SUBJECT: Application to Amend the Flamborough Zoning By-law 90-145-Z For Property Located at 783 Brock Road (PED06031) (Ward 14)

RECOMMENDATION: That approval be given to Amended Zoning Application ZAR-05-84, John and Laurie O’Connor, owners, to modify the Agricultural “A” Zone in order to permit a Garden Suite for a period of ten years, for lands located at 783 Brock Road, in the former Town of Flamborough, as shown on Appendix “A” to Report PED06031, on the following basis:

(a) That the Agricultural “A” Zone provisions applicable to the subject lands, be amended in accordance with Section 39 of the Planning Act, R.S.O 1990, to add a Garden Suite as a permitted use for a period of ten years.

(b) That the Draft By-law, attached as Appendix “B” to Report PED06031, which has been prepared in a form satisfactory to the City Solicitor, not be enacted by City Council until the owner enters into an “Occupancy Agreement” with the City, which shall be prepared in a form satisfactory to the City Solicitor and the Director of Development and Real Estate.

(c) That the proposed modification in zoning is in conformity with the Hamilton-Wentworth and Flamborough Official Plans.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The applicant has submitted an application for a Zoning By-law Amendment to permit a temporary Garden Suite for a period of ten years.

Staff supports the application in view of the fact that it is consistent with the Provincial Policy Statement and Greenbelt Plan, conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan, and because it allows a compatible use.

BACKGROUND:

Proposal

The applicant has applied to modify the zoning of the subject lands, known as 783 Brock Road (see Appendix “A”), through a temporary use By-law, in order to permit a temporary mobile dwelling unit as a “Garden Suite” for a period of ten years.

The applicant has agreed to amend the application to increase the minimum southerly side yard setback for the Garden Suite from 1.8 metres to 32.0 metres, and increase the minimum rear yard setback from 10 metres to 66 meters at the request of Staff (See Appendix “C”).

Details of Submitted Application

Owner: John and Laurie O’Connor
Location: 783 Brock Road (See Appendix “A”)
Description: Frontage: 38.1 metres (125 feet)
Depth: 132.7 metres (435.5 feet)
Area: 0.71 hectares (1.75 acres)
EXISTING LAND USE AND ZONING:

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

Surrounding Land Uses

<table>
<thead>
<tr>
<th>North</th>
<th>Single Detached Dwelling and Quarry (Dufferin Aggregates)</th>
<th>“A” Agricultural Zone and “EI” Extractive Industrial Zone</th>
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<tbody>
<tr>
<td>South</td>
<td>Quarry (Dufferin Aggregates) and Single Detached Dwelling</td>
<td>“EI” Extractive Industrial Zone and “A” Agricultural Zone</td>
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<tr>
<td>East</td>
<td>Quarry (LaFarge Lime Canada Inc.) and Single Detached Dwelling</td>
<td>“EI” Extractive Industrial Zone and “A” Agricultural Zone</td>
</tr>
<tr>
<td>West</td>
<td>Quarry (Dufferin Aggregates)</td>
<td>“EI” Extractive Industrial Zone</td>
</tr>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposed modification in zoning is consistent with the Provincial Policy Statement and the Greenbelt Plan, and it conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.
   
   (ii) It is compatible with the existing and planned development in the immediate area.
   
2. Flamborough Official Plan

The subject lands are designated “Agriculture” on Schedule “B”, Rural Land Use Plan, of the Flamborough Official Plan. On May 4, 1992, Council adopted Official Plan Amendment No. 29 to implement the then requirements of the Provincial Policy Statement on Land Use Planning for Housing. This Amendment was approved by the Region on August 13, 1993, and contains Section E.3.2.5.
Section E.3.2.5 of the Town of Flamborough Official Plan provides criteria to be considered for the placement of temporary mobile dwelling units on lands designated Agriculture, in accordance with Section F.6.7 of the Flamborough Official Plan:

(i) A temporary mobile dwelling unit may be permitted for:
    - the retired parent(s) of a property owner or the property owner’s spouse; or,
    - a retiring property owner, provided that the principle dwelling is occupied by the son or daughter of the retiring property owner.

(ii) the proposal is compatible with the surrounding area and does not impact on the use of the lands for agricultural purposes.

(iii) the existing landscape can be maintained or improved.

(iv) the provisions of the Zoning By-law, including adequate off-street parking and the Minimum Distance Separations from agricultural operations, can be met.

(v) no new access shall be permitted onto a public road.

(vi) the proposed use can be adequately serviced with water, sewage disposal, roads, garbage collection and utilities, so as not to compromise the Town’s financial ability to provide such services.

(vii) the adequacy of schools and community facilities to service the proposed use.

(viii) the contribution of the proposed use to the provision of affordable housing.

(ix) the need for the proposed use has been justified by the landowner.

(x) other actions, as may be deemed necessary, through the Zoning By-law.

(xi) the proposal conforms with the provisions of Sections C.1 (The Flamborough Niagara Escarpment Plan Area).

(xii) the owner of the subject property shall enter into an Occupancy Agreement with the Town, specifying who the occupants of the principle dwelling and the temporary mobile dwelling will be.

The principle dwelling will be occupied by the owners, and their three children. The proposed temporary retirement dwelling will be occupied by the mother of one of the owners.
The proposed use with the amended location (see Comment 3) is considered to be compatible with the surrounding area, the existing landscape will be maintained, the proposal does not impact the use of the lands for agricultural purposes and the requirements of the Zoning By-law are maintained. No new access is proposed and private servicing is available for the temporary unit (see Comment 5).

Staff is satisfied that the need for the proposed use has been justified. The applicant has indicated that the retired parent is at an age where additional support is increasingly required from the children (owners) and the temporary unit will constitute affordable housing.

Prior to the passage of the implementing Zoning By-law, the owner shall be required to enter into an Occupancy Agreement, as per the Flamborough Official Plan and as authorized by the Planning Act (Section 39. (1.2)), specifying, among other matters, who the occupants of the principle dwelling and the temporary mobile dwelling will be.

Finally, the proposal is in accordance with Section F.6.7 of the Flamborough Official Plan, since the proposed dwelling unit is temporary, can be easily removed, and is compatible with the adjacent uses. Also, the size of the parcel and buildings is appropriate for the area, and the existing services are sufficient to accommodate the proposed temporary use.

Based on the foregoing, the proposed temporary mobile dwelling unit conforms with the relevant criteria for such units under the Flamborough Official Plan, and an amendment would not be required, should the zoning application be approved.

3. Flamborough Zoning By-law No. 90-145-Z

The subject lands are zoned Agricultural “A” Zone in the Flamborough Zoning By-law No. 90-145-Z. This zone does not permit the development of a second dwelling unit on the subject property. The proposed site-specific Agricultural “A-79” Zone would allow for the placement of a temporary mobile dwelling unit, in accordance with the provisions set out for the Agricultural “A” Zone, as amended (see below).

A site inspection of the subject property concluded that the original proposed location of the temporary mobile dwelling could potentially cause and be subject to negative impacts. The original location was at the rear of 779 Brock Road, which could have created negative impacts on the rear yard amenity area of the property to the south. Also, the subject property is located directly adjacent to the Dufferin Aggregates Quarry. While the Quarry is required to satisfy Ministry of Environment criteria to its property lines, staff was concerned with the possible residual noise and vibration impacts from the Quarry operations on the mobile dwelling.
As a result, staff has redlined the proposed sketch to relocate the proposed temporary mobile dwelling in order to reduce the potential noxious impacts. The proposed Zoning By-law Amendment has been modified to increase the minimum rear yard setback from 10 metres to 66 metres, and the minimum southerly side yard setback has been increased from 1.8 metres to 32 metres (see Appendix “C”). The applicants are in agreement with these changes.

The Flamborough Zoning By-law No. 90-145-Z requires a minimum of two parking spaces for the proposed Garden Suite and existing dwelling (one parking space for each). The existing garage accommodates the two required parking spaces.

4. Extended Length of Approval

On May 31, 1994, The Residents Rights Act (Bill 120) received Royal Assent. On July 14, 1994, the parts of Bill 120, which amended the Planning Act and Municipal Act, were proclaimed into law. As part of the amendment to the Planning Act, the provisions for the municipality to pass a Temporary Use By-law for “garden suites” has been increased from three years to ten years. The renewal period remains at three years. The approval for ten years allows for easier monitoring and less administrative work.

5. Servicing of the Site

As indicated in the agency comments, the Health Protection Branch has no objection to the proposal. Additionally, the construction of the proposed dwelling is subject to the issuance of a building permit in the regular manner. The Building Code Act requires that any person installing or repairing a Class 2, 3, 4 or 5 sewage system obtain a sewage permit issued by the Chief Building Official prior to commencing construction. The existing site is serviced by private well and septic systems.

**ALTERNATIVES FOR CONSIDERATION:**

If the applicant is denied, then the applicant has the option of using the property for the current range of “A” (Agricultural) Zone uses.

**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 proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

Greenbelt Plan

The subject property is designated “Protected Countryside - Rural” within the Greenbelt Plan. As the nature of the application is to amend the zoning to permit a temporary use in conjunction with a permitted single detached dwelling that does not create a new residential parcel, the application conforms to the policies of the Greenbelt Plan.

Hamilton-Wentworth Official Plan

The subject property is designated as “Rural Area/Stone and Aggregates” within the Hamilton-Wentworth Official Plan.

As the nature of the application is for a modification of the existing zoning to allow for a temporary use (Garden Suite) in the rural area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Flamborough Official Plan

The subject property is designated “Agriculture” on Schedule B, Rural Land Use Plan of the Flamborough Official Plan. The Official Plan has policies which permit temporary mobile dwellings, subject to twelve criteria in Section E.3.2.5 (see Pages 3-4 of this report). The proposal conforms to the policies of the Flamborough Official Plan.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budgets & Finance).
- Corporate Services Department (Revenues Division).
- Public Health and Community Services Department.
- Hydro One Networks Inc.
- Union Gas.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to nine property owners within 120 metres of the subject lands. In addition, a Public Notice sign of the application was posted on
the property on October 21, 2005. One telephone call was received by LaFarge Lime Canada Inc. requesting clarification of the application.

Notice of the Public Meeting for this rezoning application 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 regulations of the Planning Act.

**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 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
  - Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

**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

:DF

Attachs. (3)
Appendix “B” to Report PED06031 (Page 1 of 3)

Appendix “B” to Report PED06031 (Page 1 of 3)

**Authority:**  Item, Planning and Economic Development Committee

Report 06- (PED06031)

CM:

**Bill No.**

CITY OF HAMILTON

**BY-LAW NO. __________**

To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended
Respecting Lands Located at 783 Brock Road (Flamborough)

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

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the Town of Flamborough” 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. 90-145-Z (Flamborough) was enacted on the 5th Day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

**AND WHEREAS** in accordance with the Planning Act, R.S.O., 1990, section 39, Council may pass by-laws authorizing the temporary use of land, buildings or structures for a purpose that is otherwise prohibited by the zoning by-law;

**AND WHEREAS** the Council of the City of Hamilton deems it advisable, pursuant to the provisions of this By-law and the occupancy agreement required by this by-law, to permit the temporary use of the land shown on Schedule “A” to this By-law, as a garden suite, on several conditions, including the condition that the owner of the said land have entered into an agreement with and satisfactory to the municipality, as authorized by the Municipal Act, section 207.2.

**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 Flamborough).
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule No. “A-10” attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), is hereby amended by changing the zoning from Agricultural “A” Zone to Agricultural “A-79” Zone, the lands the extent and boundaries of which are shown on Schedule ‘A’ annexed hereto and forming part of this By-law.

2. Section 33.3 – Agricultural “A” Zone is hereby amended by adding the following subsection:

33.3.79 “A-79” (See Schedule A-10)

Permitted Uses

(a) A Garden Suite shall be permitted for a maximum ten (10) year period commencing on the day of the passing of this by-law, being the _____ day of ________, 2006 and expiring on the _____ day of ________, 2016.

A ‘Garden Suite’ shall mean a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable.

(b) Any use permitted in an ‘A’ Zone.

Zone Provisions

(a) The minimum southerly side yard setback for a Garden Suite shall be 32.0 metres at a distance greater than 32.0 metres from Brock Road.

(b) The minimum rear yard setback for a Garden Suite shall be 66 metres.

(c) All other zone provisions of Subsection 33.2 Agriculture ‘A’ Zone shall continue to apply.

3. 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 , 2006.

__________________________________________
MAYOR
ZAR-05-84

__________________________________________
CLERK
This is Schedule "A" to By-Law No. 06—

Passed the __________________ day of __________________, 2006

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Clerk

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Mayor

Schedule "A"

Map Forming Part of
By-Law No. 06-____
to Amend By-Law No. 90-145-Z

Planning and Economic Development Department
Hamilton

Subject Property
783 Brock Road, Flamborough

Change in Zoning from the Agricultural "A" Zone to the Agricultural "A-79" Zone
Flamborough Quarries is to the west of the property so the back portion is surrounded by a weedy Birm.

There is one tree on the property right behind the house, otherwise there is some cedar trees for hedged on the north side and south sides of the property.