SUBJECT: City Initiative for an Official Plan Amendment and Change in Zoning for Lands Located at 1330 Trinity Church Road (Glanbrook) (PED06396) (Ward 11)

RECOMMENDATION:

(a) That approval be given to City Initiative CI-06-D, for an Amendment to the Glanbrook Official Plan, to permit the severance of a surplus farm dwelling as a result of a farm consolidation notwithstanding the farm holdings do not abut each other, for lands located at 1330 Trinity Church Road, as shown on Appendix “A” to Report PED06396.

(b) That approval be given to City Initiative CI-06-D, for an amendment to Glanbrook Zoning By-law No. 464, to modify the General Agricultural “A1” Zone in order to prohibit the construction of a dwelling on the farm, for lands located at 1330 Trinity Church Road, as shown on Appendix “A” to Report PED06396, on the following basis:

(i) That the subject lands be rezoned from the General Agricultural “A1” Zone to the General Agricultural “A1-216” Zone;

(ii) That the draft By-law, attached as Appendix “B” to Report PED06396, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
EXECUTIVE SUMMARY:

The purpose of the City Initiative is to create a Site-Specific Policy Area in the Glanbrook Official Plan and Zoning modification for the subject lands to facilitate the severance of a surplus farm dwelling where the consolidated lands do not abut each other, and to prohibit the construction of a new single-detached dwelling on the farm (retained lands), as per a partial settlement between the City and owner, and so ordered by the Ontario Municipal Board, Order No. 1713 (see Appendix “C”).

The proposal has merit and can be supported as it is consistent with the Greenbelt Plan and Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan. In addition, the proposal is consistent with the new Rural Official Plan policies.

BACKGROUND:

The subject property is located on the west side of Trinity Church Road, south of Dickenson Road East, in the former Township of Glanbrook (see Appendix “A”).

Related Application GL/B-04:120

On September 22, 2004, application GL/B-04:120 was heard before the Committee of Adjustment (Rural) to permit the severance of a surplus farm dwelling resulting from a farm consolidation (see Appendix “D”). Staff recommended denial of the application as the proposal did not conform to the severance polices of the Glanbrook Official Plan. The Committee of Adjustment (Rural) denied the application and the applicant appealed the decision to the Ontario Municipal Board (OMB).

On May 16, 2006, staff brought forward a Motion to the Planning and Economic Development Committee to be authorized to resolve the Freeman appeal for 1330 Trinity Church Road, scheduled to reconvene before the Ontario Municipal Board on June 5, 6, and 7, 2006, subject to certain conditions. These conditions included the City of Hamilton initiating site-specific Official Plan and Zoning By-law Amendments to the
Township of Glanbrook Official Plan and Zoning By-law. The site-specific Official Plan Amendment would recognize that notwithstanding Policy D.2.2.6, which states:

“D.2.2.6 A consent may be considered if it is necessary for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the size of, or establishing a viable farming operation.”,

the severance of a surplus farm dwelling as a result of a farm consolidation where the farm holdings do not abut each other is permitted. One of the principle issues before the Board from the City of Hamilton’s perspective was that the holdings of the Freeman farm operation do not abut. The site-specific Zoning By-law amendment would implement a specific condition of severance outlined in the Greenbelt Plan and Provincial Policy Statement to ensure that upon the granting of a severance through the consolidation of agricultural holdings, no future dwelling is constructed on the remaining farm parcel.

In June 2006, the City of Hamilton presented its position to the Ontario Municipal Board and all other parties resulting in OMB Order No. 1713 (Appendix “C”). The Board has ordered an adjournment of the hearing until November 2006, to allow for the City of Hamilton to process applications for amendments to the Official Plan and Zoning By-law.

**Details of Submitted Application**

**Owner:** L. Freeman  
**Applicant:** City of Hamilton

<table>
<thead>
<tr>
<th>Property Size</th>
<th>Severed</th>
<th>Retained</th>
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<tbody>
<tr>
<td>Frontage</td>
<td>56.9m (187 feet)</td>
<td>946.7m (3,106 feet)</td>
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<tr>
<td>Depth</td>
<td>135.15m (443.41 feet)</td>
<td>571.5m (1,875 feet)</td>
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<tr>
<td>Area</td>
<td>0.76 ha (1.9 acres)</td>
<td>53.8 ha (133 acres)</td>
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**EXISTING LAND USE AND ZONING**

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Subject Lands:</td>
<td>Agriculture</td>
<td>General Agricultural “A1” Zone and Open Space - Conservation “OS3” Zone</td>
</tr>
<tr>
<td>Surrounding Lands:</td>
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ANALYSIS/RATIONALE:

1. The City Initiative for an Official Plan Amendment and Zoning By-law Amendment 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 is consistent with the new Rural Official Plan policies.

   (iv) It facilitates a mediated settlement of an Ontario Municipal Board appeal between the City and owner.

2. The new Rural Official Plan policies which were approved by the Planning and Economic Development Committee on September 5, 2006, and Council on September 13, 2006, include provisions for a consent as a result of the consolidation of land holdings which do not abut each other, which is consistent with the policy direction of the Province as per the Provincial Policy Statement and Greenbelt Plan. These policy documents outline that the severance of a residence surplus to a farming operation as a result of a farm consolidation is permitted, which residence was an existing use as of the date that the Plan came into force, provided that the planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.

The implementation section of the new Rural Official Plan policies outlines the criteria for a consent to be considered where a dwelling is considered surplus through the acquisition of farm parcels which do not abut each other. It allows for such a consent provided that the application complies with all the criteria below:

“c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of abutting parcels
of land, applications for severance of the surplus dwelling shall comply with the following conditions:

i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation and is located in Rural Hamilton.

ii) The parcels of land comprising the consolidated farm operation shall be a minimum of 38.4 hectares (95 acres) in total.

iii) The parcel of land from which the surplus dwelling is severed shall be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D – Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D – Rural Land Use Designations.

iv) The parcel of land from which the surplus dwelling is severed shall have been owned and part of the consolidated farm operation for at least one year.

v) The owner of the retained land shall grant in favour of Hamilton a restrictive covenant prior to the granting of final consent which prohibits the construction of any dwelling unit.

vi) The land retained as a result of the severance of a surplus dwelling shall be rezoned prior to the granting of final consent to prohibit the construction of any dwelling unit.

vii) Barns and farm buildings situated on the land retained as a result of surplus dwelling severance shall comply with the Minimum Distance Separation 1 formula of the Province.

d) In all cases where surplus farm dwellings are to be severed, the following conditions shall also apply:

i) The surplus dwelling to be severed shall be at least 25 years old.

ii) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.

iii) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.
iv) The shape and dimensions of the surplus farm dwelling lot shall not impair agricultural operations on the retained land and shall not exceed 122 metres (400 feet) in depth.

v) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes.”

Based on these proposed criteria, the Freeman application would conform with the new Rural Official Plan policies for the City of Hamilton Official Plan.

3. The amending By-law includes a site-specific provision to prohibit the construction of a new dwelling on the farm holding in accordance with the Provincial Policy Statement, Greenbelt Plan and new Rural Official Plan policies.

**ALTERNATIVES FOR CONSIDERATION:**

Should the applications be denied, then the lands may only be used in accordance with the General Agricultural “A1” 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 applications for an Official Plan Amendment and Zoning By-law Amendment.

**POLICIES AFFECTING PROPOSAL:**

**Greenbelt Plan**

A portion of the lands to be retained fall within the Greenbelt Plan Area and are designated as part of the “Natural Heritage System”. As per Policy 3.2.2 of the Greenbelt Plan, within the Natural Heritage System the full range of existing and new agricultural, agricultural-related and secondary uses and normal farm practices are permitted. As the lands to be retained are to remain in agricultural production, the proposal conforms with the policies of the Greenbelt Plan. The lands to be severed fall outside of the Greenbelt Plan Area and are, therefore, not subject to the policies.

The proposal is consistent with the Provincial Policy Statement (PPS). Policy 2.1.2 of the PPS states that lot creation may be permitted in the case of a residence surplus to a farming operation which is further defined as an existing farm residence that is rendered surplus as a result of farm consolidation (farm consolidation means the acquisition of additional farm parcels to be operated as one farm property). Similar language is contained in the 2005 version of the PPS which continues to allow for the severance of a dwelling deemed surplus as the result of a farm consolidation.

Hamilton-Wentworth Official Plan

The subject property is designated “Rural Area” in the Hamilton-Wentworth Official Plan. Policy D-8.1.1 of the Hamilton-Wentworth Official Plan requires that Area Municipal Official Plans contain detailed policies consistent with this Plan, which limit consents in the Rural Area and on prime agricultural lands, and directs severance activity to Rural Settlement Areas. The Area Municipal policies will also provide locational criteria for those types of consents permitted in the Rural Area. In addition, policies related to consolidation of agricultural lands, surplus farm houses, continued farm viability and lots limited to appropriate size of intended use must be incorporated into the Area Municipal Official Plans. As directed by the Hamilton-Wentworth Official Plan, the Town of Glanbrook Official Plan contains said policies within Section D of the Plan. As a result, the application conforms with the policies of the Hamilton-Wentworth Official Plan.

Township of Glanbrook Official Plan

The subject lands are designated “Agricultural” on Schedule ‘A’ – General Land Use Plan. The predominant use of land in the “Agricultural” designation shall be for agriculture, forestry, and activities connected with conservation of soil and wildlife. This designation also includes field crops, market gardening crops, orchards, vineyards, livestock and poultry production, nurseries, greenhouses, apiaries and mushroom farms. Residential uses are also permitted, however, it is the intent of the application to remove a residence as a permitted use from the retained lands as per the intent of the Provincial Policy Statement and the Greenbelt Plan.

As aforementioned, Policy D.2.2.6 states that a consent may be considered if it is for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the lot size of, or establishing a viable farming operation. The key policy test is that the holdings be abutting properties. As a result, an amendment to the Plan is required.

New Rural Official Plan

The subject lands are designated “Agriculture” on Schedule “D” – Rural Land Use Designations. Section F.1.13.2.2 contains policies for the severance of surplus farm
dwellings. The proposed severance would conform with the policies. As a result, the proposed amendments would conform with the new Rural Official Plan.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Niagara Peninsula Conservation Authority.

PUBLIC CONSULTATION:

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, preliminary circulation of the application is not required where the application is required to implement a mediated settlement reached by all parties to the original proposal and dispute and which settlement will not have an unanticipated or additional adverse impact on adjacent properties and the immediate neighbourhood. As the application only applies to the subject lands at 1330 Trinity Church Road and are being brought forward as the result of a mediated Ontario Municipal Board Order (Appendix “C”), preliminary circulation is not required. A sign has been posted on the subject lands outlining the proposed applications and notice of the Public Meeting was given 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
Participation in community life is accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
The economic base is diversified.

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)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 464 (Glanbrook)
Respecting Lands located at 1330 Trinity Church Road

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 Township of Glanbrook" 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 of the former area municipalities 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Section _______ of Report 06- ______ of the Planning and Economic Development Committee at its meeting held on the ______ day of ______, 2006, recommended that Zoning By-law No. 464 (Glanbrook), be amended as hereinafter provided;

AND WHEREAS this by-law will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Township of Glanbrook) with the approval of Official Plan Amendment No. ______;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule “A”, appended to and forming part of By-law No. 464 (Glanbrook) is amended by changing from the General Agricultural “A1” Zone to the General Agricultural “A1-216” Zone, the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".


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

CI-06-D
Change in Zoning from the General Agricultural “A1” Zone to the General Agricultural “A1-216” Zone

Schedule “A”

Map Forming Part of By-law No. 06-____
to Amend By-law No. 464

This is Schedule “A” to By-Law No. 06—

Passed the __________ day of __________, 2006

Clerk

Mayor

Subject Property
1330 Trinity Church Road, Glanbrook

Change in Zoning from the General Agricultural “A1” Zone to the General Agricultural “A1-216” Zone

Scale:
Not to Scale

Date:
July 14, 2006

File Name/Number:
CI-06-D

Planner/Technician:
SD/NB
Mr. Larry Neil Gordon Freeman has appealed to the Ontario Municipal Board under subsection 53(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton which dismissed an application, numbered B-120/04, for consent to convey land located at 1330 Trinity Church Road, formerly in the Township of (Glanford) Glanbrook, now in the City of Hamilton.
OMB File No.C040332

APPEARANCES:

<table>
<thead>
<tr>
<th>Parties</th>
<th>Counsel</th>
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<tbody>
<tr>
<td>Larry Neil Gordon Freeman</td>
<td>A. Wellenreiter</td>
</tr>
<tr>
<td>City of Hamilton</td>
<td>A. Zuidema</td>
</tr>
</tbody>
</table>

MEMORANDUM OF ORAL DECISION DELIVERED BY J. A. SMOUT ON JUNE 5, 2006 AND PROCEDURAL ORDER OF THE BOARD

On the consent of the parties, the hearing is adjourned to:

Thursday November 23, 2006 10:30 a.m.
Ontario Municipal Board Hearing Room 6
50 Main Street West, Hamilton

No further notice shall be given. The Board has set aside 2 days on its calendar for this hearing.

The adjournment will allow the City of Hamilton to file applications for amendments to the Official Plan and Zoning By-law. These applications are to be processed concurrently.

If the applications are approved and no appeals are filed, it is apparent that the only issues remaining for this appeal will relate to the conditions imposed. If the applications are not approved by the new hearing date or if there are any appeals
arising from the applications, the Board will consolidate the appeals so that they may be
dealt with on November 23, 2006.

The parties are encouraged to continue with discussions pertaining to the
conditions of consent. As indicated at the hearing, the Board is available to assist with
mediation.

This member is seized with the case management and the hearing for this
appeal and any appeals that may be consolidated therewith. If any further issues arise,
the parties may contact the Board’s planner assigned to this case and arrange for a
teleconference.

The Board so Orders.

“J. A. Smout”

J.A. SMOOT
MEMBER
Appendix "D" to PED06396 (Page 1 of 1)