total gross floor area 260 sq. m. and a maximum building height of 8.0 metres shall be permitted.

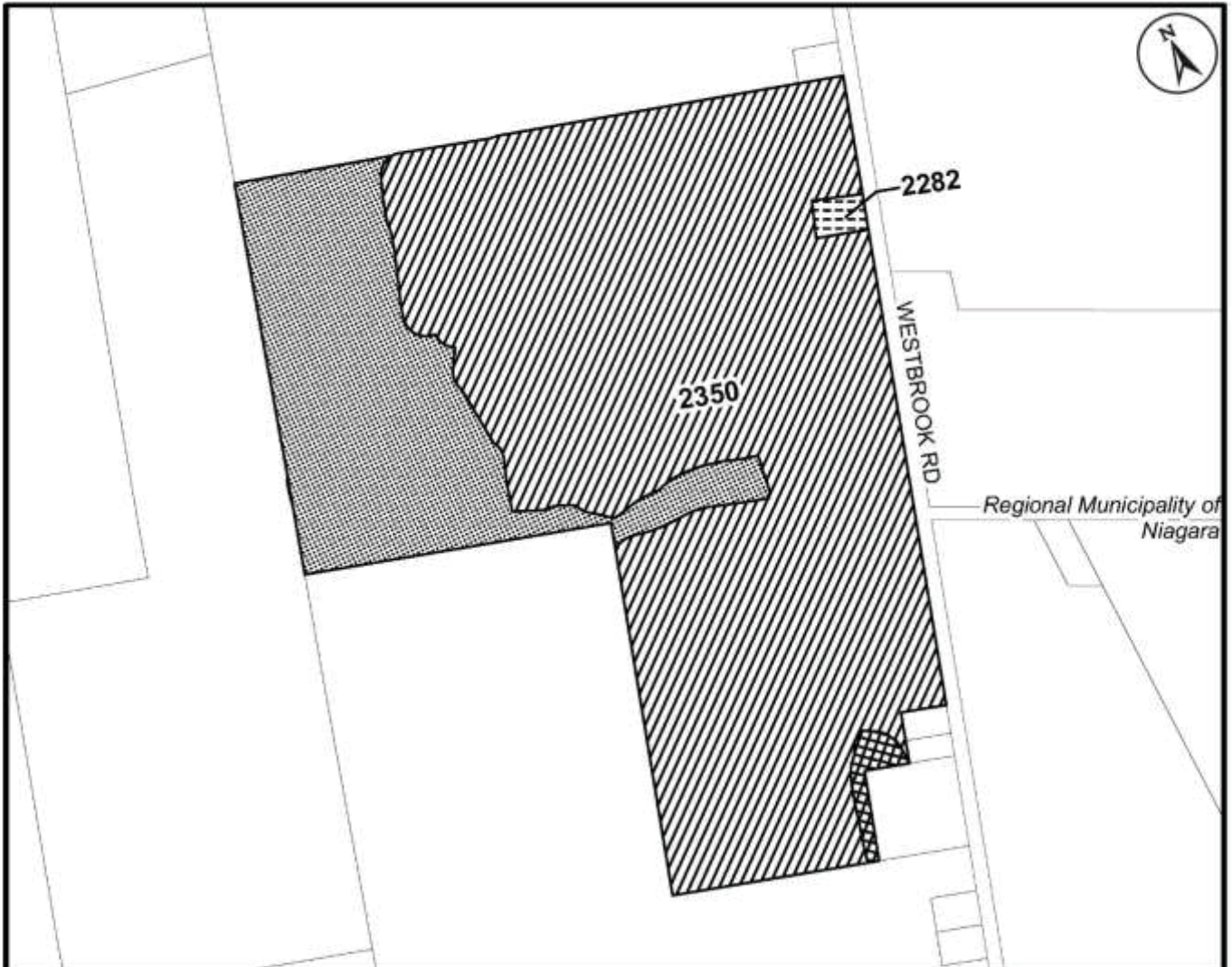
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

PASSED this 21st day of September, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

ZAA-18-053



This is Schedule "A" to By-law No. 20-

Passed the day of, 2020

 Mayor

 Clerk


Schedule "A"


Map forming Part of
 By-law No. 20-_____


to Amend By-law No. 05-200
 Maps RU207 & RU215

Subject Property


2350 Westbrook Road

 Block 1 - Change in zoning from Agriculture (A1) Zone to Agriculture (A1, 642) Zone

 Block 2 - Change in zoning from Conservation/ Hazard Land - Rural (P6) Zone to Conservation/ Hazard Land - Rural (P6, 642) Zone

 Block 3 - Other lands owned by Applicant

2282 Westbrook Road

 Block 4 - Change in zoning from Agriculture (A1) Zone to Agriculture (A1, 709) Zone

Scale:
 N.T.S

File Name/Number:
 ZAA-18-053

Date:
 August 4, 2020

Planner/Technician:
 EM/VS



Hamilton