SUBJECT: Application for a Change in Zoning for Lands Located at 1896 8th Concession Road West (Flamborough) (PED06112) (Ward 14)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-05-123, John and Mary Watson, owner, for a modification to the Agricultural “A” Zone to add a cemetery as an additional permitted use for the lands located at 1896 8th Concession Road West (Flamborough), as shown on Appendix “A” to Report PED06112, on the following basis:

(a) That the subject lands be rezoned from the Agricultural “A” Zone to a modified Agricultural “A-80” Zone.

(b) That the draft By-law, attached as Appendix “B” to Report PED06112, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is to amend the zoning of the subject lands to add a cemetery as an additional permitted use. The rezoning will ultimately facilitate the expansion of an existing rural cemetery that is associated with the Kirkwall Presbyterian Church located at 1545 Kirkwall Road. The application implements a condition of severance approval for the subject property.

BACKGROUND:

Proposal

The application proposes to modify the existing Agricultural “A” Zone on the subject lands to allow for a cemetery to be added as an additional permitted use. This rezoning will facilitate the expansion of an existing cemetery located on the abutting lands (1545 Kirkwall Road), which is the property of the Kirkwall Presbyterian Church.

FL/B-05:77

Related to this rezoning application is an application for consent to sever (File FL/B-05:77), as shown on Appendix “C”. The application proposes to convey 2.11 acres of land to be merged with the lands of the Kirkwall Presbyterian Church and existing cemetery. These additional lands would facilitate the expansion of the existing Kirkwall cemetery, which is located in the Kirkwall Rural Settlement Area. The consent application was submitted in March of 2005, on behalf of the owners of the subject lands, Mr. and Mrs. Watson. The application was heard before the Rural Committee of Adjustment on May 25, 2005, and was granted provisional approval. A condition of approval requires that the applicant rezone the severed lands to add a cemetery as a permitted use (Condition 2 - Appendix “D”). As a result, this application for rezoning is required to finalize the application for consent.

Details of the Application

Owner/Applicant:  John and Mary Watson / Kirkwall Cemetery Board

Location:  1896 8th Concession Road West, Flamborough

Description:  Irregularly “L” shaped parcel of land fronting onto both Kirkwall Road and 8th Concession Road West

Lot Frontage:  Kirkwall Road – 60.69m (200’)
Lot Frontage:  8th Concession Road West – 7.62m (25’)
Lot Area:  0.86 hectares (2.11 acres)
EXISTING LAND USE AND ZONING:

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

**Surrounding Land Uses**

<table>
<thead>
<tr>
<th>North</th>
<th>Place of Worship, Cemetery, Agricultural, Single-detached Dwelling</th>
<th>“I” Institutional Zone, “A” Agricultural Zone, “R2” Settlement Residential Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Agricultural</td>
<td>“A” Agricultural Zone, “CM” Conservation Management Zone</td>
</tr>
<tr>
<td>East</td>
<td>Single-detached Dwellings</td>
<td>“R2” Settlement Residential Zone</td>
</tr>
<tr>
<td>West</td>
<td>Agricultural</td>
<td>“A” Agricultural Zone</td>
</tr>
</tbody>
</table>

**ANALYSIS/RATIONALE:**

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

   (i) The application is consistent with the policies of the Greenbelt Plan, Provincial Policy Statement, Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

   (ii) The proposed modification of the existing zoning to permit a cemetery allows a use consistent with an abutting land use and, therefore, can be considered compatible.

   (iii) The modification of the zoning will satisfy the condition of severance approval.

2. Flamborough Official Plan

   The subject lands are designated as “Agriculture” on Schedule B, Rural Land Use Plan of the Flamborough Official Plan. The subject lands abut the Kirkwall Rural Settlement Area. It is the goal of the Official Plan’s Rural Area policies, which also apply to the lands designated “Agriculture” and “Rural Settlement Area”, to preserve the character of the Rural Area through the provision of a range of land uses which are compatible with agricultural activities and
supportive of the agricultural economy. As well, it is the objective of the “Agriculture” policies to minimize land use conflicts between farm and non-farm activities. The existing cemetery is a long established and compatible use with the surrounding agricultural lands. The expansion of the existing cemetery will not require the creation of a separate parcel to serve the needs of the parish and rural community. As the application will allow for the expansion of an existing rural land use, the proposal conforms to the policies of the Official Plan.

3. Flamborough Zoning By-law 90-145-Z

The subject lands are zoned Agricultural “A” Zone, as per Flamborough Zoning By-law 90-145-Z. The proposed site-specific Agricultural “A-80” Zone would allow for a cemetery as an additional use. All other provisions of the Agricultural “A” Zone would continue to apply and site-specific provisions for minimum building setbacks, frontage, etc. are not required for the proposed cemetery expansion.

4. Upon approval of the application and the legal transfer of the lands, the Kirkwall Cemetery Board will be required to consult with and address the regulations of the Cemeteries Regulations Unit of the Ministry of Government Services (former Ministry of Consumer and Business Services and Management Board Secretariat) with respect to the operation and maintenance of the cemetery.

**ALTERNATIVES FOR CONSIDERATION:**

Should application ZAR-05-123 be denied, the subject lands would not be permitted to be used as a cemetery, and the consent application cannot be finalized. The lands could only be used in accordance with the Agricultural “A” Zone provisions.

**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:**

Greenbelt Plan

The subject lands are designated as “Protected Countryside” within the Greenbelt Plan. Policy 4.5.3 allows expansion to existing uses provided that municipal servicing is not required and the use does not expand into key natural heritage features and key hydrologic features. The application proposes to modify the existing zoning to facilitate
the expansion of an existing cemetery. The proposal is consistent with the policies of the Greenbelt Plan.

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The proposal is consistent with the principles and policies of the PPS.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Rural Area / Prime Agricultural Lands” within the Hamilton-Wentworth Official Plan. Policy 3.2.2 of the Plan recognizes that it may be desirable to locate certain municipal/institutional uses such as road yards, cemeteries and community facilities in Rural Areas where they can best serve the rural community. As the nature of the application is to modify the existing zoning to facilitate the expansion of an existing cemetery, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

**Flamborough Official Plan**

The subject lands are designated as “Agriculture” on Schedule B, Rural Land Use Plan of the Flamborough Official Plan. The Official Plan contains policies which speak to locating a variety of appropriate and compatible land uses in the rural area which maintain the rural character, and which will ultimately minimize land use conflicts. The application conforms to the policies of the Official Plan.

**RELEVANT CONSULTATION:**

The following Departments/Agencies had no comments or objections:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budgets & Finance).

**Public Consultation**

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to seventeen property owners within 120 metres of the subject lands. In addition, a Public Notice sign of the application was posted on the property. No letters were received as a result of the pre-circulation.

Notice of the Public Meeting for this rezoning application was circulated to property owners within 120 metres of the subject lands and through a sign posted on the property in accordance with the regulations 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
Arts culture, archaeological and cultural heritage are supported and enhanced.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Consumption of natural resources is reduced.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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

:SD
Attachs. (4)
Subject Property

1896 8th Concession Road West
Change in zoning from Agricultural "A" Zone to Agricultural "A-80" Zone
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 90-145-Z (Flamborough) Respecting Land Located at 1896 8th Concession Road West (former Town of Flamborough)

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 Flamborough” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

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

AND WHEREAS Zoning by-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Section ______ of Report of the Planning and Economic Development Committee at its meeting held on the _____ day of ____________, 2006, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton, (the Official Plan of the former Town of Flamborough);
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule “A-15” of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby amended;
   
   (a) by changing from the Agricultural “A” Zone to the Agricultural “A-80” Zone,

   the lands, the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this by-law.

2. Section 33 – Agricultural “A” Zone of Zoning By-law No. 90-145-Z (Flamborough) is hereby amended by adding thereto the following subsection:

   33.3.80 “A-80” (See Schedule A-15)
   
   (a) PERMITTED USES

   That in addition to the uses permitted in Subsection 33.1, a cemetery shall also be permitted.

   (b) ZONE PROVISIONS

   The provisions of Subsection 33.2 shall apply.

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

PASSED and ENACTED this day of , 2006.

_________________________________________  _______________________________________
MAYOR                                        CLERK

ZAR-05-123
Subject Property
1896 8th Concession Road West
Change in zoning from the Agricultural "A" Zone to the Agricultural "A-80" Zone.
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. FL/B-05:77
SUBMISSION NO. B-77/05

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 1896 8th Concession Road West, and being composed of Part of lot 18, Concession 7, formerly in the Town of (Beverly) Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Andrew McKnight on behalf of the owner John Watson, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an "L" shaped parcel of land having a frontage on Kirkwall Road of 60.69m± (200'±), a frontage on 8th Concession Road West of 7.62m± (25'±), and an area of 0.86 ha± (2.11 acres±) to be added to the lands to the north for institutional (cemetery) purposes and to retain an irregular shaped parcel of land having an area of 38.64 ha± (95.5 acres±) containing an existing single family dwelling and barn for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Flamborough 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 condition(s).

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. That the applicant receive final approval of a rezoning to permit a cemetery on the lands

3. The lands to be conveyed must be merged in title with the lands to which they are to be added.
DATED AT HAMILTON this 25th day of May, 2005.

D. Smith, Chairman

L. Tew F. Jewell

L. Gaddye F. Carrocci

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 1st, 2005. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 1st, 2006) 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 June 21st, 2005.

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