SUBJECT: Application for Changes in Zoning for Lands Located at 838 Crooks Hollow Road and 154 Highway No. 8 (Flamborough) (PED06367) (Ward 14)

RECOMMENDATION:

That approval be given to **Zoning Application ZAC-06-50, John Bozyk, owner**, for changes in zoning from the Settlement Residential “R2” Zone to the Settlement Commercial “SC-4” Zone (Block “1”), and to the Conservation Management “CM” Zone (Block “2”), and from the Settlement Commercial “SC-4” Zone to the Conservation Management “CM” Zone (Block “3”) respectively, to facilitate the addition of an 11.3 metre by 88.1 metre parcel of land to the existing commercial property at 154 Highway No. 8, for lands located at 838 Crooks Hollow Road and 154 Highway No. 8 (Flamborough), as shown on Schedule “A” of Appendix “B” to Report PED06367, on the following basis:

(a) That Block “1” be rezoned from the Settlement Residential “R2” Zone to the Settlement Commercial “SC-4” Zone.

(b) That Block “2” be rezoned from the Settlement Residential “R2” Zone to the Conservation Management “CM” Zone.

(c) That Block “3” be rezoned from the Settlement Commercial “SC-4” Zone to the Conservation Management “CM” Zone.

(d) That the draft By-law, attached as Appendix “B” to Report PED06367, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
(e) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.

Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The application is for changes in zoning to facilitate the conveyance of an 11.3 metre by 88.1 metre parcel of land to be added to the existing commercial property at 154 Highway No. 8, as shown on Appendix “C”.

The proposal has merit and can be supported since the changes in zoning are consistent with the Greenbelt Plan and Provincial Policy Statement, and comply with the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan and the Greensville Secondary Plan. The proposal is compatible with the existing development in the area, and will facilitate a boundary adjustment to allow an appropriate driveway aisle to access the rear of the property and provide for additional parking area and other uses at 154 Highway No. 8. In addition, the final approval of this application for rezoning fulfils a condition imposed through the provisional approval of Consent Application FL/B-06:108 (see Appendix “D”).

**BACKGROUND:**

**Proposal**

The applicant has applied to change the zoning for a portion of the subject lands, known as 838 Crooks Hollow Road (see Appendix “A”), in order to facilitate the conveyance of land to be added to the existing commercial property located at 154 Highway No. 8. The additional lands are to be used for the purposes of a driveway aisle to access the rear of the property, additional parking area and other uses permitted by the Settlement Commercial “SC-4” Zone.

The applicant has requested that the lands to be conveyed (11.3 metres by 88.1 metres) to 154 Highway No. 8 be rezoned from the Settlement Residential “R2” Zone to the Settlement Commercial “SC-4” Zone to coincide with the existing commercial zoning of the property at 154 Highway No. 8. The commercial uses permitted in the Settlement Commercial “SC-4” Zone include lawn maintenance establishment, wholesale establishment, automobile body shop, retail establishment, personal service establishment and other such similar uses.
The proposed rezoning will also address the Christie Conservation Area Environmentally Sensitive Area that is at the rear of both the lands to be conveyed and the lands located at 154 Highway No. 8 by expanding the adjacent Conservation Management “CM” Zones to the areas staked by the Hamilton Conservation Authority.

**Consent Application FL/B-06:108**

Consent application FL/B-06:108 for the subject lands was granted provisional approval on July 26, 2006, by the Committee of Adjustment (see Appendix “D”). The approval will allow the conveyance of a vacant parcel of land measuring 11.3 metres by 88.1 metres to be added to the lands known municipally as 154 Highway No. 8 for commercial purposes, as shown on Appendix “C”. A condition of this approval requires final approval of the subject zoning application.

**Details of Submitted Application**

- **Location:** 838 Crooks Hollow Road 154 Highway No. 8
- **Owner:** John Bozyk
- **Applicant:** 1263105 Ontario Inc.
- **Agent:** Webb Planning Consultants Inc. (c/o James Webb)
- **Description:**
  - Frontage: 11.3 metres (838 Crooks Hollow Road) 49.7 metres (154 Highway No. 8)
  - Area: 0.1 hectares (838 Crooks Hollow Road) 0.44 hectares (154 Highway No. 8)
  - Depth: 88.21 metres (838 Crooks Hollow Road) 88.21 metres (154 Highway No. 8)

**Existing Land Use and Zoning**

<table>
<thead>
<tr>
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<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td><strong>Subject Lands:</strong></td>
<td>Commercial (838 Crooks Hollow and 154 Highway No. 8)</td>
<td>Settlement Residential “R2” (838 Crooks Hollow Road) and Settlement Commercial “SC-4” Zone (154 Highway No. 8)</td>
</tr>
<tr>
<td><strong>Surrounding Lands:</strong></td>
<td></td>
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<tr>
<td><strong>North</strong></td>
<td>Vacant/Conservation Management</td>
<td>Conservation Management “CM” Zone</td>
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</tbody>
</table>
East | Residential (Single Detached Dwelling) | Conservation Management “CM” Zone

South | Residential (Single Detached Dwellings) and Commercial | Settlement Residential “R2-8” Zone, Settlement Commercial “SC” Zone and Settlement Commercial “SC-9” Zone

West | Residential (Single Detached Dwellings) | Settlement Residential “R2” Zone

**ANALYSIS/RATIONALE:**

Circulation of the proposed applications to various City Departments and outside agencies resulted in no significant issues with respect to the zone changes. Planning staff’s evaluation of the proposed application is set out below.

1. This proposal has merit and can be supported for the following reasons:
   
   (i) The changes in zoning are consistent with the Greenbelt Plan, Provincial Policy Statement and conform to the Hamilton-Wentworth Official Plan. The proposal also conforms to the policies of the Flamborough Official Plan and the Greensville Secondary Plan for Rural Settlement Areas.

   (ii) The proposal implements a condition of provisional approval for Consent Application FL/B-06:18 (see Appendix “D”), which requires the owner to receive final approval of this Zoning Amendment Application.

   (iii) The proposed changes in zoning would allow for better access to the rear of the commercial building, provide more parking and establish a more defined boundary for the adjacent Environmentally Sensitive Area to the north.

2. The subject parcels are partially located within the Christie Conservation Area Environmentally Significant Area. As part of the review of this application, staff from the Hamilton Conservation Area visited the site and staked the limits of the Environmentally Significant Area. Through this process it was determined that an Environmental Impact Statement was not required given the small size of the rezoning area, the existing disturbed state of the property, the fact that the edge of the existing Environmentally Significant Area coincides with the top-of-bank and all the lands below the top-of-bank are going to be rezoned to the Conservation Management “CM” Zone (see Appendix “B”). Additionally, the Settlement Commercial “SC-4” Zone requires a minimum rear yard setback of 7.5 metres.

3. The applicant has submitted a survey plan with their application, attached as Appendix “C”, which has been reviewed against the standard requirements of the
Settlement Commercial “SC-4” Zone and the Conservation Management “CM” Zone. No further modifications are required to either of the zones.

4. A site plan application is not required for this proposal as the application is for a minor boundary adjustment and no new development is being proposed for this site. However, staff notes that the General Provision section of By-law No. 90-145-Z requires a planting strip to be maintained along the rear and side lot lines of a lot zoned for any commercial use that is adjacent to a residential zone. Any future development of the site would be subject to a site plan application and the requirement for the planting strip.

5. Although pre-circulation was not required under the Public Participation Policy due to a previous consent application, the proposed change in zoning was pre-circulated to 32 property owners within 120 metres of the subject lands. No comments were received with respect to the rezoning application or with the consent application as part of the Committee of Adjustment process.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, then the consent application could not be finalized and the parcel of land would remain as part of 838 Crooks Hollow Road and the current Urban Residential “R2” Zone uses would apply.

**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 Zoning By-law Amendment.

**POLICIES AFFECTING PROPOSAL:**

**Greenbelt Plan**

The subject lands are designated as “Lands within the Niagara Escarpment Plan Area” within the Greenbelt Plan. The requirements of the NEP, established under the Niagara Escarpment Planning and Development Act, continue to apply and the Protected Countryside policies do not apply. Therefore, the proposal conforms to the policies of the Greenbelt Plan.

**Provincial Policy Statement (PPS)**

The application is consistent with Policy 1.1.3.1 of the PPS, which focuses growth in the settlement areas.
However, Policy 2.1.1 outlines that natural features and areas shall be protected for the long term. The subject parcel is located partially within the Christie Conservation Area Environmentally Significant Area; however, the proposed area of development is presently disturbed. As a result, staff required the boundaries of the woodlot to be identified with staking and the area be re-zoned to Conservation Management “CM” to be added to the Conservation Management “CM” Zone to the north.

The subject property has been staked by the Hamilton Conservation Authority and the attached Zoning By-law (see Appendix “B”) identifies the limits of the Christie Conservation Area Environmentally Significant Area.

Niagara Escarpment Plan (NEP)

Both properties subject of the application are located within the boundaries of the Greensville Rural Settlement Area, a Niagara Escarpment Plan (NEP) designated “Minor Urban Centre”. The proposal conforms to the policies of the NEP governing land use and development in “Minor Urban Centres” as the application is to rezone a parcel of land and add it to the existing commercial property, in which the use is already taking place.

Hamilton-Wentworth Official Plan

The subject lands are designated as “Rural Area”, (Rural Settlement Area – Greensville) within the Hamilton-Wentworth Official Plan. Policy 3.2.2 outlines that non-agriculturally related commercial, industrial and institutional uses will not be permitted outside of Rural Settlement Areas or Rural Business Parks. Furthermore, Policy C-1.2 outlines that land use changes in or adjacent to Environmentally Sensitive Areas will only be permitted given certain criterion. The property is located partially within the Christie Conservation Area Environmentally Significant Area (ESA No. 31 in the Hamilton-Wentworth Official Plan). An Environmental Impact Statement is not required in this case given the small size of the rezoning area, the existing disturbed state of the property, and the fact that the edge of the existing Environmentally Significant Area has been staked by the Hamilton Conservation Authority and is going to be rezoned to the Conservation Management “CM” Zone.

As the nature of the application is for a change in zoning to permit a minor lot addition to 154 Highway No. 8 for commercial purposes, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

Flamborough Official Plan

The subject lands are identified as part of a “Rural Settlement Area” (Greensville) on Schedule “B”, Rural Land Use Plan to the Town of Flamborough Official Plan. The lands are further designated “Settlement Commercial” and “Hazard Lands” within the Greensville Settlement Area on Schedule “B-16”. The proposal conforms with and implements the “Settlement Commercial” designation in that commercial, professional or personal service uses are permitted within this designation.
Policy B.10.3 states that all development in the “Rural Settlement Areas” shall be required to provide an adequate supply of potable water and septic disposal capability, to the satisfaction of the Public Health Services Department. As the proposal is for a minor boundary adjustment and no new development to the existing building is being proposed, the Public Health Department has no concerns with respect to this proposal.

Greensville Secondary Plan

The subject lands are designated as “Settlement Commercial” and “Hazard Lands” within the Greensville Secondary Plan. The Secondary Plan sets out servicing and phasing requirements and development standards to guide the development of these lands, while protecting the natural and historic resources in the Greensville Area.

Policy B.11.1.3.1 of the Secondary Plan indicates that the permitted uses within the “Settlement Commercial” designation include convenience commercial and professional and personal services related to the needs of the Settlement Area residents and the nearby rural community.

Policies B.11.1.6.1 and B.11.1.6.3 specify that “Hazard Lands” will be conserved and that they shall be appropriately identified in the Zoning By-law subject to the requirements of the Hamilton Conservation Authority, Niagara Escarpment Commission and the City of Hamilton.

In this regard, the limits of the Christie Conservation Area Environmental Sensitive Area (ESA) have been established by Hamilton Conservation Authority staff, and the proponent has completed a survey of the established ESA which has been incorporated into the attached Zoning By-law Amendment (see Appendix “B”).

In addition, Policy B.11.1.3.13 indicates that where a minor boundary change in the implementing Zoning By-law occurs, no amendment shall be required to the Greensville Secondary Plan, provided that the By-law conforms to the intent and purpose of the Secondary Plan.

Since the lands to be conveyed are relatively small in nature and have been used as part of the existing commercial building for many years, the general purpose and intent of the Greensville Secondary Plan have been maintained.

**RELEVANT CONSULTATION:**

*Agencies/Departments Having No Comment or Objections*

- Public Works Department, Operations and Maintenance Division, Traffic Planning Section.
- Public Works Department, Water and Waste Water Division.
- Public Works Department, Strategic and Environmental Planning.
- Public Health and Community Services Department – Environmental Health Section.
- Corporate Services Department – Revenues Division.
Corporate Services Department – Budgets and Finance Division.
Assessment Department.
Hamilton Emergency Services.
Hydro One Networks Inc.
Union Gas.

Hamilton Conservation Authority (HCA)

Hamilton Conservation Authority has advised that the subject property is located within an area affected by the *HCA Development Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04* and that written approval is required from their office for any future development on the subject lands.

Authority staff also notes that the Christie Stream Valley Environmentally Significant Area (ESA) is located on the rear portion of both the parcel proposed to be conveyed to 154 Highway No. 8 and 154 Highway No. 8 itself. As there is no new construction associated with the proposal, the Hamilton Conservation Authority does not feel that completion of an Environmental Impact Statement is required in this case.

Based on a visit to the site on July 20, 2006, the boundary of the ESA was determined to be roughly coincident with the top-of-bank of the valley. Therefore, if the top-of-bank is staked and surveyed on-site and the lands below the top-of-bank are zoned as Conservation Management, the Authority has no concerns with this application.

Niagara Escarpment Commission

The Niagara Escarpment Commission advised that both properties which are the subject of the application for consent and the application for zoning amendment are located within the boundaries of the Greensville Rural Settlement Area, and the Niagara Escarpment Plan (NEP) designated “Minor Urban Centre”. Both applications conform to the policies in the NEP governing land use and development in “Minor Urban Centres”. The rezoning is necessary to appropriately zone the parcel to be added to adequately reflect the use taking place from the existing settlement commercial property. In summary, the NEC has no objections, in principle, to the two above-described applications.

Public Consultation

The Public Participation Policy, approved by Council on May 29, 2003, states that preliminary circulation shall not be required if the application is part 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. In this regard preliminary circulation was not required for this application; however, since the consent and change in zoning applications were submitted to the City of Hamilton at the same time and formal approval had not been received, the zoning application was pre-
circulated to 32 property owners within 120 metres of the subject lands. No comments were received with respect to the pre-circulation or consent 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 requirements 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
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

:JT
Attachs. (4)
Subject Properties
838 Crooks Hollow Road

154 Highway No. 8

Area of 838 Crooks Hollow Road to be conveyed to 154 Highway No. 8.

Area of 838 Crooks Hollow Road to be retained.

Site of Application
Appendix “B” to Report PD06367 (Page 1 of 3)

Authority:  Item , Planning and Economic Development Committee
Report: 06- (PED06367)
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 838 Crooks Hollow Road and 154 Highway No. 8 (former Town of Flamborough), 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 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 the Council of the City of Hamilton, in adopting Section of Report of the Planning and Economic Development Committee at its meeting held on the day of , 2006, recommended that Zoning By-law No. 90-145-Z (Flamborough), 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 Flamborough) in accordance with the provisions of the Planning Act;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule “A-37” attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby amended:
   (i) by changing the zoning from the Settlement Residential “R2 Zone to the Settlement Commercial “SC-4” Zone for Block “1”;
   (ii) by changing the zoning from the Settlement Residential “R2” Zone to the Conservation Management “CM” Zone for Block “2”; and,
   (iii) by changing the zoning from the Settlement Commercial “SC-4” Zone to the Conservation Management “CM” Zone for Block “3”;
   the extent and boundaries of which are more particularly shown on Schedule “A” annexed hereto and forming part of this by-law.

2. That the amending By-law be added to Schedule “A-37” of Flamborough Zoning By-law No. 90-145-Z.

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                                          CLERK

ZAC-06-50
Appendix "B" to Report PD06367 (Page 3 of 3)

Schedule "A"

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

Subject Property

- Block 1 - Lands to be rezoned from the Settlement “R2” Zone to the Settlement Commercial “SC-4” Zone
- Block 2 - Lands to be rezoned from the Settlement Residential “R2” Zone to the Conservation Management “CM” Zone
- Block 3 - Lands to be rezoned from the Settlement Commercial “SC-4” Zone to the Conservation Management “CM” Zone

This is Schedule “A” to By-Law No. 06—

Passed the ______________ day of __________________, 2006

__________________________
Clerk

__________________________
Mayor

Scale: ZAC-06-50
Not to Scale

Date: August 22, 2006
Planner/Technician: JT/NB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
PART 1, PLAN 62R-13727

CONCESSION 2

PART 2

PART 1

PLAN 62R-13727

THE KING'S HIGHWAY No 8

ORIGINAL ROAD ALLOWANCE BETWEEN CONCESSIONS 1 AND 2
Appendix “D” to Report PED06367 (Page 1 of 1)

Committee of Adjustment
City Hall
7th Ave, 1st Main Street West
Hamilton, ON L8P 4X0
Telephone (905) 546-5201, ext. 4221
Fax (905) 546-3972

Hamilton

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT
LAND SEVERANCE

APPLICATION NO. FL/I-06-108
SUBMISSION NO. B-10806

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 638 Crooks Hollow Road, formerly in
the Town of (West) Flamboignor, now in the City of Hamilton;
AND IN THE MATTER OF an APPLICATION by the agent WEISS Planning Consultants Inc. on behalf of
the owners John Bozik and Aarlos Aluminum Products Company Ltd., for consent under Section 53(1) of
the Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land
measuring 11.3m (37') x 86.2m (280') to be added to the lands known municipally as 164 Highway No. 8 for
commercial purposes, and to retain an irregular shaped parcel of land having a frontage of 53.5m (110'), and
an area of 0.5 ha. (20.5 ac.) containing an existing dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:
That the said application IS APPROVED for the following reasons:
1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Flamboignor
   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 final approval of Rezoning Application ZAC-06-50 be received.
3. That the lands to be conveyed be registered in the same name and title as the lands at 154
   Highway No. 8.
4. That the owner/applicant identify, survey and rezone the boundary of the wooded on the subject
   property as Conservation Management “CM” Zone to the satisfaction of the Manager,
   Development Planning.
5. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 26th day of July, 2000.

F. Camocci, Chairman

L. Goddye
D. Smith

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS August 2nd, 2006.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE
OF DECISION (August 2nd, 2007) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED
(PLANNING ACT, SECTION 53(4)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY
BE FILED IS August 22nd, 2006.

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