SUBJECT: Application for a Change and Modification in Zoning for Lands Located at 471 Highway 52 South (Ancaster) (PED08103) (Ward 12)

RECOMMENDATION:

That approval be given to amended Zoning By-law Application ZAR-07-071, S. Qureshi, owner, for a modification to the Agricultural “A” Zone to permit the construction of a single family dwelling having a maximum lot coverage of 1,100 square metres (Block “1”), and a change in zoning from the Agricultural “A” Zone to a modified Private Open Space “O1” Zone, for conservation management purposes (Block “2”), for the lands located at 471 Highway 52 South, (Ancaster), as shown on Appendix “A” to Report PED08103, on the following basis:

(a) That the subject lands be rezoned from the Agricultural “A” Zone to the Agricultural - Holding “A-569 (H)” Zone, Modified, for Block 1, and to the Private Open Space “O1-571” Zone, Modified, for Block 2.

(b) That the Draft By-law, attached as Appendix “B” to Report PED08103, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O., 1990, to the subject lands, by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning. The Holding provision will prohibit the development of the subject lands until such time that the owner:

(i) Completes a tree management plan, to the satisfaction of the Director, Operations and Maintenance Division, Public Works Department;
(ii) Completes an archaeological assessment of the subject lands and mitigates, 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 Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements; and,

(iii) Addresses all issues relating to the servicing of the subject property for the proposed use, including a hydrogeological study of the groundwater quality and quantity and the subsurface sewage effluent plume, to ensure that neighbouring wells will not be adversely affected, to the satisfaction of the Ministry of the Environment, the Director of Development Engineering, and/or the Director of Public Health Services.

City Council may remove the ‘H’ symbol and, thereby, give effect to the Agricultural “A-569” Zone, Modified, by enactment of an amending By-law once the conditions are satisfied.

(d) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Town of Ancaster Official Plan.

______________________________
Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of the application is to modify the zoning on the subject lands in order to permit the construction of a single family dwelling having a maximum lot coverage of 1,100 square metres, and a fountain to be located within the front yard (see Appendix “A” - Block “1”). Staff recommends that an ‘H’ Holding provision be applied to the proposed zoning to secure the completion of an archaeological assessment, tree management plan, and a hydrogeological study of the groundwater quality and quantity and the subsurface sewage effluent plume to ensure that neighbouring wells will not be adversely affected. Block “2” is to be rezone to a Private Open Space “O1-571” Zone and is to be maintained as a Vegetation Protection Zone.

The proposal has merit and can be supported since the modification in zoning is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Town of Ancaster Official Plan.
BACKGROUND:

Proposal

The applicant has applied to modify the zoning of the subject lands, known as 471 Highway 52 South (see Appendix “A” - Block “1”), to permit a maximum lot coverage of 1,100 square metres for a new single detached dwelling on the subject lands, whereas a maximum lot coverage of 400 square metres is permitted, and to permit a fountain to be located within the front yard. The applicant has not proposed any other modifications to the zoning regulations of the Agricultural “A” Zone. Block “2” is to be rezoned to a site-specific Private Open Space Zone as a Vegetation Protection Zone in order to protect the adjacent wetland to the south.

As the property is not subject to site plan control, staff recommends that an ‘H’ Holding provision be added to the proposed Zoning By-law Amendment to require the completion of an archaeological assessment, tree management plan, and a hydrogeological study of the groundwater quality and quantity and the subsurface sewage effluent plume to ensure that neighbouring wells will not be adversely affected.

Details of Submitted Application

Owner: S. Qureshi
Location: 471 Highway 52 South

Description:

<table>
<thead>
<tr>
<th>Type</th>
<th>Measurement</th>
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<tbody>
<tr>
<td>Frontage</td>
<td>92.2 metres</td>
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<tr>
<td>Depth</td>
<td>195.6 metres</td>
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<tr>
<td>Area</td>
<td>1.8 hectares</td>
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EXISTING LAND USE AND ZONING:

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<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
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<td>Agricultural “A” Zone</td>
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</table>

<table>
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<tr>
<th>Surrounding Lands</th>
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<th>Existing Zoning</th>
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<td>North</td>
<td>Vacant Agricultural</td>
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<tr>
<td>East</td>
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<td>Agricultural “A” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Residential</td>
<td>Agricultural “A” Zone</td>
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<tr>
<td>West</td>
<td>Landscape Supply Business</td>
<td>Agricultural “A-141” Zone, Modified and Agricultural “A” Zone</td>
</tr>
</tbody>
</table>
ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) It is consistent with the Provincial Policy Statement and the Greenbelt Plan;
   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Town of Ancaster Official Plan; and,
   (iii) It is compatible with the existing and planned development in the area.

2. The applicant has submitted a preliminary site plan with the application (Appendix “C”), which has been reviewed against the standard requirements of the Agricultural “A” Zone, as discussed below:

   Lot Coverage

   The Agricultural “A” Zone permits a maximum lot coverage of 400 square metres, whereas the applicant is proposing a maximum lot coverage of 1,100 square metres. The size of the lot (1.81 ha) creates limitations for agricultural purposes, however, it is more than adequate in size to support the proposed single family dwelling. Additionally, the proposed increased lot coverage will have minimal impact on surrounding lands as the dwelling will be set back a minimum of 70 metres from Highway 52 South. The proposed dwelling would be located more than 50 metres from the existing residential buildings and structures on abutting lands to the east, greater than 35 metres from the lands to the south, and abuts agricultural fields to the north. In addition, the southerly and easterly portions of the property (Appendix “A” - Block “2”) would be further maintained as a Vegetation Protection Zone under the recommended Private Open Space “O1-571” Zone. The use of the property for residential purposes is permitted as-of-right in the “A” Zone.

   Front Yard Structures

   The current zoning on the subject lands does not permit accessory buildings or structures to be located in any front yard. In this regard, the proposed fountain is considered a structure. As the fountain is to be setback a minimum of 70 metres from the front lot line, it will have minimal impact on the streetscape and can be supported in the amended Zoning.

3. There are neither municipal sanitary sewers nor municipal watermains available within the Highway 52 South road allowance to service the subject lands. The applicant has proposed an individual private well and individual private septic tank and tile field, which are required to comply with Part 8 of the Ontario Building Act, which regulates the installation of sewage systems.
The applicant/owner is required to obtain a permit for the services from the Building Services Division. Prior to the issuance of a building permit, the owner/applicant will also be required to submit appropriate grading and drainage plans, to the satisfaction of the Director, Building Services Division. As the property is not subject to site plan control, staff recommends that an ‘H’ Holding provision be applied to require a hydrogeological study to substantiate the water quality and quantity to service the single detached dwelling, and that the subsurface sewage effluent plume from the proposed sewage system will not cross the property boundary and will not adversely affect water quality in any neighbouring wells, all to the satisfaction of the Ministry of the Environment, Director of Development Engineering, and/or the Director of Public Health Services (Recommendation (C) (iii)).

4. The subject property has been defined as having archaeological potential, as per the Ministry of Culture’s criteria. To ensure development or disturbance of the subject lands does not occur prior to an archaeological assessment being completed, staff recommends that the ‘H’ Holding provision also require the completion of an archaeological assessment on the subject lands, to the satisfaction of the Ministry of Culture and the City of Hamilton’s Director of Planning (Recommendation (C) (ii)).

5. Potential Urban Forestry conflicts have been identified near the road allowance, which will require further examination. Some of the trees in this location may also exceed 46 centimetres in diameter, in which case, permission is required under the Ancaster Tree By-law prior to the removal of the trees. To address the potential concerns, the applicant will be required to submit a Tree Management Plan, to the satisfaction of the Director, Operations and Maintenance Division, as a condition of the ‘H’ Holding provision (Recommendation (C) (i)).

6. The subject property is located within the Greenbelt Plan and is designated “Protected Countryside”, as shown in Appendix B of the Hamilton Rural Official Plan (pending Ministry approval). The southeast portion of the property is also within 120 metres of a wetland. The portion of the lands which is adjacent to the wetlands requires a 30 metre setback from the limits of the Grand River Conservation Authority (GRCA) Wetland Limit, and would be maintained as a Vegetation Protection Zone (VPZ) or buffer. These lands are shown as “Block 2” on Schedule “A” of Appendix “B”, and are proposed to be rezoned to a site-specific Private Open Space “O1” Zone, which will only permit conservation uses.

7. The application was pre-circulated to 25 property owners within 120 metres of the subject lands. No phone calls or written responses were received with respect to this application as part of the pre-circulation.
ALTERNATIVES FOR CONSIDERATION:

If the application is denied the applicant has the option of using the property for the current range of “A” (Agricultural) Zone uses, which would allow for a single family dwelling with a maximum lot coverage of 400 square metres.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - N/A.

Staffing - N/A.

Legal - As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in Zoning.

POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject lands are designated as “Protected Countryside” within the Greenbelt Plan. Policy 4.5.2 states that single detached dwellings are permitted on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force. Therefore, as the subject lands constitute a vacant existing lot of record, and the underlying Agricultural “A” Zone permits single family dwellings as-of-right, the proposal is consistent with the Greenbelt Plan.

It has been identified that the subject lands are adjacent to wetlands (within 120 metres), and a small watercourse, which are located on the abutting property to the south. These wetlands are recognized as Locally Significant rather than Provincially Significant and mostly provide a drainage function for the abutting property. As the Greenbelt Plan requires a minimum 30 metre Vegetation Protection Zone (or buffer) from a key hydrologic feature, the inclusion of a site-specific Open Space Zone in the amended zoning addresses this policy requirement.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with Policy 1.1.4 governing growth in the Rural Area.

However, the subject lands are adjacent to a property listed in Hamilton Heritage Book Volume 2 (497 Highway 52 South). As such, Policy 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. As the proposed dwelling will not impact on the adjacent heritage property at 497 Highway 52 South, the proposal is consistent with Policy 2.6.1 of the Provincial Policy Statement.
It has been further noted that the subject property has been identified as having archaeological potential and will require an archaeological assessment. To ensure no disturbances take place on the subject property prior to the approval of the Archaeological Assessment by the Ministry of Culture, an ‘H’ Holding provision has been included in the proposed By-law.

There are no issues concerning Natural Heritage under the PPS because the adjacent wetlands are not recognized as Provincially Significant Wetlands.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Rural” in the Hamilton-Wentworth Official Plan. Policy C-3.2 states that the intent of the Plan is to concentrate development in appropriate areas (generally Rural Settlements), limit rural development and protect agricultural lands.

Additionally, Policy B-9.2 states that the City shall consider the 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 previously noted, an archaeological assessment will be required for this proposal.

As mentioned above, the subject lands are adjacent to 497 Highway 52 South, which is listed in the Hamilton Heritage Book, Volume 2. As the proposed dwelling has no impact on the adjacent heritage property, the proposal is consistent with the Hamilton-Wentworth Official Plan.

**Town of Ancaster Official Plan**

The subject property is designated “Agriculture” in the Town of Ancaster Official Plan. The predominant uses of lands designated “Agriculture” shall be for agriculture, forestry and activities connected with the conservation of soil and wildlife. In addition, the following policies, among others, apply to the lands:

“4.1.3 In addition to the predominant uses of land expressed in Policy 4.1.1 and the ancillary uses in Policy 4.1.2, the following additional uses may be permitted on a limited basis:

(i) A detached dwelling on a lot of record.

4.1.6 Uses permitted by Policy 4.1.2 or 4.1.3 vi) and vii) shall be located and developed so as to minimize the negative effects on surrounding uses and will not interfere with the expansion of farming operations. In considering the appropriateness of non-agricultural uses permitted in these policies, regard shall be given to the following:
iii) The physical suitability of the site for the proposed use.

iv) The compatibility of the proposed use with the existing and proposed adjacent uses and with the agricultural, very low density land use character of the area.

v) The adequacy of facilities to service the proposed use and the cost of provision of necessary services.

vi) The cumulative long term impact of the proposed development on the natural capability of the land to provide a potable source of water and to safely accommodate the disposal of sanitary sewage.”

The proposal is for a residential dwelling on an existing 1.8 hectare lot. As the lot is not suitable for agricultural production, and the proposal is compatible with the surrounding uses, the proposed Zoning By-law Amendment conforms to the “Agricultural” policies of the former Town of Ancaster Official Plan.

**RELEVANT CONSULTATION:**

The following Departments/Agencies had no comments or objections:

- Taxation Division
- Budgets and Finance Division, Corporate Services Department
- Water and Wastewater Division
- Environmental Planning Section, Capital Planning and Implementation Division
- Strategic Services/Special Projects Division
- Hamilton Municipal Parking System
- Municipal Property Assessment Corporation
- Cogeco Cable Canada
- Union Gas Limited
- Horizon Utilities
- Bell Canada
- Hydro One

**Community Traffic Services, Traffic Engineering and Operations Section:**

Community Traffic Services advises that at the Building Permit Stage, the applicant/owner must apply for and receive an Access Permit from the Public Works Department. Prior to commencing any work within the road allowance, it is recommended that the applicant/owner contact all respective Utilities. Any costs for Utility relocation or other items are the sole responsibility of the applicant/owner.
Urban Forestry Planning and Protection, Operations and Maintenance Division:

The Forestry and Horticulture Section does not oppose the rezoning application, however, has identified potential Urban Forestry conflicts on the subject lands and requires a Tree Management Plan, to be submitted prior to the issuance of a Building Permit. (Recommendation (c)(i)).

Grand River Conservation Authority:

Grand River Conservation Authority staff conducted a site visit on August 24, 2007, to flag and confirm the wetland boundary. Wetlands and a small watercourse feature have been identified on the subject property. Staff at the GRCA have had an opportunity to review the proposed site plan submitted with the Zoning By-law application and have determined that the proposed development is located outside the GRCA’s regulated area. Therefore, the GRCA has no objection to the proposed Zoning By-law Amendment and no permits are required from the GRCA office.

A minimum setback of 30 metres from the limits of the GRCA Wetland Limit has been provided by including a Private Open Space “O1-571” Zone (Appendix “A” - Block “2”) in the proposed Zoning By-law. This will ensure the wetland and watercourse features on the subject property will not be affected by the proposed dwelling and any future development of the site.

Public Health Services, Health Protection Division:

The Health Protection Division advises the applicant that Daily Sewage Flow (DSF) that exceeds 10,000L/day requires approval by the Ministry of the Environment.

According to the information provided in the application, the estimated Daily Sewage Flow for the proposed single family dwelling is significant and the proposed sewage system appears to be located near the south and west property lines on Block 1. In addition, the lands upon which the sewage system will be located slope towards a neighbouring residential property and there could be a nearby downstream/down slope water well. Therefore, it is recommended that the applicant substantiate that the subsurface sewage effluent plume from the proposed sewage system will not cross the property boundary(s) and will not adversely affect the water quality in any neighbouring water wells. The validity of the methods used to determine the subsurface sewage effluent plume travel direction, distance and potential for groundwater quality impact should be reviewed by a peer reviewer.

If the owner/applicant is aware that a septic tank exists on the subject property, it is recommended that it be emptied by a Ministry of the Environment licensed sewage hauler, and then filled with soil.

The Health Protection Division recommends approval subject to the above. (Recommendation (c)(iii)).
Public Consultation

In accordance with Council’s Public Participation Policy this application was pre-circulated to 25 property owners within 120 metres of the subject lands. In addition, a Public Notice sign was posted on the subject property.

To date, no responses have been received.

Notice of the Public Meeting will be circulated to property owners within 120 metres of the subject lands and through a sign posted on the property in accordance with the requirements of the Planning Act.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:LB/CT
Attachs. (3)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-07-071
Date: February, 2008
Appendix "A"
Scale: N.T.S.
Planner/Technician: CT/LC

Subject Property
471 Highway 52 South

Block 1: Change in zoning from the Agricultural "A" Zone to the Agricultural "A-569(H)" - Holding Zone, Modified.

Block 2: Change in zoning from the Agricultural "A" Zone to the Private Open Space "O1-571" Zone, Modified.

Ward 12 Key Map N.T.S.
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 87-57 (Ancaster), as amended, Respecting the Lands known as 471 Highway 52 South in the former Town of Ancaster, now in the City of Hamilton.

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality “City of Hamilton”;  

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the Town of Ancaster" and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;  

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;  

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;  

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2008, recommended that Zoning By-law No. 87-57 (Ancaster), be amended as hereinafter provided;
AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Ancaster) in accordance with the provisions of the Planning Act;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Map 1-A (East) to Schedule “A” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended:

   (a) by changing from the Agricultural “A” Zone to the Agricultural “A-569(H)” Holding Zone, Modified, the lands shown as Block 1; and,

   (b) by changing from the Agricultural “A” Zone to the Private Open Space “O1-571” Zone, the lands shown as Block 2;

   the extent and boundaries of which are shown on Schedule “A” hereto annexed and forming part of this By-law.

2. Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following subsection:

   “H-A-569” That notwithstanding the provisions of Subsections 8.2 (c) and (d) of Zoning By-law No. 87-57, the following specific provisions shall apply:

   8.2 Development Regulations

   (a) Maximum Lot Coverage 1,100 square metres

   (b) Minimum Front Yard 70 metres for any building or structure

3. That the ‘H’ symbol shall be removed conditional upon:

   (a) The owner completing a Tree Management Plan, to the satisfaction of the Director, Operations and Maintenance Division, Public Works Department.

   (b) The owner completing an archaeological assessment of the subject lands and mitigating, 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 Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

(c) The owner addressing all issues relating to the servicing of the subject property for the proposed use, including a hydrogeological study of the groundwater quality and quantity and the subsurface sewage effluent plume, to ensure that neighboring wells will not be adversely affected, to the satisfaction of the Ministry of the Environment, the Director of Development Engineering, and/or the Director of Public Health Services.

City Council may remove the ‘H’ symbol and, thereby give effect to the Agricultural “A-569” Exception Zone by enactment of an amending By-law once the above conditions have been satisfied.

4. Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following subsection:

“O1-571” That notwithstanding the provisions of Subsection 32.1, only conservation uses shall be permitted, and the provisions of Subsections 32.2 (a), (b), (c), (d), (e), 32.3, 32.4, 32.5 and 32.6 of Zoning By-law No. 87-57, shall not apply.

5. That the amending By-law be added to Map 1-A (East) to Schedule “A” of Ancaster Zoning By-law No. 87-57.

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

PASSED and ENACTED this [ ] day of [ ] , 2008.

Fred Eisenberger
Mayor

Kevin Christensen
Clerk

ZAR-07-071
This is Schedule "A" to By-Law No. 08-
Passed the ........ day of ..................., 2008

Schedule "A"

Map Forming Part of
By-Law No. 08-____
to Amend By-law No.87-57

Subject Property
471 Highway No. 52 South

Block 1: Change in zoning from the Agricultural
"A" Zone to the Agricultural "A-569(H)" - Holding
Zone, Modified.

Block 2: Change in zoning from the Agricultural
"A" Zone to the Private Open Space "O1-671"
Zone, Modified.