RECOMMENDATION:

(a) That approval be given to Official Plan Amendment Application OPA-05-05, by Raffaele and Sonia Filice, owners, for an amendment to the Ancaster Official Plan to redesignate Blocks “1” and “2” from “Institutional” to “Open Space and Conservation” to permit conservation uses and outdoor amenity area associated with a single detached dwelling on Block “3”, and to redesignate Block “3” from “Institutional” to “Residential” to permit the development of a new single detached dwelling, for lands located at 159 Jerseyville Road West (former Town of Ancaster), as shown on Appendix “A” to Report PED06027.

(b) That approval be given to Zoning Amendment Application ZAR-05-45, Raffaele and Sonia Filice, owners, to change the zoning for Block “1” from the Institutional “I” Zone to the Private Open Space “O1-543” Zone to permit conservation uses, to change the zoning for Block “2” from the Institutional “I” Zone to the Private Open Space “O1-544” Zone to permit outdoor amenity area associated with a single detached dwelling located on Block “3”, and to change the zoning for Block “3” from the Institutional “I” Zone to the Residential “R2-545” Zone to permit the development of a new single detached dwelling, for lands located at 159 Jerseyville Road West (former Town of Ancaster), as shown on Appendix “A” to Report PED06027, on the following basis:

(i) That Block “1” be rezoned from the Institutional “I” Zone to the Private Open Space “O1-543” Zone.
(ii) That Block “2” be rezoned from the Institutional “I” Zone to the Private Open Space “O1-544” Zone.

(iii) That Block “3” be rezoned from the Institutional “I” Zone to the Residential “R2-545” Zone.

(iv) That the Draft By-law, attached as Appendix “B” to Report No. PED06027, has been prepared in a form satisfactory to the City Solicitor.

(v) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the Ancaster Official Plan upon approval of OPA No. ____.

(c) That prior to the adoption of OPA No. ____ by By-law and the enactment of the implementing Zoning By-law, the owners shall enter into a servicing agreement with the City, to the satisfaction of the Manager of Development Engineering.

Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The applicant has requested amendments to the Official Plan (former Town of Ancaster) and Zoning By-law No. 87-57 to permit the development of a new single detached dwelling, for the lands located at 159 Jerseyville Road West.

The proposed amendments are considered to be appropriate and are consistent with the Provincial Policy Statement (PPS) and conform to the policies of the Hamilton–Wentworth Official Plan. They implement the recommendations of the Hamilton Conservation Authority, the Niagara Escarpment Commission, and ESAIEG. The proposal would allow development compatible with the surrounding land uses. A servicing agreement to extend sanitary sewer servicing is required in accordance with the Ancaster Official Plan policies and Council’s approved policies for the City’s Master Servicing Plan.
SUBJECT: Applications to Amend the Ancaster Official Plan and Zoning By-law for 159 Jerseyville Road West (Ancaster) (PED06027) (Ward 12) - Page 3 of 12

BACKGROUND:

Proposal

The purpose of the applications are for amendments to the Official Plan (former Town of Ancaster) and Zoning By-law No. 87-57, to permit the development of a new 353 square metre single detached dwelling, for lands located at 159 Jerseyville Road West. As illustrated on Appendix “A”, Block “1” is to be redesignated and rezoned for conservation uses, Block “2” is to be redesignated and rezoned for outdoor amenity area associated with a residential use on Block “3”, and Block “3” is to be redesignated and rezoned for a new single detached dwelling. The subject property contains an enclosed portion of Sulphur Creek, which traverses the central part of the property. A modification has been added to the zoning for Block “3” to require a minimum 7.62 metre setback from the surveyed top-of-bank of the creek for all buildings and structures, including swimming pools. A modification has also been added to prohibit fencing, except around a swimming pool.

On March 15, 2005, the Niagara Escarpment Commission conditionally approved a development permit for the construction of a one storey, maximum 418 square metre, single detached residence on the subject property (see Appendix “E”). The approved building envelope lies at the terminus of an asphalt driveway extending from Jerseyville Road that includes a parking area used in conjunction with a previous school on the site. The proposed rezoning will control the use of the subject lands once they are removed from NEC jurisdiction.

Details of Submitted Application:

Owner/Applicant: Raffaele and Sonia Filice

Agent: Chuck Hostovsky, Trow Associates Inc.

Location: On the north side of Jerseyville Road West, to the west of Lloyminn Avenue (see Appendix ‘A’), known as Part of Lot 41, Concession 2, Geographic Township of Ancaster, City of Hamilton, municipally known as 159 Jerseyville Road West.

Description: Frontage: 194.5m.
Depth: 158.65m.
Area: 1.98 ha.
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<td>“ER” (Existing Residential) Zone and “R2” (Residential) Zone</td>
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<td>“R2” (Residential) Zone and “O1” (Private Open Space) Zone</td>
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<tr>
<td>East</td>
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<td>“R2” (Residential) Zone</td>
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<tr>
<td>West</td>
<td>Dundas Valley Conservation Area</td>
<td>“O2” Public Open Space Zone</td>
</tr>
</tbody>
</table>

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) The proposed amendments are consistent with the Provincial Policy Statement and conform to the Hamilton-Wentworth Official Plan.
   (ii) The proposed use is compatible with existing and planned development in the neighbourhood.
   (iii) It implements a condition of approval for a related Niagara Escarpment Development Permit.

2. **Proposed Official Plan Amendment**

   The proposed Official Plan Amendment would permit the lands to be used for conservation uses and outdoor amenity area accessory to a residential use, and for the development of a new 353 square metre single detached dwelling. The amendment is required by Condition 10 of the Niagara Escarpment Commission Development Permit for this site (see Appendix “E”), and it allows implementation of the open space zoning for the lands west of the top-of-bank, as requested by the Hamilton Conservation Authority (see Comment 3, below).
3. **Proposed Zoning and Use**

The proposed single detached dwelling is to be located on Block “3” and is to be rezoned as “R2-545” Zone (refer to Appendix “A”). This portion of the property is located directly to the east of the top-of-bank of Sulphur Creek. The Hamilton Conservation Authority recommended that the surveyed top-of-bank should serve as the line separating the proposed open space zoning from the proposed residential zoning. Based on the submitted preliminary site plan (Appendix “C”), the proposed dwelling is setback 7.62 metres (25 feet) from the top-of-bank, which complies with the Conservation Authority’s recommended setback requirement. In this regard, the proposed Zoning By-law Amendment includes a site-specific modification to ensure that all buildings and structures, including a swimming pool are setback a minimum of 7.62 metres from the top-of-bank in accordance with NEC’s Development Permit Condition 9 (Appendix “E”).

According to the site plan, the proposed dwelling conforms with the other minimum yard requirements of the “R2” Zone, specifically as follows: minimum front yard of 7.5 metres; minimum side yard of 1.8 metres other than adjacent to the top-of-bank; and minimum rear yard of 7.5 metres. In accordance with the NEC’s Approved Development Permit (Condition 17, Appendix “E”), the recommended zoning prohibits property fencing on Block “3”, except around a swimming pool to preserve wildlife movement.

The portion of the property which comprises polygons A and D, as illustrated in the Environmental Impact Statement (EIS) prepared by the applicant’s consultant (see Appendix “D”), is to be rezoned as a modified “O1” Zone to permit conservation uses only (refer to Block “1” on Appendix “A”). This portion of the property was recommended by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG) to be prohibited from future development based on the findings of the EIS, which are a condition of the NEC development permit approval (Condition 15 – see Appendix “E”). This portion of the property is designated “Environmentally Sensitive Area” in the Regional Official Plan and “Escarpment Natural Area” in the Ancaster Official Plan.

The central portion of the property which comprises polygon C of the EIS (see Appendix “D”), which is below the top-of-bank of Sulphur Creek (shown as Block “2” on Appendix “A”), is to be rezoned as a modified “O2” Zone to only permit outdoor amenity area including a tennis court for the proposed single detached dwelling to be built on Block “3”. The Hamilton Conservation Authority agrees with this proposed zoning.

Since the site is presently within the jurisdiction of the NEC, the proposed zoning will remain inoperative until the lands are removed from NEC jurisdiction. Once removed, the zoning will replace the NEC’s development permit in controlling the use of the lands.
4. **Compatibility**

The proposed use and density of development for the subject lands is compatible with existing and planned uses in the immediate area. The lands to the east and north of the subject property consist of larger lots (minimum of 0.10 ha.) with existing single detached dwellings. The lands to the west of the subject lands form part of the Dundas Valley Conservation Area.

5. **Site Servicing**

Water services are available on Jerseyville Road West to service the proposal.

With respect to Council’s approved Water/Wastewater Policies, a private septic system (i.e. Ecoflo Biofilter), as originally proposed by the applicant, was not acceptable. At the request of Public Works staff, the applicant provided a cost estimate for a sanitary sewer extension in order to serve the proposed development. As a result, Public Works staff have reviewed this estimate and note that it is consistent with the cost level one would expect given the grade and rock in the area. In addition, similar circumstances under the Municipal Act program, known as “Funding Methodology for Municipal Service Extensions”, have seen similar costs; in some cases costs have been higher. Public Works staff notes that the requirement for an extension is not an unreasonable, impractical or unfeasible solution. As a result, the proposed development is to be serviced by municipal services, which includes an on-site pump system and sanitary sewer extension to the existing sanitary sewer connection at Jerseyville Road West and Lloyminn Avenue. Staff recommends that the owner be required to enter into a servicing agreement prior to adoption of the Official Plan Amendment and implementing By-law. Municipal servicing is a requirement of the Ancaster Official Plan within the Urban Area.

7. **Slope Stability Study**

The owner’s consultant, Trow Associates Inc., prepared a Slope Stability Study for the subject property. Based on the study, the following conclusions were drawn:

1. The slope is presently stable (west boundary of Block “3” on Appendix “A”).

2. No significant signs of any ongoing erosion process have been observed either along the toe of the slope or on the slope surface.

3. Based on the present slope stability analyses, the stable top-of-bank coincides with the staked top-of-bank as recently established by
surveyors from A. J. Clarke and Associates Ltd. and agreed upon by a representative from the Hamilton Conservation Authority.

4. Based on the requirements specified in Section 3 of the Technical Guide – River and Stream Systems: Erosion Hazard Limit (Ontario Ministry of Natural Resources, Water Resources Section), the new development should be set back 6 metres from the staked top-of-bank to allow for erosion access. No structural loads should be placed within this Erosion Access Allowance. (The Hamilton Conservation Authority has requested a minimum setback from top-of-bank of 7.5 metres. A minimum setback of 7.62 metres has been included in the recommended zoning which is consistent with the NEC’s Conditions for a Development Permit).

Comments from the Hamilton Conservation Authority indicate that a landscape plan and a sediment and erosion control plan are required to implement other recommendations of the Slope Stability Study. The site will not be subject to Site Plan Control since it is within NEC jurisdiction. However, these plans will be reviewed by the NEC prior to finalization of the NEC’s Development Permit (Condition 9 – Appendix “E”).

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant will not be able to develop the lands in accordance with the approved NEC Development Permit.

**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 a change in zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

Policy 3.2.2 of the Provincial Policy Statement states that contaminated sites shall be remediated, as necessary, prior to any activity on the site associated with the proposed use such that there will be no adverse effects. Therefore, due to the age of the previous building and materials which were present, a Record of Site Condition (RSC) must be completed to address this concern. An RSC is a condition of the Niagara Escarpment Commission (N.E.C.) Development Permit (see Appendix “E” – Condition 12).
Hamilton-Wentworth Official Plan

The western portion of the subject lands is designated “Escarpment Natural Area” in the Hamilton-Wentworth Official Plan. In addition, this portion of the property contains an Environmentally Sensitive Area (ESA No. 41 – Dundas Valley). The applicant’s agent prepared an Environmental Impact Statement (EIS) which was presented to the Environmentally Significant Areas Impact Evaluation Group on October 14, 2004. As a result, ESAIEG recommended that polygons A and D (westerly portion of site), as shown on Figure 7 of the EIS report (see Appendix “D”), be prohibited from future development through an appropriate zoning designation. The proposal complies with the policies of the Hamilton-Wentworth Official Plan, subject to the aforementioned recommendations.

Town of Ancaster Official Plan

The subject land is designated “Institutional” on Schedule “B” - Land Use – Urban Area. The eastern portion is designated “Urban Area” and the western portion is designated “Escarpment Natural Area” on Schedule “G”.

The “Institutional” designation permits public and private uses serving the religious, charitable, educational, governmental, health and welfare needs of the community. The proposed residential use is not permitted.

The following policies of the Official Plan, among others, are applicable to the proposed development:

“3.3.1 ….development of the Urban Area shall be permitted only on the basis of full municipal services including storm sewers designed to take surface run-off.

4.3.1 The predominant use of lands designated Open Space and Conservation on Schedules A and B shall be for public or private land extensive recreational facilities, conservation and other open space uses…

4.4.1 The predominant use of lands designated Residential on Schedule B shall be for dwellings in areas which will be supplied with urban services (sanitary and storm sewers and watermains).

4.4.2 Types of residential development permitted in the Residential designation shall be single detached dwellings, semi-detached dwellings, townhousing, low-rise apartments and innovative forms of attached housing.

4.4.3 Residential development shall only proceed after full municipal services are available, including sanitary and storm sewers, and watermains.
4.4.18 For any development or redevelopment contemplated for lands designated “Urban Area”, as shown on Schedule “G” – Niagara Escarpment Plan Area, certain criteria for development shall be utilized in accordance with Policy 5.3.3 and 5.3.4 of this Plan.

5.3.3 In accordance with the Regional Official Plan, the following criteria will be utilized for development in the “Urban Area” as shown on Schedule “G”:

i) To minimize the impact and further encroachment of growth on the Escarpment environment by:

   (a) only permitting development with a design that is compatible with the visual and natural environment. Where appropriate, provision of adequate setbacks and screening should be required to minimize the visual impact of development on the Escarpment landscape.

   (c) only permitting growth which is compatible with and provides for the protection of unique ecological areas, wildlife habitats, streams and water supplies and other environmentally sensitive areas both inside and adjacent to Urban Areas.”

The current “Institutional” designation does not permit the proposal and an Official Plan Amendment is required to redesignate the site to “Open Space and Conservation” and “Residential”.

**RELEVANT CONSULTATION:**

**Agencies/Departments Having No Comment or Objections**

- Health Protection Branch, Public Health and Community Services Department.
- Traffic Engineering and Operations Section, Public Works Department.
- Forestry Section, Public Works Department.
- Budget and Fiscal Policy Services, Corporate Services Department.
- Revenues Division, Corporate Services Department.
- Hamilton Hydro Inc.
- Union Gas Company.
- Bell Canada.

**Hamilton Conservation Authority**

“Authority staff has previously reviewed this property in conjunction with a Niagara Escarpment Commission (NEC) Development Application, File W/R/03-04-62. In this regard, we noted that the subject property is located within the Dundas Valley, partially
within the Dundas Valley Environmentally Significant Area (ESA), and is traversed by an enclosed portion of Sulphur Creek. The property is located partially within the Authority’s registered fill line and partially within the Regional storm flood plain associated with Sulphur Creek. As such, the property is subject to the Authority’s Fill, Construction and Alteration to Waterways Regulation, *Ontario Regulation 151/90*, which requires that written approval (i.e. a permit) be obtained from the Hamilton Conservation Authority (HCA) prior to the commencement of the following works:

a) construct any building or permit any building to be constructed in or on a pond or swamp or in any area susceptible to flooding during a regional storm;

b) place or dump fill or permit fill to be placed or dumped in the areas described in the Schedules whether such fill is already located in or upon the area or brought to or on the area from some other place; or

c) straighten, change, divert or interfere or permit the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse.


HCA staff notes that the survey plan accurately delineates the location of the top-of-bank associated with the Sulphur Creek valley system. As previously requested, the surveyed top-of-bank should serve as the line separating the “O1” Zone, being the valley lands, and the “R2” Zone, being the tableland portion of the property. The Slope Stability Study concludes that the valley slope is stable and recommends that “new development should be setback 6 metres from the staked top-of-bank to allow for erosion access”. In this regard, HCA policy requires that new development maintain a minimum 7.5 metre (25 ft.) setback from the stable top-of-bank. The Site Plan illustrates the 25 ft. buffer setback from the top-of-bank to the house and pool.

Based on the above, Authority staff has no further objection to the location of the proposed building envelope, but wish to advise that a Landscape Plan and a sediment and erosion control plan is still required. As noted in the Slope Stability Study, the vegetation growth on the site should be both maintained and promoted in all areas of the main slope to minimize effects of slope surface erosion.”
Niagara Escarpment Commission

The NEC, on March 15, 2005, conditionally approved a development permit application (NEC File No. W/R/03-04/062) for the construction of a one storey, maximum 418 square metre (4,500 square foot) single detached residence on this property (see Appendix “E”). The approved house site lies outside the boundaries of the Dundas Valley Environmentally Significant Area (ESA No. 41 in the Hamilton-Wentworth Official Plan), and occupies a portion of the footprint of the former school structure. The approved building envelope lies at the terminus of an asphalt driveway extending from Jerseyville Road that includes a parking area used in conjunction with this previous institutional use.

The approval is subject to nineteen conditions, one of which (Condition No. 10) states as follows:

10. Prior to the issuance of a Development Permit, the applicant shall apply for, and receive, approval from the City of Hamilton for an amendment to the former Town of Ancaster Official Plan that, at minimum, redesignates the proposed area for redevelopment from an “Institutional” to an Official Plan category that will permit the residential use. The Niagara Escarpment Commission shall be formally advised by the City of Hamilton of the final approval of the Official Plan Amendment.

The NEC understands that the Environmentally Significant Areas Impact Evaluation Group (ESAIEG) reviewed and subsequently supported the Environmental Impact Assessment (E.I.S.). Condition No. 15 of the NEC approval states as follows:

15. The recommendations of the City of Hamilton ESAIEG based on the E.I.S. performed by Trow Associates Inc., 2004, shall be included in the redevelopment of the site to a residential purpose. The Meadow Marsh area and the Dry Fresh Poplar Deciduous Forest identified as Areas A and D on Figure 2 of the E.I.S. are to remain in the natural states (i.e. no clearing, cutting or application of pesticides and fertilizers).

Condition No. 19 of the NEC decision requires, among other things, the completion of Condition No. 10 within one year from the date of confirmation of the decision, except that in the event the required OP Amendment is appealed, the expiry date is extended to ninety days from the date of the Order of the Ontario Municipal Board is issued, unless the OP Amendment is denied for any reason.

In regards to the proposed Zoning By-law Amendment, the property is currently subject to the Niagara Escarpment Development Control Regulations. Therefore, the former Town of Ancaster Zoning By-law is not legally in force or effect on this property. While the City of Hamilton may approve the requested Zoning By-law Amendment, that part of the Amendment dealing with the residential use, for example, cannot legally come into
force until Development Control is removed from the NEP designated Urban Area portion of the property.

Water and Wastewater Division, Public Works Department

Staff of the Water and Wastewater Division, noted that Council’s approved policies for the City’s future Master Servicing Plan do not recognize partial servicing for new development. There was also concern regarding the failure of the originally proposed biofilter/septic system as it could negatively impact the environmental area within the western portion of the site. As a result, the applicant will be required to enter into a servicing agreement to extend sanitary servicing and provide pumping for this site.

Culture & Recreation Division, Public Health & Community Services Department

“Culture and Recreation wish to advise that 5% Cash-in-Lieu of parkland should be required for this application as the Parkland Dedication requirement.” This amount will be collected at the time of building permit.

Public Consultation

In accordance with the Public Participation Policy approved by Council on May 29, 2003, notice of this application and Public Meeting was circulated to all property owners within 120 metres of the subject lands, and a sign was posted on the subject lands. In total, 39 notices were sent out and no replies were received.

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
Shelter, care and satisfying employment are 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
Hamilton’s high-quality environmental amenities are maintained and enhanced.

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

:OQ
Attachs. (5)
City of Hamilton

By-law No. __________

To Amend Zoning By-law No. 87-57 (Ancaster), as amended, Respecting Lands Located at 159 Jerseyville Road West (Ancaster)

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 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 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

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. 87-57 (Ancaster), 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), approved by the Minister under the Planning Act on July 6, 1984, as amended by Official Plan Amendment No. ___ proposed by the Corporation of the City of Hamilton as By-law No. 06- __, but not yet approved in accordance with the provisions of the Planning Act;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule “B”, Map No. 1 of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing the zoning from the Institutional “I” Zone to the:
   
   (a) Private Open Space “O1-543” Zone for the lands comprised of Block “1”;
   
   (b) Private Open Space “O1-544” Zone for the lands comprised of Block “2”;
   
   (c) Residential “R2-545” Zone for the lands comprised of Block “3”;

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

2. Section 34: Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following subsections:

   “O1-543 Notwithstanding any provisions to the contrary of Subsection 32.1 – Permitted Uses of Section 32: Private Open Space “O1” Zone, of Zoning By-law No. 87-57 (Ancaster), the following special provision shall apply to the lands zoned “O1-543”:

   Permitted Uses

   Only conservation uses shall be permitted.

   O2-544 Notwithstanding any provisions to the contrary of Subsection 32.1 – Permitted Uses of Section 32: Private Open Space “O1” Zone, of Zoning By-law No. 87-57 (Ancaster), the following special provision shall apply to the lands zoned “O2-544”:

   Permitted Uses

   Only outdoor amenity area to a single-detached dwelling on lands zoned “R2-545” Zone shall be permitted. No buildings, structures or swimming pools, except for a tennis court, shall be permitted.

   R2-545 Notwithstanding any provisions to the contrary of Subsection 11.2.2 – Regulations of Section 11: Residential “R1”, “R2” and “R3” Zones, of Zoning By-law No. 87-57 (Ancaster), the following special provision shall apply to the lands zoned “R2-545”:

   Regulations

   1. No building or structure including swimming pools, shall be located within 7.62 metres from the westerly lot line abutting the “O1-544” Zone.”
2. No fencing shall be permitted except around a swimming pool.

3. That the amending By-law be added to Map No. 1, Schedule ‘B’ of Ancaster Zoning By-law No. 87-57.

4. 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

OPA-05-05 & ZAC-05-45
Appendix "B" to Report PED06027 (Page 4 of 4)

Subject Property
159 Jerseyville Road West (Ancaster)

BLOCK 1 - Change in Zoning from Institutional "I" Zone to Private Open Space "O1-543" Zone

BLOCK 2 - Change in Zoning from Institutional "I" Zone to Private Open Space "O1-544" Zone

BLOCK 3 - Change in Zoning from Institutional "I" Zone to Residential "R2-545" Zone

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

Passed the _____________ day of ________________, 2006

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 06—
to Amend By-Law No. 87-57

Planning and Economic Development Department
Hamilton
NOTICE OF DECISION
OF THE NIAGARA ESCARPMENT COMMISSION
REGARDING
AN APPLICATION FOR A DEVELOPMENT PERMIT UNDER SECTION 25
OF THE NIAGARA ESCARPMENT PLANNING AND DEVELOPMENT ACT,
R.S.O. 1990, CHAPTER N.2


APPLICANT: Raffaele & Sonia Filice
Agent: None
Owner: Same

LOCATION: Part Lot 41, Concession 2
(Former) Town of Ancaster, City of Hamilton

PROPOSED DEVELOPMENT:
To construct a one storey, 418 sq m (4,500 sq ft) single residence on an existing 1.98 ha (4.9 ac) lot.

DECISION of the NIAGARA ESCARPMENT COMMISSION:

The application for a Development Permit, as described above, has been
CONDITIONALLY APPROVED.

The Conditions of Approval are listed on the attached APPENDIX.

DATE: March 17, 2005

SIGNED
for Ken Whitbread
Manager

THIS IS NOT A DEVELOPMENT PERMIT
DEVELOPMENT IS NOT TO COMMENCE UNTIL THE DEVELOPMENT PERMIT HAS BEEN ISSUED.
APPENDIX

CONDITIONS OF APPROVAL

1. Non-fulfilment or breach of any one of the conditions shall render the Development Permit void.

2. A site inspection(s) to the property may be undertaken by the Niagara Escarpment Commission to ensure that the development complies with the conditions of the Development Permit. Persons may accompany the Commission representative on the site inspection(s) who possess expert or special knowledge related to the conditions of the Development Permit.

3. No building permit or other licence, certificate, permit or other similar permission relating to development shall be issued or be considered to be in force unless a Development Permit is in effect.

4. The Development Permit shall expire three (3) years from its date of issuance unless the development has been completed and a valid building permit issued within the three (3) years is in effect.

5. Development shall take place only in accordance with the site plan and development permit application submitted (except where special conditions are to apply as noted below).

6. No grading of the existing contours of the lot in the area of the development is permitted, with the exception of that which is required for the construction of the new residence, waste disposal system, connection to municipal water service, and any site alterations/modifications and rehabilitation necessary to construct the residence.

7. No trees other than dead or diseased trees shall be cut or removed from the lot in the area of the development except those absolutely necessary for the construction of the new residence, waste disposal system, connection to municipal water service, and any site alterations/modifications and rehabilitation necessary to construct the residence.

8. Screening, landscaping and rehabilitation shall be completed by the end of the growing season immediately following the completion of the development.

NOTE: The Commission recommends that for major trees, species native to the area should be used rather than exotic species.
APPENDIX

CONDITIONS OF APPROVAL

9. Prior to the issuance of a Development Permit, the applicants shall submit site development plans, including details as to existing and proposed lot grading, sediment and erosion control, tree preservation and landscaping, for the review and approval of the Niagara Escarpment Commission, in consultation with the Hamilton Conservation Authority. The applicants are advised that the site development shall be required to be setback a minimum distance of 7.62 m (25 ft) from the top-of-bank of the valley slope.

10. Prior to the issuance of a Development Permit, the applicant shall apply for, and receive, approval from the City of Hamilton for an amendment to the former Town of Ancaster Official Plan that, at minimum, re-designates the proposed area for re-development from an "Institutional" to an Official Plan category that will permit the residential use.

The Niagara Escarpment Commission shall be formally advised by the City of Hamilton of the final approval of the Official Plan Amendment.

11. Upon the issuance of a Development Permit, the applicants shall obtain a Building Permit from the City of Hamilton Building and Licensing Division.

12. Prior to the issuance of a Building Permit, the applicants shall submit a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE.

13. All waste materials generated from the preparation of the site for house construction and following construction (i.e., waste asphalt and concrete) shall be properly disposed of at a site licensed or approved to obtain and handle such wastes.

14. Prior to commencement of construction of the new dwelling, the applicants shall consult with and address all concerns with respect to servicing and lot grading (if applicable) to the satisfaction of the City of Hamilton, Manager of Development Engineering.

15. The recommendations of the City of Hamilton Environmentally Significant Areas Impact Evaluation Group (ESAIEG) based on the Environmental Impact Assessment (E.I.S.) performed by Trow Associates Inc., 2004, shall be included in the re-development of the site to a residential purpose. The Meadow Marsh area and the Dry Fresh Poplar Deciduous Forest identified as Areas A and D on Figure 2 of the E.I.S. are to remain in the natural states (i.e., no clearing, cutting or application of pesticides and fertilizers).

As part of the proposed Official Plan Amendment review reflected in Condition 10, Areas A and D shall be prohibited from any future development.
### CONDITIONS OF APPROVAL

<table>
<thead>
<tr>
<th>Condition</th>
<th>Requirement</th>
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<tr>
<td>16.</td>
<td>The applicants shall use only non-invasive native species (locally sourced) for use in proposed planting plans for the property.</td>
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<td>17.</td>
<td>Beyond the fencing required for the area around the swimming pool, the ESAIEG recommends that no other property fencing be installed as this would inhibit wildlife movement.</td>
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<td>18.</td>
<td>The installation of the private waste disposal system shall be satisfactory to the City of Hamilton, Building and Licensing Division and comply with all relevant requirements of the <em>Ontario Building Code, 1997</em>.</td>
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<td>19.</td>
<td>This conditional approval shall be void if a Development Permit is not issued within one (1) year from the date of confirmation of the decision, except that in the event that the Official Plan required under Condition 10 is appealed, the expiry date shall be extended to ninety (90) days from the date the Order of the Ontario Municipal Board (OMB) is issued in respect of the Official Plan unless the Official Plan is denied by the Board.</td>
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