SUBJECT: Application for a Change in Zoning for Lands Located at 394 Book Road East (Ancaster) (PED09324) (Ward12)

RECOMMENDATION:

That approval be given to Zoning By-law Amendment Application ZAR-09-032, by 829020 Ontario Ltd., c/o John or Ellie Voortman, Owner, for a change in zoning from the Agricultural “A” Zone, to the Agricultural “A-115” Zone Modified, with a Special Exception, to facilitate the expansion of the existing Pet Cemetery adjacent to 394 Book Road East (Ancaster), as shown on Appendix “A” to Report PED09324, on the following basis;

(a) That the draft By-law, attached as Appendix “B” to Report PED09324, 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 the Town of Ancaster Official Plan.
EXECUTIVE SUMMARY:

The purpose of the application is for a change in zoning to facilitate the expansion of the adjoining Pet Cemetery, located at 330 Book Road East (see Appendix “A”). The property at 394 Book Road East (Ancaster) has been subject to an application for Consent (AN/B-09:51) to sever a portion of land measuring approximately 5.50m by 171.0m to be conveyed to the existing Pet Cemetery at 330 Book Road East (see Appendix “C”).

The proposal has merit and can be supported since the proposed rezoning will allow for a minor expansion of the existing Pet Cemetery so it may further serve the community. It is consistent with the Provincial Policy Statement, the Greenbelt Plan, conforms to the Hamilton-Wentworth Official Plan and the Town of Ancaster Official Plan, and satisfies a condition of severance (see Condition 2 of Appendix “C”).

BACKGROUND:

Proposal

The applicant is proposing a change in zoning on a portion of lands located at 394 Book Road East (Ancaster) to facilitate the expansion of an existing Pet Cemetery on the adjoining property, known as 330 Book Road East (see Appendix “A”). The lands located at 394 Book Road East has been subject to an application for Consent (AN/B-09:51), which was conditionally approved by the Committee of Adjustment on July 30, 2009, subject to a condition that the applicant apply for and receive an amendment to the Town of Ancaster Zoning By-law (see Condition 2 of Appendix “C”). The lands subject to this application are to be conveyed to 330 Book Road East to allow for the minor expansion and continued operation of the existing Pet Cemetery.

Details of Submitted Application

<table>
<thead>
<tr>
<th>Location:</th>
<th>394 Book Road East (Ancaster)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>829020 Ontario Ltd. - c/o John or Ellie Voortman</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Ancaster Pet Cemetery</td>
</tr>
<tr>
<td>Agent:</td>
<td>A.J. Clarke and Associates Ltd.</td>
</tr>
<tr>
<td>Property Description:</td>
<td>Frontage: N/A (5.50m wide)</td>
</tr>
<tr>
<td></td>
<td>Depth: 171.39m±</td>
</tr>
<tr>
<td></td>
<td>Area: 922.6 sq.m±</td>
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</tbody>
</table>
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Vacant</td>
<td>Agricultural “A” Zone</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding Lands</th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>North</td>
<td>Pet Cemetery and</td>
<td>Agricultural “A-115” Zone</td>
</tr>
<tr>
<td></td>
<td>Residential</td>
<td>Modified and Agricultural “A” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Farm</td>
<td>Agricultural “A” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Farm</td>
<td>Agricultural “A” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Pet Cemetery</td>
<td>Agricultural “A-115” Zone Modified</td>
</tr>
</tbody>
</table>

ANALYSIS/RATIONALE:

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 is consistent with the policies of the Greenbelt Plan;

   (iii) It conforms with the Hamilton-Wentworth Official Plan, and the Town of Ancaster Official Plan;

   (iv) It will facilitate a minor expansion of the existing Pet Cemetery that will “square off” the existing lot; and,

   (v) It fulfills a condition of approval for a related land severance application (see Condition 2 of Appendix “C”).

2. The subject lands are located in the rural area of Ancaster in close proximity to the Hamilton International Airport, and are within the Greenbelt Plan area. Additionally, the subject lands are designated as “Rural” in the Hamilton-Wentworth Official Plan, and “Agricultural” in the Town of Ancaster Official Plan. Staff has reviewed the merits of the proposed Pet Cemetery expansion through the application for Consent (AN/B-09:51) process. Staff recommended approval of the Consent application on the basis that the proposed expansion is considered to be a minor lot addition under the Greenbelt Plan, will not impact any future development of the Airport, is consistent with the “Rural” policies of the
Provincial Policy Statement, and will allow for the continued operation of the Pet Cemetery in order to service the needs of the community.

As a condition of approval for the Consent application, the Owner is required to ensure a uniform zoning on the lands which comprise the Pet Cemetery (see Condition 2 of Appendix "C"). This application to amend the Zoning By-law will facilitate the expansion of the existing Pet Cemetery by allowing the subject lands to be used in accordance with the provisions of the Agricultural “A-115” Zone, Modified.

3. The lands located at 330 Book Road East were subject to a Zoning By-law Amendment in 1996, which changed the zoning from the Agricultural “A” Zone to the Agricultural “A-115” Zone, Modified, to permit the Pet Cemetery use. The purpose of this application is to change the zoning of the lands to be conveyed to 330 Book Road East to the Agricultural “A-115” Zone. The Agricultural “A-115” Zone restricts the use of the subject lands to a Pet Cemetery, and prohibits any principle or accessory structures on the subject lands. As no buildings or structures are being proposed or contemplated for the existing and/or expanded Pet Cemetery operations, the Agricultural “A-115” Zone will not require any further modifications. The Owner of 330 Book Road East would be required to submit additional Planning applications in the future, should any new buildings or structures be proposed.

4. The existing Pet Cemetery abuts the east side of Runway 12-30 (East - West) at the John C. Munro International Airport. The proposed expansion to the existing Pet Cemetery would not interfere with the operation of the airport, nor is the Pet Cemetery considered to be a sensitive land use affected by airport operations. As such, the proposed expansion of the Pet Cemetery is compatible with the adjacent airport lands.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the condition of the severance application would not be met and the consent application would lapse. Therefore, the Owner could continue to utilize the subject lands for agricultural purposes, as prescribed by the Agricultural “A” Zone.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in zoning.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with Policy 1.1.4 and other policies that govern the Rural Area.

Greenbelt Plan

The subject lands are designated as “Protected Countryside - Rural Area, Natural Heritage System” under the Greenbelt Plan. Policy 3.1.4.1 states that rural areas support and provide the primary locations for a range of recreational, tourism, institutional, and resource-based commercial/industrial uses. Policy 4.6.1 states that lot creation is permitted in the Protected Countryside for the range of uses permitted by the policies of this Plan. In addition, Policy 4.6.2 c) states that lot creation is also permitted for minor lot adjustments or boundary additions provided they do not create a separate lot for a residential dwelling in specialty crop or prime agricultural areas, and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature. As the subject application is for a minor lot addition to allow the expansion of an existing Pet Cemetery, the proposal conforms with the Greenbelt Plan.

Hamilton-Wentworth Official Plan:

The subject property is included on Map No. 7 - Airport Influence Area, and designated as “Rural Area - Special Policy Area 9” on Map No. 1 within the Hamilton-Wentworth Regional Official Plan. The following Policies are applicable to the proposal:

"C-3.1.4.6 The lands identified as SPA 9 on Map 1 are designated Rural in this Plan, and are subject to all relevant policies pertaining to the Rural designation of the Plan and the applicable Agricultural designation in the Town of Ancaster Official Plan and the applicable Agricultural and Open Space designation of the Township of Glanbrook Official Plan, as well as to the Airport Influence Area policies of this Plan. They shall not be construed to be within the Urban Area unless and until such time as a comprehensive amendment has been developed by the City and approved to permit urban uses in all or part of such lands.

C-3.1.4.7 It is recognized that portions of SPA 9 contain concentrations of existing residential and other land uses incompatible with the industrial, business service, and other essential uses associated with an airport employment growth district. In planning for the proposed Airport Employment Growth District, the City shall prohibit all new residential, retail commercial, or other forms of development that are incompatible with future industrial and employment development objectives for this area.
C-3.2 The Rural Area contains a complex mix of sub-designations, as well as a variety of existing land uses and activities. In addition, it is recognized that other activities occur in the Rural Areas. These include farm related activities, land extensive uses, passive, low intensity recreational uses, cemeteries, conservation areas, nature trail systems, and other similar uses. While in the past these activities have been scattered throughout the rural landscape, the intent of this Plan is to concentrate development in appropriate areas (generally rural settlements), limit rural development, and protect agricultural lands.

C-4.3.5.3 Minimize future conflicts between the operation of the Airport and surrounding land uses. Under this policy, the affected Area municipalities will be required, in their Official Plans and Zoning By-laws, to apply noise exposure forecast contours (Transport Canada) and guidelines for development in the Vicinity of the Airport (Transport Canada) so that:

a) No sensitive land uses are permitted to be developed within areas exposed to noise disturbance levels greater than the 28 NEF, except where the lands are currently designated Urban; and,

b) Any sensitive land uses permitted to be developed between 25 and 28 NEF contours will be required to implement noise mitigative measures in accordance with Provincial and Federal guidelines/standards.

As identified in the Analysis/Rationale section of this report, the proposed expansion will not interfere or become incompatible with the future development of the Airport Employment Growth District, and will allow for the continued operation of the existing Pet Cemetery to service the needs of the community in the Rural Area. Accordingly, the proposal conforms to the Plan.

Town of Ancaster Official Plan

The subject property is designated as “Agriculture - Special Policy Area 57 and 57a” of Schedule “F-1” in the Town of Ancaster Official Plan. In accordance with Policies 5.12.1 and 5.12.2, the following Policies of the Regional Official Plan shall apply: C.4.3.5.3, C4.3.5.4, C3.1.4.6, C.3.1.4.7, C.3.1.4.8, C.3.1.4.9, C.3.1.4.10, and C.3.1.4.11.

In accordance with Policy 7.11 of the Ancaster Official Plan, minor lot boundary adjustments may be made without amendment to the Plan. Therefore, as the proposal will facilitate the minor expansion of the existing Pet Cemetery, the proposal complies with the Town of Ancaster Official Plan.
New City of Hamilton Rural Official Plan (Council Adopted)

The New Rural Hamilton Official Plan was adopted by Council on September 27, 2006, and is currently under appeal and, therefore, not in effect. The subject lands are designated as “Rural”, which do not permit cemeteries. However, the existing Pet Cemetery at 330 Book Road East is designated as “Open Space”. In accordance with Policy 1.4.6 of the New Rural Official Plan, minor adjustments may be made in the boundaries of the Zoning By-law without requiring an amendment to the Official Plan. The effect of the proposal will correct the irregular parcel shape of the existing Pet Cemetery, and since cemeteries are permitted with the “Open Space” designation, the minor expansion of the existing Pet Cemetery will be recognized by this plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Traffic Engineering and Operations Section, Public Works Department.
- Infrastructure and Source Water Planning Section, Public Works Department.
- Forestry and Horticulture Section, Public Works Department.
- Union Gas.
- Hydro.

PUBLIC CONSULTATION:

In accordance with Council’s Public Participation Policy, preliminary circulation is not required if the application is part of a Planning Study or other application (i.e. 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. The consent application to sever the property at 394 Book Road East was conditionally approved by the Committee of Adjustment on July 30, 2009. There were no concerns raised at the Committee of Adjustment hearing, and no letters have been submitted in response to this application to amend the Town of Ancaster Zoning By-law.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice sign was posted on the property on September 28, 2009.
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 proposed expansion will facilitate the continued service of the Pet Cemetery to the community.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Air quality, and water quality and quantity are protected in that the proposed rezoning will not have a negative impact on the environment.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported in that the business operation of the existing Pet Cemetery will continue.

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

:KM
Attachs. (3)
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 87-57 Respecting Lands Located at 394 Book Road East, in the former Town of Ancaster, 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 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 “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 22\textsuperscript{nd} day of June 1987, and approved by the Ontario Municipal Board on the 23\textsuperscript{rd} day of January, 1989;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 09- of the Economic Development and Planning Committee at its meeting held on the day of , 2009, recommended that Zoning By-law No. 87-57, 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 Ancaster), in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map 2 of Schedule “A”, appended to and forming part of By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing the zoning from the Agricultural “A” Zone to the Agricultural “A-115” Zone, Modified, on the lands 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 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 ____, 2009.

__________________________________________  _______________________________
Fred Eisenberger                                           Kevin C. Christenson
Mayor                                                      Clerk

ZAR-09-032
Appendix “B” to Report PED09324 (Page 3 of 3)

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**Schedule "A"**

Map Forming Part of By-Law No. 09-____

to Amend By-law No. 87-57

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Subject Property

Change in Zoning from Agricultural "A" Zone to Agricultural "A-115" Zone modified.

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This is Schedule "A" to By-Law No. 09-

Passed the .......... day of ....................., 2009

Clerk

Mayor

---

Scale: N.T.S.

File Name/Number: ZAR-09-032

Date: Sept. 10, 2009

Planner/Technician: KM / MB

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PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

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

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

DATED AT HAMILTON this 30th day of July, 2009.

M. Busic, Chairman

C. Lewis

D. Smith

L. Goddard

M. Switzer

D. Serwatka

D. Drury

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS August 8th, 2009.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (August 8th, 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 August 26th, 2009.

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