SUBJECT: Application to Amend Ancaster Zoning By-law No. 87-57 for the Lands Located at 431 Kitty Murray Lane (Ancaster) (PED09182) (Ward 12)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-09-011, by Claudio Cavalieri, Applicant, for a change in zoning from the Agricultural “A” Zone, to the Existing Residential “ER-588” Zone, with a Special Exception, in order to permit the creation of a new lot for a single detached dwelling, and to retain the existing single detached dwelling on the remaining lands, located at 431 Kitty Murray Lane, as shown on Appendix “A” to Report PED09182, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED09182, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, the Town of Ancaster Official Plan, and the Meadowlands Neighbourhood III Secondary Plan.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the proposed Zoning By-law Amendment is for a change in zoning to permit the construction of one single detached dwelling on the portion of land that is conditionally approved to be severed from 431 Kitty Murray Lane through Severance Application AN/B-09:24 (see Appendix “C”), and to permit the existing single detached dwelling on the retained portion of lands. The approval of this application is to facilitate one of the conditions of approval of Severance Application AN/B-09:24 (see Appendix “C” - Condition 2).

The Zoning By-law Amendment will also modify the side yard setbacks and the minimum required lot frontage of both the severed and retained lands. An archaeological report was submitted by the applicant in late-May 2009, and was approved by staff.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan, the Town of Ancaster Official Plan, and the Meadowlands III Neighbourhood Secondary Plan.

BACKGROUND:

Proposal

The subject lands consist of two parcels that were created as a result of Severance Application AN/B-09:24, which was approved by the Committee of Adjustment on April 2, 2009 (see Appendix “C”). The severed portion of land is approximately 1,070 square metres in size, and the retained portion of land is 1,345 square metres in size (see Appendix “C”). The purpose of the application is to permit the development of a single detached dwelling on the severed lands, and to maintain the existing detached dwelling on the retained parcel.

Consent Application AN/B-09:24

Consent Application AN/B-09:24 was approved on April 2, 2009, in order to convey a parcel of land (Block 2 - see Appendix "C"), and to retain a parcel of land (Block 1) containing an existing single detached dwelling. Applying for and receiving approval of a change in zoning was one of the conditions of approval (see Appendix “C” - Condition 2). The severed parcel of land contains an existing garage that is attached to the principle dwelling on 431 Kitty Murray Lane, and will be removed as a condition of consent approval (see Appendix “C” - Condition 5).

Details of Submitted Application:

Location: 431 Kitty Murray Lane
Owner: Gaetano and Angela Lattuca
Applicant: Claudio Cavalieri
Property Size
(Retained Parcel): Frontage: 22.07 metres
Depth: 60.96 metres
Area: approximately 0.13 hectares

Property Size
(Severed Parcel): Frontage: 17.55 metres
Depth: 60.96 metres
Area: approximately 0.11 hectares

EXISTING LAND USE AND ZONING:

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<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
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<td>Subject Lands</td>
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<td>Agricultural “A” Zone</td>
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<th>Surrounding Lands</th>
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<td>Institutional “I” Zone</td>
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<td>South</td>
<td>Single Detached</td>
<td>Agricultural “A” Zone</td>
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<td>East</td>
<td>Vacant</td>
<td>Institutional “I-H” Zone</td>
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<td>West</td>
<td>Vacant (Former Ancaster Fair Grounds)</td>
<td>Residential “R4-572” Zone, Modified</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms with the Hamilton-Wentworth Official Plan, the Town of Ancaster Official Plan, and the Meadowlands Neighbourhood III Secondary Plan.

   (iii) It is compatible with existing and planned development in the surrounding area.

   (iv) It implements a condition of severance approval (Condition 2 - Appendix “C”).
2. The Zoning By-law Amendment is necessary in order to facilitate the approval of Consent Application AN/B-09:24 (Condition 5 - Appendix “C”), which was approved to allow for the creation of a new lot (Block 2 - Appendix “C”). An existing single detached dwelling is located on the retained portion of land (Block 1 - Appendix “C”). An existing attached garage is located on the severed portion of land and is to be demolished and a new single detached dwelling will be constructed.

The severed parcel is slightly narrower than the retained parcel due to the location of the existing single family dwelling on the retained parcel. The lot frontage for the severed parcel is 17.6 metres, whereas a minimum lot frontage of 18.0 metres is required under the Existing Residential “ER” Zone. In addition, the applicant has proposed a side yard setback for the severed and retained parcels of 1.2 metres, whereas a minimum side yard setback of 1.5 metres is required. These reductions are minor in nature and are not out of character with the existing and planned development in the area and, therefore, can be supported.

3. The subject property has been defined as having archaeological potential, as per the Ministry of Culture’s criteria. Staff had recommended that an archaeological assessment be conducted as a condition of approval of Consent application AN/B-09:24. However, the Committee of Adjustment approved the consent application without the condition. To ensure development or disturbance on the subject lands does not occur prior to an archaeological assessment being completed, staff requested an archaeological assessment be conducted prior to the approval of this Zoning By-law Amendment. The applicant submitted an archaeological report to staff in late-May 2009, which has been approved, to the satisfaction of the City of Hamilton’s Director of Planning on the basis that the archaeological report concluded that there were no archaeological resources found on the property.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, Consent Application AN/B-09:24 will not be finalized and the approval of the severance will lapse. As the single detached unit is an existing use, the dwelling will remain on the property in accordance with the provisions of the Agricultural “A” Zone.

**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:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1). However, development and site alteration may be permitted on lands with archaeological potential when archaeological resources have been removed from the site and documented, or if preserved on site (Policy 2.6.2). Staff notes that the subject property is located within an area of archaeological potential, and an archaeological study is required to be submitted, to the satisfaction of the City of Hamilton and the Ministry of Culture. City staff has approved the archaeological report that was submitted by the applicant in late-May on the basis that no archaeological resources were found on the subject lands.

Places To Grow

The application has been reviewed with respect to the Places To Grow Plan. The application is consistent with the policy that manages growth by directing new growth to the built-up areas of the community (Section 2.2.2.a)), and directing growth to settlement areas that have municipal water and wastewater systems (Section 2.2.2.j)). As a result, the proposal conforms to the Places To Grow Plan.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

However, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources as a result of development planning applications. Staff has reviewed and approved the archaeological report on the basis that no archaeological resources were found on the subject property.

Town of Ancaster Official Plan

The subject property is designated “Residential” on Schedule “B” of the Town of Ancaster Official Plan. The following Policies, among others, apply:

“4.4.2 Types of residential development permitted in the Residential designation shall be single detached dwellings, semi-detached dwellings, townhousing, low-rise apartments, and innovative forms of attached housing;
4.4.3 Residential development shall only proceed after full municipal services are available, including sanitary and storm sewers, and watermains; and,

4.4.10 Council recognizes that Residential Intensification is an important component in reducing housing costs. Residential intensification is defined as the creation of new residential units or accommodations in existing buildings or on previously developed and/or serviced land.”

Based on the foregoing, the proposal conforms to the “Residential” designation of the Town of Ancaster Official Plan.

Meadowlands Neighbourhood III Secondary Plan

The subject lands are designated “Low Density Residential (infill)” in the Meadowlands Neighbourhood III Secondary Plan. Section 6.6.6 Residential Policies, Subsection (d) Low Density Residential (infill), permits only single detached dwellings with a minimum required frontage of 15 metres. No maximum residential density has been identified.

Policy 6.8.6 (f) states … “The appropriate housing mix shall be as follows:

- Low Density 80%
- Medium Density 20%

The proposed dwelling is compatible with the existing and proposed development surrounding the subject property. Consent Application AN/B-09:24, to create a new residential lot, and the retained lot, conform to the policies of the Meadowlands Neighbourhood III Secondary Plan, as the proposed frontages exceed the minimum required frontage of 15 metres, and the proposed and existing single detached dwelling units on the subject property are permitted housing forms based on the existing designation of the Secondary Plan. Finally, the increase of one single detached dwelling will not have an impact on the housing mix for the Secondary Plan area. Therefore, the proposal conforms to the policies of the Meadowlands Neighbourhood III Secondary Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Environmental Planning Section, Capital Planning and Implementation Division, Public Works Department.

- Forestry and Horticulture Section, Operations and Maintenance Division, Public Works Department.

- Hamilton Conservation Authority.
Public Consultation

In accordance with Council’s Public Participation Policy, preliminary consultation is not required if the application is part of the implementation of a Planning Study, or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities. The Zoning By-law Amendment is part of the implementation of Consent Application AN/B-09:24, which was approved on April 9, 2009 (see Appendix "C"). Therefore, preliminary circulation was not required. There were no concerns or opposition from the public with regards to the consent application.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property in early April, 2009.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, 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 with the planning process.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The proposed rezoning will maintain ecological function and prevent unnecessary development in the agricultural areas.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in the City of Hamilton, with the construction of new housing.

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

:TL
Attachs. (3)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-09-011
Date: May 25, 2009

Appendix "A"
Scale: N.T.S.
Planner/Technician: TL/NCB

Subject Property

431 Kitty Murray Lane, Ancaster

Change in Zoning from the Agricultural "A" Zone to the Existing Residential "ER-588" Zone, Modified.

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

BY-LAW NO.  _____

To Amend Zoning By-law No. 87-57 (Ancaster), respecting lands located at 431 Kitty Murray Lane (Ancaster)

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 of 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 or the City of Hamilton;

AND WHEREAS Zoning by-law No. 87-57 (Ancaster) was enacted on the 22nd 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 Item _____ of Report 09-____ of the Economic Development and Planning Committee, at its meeting held on the _____ day of _____, 2009, 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. That Map 1 of Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing the zoning from the Agricultural “A” Zone to the Existing Residential “ER-588” Zone, Modified, on the lands, the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this by-law.

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

   “ER-588”

   That notwithstanding the provisions of Subsections 10.2 (b) and (e) “Regulations” of Section 10: Existing Residential “ER” Zone, the following special provisions shall apply to lands zoned “ER-588”:

   Regulations:

   (b) Minimum Side Yard 1.2 metres

   (e) Minimum Lot Frontage 17 metres

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

PASSED and ENACTED this [ ] day of [ ], 2009

____________________________________  _______________________________________
Fred Eisenberger                Kevin C. Christenson
Mayor                             Clerk

ZAR-09-011
Schedule "A"

Map Forming Part of By-Law No. 09-____
to Amend By-law No. 87-57

Subject Property
431 Kitty Murray Lane, Ancaster

Change in Zoning from the Agricultural "A" Zone to the Existing Residential "ER-588" Zone, Modified.
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT | LAND SEVERANCE

APPLICATION NO. AN/B-09:24
SUBMISSION NO. B-24/09

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

AND IN THE MATTER OF the Premises known as Municipal number 431 Kitty Murray Lane, formerly in the Town of Ancaster, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners Gaetano & Angela Lattuca, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land (Part 1 on attached sketch) measuring 17.55m² (57.57±²) x 60.96m² (200±²) containing a portion of an existing garage (to be demolished) for single family residential purposes, and to retain a parcel of land (Part 2 on attached sketch) measuring 22.07m² (72.41±²) x 60.96m² (200±²) containing an existing single family dwelling (to remain) and a portion of an existing garage (to be demolished) for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Ancaster Official Plans.

2. The Committee considers the proposal to be in keeping with development in the area.

3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.

3. That the Owner enter into and register on title of the lands, a Consent Agreement with the City of Hamilton to deal with grading and drainage of the subject lands and demonstrate that all drainage can be taken to a suitable outlet, to the satisfaction of the Manager of Engineering Design and Construction.

4. The owner/applicant shall satisfy the requirements of the Public Works Department, Operations and Maintenance Division, Forestry & Horticulture Section.

5. Demolish all or an appropriate portion of the building straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Services Division). May be subject to a demolition permit issued in the normal manner.
AN/B-09.24
Page 2

6. That the owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 2nd day of April, 2009.

M. Dudzic, Chairman

C. Lewis

D. Serwatuk

D. Drury

L. Tew

V. Abraham

L. Gaddye

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS April 9th, 2009.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (April 9th, 2010) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS April 29th, 2009.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. Based on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed (Part 1) will be assigned the municipal address of 427 Kitty Murray Lane, and that the lands to be retained (Part 2) will remain as 431 Kitty Murray Lane.

2. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staking, stockpiling or other soil disturbances and the applicant is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.328.8392).