SUBJECT: Application to Amend the Town of Ancaster Zoning By-law No. 87-57 for Property Located at 1110-1160 Jerseyville Road West, (Ancaster) (PED09037) (Ward 14)

RECOMMENDATION:

That Approval be given to Zoning Application ZAR-08-052, by Mike Freshwater, Owner, for a change in zoning from the Agricultural “A-174” Modified Zone to the Agricultural “A” Zone, to prohibit a farm help house on a portion of the lands located at 1110 -1160 Jerseyville Road West (Ancaster), as shown on Appendix “A” to Report PED09037, on the following basis:

(a) That the Draft By-law, attached as Appendix “B” to Report PED09037, 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 and Town of Ancaster Official Plan.
EXECUTIVE SUMMARY:

The purpose of the application is for a change in zoning to delete a farm help house as a permitted use on lands to be conveyed from the property at 1110-1160 Jerseyville Road West, and be added to the adjoining property at 1204 Jerseyville Road West, in order to satisfy a condition of severance approval (Appendix “E” - Condition 3).

The application has merit and can be supported as the proposed change in zoning is consistent with the Provincial Policy Statement and the Greenbelt Plan, and conforms to the Hamilton-Wentworth Official Plan and the Ancaster Official Plan.

BACKGROUND:

Proposal

The applicant has applied to change the zoning for a portion of the subject lands, known as 1110-1160 Jerseyville Road (see Appendices “A” and “D”), to prohibit a farm help house as a permitted use on a 0.4 hectare parcel of land to be added to the property at 1204 Jerseyville Road (see Appendices A” and “C”).

Approval of this application will satisfy Condition 3 of Severance Application AN/B-08:13 (see Appendix “E”), which was approved by the Committee of Adjustment on March 20, 2008.

Consent Application AN/B-08:13

Consent Application AN/B-08:13 for the subject lands was heard before the Committee of Adjustment on March 13, 2008, to sever a 0.4 hectare strip of land from the property at 1110 -1160 Jerseyville Road West, in order to add the lands to the property at 1204 Jerseyville Road West. The application was made in order to legalize the driveway of 1204 Jerseyville Road, which was partially encroaching onto the land at 1110 -1160 Jerseyville Road West. Staff recommended that the application be modified to only add a 5m wide strip of land of approximately 0.08 hectare in size, as this would preclude a farm help house from being constructed on the proposed lands to be added, as well as addressing the issue of the driveway encroachment. The applicant did not agree with staff’s modification, as the applicant wanted the additional lands for a private vegetable garden. The Committee of Adjustment tabled the application for a site visit, and on March 20, 2008, the Committee of Adjustment Approved the application as proposed by the applicant, subject to conditions. Condition 3 (see Appendix “E”) requires that the applicant rezone the lands to be severed to remove a farm help house as a permitted use.
Details of Submitted Application:

Owner: Mike Freshwater
Applicant: Tim Verhey
Location: 1110-1160 Jerseyville Road West, Ancaster (see Appendix “A”)

Description: Frontage: 24.38 metres
Depth: 170.69 metres
Area: 0.4 ha

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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<td>Agricultural “A-174” Zone</td>
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<th>Surrounding Lands:</th>
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<tr>
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<td>Agricultural “A” Zone</td>
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<td>South</td>
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<td>Agricultural “A-174” Zone</td>
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<td>East</td>
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<td>Agricultural “A-174” Zone</td>
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<td>West</td>
<td>Agricultural</td>
<td>Agricultural “A” Zone</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 and the provisions of the Greenbelt Plan.
   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Ancaster Official Plan.
   (iii) It is compatible with the existing and planned development in the immediate area.
   (iv) It implements a condition of approval for Severance Application AN/B-08:13. (See Appendix “E” - Condition 3).
2. The subject lands are designated as “Agricultural” in the Town of Ancaster Official Plan. The “Agricultural” policies of the Ancaster Official Plan permit Agricultural uses and ancillary uses, including a detached dwelling on an existing lot of record. As the proposal is to permit a lot addition for an existing use by conveying 0.4 hectares of land from 1110-1160 Jerseyville Road to 1204 Jerseyville Road, and prohibit a second dwelling in the form of a farm help house on the lands to be conveyed, the proposal conforms to the policies of the “Agricultural” designation.

3. The subject lands are zoned Agricultural “A-174” in the Town of Ancaster Zoning By-law No. 87-57. The site-specific Agricultural “A-174” Zone permits the following uses as-of-right: Agricultural uses, buildings and structures accessory to an agricultural use including one detached dwelling unit, uses accessory to the dwelling, a home occupation or kennel existing on the date of the passing of the By-law, and a farm help house within the existing farm building cluster. The proposed Agricultural “A” zone does not permit a farm help house as-of-right.

4. The subject property is serviced through a private well and septic systems, and there is adequate capacity to service the proposed use.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the proposed Severance AN/B-08:13 will not be finalized, and the severance of the 0.4 hectares of land to be added to 1204 Jerseyville Road West will not be permitted.

**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:**

Provincial Policy Statement:

“1.1.4.1 In rural areas located in municipalities:

a) Permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses;
b) Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure;

c) New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae;

d) Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;

e) Locally-important agricultural and resource areas should be designated and protected by directing non-related development to areas where it will not constrain these uses;

f) Opportunities should be retained to locate new or expanding land uses that require separation from other uses; and,

g) Recreational, tourism and other economic opportunities should be promoted.”

As the proposal is to facilitate a lot addition for an existing use, the proposal is consistent with the Provincial Policy Statement.

**Greenbelt**

The subject lands are designated as Protected Countryside-Natural Protection Area within the Greenbelt Plan:

“3.2.21 The full range of existing and new agricultural, agricultural-related, and secondary uses and normal farm practices are permitted.”

As the proposed rezoning is to facilitate a lot addition for an existing use, the proposal is consistent with Policy 3.2.2 of the Greenbelt Plan.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Rural Area” within the Hamilton-Wentworth Official Plan. The following policy of the Hamilton-Wentworth Official Plan, among others, is applicable to the subject lands:

“C-3.2.2 Agriculture will continue to be the predominant use in the rural areas of the Region. New non-agriculturally related residential uses will not be permitted in the Rural Area.”
As the proposed rezoning is to facilitate a lot addition for an existing use, the proposal conforms to the Hamilton-Wentworth Official Plan.

**Rural Hamilton Official Plan (for Information Purposes Only)**

The subject property is designated as “Rural” in the Rural Hamilton Official Plan. Although the Plan received Ministry approval on January 7, 2009, it is not yet in force and effect due to the appeal period.

As the proposal is to facilitate a lot addition for an existing use, the application conforms to the Lot Addition policies in Section F.1 - Implementation of the Plan.

**The Town of Ancaster Official Plan**

The subject lands are designated “Agricultural” in the Town of Ancaster Official Plan. The following policies, among others, are applicable to the subject lands:

"4.1.1 The predominant use of lands designated Agricultural on Schedule A shall be for agriculture, forestry, and activities connected with the conservation of soil and wildlife.

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

   ii) A detached dwelling on an existing lot of record.

   viii) A help house consisting of a temporary/or permanent structure for the accommodation of person(s) employed by the owner on a full time basis shall be permitted through a Site Plan Agreement."

The proposed lot addition and the existing rural residential dwelling are permitted under the Town of Ancaster Official Plan. The Agricultural designation does not permit a farm help house on an agricultural lot unless it can be demonstrated that the applicant is a bona fide farmer, that there is a need for an on-site farm help house, and that the farm can support both the farmer and all those employed by the farmer. As the lot at 1204 Jerseyville Road West will have a lot area of 1.1 hectares once the proposed land conveyance is finalized, the lot will not meet the Official Plan criteria. Therefore, as the proposed rezoning will prohibit a farm help house as a permitted use within the Zoning By-law, the application conforms to the policies of the Town of Ancaster Official Plan.
RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Forestry and Horticulture Section, Public Works Department.
- Watershed Management, Strategic and Environmental Planning Section.
- Environmental Planning Section, Strategic Planning Section, Capital Planning and Implementation Division.
- Water and Wastewater Division, Infrastructure and Source Water Protection Section.
- Traffic Engineering and Operations Section, Public Works Department.
- Hamilton Parking Authority,
- Community Buildings, Culture and Recreation Division.

Public Consultation:

In concordance with the Public Participation Policy approved by Council, 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 is not required. The consent application to convey 0.4 hectares of land from the property at 1110 -1160 Jerseyville Road West to the adjoining property at 1204 Jerseyville Road West was approved by the Committee of Adjustment on March 20, 2008. There were no written responses in respect to the proposed severance and no interested parties attended the Public Meeting.

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
Human health and safety are protected as no new development is being proposed.
Economic Well-Being is enhanced.  ☑ Yes  ☐ No
As no new development is being proposed, Investment in Hamilton is neither being enhanced or being detracted as a result of this application.

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

:DB
Attachs. (5)
Location Map

File Name/Number: ZAR-06-052  Date: November 4, 2008

Scale: N.T.S.  Planner/Technician: DB/DG

Subject Property
1110-1160 Jerseyville Road West

Change in Zoning from the Agricultural "A-174" Zone to the Agricultural "A" Zone.

Ward 14 Key Map  N.T.S.
CITY OF HAMILTON
BY-LAW NO. [blank]

To Amend Zoning By-law No. 87-57 (Ancaster), as amended, respecting lands located at 1110-1160 Jerseyville Road West, (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 to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Section [blank] of Report [blank] of the Economic Development and Planning Committee at its meeting held on the [blank] day of [blank], 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 (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 Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing from the Agricultural “A-174” Zone to the Agricultural “A” Zone on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. 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 [redacted] day of [redacted], 2009.

________________________________________  __________________________________________
Fred Eisenberger  Kevin C. Christensen
Mayor  Clerk

ZAR-08-052
This is Schedule "A" to By-Law No. 09-
Passed the ........... day of .................., 2009

Schedule "A"
Map Forming Part of By-Law No. 09-_____
to Amend By-law No. 87-57

Subject Property
1110-1160 Jerseyville Road West
Change in Zoning from the Agricultural "A-174" Zone to the Agricultural "A" Zone.

Scale:
N.T.S.
File Name/Number:
ZAR-08-052
Date:
Nov. 4, 2008
Planner/Technician:
DB/DG

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
APPENDIX "E" TO REPORT PED09037 (PAGE 1 OF 1)

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. AN/B-08:13
SUBMISSION NO. B-13/08

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 1110 Jerseyville Road West, formerly in the Town of Ancaster, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Tim Verhey on behalf of the owners Mike and Sue Freshwater, 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 strip of land measuring 24.38m (80') x 167.63m (550') to be added to the adjoining property known municipally as 1204 Jerseyville Road West for residential purposes, and to retain an irregular shaped parcel of land having a frontage of 352m (1,154') and an area of 69,696m² (17.3 acres) containing an existing dwelling and barns for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reasons:

1. The Committee having regard to the evidence, is satisfied that the proposal does not conflict with the intent of the Greenbelt Plan, the Provincial Policy Statement, the Hamilton-Wentworth Official Plan and the Town of Ancaster Official Plan.

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

That the said application is APPROVED 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 lands to be conveyed shall be registered in the same name and title as the lands to which they are to be added.

3. That the applicant rezone the lands to be severed to remove a farm help house as a permitted use, to the satisfaction of the Manager of Development Planning.

4. That the applicant provide detailed information to verify compliance with the Minimum Distance Separation formula for the newly adjusted lot lines to the satisfaction of the Manager of Development Planning.

DATED AT HAMILTON this 20th day of March, 2008.

C. Lewis

L. Tew

D. Servatuk

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS March 27th, 2008.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (March 27th, 2009) 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 16th, 2009.

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