SUBJECT: Application for a Change in Zoning for Lands Located at 146 Dundas Street East (Flamborough) (PED06222) (Ward 15)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-06-38, Lorraine Fleming, owner, for a change in zoning from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-32” Zone (Block “1”) to recognize the location of the existing dwelling on a separate lot, and from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-33” Zone (Block “2”) to permit one new single detached dwelling on a separate lot, for lands located at 146 Dundas Street East (Flamborough), as shown on Appendix “A”, to Report PED06222, on the following basis:

(a) That Block “1” be rezoned from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-32” Zone.

(b) That Block “2” be rezoned from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-33” Zone.

(c) That the Draft By-law, attached as Appendix “B” to Report PED06222, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(d) That the proposed change in zoning is in conformity with the Hamilton-Wentworth and Flamborough Official Plans.
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”.

The proposal has merit and can be supported since the changes in zoning are consistent with the Provincial Policy Statement and conform to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan. The proposal is compatible with the existing and planned development in the neighbourhood. In addition, final approval of this application for rezoning fulfils a condition imposed through the provisional approval of Consent Application FL/B-06:18 (Appendix “D”).

BACKGROUND:

Proposal

The applicant has applied to change the zoning of the subject lands, known as 146 Dundas Street East (see Appendix “A”), in order to permit the development of one new single detached dwelling and to recognize one existing single detached dwelling on separate lots.

The applicant has requested that the Urban Residential (Single Detached) “R1-6” Zone provisions be modified for Block “1” (existing dwelling) in order to reduce the minimum lot area from 1,390 square metres to 920 square metres, reduce the minimum lot frontage from 30 metres to 22.8 metres, increase the maximum lot coverage from 15% to 21%, reduce the minimum rear yard setback from 7.5 metres to 5.5 metres, and to reduce the minimum rear yard setback for the existing accessory structure (wood deck) from 1.0 metre to 0.5 metre.

The applicant also proposes to modify the “R1-6” Zone provisions for Block “2” (proposed new dwelling) in order to reduce the minimum lot area from 1,390 square metres to 652 square metres, reduce the minimum lot frontage from 30 metres to 21.0 metres, increase the maximum lot coverage from 15% to 32%, reduce the minimum interior side yards from 3 metres to 1.2 metres, and increase the maximum floor space for a one-storey dwelling from 186 square metres to 233 square metres.

These modifications are discussed in the Analysis/Rationale Section of this report (Pages 4 to 6).

Consent Application FL/B-06:18

Consent application FL/B-06:18 for the subject lands was granted provisional approval on March 15, 2006, by the Committee of Adjustment (see Appendix “D”). The 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: Lorraine Fleming

Location: 146 Dundas Street East

Description: Frontage: 22.8 metres
Depth: 55.73 metres
Area: 1,612 square metres

EXISTING LAND USE AND ZONING:

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Surrounding Land Uses

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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, and it conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.
   
   (ii) It implements a condition of provisional approval for Consent Application FL/B-06:18 (Appendix “D”), which requires the owner to receive final approval of this Zoning Amendment Application.

2. The existing Urban Residential (Single Detached) “R1-6” 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 need for larger lots was eliminated.
In 1995 the former Town of Flamborough Council endorsed a staff report that considered the severance potential for various lots within the subject area. The report identified ten properties which had potential for severance, one of which is the subject property.

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, heights, and building mass in the area. With regard to the proposed retained lot (Block “1” - Appendix “A”), staff is satisfied that the proposed lot frontage of 22.8 metres and lot area of 920 square metres are comparable to and compatible with those in the surrounding area. Regarding the conveyed lot (Block “2”), the proposed lot frontage of 21 metres and lot area of 652 square metres are also compatible with surrounding area. The proposed zoning retains the current maximum height provision of 8.2 metres to ensure compatibility with the surrounding area. In this regard, the applicant is proposing to construct a one storey single detached dwelling on Block “2”, which typifies existing dwellings in the neighbourhood. Additionally, the proposed zoning provides a maximum floor area, and minimum setbacks/building separations that will ensure a compatible mass of development with the surrounding area and streetscape. As such, staff is satisfied that the proposal complies with the intensification policies of the Flamborough Official Plan for the Urban Area.

3. The applicant has submitted a sketch with their application, attached as Appendix “C”, which has been reviewed against the standard requirements of the Urban Residential “R1-6” Zone, as discussed below:

Lot Area and Lot Coverage

The Urban Residential “R1-6” Zone requires a minimum lot area of 1,390 square metres and permits a maximum lot coverage of 15%. However, the applicant is proposing a lot area of 652 square metres and a lot coverage of 32% for Part 3 on Appendix “C”; and a lot area of 920 square metres and a lot coverage of 21% for Part 2 on Appendix “C”. The purpose and intent of the By-law is to regulate minimum lot areas and maximum lot coverage in order to maintain a scale of development with that planned for the area and to ensure adequate area for on site amenities. As noted earlier (Comment 2 – Page 3), the existing zoning was applied to the subject lands prior to the installation of municipal services, and as municipal services were introduced to the area, the need for larger lots was eliminated. Also, the subject property was identified as a property with potential for severance. Staff is satisfied, as outlined in Comment 2, that the proposal
meets the intensification policies of the Flamborough Official Plan and, as such, the scale of development proposed will be compatible with the area and adequate space for on-site amenities will exist. The draft By-law in Appendix “B” requires the proposed lot areas and coverages.

Lot Frontage

The Urban Residential “R1-6” Zone requires a minimum lot frontage of 30 metres, however, the applicant is proposing a lot frontage of 21.0 metres for Part 3 and 22.8 metres for Part 2 (Appendix “C”). The purpose and intent of the By-law is to require minimum lot frontages in order to maintain streetscape character. In staff’s opinion, the proposed frontages will be compatible with the established streetscape character. The proposed zoning requires these frontages.

Rear Yard Setback

The Urban Residential “R1-6” Zone requires a minimum rear yard setback of 7.5 metres, however, the applicant is proposing a 5.5 metre rear yard for Part 2 to accommodate the existing dwelling (Appendix “C”). The purpose and intent of the By-law is to require minimum rear yard setbacks in order to provide an adequate outdoor amenity area, and space for maintenance and drainage. Only a small portion (3.2m or 10.5 ft. wide) of the existing building will encroach into the rear yard, while the majority of the building will meet and exceed the standard minimum rear yard setback of 7.5 metres. As such, staff is satisfied that there is adequate amenity area and space for maintenance and drainage and support the reduction in the proposed zoning.

Interior Side Yard Setback

The Urban Residential “R1-6” Zone requires a minimum interior side yard setback of 3.0 metres, however, the applicant is proposing a 1.2 metre interior side yard for Part 3 on Appendix “C”, which is the “R1” standard. The purpose and intent of the By-law is to require minimum interior side yard setbacks in order to maintain building separation/streetscape character and to provide space for maintenance and drainage. Staff is satisfied that the reduction will not significantly impact building separation/streetscape character and that there will be adequate space for maintenance and drainage. The proposed zoning reflects this modification.

Floor Space

The Urban Residential “R1-6” Zone provides a maximum floor space for one storey and one and a half storey dwellings of 186 square metres, however, the applicant is proposing a floor space of 233 square metres for a one-storey dwelling for the conveyed lot (Part 3 on Appendix “C”). The purpose and intent of the By-law is to require maximum floor areas in order to maintain a scale of existing development in the area. In staff’s opinion, the proposed increase will
not significantly impact the scale of development planned for the area, since the applicant is proposing to construct one storey dwelling of this scale and one and two storey dwellings exist in the area. The proposed zoning reflects the increased floor space for one and one and a half storey dwellings.

The proposed zoning will meet all other requirements of the Urban Residential (Single Detached) “R1-6” Zone, including the minimum front yard of 7.5 metres, minimum exterior side yard of 7.5 metres, and maximum height of 8.2 metres.

**Accessory Structure**

The Flamborough Zoning By-law No. 90-145-Z requires that all accessory structures (including decks) be setback a minimum of 1 metre from all lot lines. However, the applicant is proposing a 0.5 metre rear yard setback for the existing deck located on Part 2 of Appendix “C”. The purpose and intent of the By-law is to require minimum rear yard setbacks for accessory structures in order to provide adequate space for maintenance and drainage. Only a small portion (stairs) of the accessory structure would encroach into the required setback, while the majority of the structure will meet the requirement. In staff’s opinion, there will be adequate space for maintenance and drainage with the proposed reduction, which has been included in Appendix “B”.

4. There are a municipal watermain, and sanitary and storm sewers within the Dundas Street East road allowance to service the existing single detached dwelling, and there are a municipal watermain and a municipal sanitary sewer within the Dennis Avenue road allowance to service the proposed single detached dwelling. In order to establish the designated road allowance width of Dundas Street East, the owner will be required to dedicate a 1.5m widening across the entire frontage of the lands to be retained (Part 3, Appendix “C”), as a condition of consent approval.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then 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).

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 the 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 “Urban 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; apartment units; converted dwellings; quadruplex dwellings; shared accommodation; rooming and boarding houses; and other suitable forms of dwellings.

E.3.1.1 The following policies shall apply to the provision of housing:

(v) Council supports the creation of new housing units through intensification and innovative design in appropriate areas.

(xii) When considering all new housing development or redevelopment, Council will require consideration for the following:

- that development or redevelopment is compatible with surrounding uses.
- that adequate off-street parking is provided and maintained.
- that the existing pattern of streetscape and landscape is maintained or improved.
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) provision for adequate off-street parking.

(d) proposed building separations and possible buffering provisions and impacts 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 “Urban Residential” designation and intensification policies of the Flamborough Official Plan for the Urban Area. The existing pattern of the streetscape would be maintained, 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 proposed conveyed and retained lots.

Based on the foregoing, the proposal conforms to the Town of Flamborough Official Plan.
RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Corporate Services Department (Revenues Division).
- Public Works Department (Traffic Engineering and Operations Section).
- Public Works Department (Strategic and Environmental Planning).
- Horizon Utilities.
- Union Gas.

Corporate Services Department (Budget & Fiscal Policy Services)

The Budget and Fiscal Policy Services Section has indicated that the applicant/owner should be aware of the total annual sanitary sewer and connection charge of $876.51, expiring on December 31, 2010.

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 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 March 15, 2006. One written response was received, and one resident was in attendance at the Committee of Adjustment meeting, with concerns over privacy, residential character and the potential to dynamite for foundations. However, at the Committee of Adjustment meeting these concerns were dealt with and the resident’s concerns appeared satisfied.

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, 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
Investment in Hamilton is enhanced and supported.
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

:DF

Attachs. (4)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended Respecting Lands Located at 146 Dundas Street East (Flamborough)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the Town of Flamborough” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

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

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

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

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Flamborough) in accordance with the provisions of the Planning Act;

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), is hereby amended:
2. by changing the zoning from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-32” Zone for Block “1”; and

(ii) by changing the zoning from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-33” Zone for Block “2”;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule ‘A’ and forming part of this By-law.

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

6.3.32 R1-32 (See Schedule A-30)

Permitted Uses

(a) Subsection 6.1 shall apply.

Zone Provisions

(a) Lot Area (minimum) 920 square metres

(b) Lot Frontage (minimum): 22.8 metres

(c) Height (maximum) 8.2 metres

(d) Lot Coverage (maximum) 21%

(e) Interior Side Yard (minimum) 3 metres

(f) Rear Yard (minimum): 5.5 metres

(g) Floor Space (maximum)

   1 storey 186 square metres

   1-1/2 storeys 186 square metres

   2 storeys 372 square metres

(h) For the accessory structure, being a wood deck, existing on the day of the passing of this by-law, being the ____ day of ____ , 2006, a minimum rear yard setback of 0.5 metre shall be required.

(i) All other zone provisions of Section 6.2 shall apply.
6.3.33 R1-33 (See Schedule A-30)

Permitted Uses

(a) Subsection 6.1 shall apply.

Zone Provisions

(a) Lot Frontage (minimum): 21.0m
(b) Lot Area (minimum): 652.0m²
(c) Height (maximum) 8.2 metres
(d) Lot Coverage (maximum): 32%
(e) Floor Space (maximum)

   1 storey 233 square metres
   1-1/2 storeys 233 square metres
   2 storeys 372 square metres

(f) All other zone provisions of Section 6.2 shall apply.

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

PASSED and ENACTED this day of , 2006.

MAYOR CLERK

ZAR-06-38
This is Schedule “A” to By-Law No. 08—

Passed the __________ day of _______________ 2006

Clerk

Mayor

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Schedule “A”

Map Forming Part of By-law No. 06-_____ to Amend By-law No. 90-145-Z

Subject Property
146 Dundas St E

Block 1 - Change in zoning from the Urban Residential (Single Detached) "R1-6" Zone to the Urban Residential (Single Detached) "R1-32" Zone.

Block 2 - Change in zoning from the Urban Residential (Single Detached) "R1-6" Zone to the Urban Residential (Single Detached) "R1-33" Zone.
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 146 Dundas Street East, formerly in the Town of Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owner Lorraine Fleming, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land measuring 21.4m² x 30.5m² for single family residential purposes, and to retain a parcel of land measuring 30.5m² x 34.2m² containing an existing single family dwelling.

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 the owner apply for and receive final approval of a rezoning application to permit the required reduced lot frontages and areas for the proposed conveyed and retained lands, to the satisfaction of the Manager, Development Planning.

3. That the owner dedicate to the City of Hamilton, by deed, 5’ (1.524m) of land from the lands to be retained for road widening purposes on Dundas Street.

4. 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.

5. That the owner enters into a consent agreement with the City of Hamilton to deal with any possible drainage and grading problems.

6. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 15th day of March, 2006.

M. Dubuc, Chairman

C. Lewis

D. DeLullo

V. Abraham

D. Serwatuk

D. Drury

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS March 22nd, 2006.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (March 22nd, 2007) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS April 11th, 2006.

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