SUBJECT: Application for a Change in Zoning for Lands Located at 18 Dennis Avenue (Flamborough) (PED07061) (Ward 15)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-06-89, Byron and Michelle Cardoso, owners**, for a change in zoning from the “R1-6” Urban Residential (Single Detached) Zone to the “R1-35” Urban Residential (Single Detached) Zone to recognize the location of the existing single detached dwelling on a separate lot, and to permit one new single detached dwelling on a separate lot, for the lands located at 18 Dennis Avenue (Flamborough), as shown on Appendix “A” to Report PED07061, on the following basis:

(a) That the subject lands be rezoned from the “R1-6” Urban Residential (Single Detached) Zone to the “R1-35” Urban Residential (Single Detached) Zone.

(b) That the Draft By-law, attached as Appendix “B” to Report PED07061, 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 and Flamborough Official Plans.

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

The purpose of the application is to change the zoning of the subject lands to permit one new single detached dwelling and to recognize one existing single detached dwelling on separate lots, as shown on Appendix “C”. Final approval of this application for rezoning fulfils a condition imposed through the provisional approval of Consent Application FL/B-06:93 (Appendix “D”).

The proposal has merit and can be supported since the change in zoning is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan. The proposal is compatible with the existing and planned development in the neighbourhood.

BACKGROUND:

Proposal

The applicant has applied to change the zoning of the subject lands, known as 18 Dennis Avenue (see Appendix “A”), in order to permit the development of one new single detached dwelling and to recognize the existing single detached dwelling on separate lots.

The modifications from the existing “R1-6” zoning that would result from approval of this Zoning Application are:

- Reduced Minimum Lot Area from 1,390 square metres to 730 square metres;
- Reduced Minimum Lot Frontage from 30 metres to 15 metres;
- Eliminates the current modified height restriction of 8.2 metres and reinstates the standard “R1” provision of 11 metres;
- Increased Maximum Lot Coverage from 15% to 30%;
- Eliminates current maximum floor space requirement of 186 square metres for a 1 storey dwelling, 186 square metres on the main floor for a 1½ storey dwelling, and 372 square metres for a 2 storey dwelling and reinstates the standard “R1” provision for which there is no limit to floor space;
- Eliminates the current modified interior side yard setback requirement of 3.0 metres and reinstates the standard “R1” provisions of 1.2 metres; and,
- Increased Exterior Side Yard from 7.5 metres to 15 metres.

These are discussed in detail in the Analysis/Rational Section of this Report.

Consent Application FL/B-06:93

Consent application FL/B-06:93 for the subject lands was granted provisional approval on June 21, 2006, by the Committee of Adjustment (see Appendix “D”). Final approval will allow the property to be severed into two lots, as shown on Appendix “C”. A condition of this approval requires final approval of the subject zoning application.
Details of Submitted Application

Owner: Byron and Michelle Cardoso
Location: 18 Dennis Avenue
Description: Frontage: 38.8 metres  
Depth: 30.5 metres  
Area: 1,530.4 square metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
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<tbody>
<tr>
<td>Residential (Single Detached)</td>
<td>“R1-6” Urban Residential (Single Detached) Zone</td>
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<tr>
<th>Surrounding Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
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<td>Residential (Single Detached)</td>
<td>“R1-6”, “R1-32” and “R1-33” Urban Residential (Single Detached) Zones</td>
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<tr>
<td>East</td>
<td>Residential (Single Detached)</td>
<td>“R1-6” Urban Residential (Single Detached) Zone</td>
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<tr>
<td>South</td>
<td>Residential (Single Detached)</td>
<td>“R1-6” Urban Residential (Single Detached) Zone</td>
</tr>
<tr>
<td>West</td>
<td>Residential (Single Detached)</td>
<td>“R1-6” Urban Residential (Single Detached) Zone</td>
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ANALYSIS/RATIONALE:

1. The proposed change in zoning has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.

   (iii) It implements a condition of provisional approval for Consent Application FL/B-06:93 (Appendix “D”), which requires the owner to receive final approval of this Zoning Application.
SUBJECT: Application for a Change in Zoning for Lands Located at 18 Dennis Avenue (Flamborough) (PED07061) (Ward 15) - Page 4 of 9

(iv) It is consistent with a previously approved Zoning and Consent Application for the lands opposite the subject lands known as 146 Dundas Street East, passed by Council on August 9, 2006.

2. The existing “R1-6” Urban Residential (Single Detached) Zone was applied to much of the urban area of Waterdown prior to the installation of municipal services, since larger lots were required to meet the standards for wells and septic systems. As municipal piped water and sanitary services were introduced to the area in the early 1990’s, the requirement for larger lots no longer applies.

In 1997, as a result of other severance applications in the vicinity, staff of the former Town of Flamborough revisited the Intensification Policies of the Flamborough Official Plan. At that time, it was determined that intensification should be encouraged throughout the Waterdown Urban Area. It was noted that each application would be evaluated on a case-by-case basis.

Therefore, the introduction of infill lots where appropriate, is reasonable and would implement the intensification policies of the Flamborough Official Plan. In order to meet the policies of the Flamborough Official Plan, staff must be satisfied that the proposal is compatible with the existing lot sizes, frontages, setbacks, heights, density, building mass and streetscape character in the area.

The proposed zoning (see Comment 3) provides a minimum lot frontage and area to accommodate the severance. These provisions are compatible with the streetscape and allow for a density compatible with the surrounding area.

The proposed zoning eliminates the current modified maximum height restriction of 8.2 metres and reinstates the “R1” standard of 11 metres, which would allow for a two storey dwelling which is compatible with the surrounding area as there is a mix of one, one and a half and two storey dwellings in the area. The existing dwelling appears to conform to the 11 metre height restriction, although the applicant did not identify the height specifically in the submitted application. Many of the dwellings in the immediate vicinity are back-splits and side-splits, and as the applicant is proposing to construct a bungalow on the newly created lot, consistency of the neighbourhood and streetscape will be maintained.

The proposed modified zoning provisions for minimum setbacks and maximum coverage in conjunction with the standard maximum height will ensure a compatible mass of development with the surrounding area and streetscape.

As such, staff is satisfied that the proposal complies with the “Residential” and intensification policies of the Flamborough Official Plan.

3. The applicant has submitted a sketch with their application (Appendix “C”), which has been reviewed against the requirements of the proposed “R1-35” Urban Residential Zone, as discussed below:
Lot Frontage

The proposed new property (Part 2 on Appendix “C”) is a corner lot. Section 3 – Definitions – Front Lot Line – (a), of the Town of Flamborough Zoning By-law, deems that on a corner lot the shorter of the two frontages shall be considered the legal frontage. Appendix “C” shows a frontage of 15.2 metres along Dennis Avenue allowing Dennis Avenue to be deemed the legal frontage. There are no concerns with the orientation of the proposed dwelling (on Part “2”), as it is the preference of staff to see the dwelling front on Dennis Avenue. In staff’s opinion, the proposed minimum frontage will be compatible with the established streetscape character. The proposed “R1-35” zoning requires a minimum lot frontage of 15.0 metres. Both lot frontages conform as shown.

Lot Area and Lot Coverage

The current Urban Residential “R1-6” Zone on the subject lands requires a minimum lot area of 1,390 square metres and permits a maximum lot coverage of 15%. The proposed zoning requires a minimum lot area of 730 square metres and a maximum lot coverage of 30%. The minimum lot area in the proposed zoning will prevent the property from being severed into more than two lots. The proposed coverage will permit a maximum ground floor area of 223 square metres on Part “3” (Appendix “C”) and a new dwelling with a maximum ground floor area of 236 square metres on Part “2” (Appendix “C”). These regulations in combination with the standard maximum height provision of 11 metres maintain a scale of development compatible with that planned for the area and ensure adequate space for on-site amenities.

Floor Space and Building Height

The current “R1-6” Urban Residential zoning on the subject lands permits a maximum building height of 8.2 metres. In addition to the height provision, the “R1-6” Zone includes provisions which limit floor space to 186 square metres for a one storey dwelling, 186 square metres on the main floor for a one and a half storey dwelling, and 372 square metres for a two storey dwelling. The proposed “R1-35” Urban Residential Zone maintains the standard maximum building height provision of 11 metres in the base “R1” Zone requirements, and does not include any provisions limiting the floor space of a dwelling. However, as noted above, the proposed height, coverage and lot area provisions will maintain a compatible scale of development.

The applicant has submitted a proposed building envelope for Part “2” (Appendix “C”), comprising approximately 175 square metres ground floor area, which complies with the provisions of the “R1-35” Zone. In addition, the applicant is proposing a bungalow for the newly created lot which is consistent with the range of dwelling heights in the neighbourhood. The retained dwelling appears to comply with the proposed zoning provisions for building height, although exact dimensions were not submitted in the application to allow staff to determine compliance.
The existing “R1-6” zoning requires a minimum interior side yard setback of 3.0 metres and a minimum exterior side yard setback of 7.5 metres. The proposed “R1-35” Zone provisions maintain the minimum interior side yard setback requirement of 1.2 metres from the standard “R1” Zone which allows for adequate access and maintenance space. The existing dwelling (Part “3” – Appendix “C”) appears to conform to the 1.2 metre proposed setback provision. The proposed lot (Part “2” – Appendix “C”) is a corner lot and is subject to the exterior side yard provision of the By-law. The proposed “R1-35” Zone’s minimum 15 metre exterior side yard setback provision from Dundas Street East ensures that the dwelling to be built on Part “2” is similar in setback to the dwelling at 146 Dundas Street East.

4. There is a public watermain and municipal sanitary and storm sewers within the Dundas Street East road allowance available to service the proposed single detached dwelling, and there is also a public watermain and a municipal sanitary sewer within the Dennis Avenue road allowance servicing the existing single detached dwelling and available to service the proposed dwelling. As the existing dwelling is connected to services along Dennis Avenue, connecting the proposed dwelling will not disrupt the services for the existing dwelling. Staff prefers that the proposed dwelling connect to the available services along Dennis Avenue to avoid the disruption of establishing a connection along Dundas Street East.

5. Due to the proximity of the lot to Highway 5, the owner will be required to conduct a noise assessment and construct any required noise mitigation measures to the satisfaction of the Manager of Development Planning or, alternatively, to erect a specified noise barrier (Appendix “D” – Condition 2). In addition, the applicant will also be required to include a noise warning clause in all offers to purchase and lease agreements. All noise issues will be dealt with through the consent agreement for Consent Application FL/B-06:93.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the application for consent to sever (FL/B:06-93) will lapse and the applicant has the option of using the property for the current range of Urban Residential “R1-6” Zone uses.

**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 proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

Policy 1.7.1 (e) requires sensitive land uses to be appropriately designed, buffered and separated from each other to prevent adverse effects from odour noise and other contaminants, and to minimize the risk to public health and safety. Due to the proximity of the lot to Highway 5, the owner will be required to conduct a noise assessment and construct any required noise mitigation measures to the satisfaction of the Manager of Development Planning or, alternatively, to erect a specified noise barrier. In addition, the applicant will also be required to include a noise warning clause in all offer to purchase and lease agreements.

All noise issues will be dealt with through the consent agreement for Consent Application FL/B-06:93.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 states that a wide range of urban uses, based on full municipal services, will be concentrated in Urban Areas. As well, Policy 3.1 outlines that these areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Therefore, as the nature of the application is to amend the Zoning By-law to allow for the development of one new single detached dwelling on the site, the proposal conforms to the Hamilton-Wentworth Official Plan policies.

Flamborough Official Plan

The subject property is designated “Residential” on Schedule ‘A’ – Waterdown Urban Area Land Use Plan of the Flamborough Official Plan. The following policies of the Flamborough Official Plan, among others, are applicable to the proposed development:

“A.2.1” The uses permitted in areas designated URBAN RESIDENTIAL on Schedule ‘A’ shall be: detached and semi-detached single dwellings; low to medium density linked multiple unit dwellings; shared accommodation; rooming and boarding houses; and other suitable forms of dwellings.

E.3.2.4 Infilling, as defined in Section E.3.2, may be permitted on lands designated Settlement Residential and in the Urban Area subject to consideration of the following, where applicable:
(i) As a concept and guide for consideration of infilling applications in the Urban Area, compatibility means mutually tolerant and capable of existing together in harmony in the same area. Compatibility should not be narrowly interpreted to mean “the same as” or even as “being similar to”. In the final analysis, the goal of this policy is to allow for intensification which does not cause an unacceptable impact upon the existing neighbourhood.

(ii) When considering infilling development, regard will be had to the following criteria to determine the compatibility of the proposal:

(a) lot size, building setbacks, density and the height and mass of buildings in the surrounding area.

(b) impact on the existing streetscape and landscape and opportunities to maintain and/or enhance the existing streetscape.

(c) provisions for adequate off-street parking.

(d) proposed building separations and possible buffering provisions and impact on existing and proposed privacy areas.

(g) the proposal can be adequately serviced with water, sewage disposal, roads, garbage collection and utilities so as not to compromise the Town’s financial ability to provide such services.”

Based on the foregoing, the proposal complies with both the “Residential” and intensification policies of the Flamborough Official Plan for the Urban Area, and maintains compatibility. The existing pattern of the streetscape would be upheld, and lot size, building setbacks, density, height and mass of the existing and new buildings would be compatible with the character of the area as discussed in the Analysis/Rationale Section of this report. In addition, adequate municipal services are available for the existing and new dwellings.

**RELEVANT CONSULTATION:**

**The following Departments/Agencies had no comments or objections:**

- Public Works, Traffic Engineering and Operations Section
- Corporate Services, Taxation Division
- Corporate Services, Budgets and Finance Division
- Union Gas
- Horizon Utilities
Hydro One  
Niagara Escarpment Commission 

Hamilton Municipal Parking System: 

Parking Services has indicated that the applicant/owner should be aware that all parking requirements must be met on-site for the newly created and retained lot.

Public Consultation 

The Public Participation Policy, approved by Council on May 29, 2003, states that preliminary circulation shall not be required if the application is part of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities. In this regard, preliminary circulation is not required. The Consent Application (FL/B-06:93) to sever the subject land to facilitate the development of one new single detached dwelling lot was provisionally approved by the Committee of Adjustment on June 21, 2006. No written responses were received, and no residents were in attendance at the Committee of Adjustment meeting with concerns regarding the Severance Application.

Notice of the Public Meeting for this rezoning application will be 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, and 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 public are involved in the definition and development of local solutions.

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

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

:LB  
Attachs. (4)
Location Map

Subject Property
18 Dennis Avenue
To be re-zoned from "R1-6" Urban Residential (Single Detached) Zone to "R1-35" Urban Residential (Single Detached) Zone.

File Name/Number: ZAR-06-69
Date: November 28, 2006
Appendix "A"
Scale: N.T.S.
Planner/Technician: LBKA

Ward 15 key map N.T.S.
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended
Respecting lands located at 18 Dennis Avenue

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 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 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. 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 Economic Development and Planning Committee at its meeting held on the day of , 2007, 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), approved by the Minister under the Planning Act on September 27th, 1988.

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

1. Schedule No. “A-30” attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning
from the “R1-6” Urban Residential (Single Detached) Zone to the “R1-35” Urban Residential (Single Detached) Zone, on lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. Section 6 – “R1” Urban Residential (Single Detached) Zone of Zoning By-Law No. 90-145-Z, is hereby amended by adding the following subsection:

“6.3.35 “R1-35” (See Schedule A-30)

Zone Provisions

(a) Lot Area (minimum): 730 square metres
(b) Lot Frontage (minimum): 15 metres
(c) Lot Coverage (maximum): 30%
(d) Exterior Side Yard (minimum): 15 metres
(e) All other Zone provisions of Section 6.2 “R1” Zone 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 , 2007.

________________________________________________________________________
MAYOR

________________________________________________________________________
CLERK

ZAR-06-89
This is Schedule "A" to By-Law No. 07-
Passed the ........... day of ................., 2007

Schedule "A"
Map Forming Part of By-Law No. 07-____
to Amend By-law No. 90-145-Z

Subject Property
18 Dennis Avenue
To be re-zoned from "R1-6" Urban Residential (Single Detached) Zone to "R1-35" Urban Residential (Single Detached) Zone.
APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. FUB-06:93
SUBMISSION NO. B-93/06

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 18 Dennis Avenue, formerly in the Town of Flamborough, now in the City of Hamilton;
AND IN THE MATTER OF AN APPLICATION by the owners Byron and Michele Cardoso, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of vacant parcel of land measuring 16.3m (53.47') x 30.4m (99.73') for single family residential purposes, and to retain a parcel of land measuring 24m (78.74') x 30.5m (100.06') containing a single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:
That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

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 conditions.

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 a noise assessment be conducted and construction of any required noise mitigation measures be to the satisfaction of the Manager of Development Planning, or alternatively:

That the applicant erect a minimum 2 metre high noise barrier, enclosing an area of no less than 56 m2;

That the noise barrier surface density be a minimum of 20 kg/m2. It is further required that the barrier be designed and constructed without cracks or gaps;

That the location of the barrier be to the satisfaction of the Manager of Development Planning; and,

That the consent agreement require securities for the construction of the noise barrier and that it require the following warning clause be included in all offers to purchase and lease agreements:

Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building unit, sound levels due to increasing road traffic may on occasions interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality's and the Ministry of Environment's noise criteria:

3. That the owner apply for and receive final approval of a rezoning application to accommodate the proposed lots, to the satisfaction of the Manager of Development Planning.

4. That the owner enter into a consent agreement with the City of Hamilton to deal with the grading and drainage on the subject lands. The applicant shall demonstrate to the satisfaction of the Manager of Development Engineering that all drainage from the site shall be taken to a suitable outlet.

5. That the owner make a cash payment to the City of Hamilton for the future urbanization of Dundas Street and Dennis Avenue adjacent to the severed and retained lands.

6. Written authorization from Michele Cardoso must be submitted to the Committee of Adjustment Office authorizing Byron Cardoso to make the subject application on her behalf.
DATED AT HAMILTON this 21st day of June, 2006.

M. Dedzo, Chairman
C. Lewis
D. DeLullo
R. Nairn
D. Serwatuk
D. Drury
V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 28th, 2006.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE
OF DECISION. (June 28th, 2007) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED
(PLANNING ACT, SECTION 23(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY
BE FILED IS July 18th, 2006.

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