<table>
<thead>
<tr>
<th>TO: Chair and Members Planning Committee</th>
<th>WARD(S) AFFECTED: WARD 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMITTEE DATE: June 7, 2011</td>
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</tr>
<tr>
<td>SUBJECT/REPORT NO: Application for an Amendment to Glanbrook Zoning By-law No. 464 for Lands Located at 3328 Golf Club Road (Glanbrook) (PED11093) (Ward 11)</td>
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</tr>
<tr>
<td>SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department</td>
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<tr>
<td>PREPARED BY: Alvin Chan (905) 546-2424, Ext. 1334</td>
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<tr>
<td>SIGNATURE:</td>
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</tbody>
</table>

**RECOMMENDATION:**

That approval be given to **Zoning Application ZAR-11-014, by P&L Livestock Limited, Owner**, for a change in zoning from the General Agriculture “A1” Zone to the General Agriculture “A1-267” Zone, with a Special Exception, in order to prohibit the construction of any residential dwelling(s) and to reduce the required lot frontage, for the lands located at 3328 Golf Club Road (Glanbrook), as shown on Appendix “A” to Report PED11093, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED11093, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed change in zoning conforms to the Hamilton-Wentworth Official Plan and the Township of Glanbrook Official Plan.
EXECUTIVE SUMMARY

The purpose of the application is to facilitate the severance of a surplus farm dwelling through the consolidation of non-abutting farm parcels, whereby the subject lands are to be rezoned to prohibit the development of a new residential dwelling on the retained farm parcel. The requested amendment is required to satisfy the lot creation policies for Consent Application GL/B-09:071, as agreed upon through the Minutes of Settlement for OMB File No. 100118 (see Appendix “D”).

In addition to the above, Condition 3 of Appendix “A” and Condition 4 of Appendix “B” to Appendix “D” require the applicant/owner to apply for any necessary variances from the requirements of the Zoning By-law, as determined by the Planning and Economic Development Department. Since the retained farm parcel will be deficient with regard to lot frontage, a reduction in lot frontage from the required 150m to 130m has been proposed.

The proposal has merit and can be supported as the application is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and Township of Glanbrook Official Plan. It is also noted that although not in force and effect, the proposed rezoning conforms to the new Rural Hamilton Official Plan.

Alternatives for Consideration - See Page 9.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Proposal

The applicant has applied for a change in zoning to By-law No. 464 from the General Agricultural “A1” Zone to a site-specific General Agricultural “A1-267” Zone for the retained farm parcel located at 3328 Golf Club Road. The purpose of this modification is to prohibit future residential uses on the retained farm parcel, and to allow for a reduction in lot frontage from 150m to 130m, as required by the agreed upon Minutes of Settlement regarding OMB File No. PL100118 (see Appendix “D”).
Chronology

December 17, 2009: Consent Application GL/B-09:071 is conditionally approved by the Committee of Adjustment (see Appendix “C”).

January 6, 2010: The decision of the Committee of Adjustment is appealed by the applicant to the Ontario Municipal Board (OMB).

February 1, 2011: Proposed Minutes of Settlement are approved by the City of Hamilton Planning Committee under Report 11-002.

February 9, 2011: The proposed Minutes of Settlement are approved by Hamilton City Council.

February 22, 2011: Minutes of Settlement are issued by the Ontario Municipal Board, which grants approval of the Consent Application subject to certain conditions, including the requirement that the owner/applicant apply for and receive approval of a Zoning By-law Amendment application prohibiting the construction of any new dwelling on the retained lands (see Condition 2 of Appendix “A” to Appendix “D”).

March 10, 2011: Zoning Application ZAR-11-014 deemed complete.

March 18, 2011: Circulation of Notice of Complete Application for Zoning Amendment File ZAR-11-014 to all residents within 120 metres of the subject lands.

May 20, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application

Location: 3328 Golf Club Road (see Appendix “A”).

Owner/Applicant: P&L Livestock Limited (c/o Dave Pitblado)

Property Description:

- Total Lot Area: 45.7 hectares
- Total Lot Frontage: Approximately 237 metres
- Lot Depth: Approximately 1080 metres
EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
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<td>General Agricultural “A1” Zone</td>
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<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
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<td>South</td>
<td>Single-Detached Dwellings and Agricultural</td>
<td>General Agricultural “A1” Zone</td>
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<tr>
<td>East</td>
<td>Agricultural</td>
<td>General Agricultural “A1” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single-Detached Dwelling and Agricultural</td>
<td>General Agricultural “A1” Zone</td>
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</tbody>
</table>

POLICY IMPLICATIONS

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development.

Policy 2.3.4.1 c) states:

“Lot creation in prime agricultural areas is discouraged, and may only be permitted for:

A residence surplus to a farming operation as a result of farm consolidation provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.”

The subject rezoning application is for the prohibition of any future residential dwellings on the retained farm parcel.

Additionally, Policy 2.3.3.3 states:

“New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.”
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Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

As a condition of approval for the subject Severance GL/B–09:071, compliance with the Minimum Distance Separation Formulae must be demonstrated. Furthermore, the inclusion of the appropriate warning clause shall be required in any future purchase and sale and/or lease/rental agreements (see Condition 4 and Note 1 of Appendix “A” to Appendix “D”).

Therefore, the proposed change in zoning is consistent with the policies of the Provincial Policy Statement.

**Hamilton-Wentworth Official Plan**

The subject lands are designated as “Rural Area - Prime Agricultural Area” in the Hamilton-Wentworth Official Plan. Policy C-3.2.2 states that agriculture will continue to be the predominant use in the rural areas of the Region, and Policy D-8.1.1 states that policies related to consolidation of agricultural lands and surplus farm houses must be incorporated into the Area Municipal Official Plans. As the proposed change in zoning prohibits residential uses in accordance with the lot creation polices in the Glanbrook Official Plan, the proposal would conform to the policies of the Hamilton-Wentworth Official Plan.

**Township of Glanbrook Official Plan**

The subject property is designated “Agricultural” in the Township of Glanbrook Official Plan. The following policy, among others, is currently applicable to the subject property.

Section B.1.1.1 of the Plan identifies the predominant use of the lands designated “Agricultural” as agriculture, forestry, and activities connected with the conservation of soil and wildlife. The continued working of all existing farmlands and the preservation of prime agricultural land is encouraged. As the subject lands remain in agricultural production, the proposal conforms to the “Agricultural” policies of the Plan.

However, with regards to farm consolidation, Section D.2.2.6 states:

“A consent may be considered if it is necessary for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the size of, or establishing a viable farming operation.”

It is noted that the farm consolidation subject to Consent Application GL/B-09:071 is for a non-abutting farm. While staff initially provided comments to the Committee of Adjustment noting that an Official Plan Amendment would be needed as the farm consolidation is non-abutting, it was determined by the OMB, through the attached Minutes of Settlement (see Appendix “D”), that an Official Plan Amendment would not be required.
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Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

City of Hamilton Rural Official Plan (For Information Purposes Only)

The City of Hamilton Rural Official Plan was adopted by Council on September 27, 2006, and approved, with modifications, by the Province on January 7, 2009. The Plan has been appealed to the OMB. As a result, the plan is not in force and effect.

The subject lands are designated “Agriculture” on Schedule “D” - Rural Land Use Designations. As the retained farm parcel will remain as an agricultural land use, the proposal conforms to this designation. With regard to the lot creation, Section F.1.14.2.2(c) of the Plan contains the policies and criteria for the severance of a surplus farm dwelling as a result of a non-abutting farm consolidation.

The applicant has addressed Sub-Policies (i) through (iv) and (vi) of the Rural Official Plan, as the owner/applicant operates and maintains a consolidated farm operation greater than the minimum 38.4 hectares (95 acres) within Rural Hamilton containing an existing dwelling; the farm parcel subject to the severance has been in possession since approximately May, 2009, and meets the minimum 16.2 hectares (40 acres); the submission of the subject rezoning will prohibit residential dwellings and restrict the future use of the lands to be conveyed to agricultural uses; and, through the inclusion of Condition (4) of the Minutes of Settlement approved under OMB File No. 100118 (see Appendix “A” to Appendix “D”) requiring the demonstration of conformity to the Minimum Distance Separation Formulae.

However, implementation of the above noted policies is not required until such time as the Rural Hamilton Official Plan is in force and effect and, accordingly, Sub-Policy (v), the requirement for a restrictive covenant, cannot be addressed at this time.

The policies of Section F.1.14.2.2(d) apply to all forms of farm consolidations and corresponding severances of a surplus farm dwelling. The severed lot satisfies the pertinent criteria as it maintains the required 0.4 hectare (1 acre) lot; maintains the existing private servicing (Private Well and Septic with a rural cross-section); is of a lot configuration that shall not impair agricultural operations on the retained land; does not exceed 122 metres (400 feet) in depth; and does not include any barns or other farm buildings as part of the severance.

Lastly, one of the remaining criteria is that the dwelling to be severed be at least 25 years old. Insufficient detail was provided; however, upon review of the Building Services property file, the original building permit for the existing single family dwelling was applied for in 1968. Accordingly, staff is of the opinion that the existing dwelling meets the 25 year requirement. Therefore, based on the foregoing, the proposed change in zoning would be in conformity with the policies of the new Rural Hamilton Official Plan.
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RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Tax Administration/Banking Section, Corporate Services Department.
- Traffic Engineering Section, Public Works Department.

Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application was circulated to 53 property owners within 120 metres of the subject property on March 18, 2011. Preliminary Circulation was not required as the proposed development was already subject to a related Consent Application that was approved within one year of other public involvement and participation. A Public Notice sign was also posted on the property on March 24, 2011, and Notice of the Public Meeting was given on May 20, 2011, in accordance with the requirements of the Planning Act. To date, no responses have been received.

ANALYSIS / RATIONALE FOR RECOMMENDATION

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

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

   (ii) It conforms to the policies of the Hamilton-Wentworth Official Plan and the Township of Glanbrook Official Plan.

   (iii) The proposed amendment satisfies the conditions of approval for Consent Application GL/B-09:071, as agreed upon through the Minutes of Settlement under OMB File No. PL100118 (see Condition 2 of Appendix “A” to Appendix “D”).

2. As noted above in the Provincial Policy Statement section, Policy 2.3.4.1(c) permits the severance of a residence surplus to a farming operation as a result of a farm consolidation. In particular, the policy requires that the retained parcel be rezoned to prohibit any future residential dwelling(s). Accordingly, the retained parcel will be zoned for agricultural uses under a site-specific General Agricultural “A1-267” Zone prohibiting any future new residential dwelling(s).

3. The Township of Glanbrook Official Plan Policy section above has identified that only farm consolidations of abutting parcels are permitted, as per Policy Section D.2.2.6 of the Official Plan.
However, as per the OMB decision and agreed upon Minutes of Settlement under OMB File No. PL100118, an Official Plan Amendment is no longer required, and the proposed severance is deemed to be in conformity with the lot creation policies of the Township of Glanbrook Official Plan, subject to the required rezoning application, as agreed upon by the parties.

4. As a result of the proposed zoning modification to prohibit residential uses on the retained farm parcel, farm help houses, home occupations, home professions, home industries, and bed and breakfast establishments can no longer be established since each of these uses are permitted only when accessory to a single-detached dwelling.

5. The Provincial Policy Statement and Municipal Official Plan(s) all contain policies that require that any new lot creation comply with the minimum distance separation formulae (MDS). As per the original decision of the Committee of Adjustment and the agreed upon Minutes of Settlement before the OMB, the proposed severance is subject to a condition of approval requiring the demonstration of conformity to the Minimum Distance Separation Formulae. This issue has, therefore, been addressed (see Condition 4 of Appendix “A” to Appendix “D”), in that the consent cannot be finalized until the Minimum Distance Separation has been completed.

6. In order to facilitate the approved Severance GL/B-09:071 for 3328 Golf Club Road, amendments to the General Agriculture “A1” Zone are required. In particular, the following provisions are proposed for modification:

**Permitted Uses:**


As mentioned above, the proposed restriction is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan, Township of Glanbrook Official Plan, and City of Hamilton Rural Official Plan.

**Lot Frontage:**

Notwithstanding **SECTION 8: GENERAL AGRICULTURAL “A1” ZONE**, Subsection 8.2(a) - **REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUB-SECTION 8.1 (AGRICULTURAL USES)**, a lot frontage of 130m shall be provided for lands zoned “A1-267”.

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Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
It is noted that the requested modification is a technical variance as a result of the definition of lot frontage under Township of Glanbrook Zoning By-law No. 464, whereby the lot frontage of the retained farm parcel is deficient as it is not continuous and is interrupted by existing residential lots along Golf Club Road.

As mentioned above, the proposed restriction is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan, Township of Glanbrook Official Plan, and City of Hamilton Rural Official Plan.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the lands could continue to be utilized for any of the uses permitted under the General Agricultural “A1” Zone, and the conditions of approval of Consent Application GL/B-09:071 would lapse. The existing residential dwelling would remain on the property at 3328 Golf Club Road.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Environmental Stewardship**

- Natural resources are protected and enhanced.
- No new development is associated with these applications.

**APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Draft Zoning By-law Amendment to Glanbrook Zoning By-law No. 464
- Appendix “C”: Committee of Adjustment Decision for GL/B-09:071
- Appendix “D”: OMB Approved Minutes of Settlement for File No. PL100118

:AC
Attachs. (4)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-11-014
Date: April 20, 2011
Scale: N.T.S.
Planner/Technician: AC/AL

Appendix "A"

Subject Property
3328 Golf Club Road

- Change in zoning from the General Agriculture "A1" Zone to the General Agriculture "A1-267" Zone.
- Additional lands of applicant (Severed Lot)

Ward 11 Key Map
N.T.S.
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 area municipality known as “The Corporation of the Township of Glanbrook” 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 of the former area municipalities 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 11- of the Planning Committee, at its meeting held on the day of , 2011, recommended that Zoning By-law No. 464 (Glanbrook), 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 Township of Glanbrook);
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule “C”, appended to and forming part of By-law No. 464 (Glanbrook), is amended by changing the zoning from the General Agricultural “A1” Zone to the General Agricultural “A1-267” Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Section 44, “Exceptions to the Provisions of the By-law”, of Zoning By-law No. 464, be amended by adding a new special provision, “A1-267”, as follows:

“A1-267” 3328 Golf Club Road

Notwithstanding SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, Sub-section 8.1 - PERMITTED USES, and Sub-section 8.2(a) - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUB-SECTION 8.1 (AGRICULTURAL USES) the following provisions shall apply on the lands zoned “A1-267”:

(a) A single-detached dwelling shall be prohibited.

(b) A minimum lot frontage of 130 metres shall be provided and maintained.

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

PASSED and ENACTED this ___ day of ___, 2011.

__________________________          ________________________
R. Bratina                        Rose Caterini
Mayor                             Clerk

ZAR-11-014
This is Schedule "A" to By-Law No. 11-

Passed the ........... day of ...................., 2011

---

Clerk

Mayor

---

Schedule "A"

Map Forming Part of
By-Law No. 11-____
to Amend By-law No. 464

Subject Property
3328 Golf Club Road

Change in zoning from the General Agriculture "A1" Zone to the General Agriculture "A1-267" Zone.
Appendix “C” to Report PED11093 (Page 1 of 2)

Committee of Adjustment
Hamilton City Centre
4th floor, Suite 400, 77 James St. N.
Hamilton, ON L8R 2G3
Telephone (905) 546-2424, ext. 4021
Fax (905) 546-2422

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-09:71
SUBMISSION NO. B-710/09

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 3328 Golf Club Road, formerly in the Township of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Dave Pitblado on behalf of the owner P & L livestock Limited, 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 measuring 38m x 106.8m (124.7' x 350') containing an existing single family dwelling for residential purposes, and to retain an irregular-shaped vacant parcel of land having a total frontage of 237m (777.5'), and an area of 45.7 hectares (112.9 acres) for agricultural 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 Committee, having regard to the evidence, is of the opinion that this proposal is for the severance of a residence surplus to the farming operation, whereby no new building lot is being created, and is therefore satisfied that the proposal does not offend the intent of the Hamilton-Wentworth and Township of Glanbrook 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. The owner/applicant shall apply for and receive approval of an Official Plan Amendment application to permit the conveyance of a surplus farm dwelling for non-abutting parcels and a Zoning By-law Amendment application prohibiting the construction of any new residential dwelling on the retained lands, to the satisfaction of the Planning and Economic Development Department, Development Planning East Division.

3. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

4. Confirmation shall be provided that compliance with Minimum Distance Separation requirements is achieved for the lot to be conveyed, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

5. The owner/applicant shall submit survey evidence from a qualified designer (Part 8 Sewage System), professional engineer or architect that the existing septic system is located entirely within the lands to be severed and/or retained to the satisfaction of the Planning and Economic Development Department (Building Services Division).
6. The owner shall dedicate by deed to the City of Hamilton a road widening across the entire frontage of the severed and retained parcel adjacent to Golf Club Road, in order to achieve a right-of-way width of 13.1 m from the original centerline of construction of Golf Club Road, to the satisfaction of the Planning and Economic Development Department, Development Engineering East Division.

7. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 10th day of December, 2009.

M. Dödizo, Chairman

C. Lewis

D. Serwatuk

V. Abraham

D. Drury

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 17th, 2009. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 17th, 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 January 6th, 2010.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1. Staff advise that the following warning clause should be included in any future purchase and sale and/or lease/rental agreements for the conveyed lands, advising prospective purchasers/tenants of the following:

"Purchasers/tenants are advised that at times odours emanating from neighbouring livestock facilities may impede the enjoyment of the outdoor amenity areas of the subject property."

2. The owner/applicant should be made aware that a municipal address will be assigned for the conveyed lands at the time when a building permit is applied for in the future. Please contact Paul Toffoletti in the Legislative Approvals Section 905-546-2424 ext. 4348 or ptoffole@hamilton.ca prior to submitting for the above permits.
IN THE MATTER OF subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended
Appellant/Applicant: P & L Livestock Limited (Palletta)
Subject: Consent
Property Address/Description: 3328 Golf Club Road
Municipality: City of Hamilton
OMC Case No.: PL10011B
OMC File No.: PL10011B
Municipal No.: B-71/09

IN THE MATTER OF subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended
Appellant/Applicant: P & L Livestock Limited (Palletta)
Subject: Consent
Property Address/Description: 3151 Hendershot Road
Municipality: City of Hamilton
OMC Case No.: PL10011B
OMC File No.: PL100255
Municipal No.: B-164/09

IN THE MATTER OF subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended
Appellant/Applicant: P & L Livestock Limited (Palletta)
Subject: Consent
Property Address/Description: 455 Tapleytown Road
Municipality: City of Hamilton
OMC Case No.: PL100120
OMC File No.: PL100120
Municipal No.: B-72/09

MINUTES OF SETTLEMENT

WHEREAS the Ontario Municipal Board teleconference in this matter is scheduled for February 24 at 2:00 pm;

AND WHEREAS the parties hereto have come to an agreement on all outstanding issues between them, relating to these appeals, which Agreement is set forth in these Minutes of Settlement;

AND WHEREAS the Planning Committee has directed the City Solicitor to enter into minutes of settlement as per Item 8 of Planning Committee Report 11-002

(approved by Council on February 9, 2011);

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The Parties consent to these Minutes of Settlement in respect of all matters set out in the above-noted title of proceedings.
2. The Parties agree to make submissions to the Ontario Municipal Board on February 24, 2011, in support of these Minutes of Settlement to be filed as an Exhibit.

3. The parties consent to an Order of the Ontario Municipal Board:
   a. Allowing conditional consent to sever 3328 Golf Club Road subject to the conditions listed in Appendix A to these Minutes of Settlement;
   b. Allowing conditional consent to sever 3151 Hendershot Road subject to the conditions listed in Appendix B to these Minutes of Settlement;
   c. Withholding the Board's final Order until the appeal of 455 Tapley Town Road, OMB Case and File No. PL100120, has been withdrawn.

4. These Minutes of Settlement constitute the entire agreement between the Parties and there are no other oral or written agreements in respect of the matters herein.

SIGNED this _day of February, 2011.

P & L LIVESTOCK LIMITED (PALETTA)
Per:

SIGNED this _day of February, 2011

CITY OF HAMILTON
Per: Peter Barkwell, City Solicitor
APPENDIX A

Proposed Conditions for Consent to Sever Application GL/B-09:71, 3328 Golf Club Road (Glanbrook)

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. The owner/applicant shall apply for and receive approval of a Zoning By-law Amendment application prohibiting the construction of any new residential dwelling on the retained lands, to the satisfaction of the Planning and Economic Development Department, Development Planning (East) Division.

3. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

4. Confirmation shall be provided that compliance with Minimum Distance Separation requirements is achieved for the lot be conveyed, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

5. The owner/applicant shall submit survey evidence from a qualified designer (Part 8 Sewage System), professional engineer or architect that the existing septic system is located entirely within the lands to be severed and/or retained to the satisfaction of the Planning and Economic Development Department (Building Services Division).

6. The owner shall dedicate by deed to the City of Hamilton a road widening across the entire frontage of the severed and retained parcel adjacent to Golf Club Road, in order to achieve a right-of-way width of 13.1 metres from the original centreline of construction of Golf Club Road, to the satisfaction of the Planning and Economic Development Department, Development Engineering East Division.

7. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

8. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

NOTE:

1. Staff advise that the following warning clause should be included in any future purchase and sale and/or lease/rental agreements for the conveyed lands, advising prospective purchasers/tenants of the following:

"Purchasers/tenants are advised that at time odours emanating from neighbouring livestock facilities may impede the enjoyment of the outdoor amenity areas of the subject property."

2. The owner/applicant should be made aware that a municipal address will be assigned for the conveyed lands at the time when a building permit is applied for in the future. Please contact Paul Tofoletti in the Legislative Approvals Section 905-546-2424 ext. 4348 or ptofoletti@hamilton.ca prior to submitting for the above permits.
APPENDIX B

Proposed Conditions for Consent to Sever Application GL/B-09:104, 3151 Hendershot Road (Glanbrook)

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. The owner/applicant shall apply for and receive approval of a Zoning By-law Amendment application prohibiting the construction of any new residential dwelling on the retained lands, to the satisfaction of the Planning and Economic Development Department, Development Planning (East) Division.

3. The owner/applicant shall submit survey evidence from a qualified Designer (Part 8 Sewage System), Professional Engineer or Architect that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be severed and or retained, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

4. The owner shall submit survey evidence that the existing structures located on both the lands to be conveyed and the lands to be retained conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

5. The owner shall dedicate to the City of Hamilton by deed, sufficient land along the entire frontage of the remnant lands in order to establish the property line 15.24 m (50 feet) from the original centreline of Binbrook Road East, to the satisfaction of the Planning and Economic Development Department, Development Engineering (East) Division.

6. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

7. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

NOTE:

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 will remain as 3151 Hendershot Road, and the lands to be retained will be assigned the municipal address of 3157 Hendershot Road, based on the location of the existing barn that is to remain. It should also be noted that the correct spelling of the street is Hendershot, with one "T".