TO: Chair and Members Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 14

COMMITTEE DATE: May 18, 2010

SUBJECT/REPORT NO:
Application for Approval of an Official Plan Amendment at Lands Located on 878 Concession 8 West (Flamborough) (PED10102) (Ward 14)

SUBMITTED BY:
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:
Edward John  
905-546-2424, Ext. 5803

SIGNATURE:

RECOMMENDATION:

That approval be given to Official Plan Amendment Application OPA-09-015, Annette and Steven Brennan, Owners, for Official Plan Amendment No., to amend Schedule “B-7” of the Town of Flamborough Official Plan, to expand the “Rural Settlement Area” designation, in order to facilitate a severance, on lands located at 878 Concession 8 West (Flamborough), as shown on Appendix “A” to Report PED10102, on the following basis:

(a) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED10102, be adopted by City Council.

(b) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the Rural Hamilton Official Plan.
EXECUTIVE SUMMARY

The purpose of the application is for approval of an Official Plan Amendment in order to expand the existing Rural Settlement Area. This expansion would facilitate a severance, and permit the creation of one new residential lot at the property located at 878 8th Concession Road West (see Appendix “A”). The property is currently designated the “A” Agricultural Zone and “CM” Conservation Management Zone. This designation would permit the development of the lands, as proposed, subject to the approval of a severance application.

The proposal has merit and can be supported since the Official Plan Amendment, once the Ministerial Approved Rural Hamilton Official Plan comes into full force and effect, would be consistent with the Provincial Policy Statement, Places to Grow Growth Plan, and would implement the intent of the Hamilton-Wentworth Official Plan. The proposal is compatible with surrounding uses, protects existing environmental features, and is an appropriate development that will implement changes already considered and anticipated in the Ministerial Approved Rural Hamilton Official Plan.

Alternatives for Consideration - See Page 11.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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 an Official Plan Amendment.

HISTORICAL BACKGROUND (Chronology of events)

The lands are currently located to the west of the existing Strabane Rural Settlement Area. The subject property has portions of a Core Area in the Natural Heritage System (Schedule B of the Rural Hamilton Official Plan). The Core Area includes a Provicially Significant Wetland (PSW), a Significant Woodland, and an Environmentally Significant Area (ESA #26, Strabane Southwest Drumlins).

In November 2007, an application to sever the lands (FL/B-07:144) at 878 Concession 8 West was submitted to the Committee of Adjustment for consideration. In support of the severance application, the applicant submitted a hydrogeological study and an Environmental Impact Statement. The application was subsequently approved by the Committee of Adjustment, subject to conditions, including but not limited to the following:

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
“2. That the submitted hydrogeological investigation, prepared by Terraprobe Limited, dated June 17, 2007, and subsequent peer review with all associated costs to be borne by the applicant/owner, shall be to the satisfaction of the Public Health Services Department, Senior Project Manager of the Water and Waste Water Division, Public Works Department, and the Director of Planning.

3. That the applicant/owner prepares an Environmental Impact Statement (EIS), to be reviewed by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG), and shall implement the recommendations/mitigation measures as requested by the City of Hamilton, to the satisfaction of the Director of Planning.

4. That the Rural Hamilton Official Plan is in full force and effect, and that the subject lands are included within the Strabane Rural Settlement Area, to the satisfaction of the Manager of Development Planning, or a Site-Specific Official Plan Amendment is approved to include the lands within the Strabane Rural Settlement Area.”

Although the Rural Official Plan has been ministerial approved, it has yet to come in to full force and effect. Consequently, in the absence of an approved Official Plan Amendment, the applicant was unable to satisfy Condition 4 of the severance approval within the one-year time period and, as a result, the file has lapsed. The applicant has, therefore, submitted an Official Plan Amendment in order to facilitate a future severance on the property prior to the Rural Official Plan coming into full force and effect. In addition, the applicant has re-applied for a severance, which is currently on hold with the Committee of Adjustment, pending an outcome to this Official Plan Amendment Application.

**Details of Submitted Application:**

**Location:** 878 Concession 8 West (Flamborough)

**Owner:** Annette and Steven Brennan

**Applicant:** Kathryn and Chris Kostur

**Property Description:**

Frontage: Approximately 97 metres

Depth: Approximately 124 metres

Area: Approximately 12,105m²
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td></td>
<td>Single Detached Dwelling</td>
<td>“A” - Agricultural and “CM” - Conservation Management Zone</td>
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Surrounding Lands

<table>
<thead>
<tr>
<th>North</th>
<th>Agriculture</th>
<th>“A” - Agricultural Zone</th>
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<tbody>
<tr>
<td>South</td>
<td>Open Space</td>
<td>“CM” - Conservation Management Zone</td>
</tr>
<tr>
<td>East</td>
<td>Single Detached Dwellings</td>
<td>“R2-11” - Settlement Residential Zone</td>
</tr>
<tr>
<td>West</td>
<td>Agriculture</td>
<td>“A” - Agricultural Zone</td>
</tr>
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POLICY IMPLICATIONS

Greenbelt Plan:

The subject lands are currently designated as “Protected Countryside - Prime Agricultural Area”, with a portion of the rear half of the subject lands also designated as “Natural Heritage System”.

However, staff notes that Section 5.3 of the Plan requires that municipalities amend their Official Plan(s) to bring them into conformity with the Greenbelt Plan. As a result of this requirement, the Rural Hamilton Official Plan was proposed, and approved, with modifications by the Ministry of Municipal Affairs and Housing on January 7, 2009. This Plan was subsequently appealed to the Ontario Municipal Board (OMB), and is currently before the OMB. Staff notes that once this plan comes into full force and effect, the subject lands will be designated as “Protected Countryside - Hamlet” within the Greenbelt Plan.

Staff acknowledges that Section 3.4.3.1 permits infill and intensification of Hamlets subject to appropriate water and sewage services. Consequently, a hydrogeological investigation and subsequent peer review was recommended as a condition of the previous Severance Application FL/B-07:144. A hydrogeological investigation, entitled
“Hydrogeological Assessment Proposed Residential Development 878 8th Concession Road West City of Hamilton”, dated June 17, 2007, was prepared by Terraprobe Limited. The report was subject to a peer review, but the condition of consent requiring the hydrogeological study was never cleared, as the study was not circulated to the Source Water Protection Section of the Public Works Department. Notwithstanding this, preliminary comments from the Source Water Protection Section, in response to the proposed Official Plan Amendment, indicate that the approval of the hydrogeological investigation and potential outcomes could be suitably dealt with as a condition of any future severance application.

**Provincial Policy Statement (PPS):**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that once the Ministerial Approved Rural Hamilton Official Plan comes into full force and effect, the application will be consistent with the policies that govern Rural Areas - 1.1.4.

Policy 1.6.4.4 states that individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots, or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, and where site conditions are suitable for the long-term provision of such services. Despite this, individual on-site sewage services and individual on-site water services may be used to service more than five lots or private residences in rural areas provided their services are solely for those uses permitted by Policy 1.1.4.1(a) and site conditions are suitable for the long-term provision of such services. As noted above, a hydrogeological investigation was conducted as part of previous Severance Application FL/B-07:144, and given that this approval has lapsed, will be peer reviewed under any future severance application.

In addition, Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Staff notes that a small portion of the rear half of the subject property is located within the Strabane Southwest Drumlins Environmentally Significant Area (ESA #26). Further, staff notes that the completion of an Environmental Impact Study (EIS) was a condition of Severance Application FL/B-07:144, and that the condition was satisfied.

The Environmental Impact Statement (EIS) was prepared by Natural Resource Solutions (dated May 15, 2008). This EIS was reviewed and accepted by ESAIEG on November 20, 2008. Conservation Halton has commented that they have no objections.
to the Official Plan Amendment, and that any further works will be reviewed and secured through their own permit approval system.

Policy 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. Staff notes that the subject lands contain a building identified as being of architectural and/or historical interest, and are listed within Hamilton’s Heritage Volume II. Staff has no concerns with regard to the Official Plan Amendment, and will review the impacts associated with the built heritage through the severance application currently on hold with the Committee of Adjustment.

Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. Staff notes that the subject lands are located within an area of archaeological potential. Staff has no concerns with regard to the Official Plan Amendment, and will review the impacts associated with the built heritage through the severance application.

Finally, staff notes that Policy 3.1.1 states that development shall be directed to areas outside of:

a) Hazardous lands adjacent to the shorelines of the Great Lakes - St. Lawrence River System, and large inland lakes which are impacted by flooding hazards, erosion hazards, and/or dynamic beach hazards;

b) Hazardous lands adjacent to river, stream, and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and,

c) Hazardous sites.

Staff notes that a small portion of the southern half of the subject property is zoned “CM” Conservation Management. Conservation Halton has indicated that while they have no objections to the proposed Official Plan Amendment, any future development will be subject to review and approval through their own permit system.

Hamilton-Wentworth Regional Official Plan:

The subject lands are designated as “Rural Area - Prime Agricultural Area” within the Hamilton-Wentworth Regional Official Plan. Policy C-3.2 states that the Rural Area contains a complex mix of sub-designations, as well as a variety of existing land uses and activities including residential, commercial, rural industrial, and the primary activity of farming.
Policy C-1.2.2 of the Plan states that land use changes in or adjacent to Environmentally Significant Areas will only be permitted where such development:

i) Will not adversely affect, degrade, or destroy any of the qualities which are the basis for the area’s designation;

ii) Will not cause any significant impacts upon water quality and quantity; and,

iii) Will not adversely affect the implementation of any resource protection policies or plans.

As noted above, a small portion of the rear half of the subject property is located within the Strabane Southwest Drumlins Environmentally Significant Area (ESA #26). Further, staff notes that the completion of an Environmental Impact Study (EIS) was a condition of Severance Application FL/B-07:144, and that the condition has been satisfied.

In addition, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As noted above, the subject lands contain a building identified as being of architectural and/or historical interest and listed within Hamilton’s Heritage Volume II, and are located within an area of archaeological potential. Staff has no concerns with regard to the Official Plan Amendment, and will review the impacts associated with the built heritage through the severance application.

Ministerial Approved Rural Hamilton Official Plan:

The subject lands are designated as “Strabane Rural Settlement Area”, with the majority of the property also designated as “Settlement Residential” and a small portion of the rear half of the property designated as “Hazard Lands” within the Ministerial Approved Rural Hamilton Official Plan currently before the Ontario Municipal Board (OMB).

Policy A.1.3.1 states that on lands designated Settlement Residential, residential uses are limited to single detached dwellings and small scale institutional uses. The proposed future use of the subject lands includes the provision of an additional residential lot in order to accommodate a single detached dwelling and, as such, would be in accordance with this designation.

Policy Section A.1.6 addresses Hazard Lands. The following policies are relevant to the subject application:
Policy A.1.6.1 states that Hazard Lands designated on Map 1 through Map 19 are lands which have inherent environmental hazards such as flooding, erosion susceptibility, soil instability, or any other physical conditions which are severe enough to cause property damage or potential loss of life on the subject lands, or to upstream or downstream lands within the watershed, if these lands were to be used or developed or site alteration takes place inappropriately.

Policy A.1.6.2 states that uses permitted in Hazard Lands shall be limited to conservation, forestry, fish and wildlife management areas, low intensity or passive public or private recreational uses, and uses legally existing at the time of the approval of this Plan. Buildings and structures associated with these lands will not be permitted unless they are intended for flood and/or erosion control, and meet the requirements of the City and the appropriate Conservation Authority.

Policy A.1.6.3 states that no development, including the placement of fill, new buildings and structures or other works associated with flood or erosion control, shall be permitted without the written approval of the appropriate Conservation Authority.

All details of development will be reviewed at the severance stage in order to ensure the adequate protection and limitation of development for these lands. These details will be reviewed by Conservation Halton and Natural Heritage staff, relating to the aforementioned policies.

Finally, staff notes that Policy C.5.1.3 a) states that with the exception of applications made under Section 41 of the Planning Act, all development shall ensure that the design and capacity of private water supply and sewage disposal systems are capable of sustaining the land uses permitted by the Zoning By-law in the buildings to be serviced by those systems. As noted above, a hydrogeological investigation was conducted as part of Severance Application FL/B-07:144. Preliminary comments from the Source Water Protection Section pertaining to the hydrogeological investigation indicate that subject to review at the severance stage, sufficient information has been provided to justify the Official Plan Amendment.

The Official Plan Amendment application is, therefore, considered in conformity with the Ministerial Approved Rural Hamilton Official Plan, which is currently before the OMB, and, as such, will be in conformity with the Settlement Areas policies of the Greenbelt Plan and consistent with the Rural Area policies of the PPS.
RELEVANT CONSULTATION

Agencies/Departments Having No Concern or Objections:

- Public Works Department, Operations and Maintenance Division, Traffic Engineering and Operations Section.
- Horizon Utilities.

Conservation Halton

Conservation Halton (CH) staff notes that almost all properties within the Strabane Rural Settlement Area contain hazardous lands. These lands are regulated by CH pursuant to Ontario Regulation 162/06. Development within the CH’s regulated areas requires permission pursuant to Ontario Regulation 162/06.

Significant Woodlands

As part of the application for the severance of 878 8th Concession Road west, CH staff reviewed an EIS, dated May 15, 2008. Staff provided comments on the EIS in a letter to the City of Hamilton, dated July 25, 2008. Although those comments have no bearing on the proposed OPA, staff will be requesting that the applicant address these comments at the time a permit application is submitted.

Conclusion

CH staff has no objection to the proposed OPA, however, the applicant will be required to obtain a permit from CH, pursuant to Ontario Regulation 162/06, prior to undertaking any development on the subject property.

Public Works Department, Infrastructure and Source Water Planning Section:

Following review of the hydrogeological study, there is an outstanding issue of boundary condition based on the Hydrogeological Assessment for the Proposed Rural Residential Development, 878 8th Concession Road West, Flamborough. The boundary nitrate loading should be less than 10 mg/L for each of the lots, and this can be achieved by having a new lot of 0.55 ha minimum size.

This will be addressed through the severance application currently on hold with the Committee of Adjustment.
Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 29 property owners within 120 metres of the subject property on January 20, 2010. No public responses were received in response to this circulation.

A Public Notice sign was erected on the subject property in February 2010, and Notice of the Public Meeting was given in accordance with the Planning Act.

The proposal has also been subject to a public circulation under the previously approved Severance Application FL/B-07:144.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

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

   (i) It would be consistent with the Provincial Policy Statement, and would conform with the Places to Grow Plan and Hamilton-Wentworth Official Plan.

   (ii) It is an appropriate development that will protect existing environmental features, and is compatible with the existing and planned uses in the surrounding area.

2. Staff considers that comprehensive and considered evaluation of the Rural Settlement boundary expansion, as proposed in this application, has been conducted through the completion of the Rural Hamilton Official Plan, which was approved, with modifications, by the Ministry of Municipal Affairs and Housing on January 7, 2009. This Plan was subsequently appealed to the Ontario Municipal Board (OMB), and is currently before the OMB. Notwithstanding the pending appeal, staff is satisfied that the portion of the Plan that provides direction and forms a material consideration for this application, that being the boundary expansion, will not be subject to further change prior to the Rural Hamilton Official Plan coming into full force and effect.

Based on that outcome, staff considers the current application to amend the existing Flamborough Official Plan to be in line with the future intent and policy framework for the area. In addition to the comprehensive study conducted by the City of Hamilton, it should be noted that the applicant, in support of the severance application, provided a number of studies and justification in support
of the proposal. This includes, but is not limited to, a hydrogeological study and an Environmental Impact Statement.

The Environmental Impact Statement (EIS) was prepared by Natural Resource Solutions (dated May 15, 2008). This EIS was reviewed by ESAIEG on November 20, 2008, and met with their approval. Natural Heritage staff is also satisfied with the EIS. Conservation Halton has commented that they have no objections to the Official Plan Amendment, and that any further works will be reviewed through their own permit approval system.

Furthermore, preliminary comments from the Source Water Protection Section pertaining to the hydrogeological investigation indicate that subject to review at the severance stage, sufficient information has been provided to justify the proposed Official Plan Amendment.

Finally, staff notes that the property is currently designated the “A” Agricultural Zone and “CM” Conservation Management Zone in Zoning By-law 90-145-Z. This designation would permit the development of the lands, as proposed, in the previous (now lapsed) severance application without the need for a zoning amendment application. As discussed previously, should this Official Plan Amendment be approved, the applicant would, therefore, be required to proceed with a new severance application in order to develop the lands.

In conclusion, staff considers the proposal to be consistent with existing and planned policy direction for the area, would provide the opportunity for infill development that will protect existing environmental features, and is compatible with the existing and planned uses in the surrounding area.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the application be denied, the property would remain within the Rural Area, and would not be permitted to be severed until the Rural Hamilton Official Plan comes into full force and effect. The current Zoning is the “A” (Agricultural) and “CM” (Conservation Management) Zone in Zoning By-law 90-145-Z, which would permit the existing single family dwelling.
CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Social Development
• Everyone has a home they can afford that is well maintained and safe.

Environmental Stewardship
• Natural resources are protected and enhanced.

Healthy Community
• An engaged Citizenry.

APPENDICES / SCHEDULES

Appendix “A”: Location Map
Appendix “B”: Draft OPA

:EJ
Attachs. (2)
Appendix “A” to Report PED10102 (Page 1 of 1)

Location Map

Site of the Application

Subject Property

878 8th Concession Road West, Flamborough

File Name/Number: OPA-09-015
Date: Jan. 18, 2010
Appendix “A”
Scale: N.T.S.
Planner/Technician: EJ/NB

878 8th Concession Road West, Flamborough
Schedule “1”

Amendment No. [Redacted] to the Official Plan for the former Town of Flamborough

Schedule “B-7”, “Rural Settlement Areas - Strabane”, attached hereto, constitute Official Plan Amendment No. [Redacted].

Purpose:

The purpose of this Amendment is to expand the existing “Rural Settlement Area” designation for Strabane to include the property at 878 Concession 8 West in order to facilitate a severance that would permit the development of one additional residential lot.

Location:

The lands affected by this Amendment are known municipally as 878 Concession 8 West.

Basis:

The intent of the amendment is to permit the development of one additional residential lot. The basis for the amendment is as follows:

- The proposed development is consistent with the Provincial Policy Statement.
- The proposed development offers an opportunity for infill development within the expanded Rural Settlement Area consistent with the intent of the Places to Grow Plan.
- The proposed development conforms with the Region of Hamilton-Wentworth Official Plan.
- The proposed development is compatible with the existing and planned development in the immediate area, and is in keeping with the character of the surrounding neighbourhood.
- It is an appropriate development that will protect existing environmental features.
Actual Changes:

1. That Schedule “B-7”, “Rural Settlement Areas - Strabane”, be amended by including lands located at 878 Concession 8 West, as shown on the attached Schedule “A” to this Amendment.

Implementation:

A severance application will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No. ____, passed on the ____ day of ____, 2010.

The
City of Hamilton

______________________________                ______________________________
Fred Eisenberger                      Rose Caterini
Mayor                                Clerk