SUBJECT: Application for a Change in Zoning for the Lands Located at 153 Highway 52 (Flamborough) (PED09084) (Ward 14)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-08-042, by Dr. Alyssa Libstug, Owner, for a change in zoning from the Agricultural “A” Zone to the Agricultural “A-86” Zone, Modified, in order to permit the establishment of a Large Animal Hospital on the lands located at 153 Highway 52, as shown on Appendix “A” to Report PED09084, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED09084, 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 Flamborough Official Plan.
EXECUTIVE SUMMARY:

The purpose of this application is to change the zoning on the subject lands from the Agricultural “A” Zone to the Agricultural “A-86” Zone, Modified, to permit the establishment of a large animal hospital. The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan, the Hamilton-Wentworth Official Plan, and the Town of Flamborough Official Plan.

BACKGROUND:

Proposal

Dr. Alyssa Libstug has applied for a change in zoning to permit the establishment of a large animal hospital on the lands known as 153 Highway 52 (see Appendix “A”). There is currently a single detached dwelling and a barn located on the subject lands, and the rear portion of the lands is actively farmed. The property itself is surrounded by agricultural uses and the Flamborough Hills Golf and Country Club. The applicant proposes to convert the existing barn for use as the veterinary clinic to serve the agricultural community, to retain the single detached dwelling for a residential use, and to continue to have the rear portion of the subject lands actively farmed.

Site Plan Application MDA-08-145

An application for site plan approval has been submitted for the proposal, including the parking and widening of the driveway required to accommodate the proposed veterinary clinic (see Appendix “D”).

Details of Submitted Application:

Location: 153 Highway 52

Owner/Applicant: Dr. Alyssa Libstug

Property Description: Frontage: Approximately 121.9 metres

Flankage: Approximately 352 metres

Area: Approximately 4.5 hectares
EXISTING LAND USE AND ZONING:

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<th>Existing Land Uses</th>
<th>Existing Zoning</th>
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<tr>
<td>Subject Lands</td>
<td>Single Detached Dwelling with a Vacant Barn</td>
<td>Agricultural “A” Zone</td>
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<td>Surrounding Lands</td>
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<td>North</td>
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<td>Agricultural with Existing Single Detached Dwelling</td>
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<td>Agricultural “A” Zone</td>
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<tr>
<td>West</td>
<td>Golf Course</td>
<td>Recreational Open Space “O3-9” Zone, Modified</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 conforms with the Greenbelt Plan.
   
   (ii) It conforms with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.
   
   (iii) It is compatible with existing and planned uses in the surrounding area and provides a valuable service for the agricultural community.

2. The proposed veterinary clinic is supportable, as it conforms to the “Agriculture” policies of the Flamborough Official Plan in that the veterinary clinic supports the agricultural economy. The proposal maintains Agriculture as the primary use of the lands, adding a compatible secondary use to the property.

3. The proposed use has been reviewed with regard for the policies within the Rural Hamilton Official Plan, which has received Provincial Approval but is currently under appeal to the Ontario Municipal Board. The proposed veterinary clinic use is not recognized as a permitted use in the plan, but City staff will be bringing forward for Council consideration a housekeeping amendment, once the plan has received final approval from the Board, to add veterinary clinics to the range of permitted uses within the Rural designation.
4. The proposal is intended to serve as a veterinary practice for farm animals, and is located on a property whose primary use is agriculture with the farmed portion worked under a land lease. Due to the nature of the operation, it would be inappropriate to locate it within the urban area; and under the Greenbelt Plan, it would qualify as an agriculturally related use. To maintain compliance with the Greenbelt Plan provision for an agriculturally related use, a definition for Large Animal Hospital was added to the proposed site-specific zoning provisions.

5. The proposed site-specific zoning provisions would permit the existing barn and paddock to be used for the veterinary practice. Given the size and dimensions of the property, the provisions in the proposed By-law would not permit the as-of-right expansion of either the barn or the paddock, so any additions would need planning approvals and would go through a full formal review ensuring that all relevant legislation and policy are still being satisfied.

6. The subject property is not serviced by municipal services, and requires a well and septic system to service the site. Source Water Planning expressed concerns with the proposal as no information was submitted with the initial application respecting the existing septic system or the design flows for the proposed animal hospital. The applicant has provided additional information demonstrating the proposed design flows for the animal hospital, but to date, has not confirmed the size of the existing septic system. Building permits are required for a change in use and any renovations to the existing barn. As part of the review process for the building permits, Building Services staff will review the design flows for the proposed animal hospital, as well as the existing septic system, and will not issue the permits until the applicant has demonstrated that they have an on-site septic system sufficient to handle the existing residential flows, as well as those from the animal hospital. As the subject lands are large enough to accommodate a new or relocated septic system, if required, the proposed change in zoning can proceed.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, the property would remain agricultural, and any future use would have to conform to the provisions of 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). The application is consistent with the policies that permit agricultural uses, secondary uses, and agriculture-related uses in Agricultural Areas (Policy 2.3.3.1). The proposal is consistent with the principles and policies of the PPS.

Greenbelt Plan

The application has been reviewed with respect to the policies within the Greenbelt Plan. The subject lands are designated as Protected Countryside - Prime Agricultural Area within the plan, and Policy 3.1.3.1 permits normal farm practices and a full range of agricultural, agriculture-related, and secondary uses within this designation. The proposed veterinary clinic is considered to be an agriculture-related use as it will not interfere with the principle use of the property (agriculture), and it is a use that must be located within the Rural Area as the housing and treatment of large animals may cause conflicts if located within a Settlement Area. For the aforementioned reasons, the proposed use is permitted in the Prime Agriculture Area under Greenbelt Plan Policy 3.1.3.1.

Hamilton-Wentworth Official Plan

The subject property is designated as Rural Area - Prime Agricultural Lands within the Hamilton-Wentworth Official Plan. The proposal conforms to Policy C-3.2.2, which regulates the various uses permitted within the Rural Area. The policy stipulates that Agriculture will continue to be the predominant use in the rural areas of the Region. The primary use of the subject lands is Agricultural and the proposed veterinary clinic will be related to that primary use. The clinic will reuse the existing barn and paddock (for animal treatment) and provide services to the rural residents. The use also requires land extensive holdings to provide care for large animals and to mitigate potential conflicts between the proposed use and residential development. On this basis, the proposal conforms to the Hamilton-Wentworth Official Plan.

Rural Hamilton Official Plan

The subject property is designated as “Agriculture” within the Rural Hamilton Official Plan, which has received Ministerial approval and is currently under appeal to the Ontario Municipal Board. Currently, the Rural Hamilton Official Plan does not permit a veterinary clinic or animal hospital in the “Agriculture” designation. Until such time as the OMB has dealt with all of the appeals, the Rural Official Plan will not be in effect, however, as previously noted, City staff will be bringing forward for Council consideration a housekeeping amendment to the plan adding veterinary clinics to the range of permitted uses within the “Rural” designation.
Town of Flamborough Official Plan

The subject property is designated “Agriculture” on Schedule “B” of the Town of Flamborough Official Plan. The following Policy, among others, applies:

“B.2 It is the intent of Council to support the agricultural economy in the Rural Area. Accordingly, the Plan provides for preservation of AGRICULTURE lands. Council encourages the continuance of farming and related activities as the predominant use of land, in the RURAL AREA.”

Based on the foregoing, the proposal conforms to the “Agriculture” designation of the Town of Flamborough Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Forestry and Horticultural Section, Operations and Maintenance Division.
- Traffic Engineering and Operations Section, Public Works Department.
- Ministry of Transportation, Corridor Management Section.
- Development Engineering Division, Planning and Economic Development Department.
- Capital Planning and Implementation Division.
- Public Health Services.
- Bell Canada.
- Canada Post.
- Hydro One Networks.

Water and Wastewater Division, Infrastructure & Source Water Planning Section, Public Works Department:

Source Water Planning, in their comments of October 15, 2008, requested that the applicant perform a detailed servicing study and hydrogeological assessment report to determine the impacts of the proposed animal hospital on the water supply and existing septic system. After discussions between Development Planning staff and the applicant, as well as the provision of estimated flows based on those generated by similar operations, Source Water Planning advised Development Planning staff that
provided the applicant satisfies Building Services with the design of their existing septic system and the anticipated flows from the animal hospital, the applicant would not be required to provide a servicing study or hydrogeological assessment report.

**Ontario Ministry of Agriculture, Food and Rural Affairs:**

Ministry staff in the Environmental and Land Use Policy Unit, Food Safety and Environmental Policy Branch, Policy Division, has advised that Minimum Distance Separation II (MDS II) only applies to livestock occupied portions of a livestock facility where livestock is permanently housed. As livestock is only temporarily housed at a large animal veterinary clinic, MDS II does not apply.

**Public Consultation**

In accordance with Council’s Public Participation Policy, the application was pre-circulated to 24 property owners within 120 metres of the subject property on September 29, 2008. To date, the department has received no response from this circulation.

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, and the posting of a sign on the property.

**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 veterinary clinic is to serve and support the existing agricultural community.

**Environmental Well-Being is enhanced.** ☑ Yes ☐ No
The proposed veterinary clinic is to be established in an existing building and will not be removing actively farmed agricultural land from the rural area.

**Economic Well-Being is enhanced.** ☑ Yes ☐ No
The proposed rezoning is to permit the establishment of a new large animal veterinary practice in Copetown, and will result in the creation of new jobs and support the existing agricultural operations in the area.

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

:JMB
Attachs. (4)
Location Map

Subject Property

Change in Zoning from the Agricultural "A" Zone to the Agricultural "A-86" Modified Zone.
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 90-145-Z Respecting Lands Located at 153 Highway 52, in the former Town of Flamborough, 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 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 Item [REDACTED] of Report 09- [REDACTED] of the Economic Development and Planning Committee at its meeting held on the [REDACTED] day of [REDACTED], 2009, recommended that Zoning By-law No. 90-145-Z, 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), in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Schedule A-25 of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning from the Agricultural “A” Zone to the Agricultural “A-86” Zone, Modified, on the lands the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this By-law.

2. That Section 33: Agriculture Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following subsection:

33.3.86 A-86 (See Schedule A-25)

**Permitted Uses**

(a) Any use permitted in the Agricultural “A” Zone.

(b) A Large Animal Hospital only within the barn and paddock existing as of the date of passing of this By-law, being the XXX day of XXX, 2009.

**Zone Provisions**

(a) All zone provisions of Subsection 33.2 shall apply.

(b) For the purposes of this By-law, Large Animal Hospital shall mean a building or structure that is used by a qualified veterinarian for the treatment and/or keeping for observation of large animals including, but not limited to: dairy animals, beef cattle, buffalo, sheep, swine, goats, rabbits, poultry including pheasant, quail, ducks, geese, chickens and turkeys, horses, and ponies; and the accessory treatment and/or keeping for observation of domesticated animals.

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 XXX day of XXX, 2009.

__________________________________________  ____________________________________________
Fred Eisenberger                                  Kevin C. Christenson
Mayor                                             Clerk

ZAR-08-042
This is Schedule "A" to By-Law No. 09-

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

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Clerk

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Mayor

Subject Property

153 Highway 52, Flamborough

Change in Zoning from the Agricultural "A" Zone to the Agricultural "A-86" Modified Zone.

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Schedule "A"

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

to Amend By-law No.90-145-Z