SUBJECT: Application for a Change in Zoning for Lands Located at 236 Parkside Drive (Flamborough) (PED09194) (Ward 15)

RECOMMENDATION:

That approval be given to Zoning By-law Application ZAR-09-012, by Michael Murray, Owner, for a change in zoning from the Urban Residential (Single Detached) “R1-6” Zone, to the Urban Residential (Single Detached) “R1-1” Zone, with a Special Exception, to facilitate the construction of a single detached dwelling on a lot to be severed from the subject lands, located at 236 Parkside Drive (Flamborough), as shown on Appendix “A” to Report PED09194 on the following basis;

(a) That the draft By-law, attached as Appendix “B” to Report PED09194, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.
EXECUTIVE SUMMARY:

The purpose of the application is for a change in zoning to permit the construction of a single detached dwelling on a portion of lands proposed to be severed from 236 Parkside Drive through Consent Application FL/B-08:105 (see Appendix “C”). The Consent Application was denied by the Committee of Adjustment, and the decision was appealed to the Ontario Municipal Board by the applicant.

The proposal has merit and can be supported since the proposed rezoning will allow for the intensification of the subject lands for residential purposes. It is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

BACKGROUND:

Proposal

The applicant proposes a change in zoning to permit the construction of a single detached dwelling on a portion of the subject lands proposed to be severed (see Appendix “D”). This application also facilitates an appeal filed with the Ontario Municipal Board for a denied Consent application.

Consent Application (FL/B-08:105)

The applicant submitted an application to sever the lands at 236 Parkside Drive to create a new residential building lot with a frontage of 12m and an area of 548.64 sq.m, and retaining the balance of the subject lands with a frontage of 18.43m and an area of 842.62 sq.m. Staff recommended approval of the application, but it was denied by the Committee of Adjustment on October 2, 2008 (see Appendix “C”). Subsequently, the applicant appealed the Committee’s decision to the Ontario Municipal Board (OMB) (File No. PL081384) on October 29, 2008, and a hearing date has not been scheduled. Staff Report PED08308 was considered by the Economic Development and Planning Committee on December 2, 2008, to determine if Council should send Legal Services in support of staff or the Committee. Council received the report for information purposes and did not direct Legal Services to attend the OMB hearing for either position.

Details of Submitted Application

<table>
<thead>
<tr>
<th>Location:</th>
<th>236 Parkside Drive (Flamborough)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Michael Murray (Owner)</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Tony Millington (Applicant)</td>
</tr>
<tr>
<td>Property Description:</td>
<td>Frontage: 30.40±</td>
</tr>
<tr>
<td></td>
<td>Depth: 45.72m±</td>
</tr>
<tr>
<td></td>
<td>Area: 1,390.7 sq.m±</td>
</tr>
</tbody>
</table>
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Lands</td>
<td>Residential</td>
<td>Urban Residential (Single Detached) “R1-6” Zone, Modified</td>
</tr>
</tbody>
</table>

Surrounding Lands

<table>
<thead>
<tr>
<th>North</th>
<th>Residential/Vacant</th>
<th>Urban Residential (Single Detached) “R1-5” Zone, Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td>South</td>
<td>Residential</td>
<td>Urban Residential (Single Detached) “R1-1” Zone, Modified</td>
</tr>
<tr>
<td>East</td>
<td>Residential</td>
<td>Urban Residential (Single Detached) “R1-6” Zone, Modified</td>
</tr>
<tr>
<td>West</td>
<td>Residential</td>
<td>Urban Residential (Single Detached) “R1-6” Zone, Modified</td>
</tr>
</tbody>
</table>

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the policies of the Provincial Policy Statement;

   (ii) It conforms with the “Urban Area” designation of the Hamilton-Wentworth Official Plan, and the “Residential” designation for the Town of Flamborough Official Plan;

   (iii) It is an infill development that would be compatible with the surrounding residential area by maintaining the existing character of the neighbourhood; and,

   (iv) It is intended to facilitate a hearing at the Ontario Municipal Board (File No. PL081384) for a consent application (FL/B:08-105) which was denied by the Committee of Adjustment, but supported by staff.

2. The subject lands are located on the south side of Parkside Drive, directly across from the area defined by the Waterdown North Secondary Plan, which came into full effect in December 2008. The Plan supports new housing to have street presence and to have a mixture of housing types (such as single detached, semi-
detached, and duplex) and lot sizes throughout the low density designation along the north side of Parkside Drive. The south side of Parkside Drive has a variety of lot frontages. While the lots abutting the subject lands have a lot width of 30m, to the immediate west are three lots in the Urban Residential (Single Detached) “R1-1” Zone, Modified (which requires a minimum frontage of 12m), and to the east are six lots in the Urban Residential (Single Detached) “R1-2” Zone, Modified (which requires a minimum frontage of 15m) (see Appendix “A”). The variety of frontages along the south side of Parkside Drive support the creation of new residential lots that have smaller frontages than originally proposed by the Urban Residential (Single Detached) “R1-6” Zone, Modified. The proposed change in zoning complements the general intent of the Waterdown North Secondary Plan by providing a mixture of lot sizes along the south side on Parkside Drive.

Planning staff recommended approval of Consent Application FL/B-08:105 on the basis that the proposal is in keeping with the character along the south side of Parkside Drive and would complement the intent of the Waterdown North Secondary Plan. The Committee of Adjustment denied the consent application on the basis that it felt the proposed severance was not in keeping with the character of the neighbourhood (see Appendix “C”). Report PED08308 was prepared by staff and submitted to the Economic Development and Planning Committee for recommendation at its meeting of December 2, 2008. The report provided information on the proposed severance and outlined that a Zoning By-law amendment would be required to facilitate the proposed development. The report also provided the Committee with Alternatives for Consideration to determine if Council should send Legal Services in support of the Committee of Adjustment’s decision, support the position of City staff, or not send Legal Services for either position. The Committee received the report for information purposes, and did not direct Legal Services staff to attend the OMB hearing to defend the Committee of Adjustment’s decision.

3. The differences between the Urban Residential (Single Detached) “R1-6” Zone, Modified, and the Urban Residential (Single Detached) “R1-1” Zone, Modified, are shown in the table below.

<table>
<thead>
<tr>
<th>Provisions</th>
<th>“R1-6”</th>
<th>“R1-1”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area (Minimum)</td>
<td>1,390 sq.m</td>
<td>366 sq.m</td>
</tr>
<tr>
<td>Lot Frontage (Minimum)</td>
<td>30m</td>
<td>12m</td>
</tr>
<tr>
<td>Height (Maximum)</td>
<td>8.2m</td>
<td>11m</td>
</tr>
<tr>
<td>Lot Coverage (Maximum)</td>
<td>15%</td>
<td>40%</td>
</tr>
<tr>
<td>Front Yard (Minimum)</td>
<td>7.5m</td>
<td>7.5m</td>
</tr>
<tr>
<td>Rear Yard (Minimum)</td>
<td>7.5m</td>
<td>7.5m</td>
</tr>
<tr>
<td>Interior Side Yard (Minimum)</td>
<td>3.0m</td>
<td>1.2m</td>
</tr>
<tr>
<td>Floor Space (Maximum)</td>
<td>186 sq.m (1 Storey)</td>
<td>186 sq.m main floor (1 ½ Storeys)</td>
</tr>
</tbody>
</table>
4. A single written submission was made by the adjoining property owner at 232 Parkside Drive to the Committee of Adjustment regarding the proposed severance (see Appendix “E”). Concerns focused on the frontage compared to other lots on Parkside Drive, as well as the impact the proposed dwelling would have on the owner’s quality of life at 232 Parkside Drive. Currently, the property on the west side of 232 Parkside Drive is in the Urban Residential (Single Detached) “R1-1” Zone, Modified, and has a front yard of 7.5m, consistent with the provisions of “R1-1” and the “R1-6” zones. The dwelling at 232 Parkside Drive is setback in excess of the minimum required front yard setback of 7.5m and is, in fact, set back farther than the rest of the single family dwellings along Parkside Drive (see Appendix “F”). As such, the newer dwelling at 236 Parkside Drive will be more in keeping with the character of Parkside Drive.

5. There are many trees on the portion of the subject lands to be severed. The creation of a new residential building lot for a single detached dwelling shows that there are potential Urban Forestry conflicts. The Forestry and Horticulture GIMS Tree Inventory shows three mature trees on the subject lands that are located on, or directly adjacent to, the Road Allowance of Parkside Drive. These trees denoted as, Assets 237943, 237942 and 237940 (a 38cm d.b.h Shagbark Hickory, 34cm d.b.h Green Ash and 49cm d.b.h White Pine) were found to be in varying condition with the Shagbark Hickory being the most healthy. Any of the above trees that are confirmed to be on Municipal property will be governed under The City of Hamilton Tree By-law 06-151. A Tree Management Plan would be requested as a condition of approval should the O.M.B decide in favour of the appellant.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the Owner can continue to utilize the subject lands for residential purposes, as prescribed by the Urban Residential (Single Detached) “R1-6” Zone. Additionally, the Ontario Municipal Board has held the appeal in abeyance pending a Council decision on the requested amendment to the Zoning By-law for the lands known as 236 Parkside Drive.

**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

This application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that focus growth in settlement areas (Policies 1.1.3.1). Therefore, the proposal to change the zoning of the subject lands in order to facilitate the creation of one new residential building lot for a single detached dwelling is consistent with the principles and policies of the PPS.

Hamilton-Wentworth Official Plan

The subject lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Therefore, the proposal conforms to the Plan.

Town of Flamborough Official Plan

The subject property is designated as “Residential” within the Town of Flamborough Official Plan. The following policies of the Town of Flamborough Official Plan, among others, are applicable to this application:

“E.3 Housing

E.3.1.1(v) Council supports the creation of new housing units through intensification and innovative design in appropriate areas.

E.3.1.1(xii) When considering all new housing development or redevelopment, Council will require consideration of 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 the streetscape and landscape is maintained or improved.
- That adequate separations are maintained through distance and/or buffering features between residential and adjacent land uses, particularly involving the privacy areas of adjacent residences.
E.3.2 Intensification

E.3.2.1(ii) Infilling is the use of vacant land for new residential development, either by adding new units to an individual site or on newly created lots or sites, predominantly in built-up areas.

E.3.2.4(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.

(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.”

The proposal is in keeping with the Housing and Intensification policies of the Town of Flamborough Official Plan because it is compatible with the surrounding uses, is an infill development, and maintains the existing pattern of the streetscape. Therefore, the proposal conforms to the Town of Flamborough Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Capital Planning and Implementation Section, Public Works Department.
- Traffic Engineering and Operations Section, Public Works Department.
- Water and Wastewater Division, Public Works Department.
- Hamilton-Wentworth District School Board.
- Bell Canada.
- Union Gas.

Urban Forestry, Public Works Department - The creation of a new residential building lot for a single detached dwelling shows that there are potential Urban Forestry conflicts. These details have been discussed in the Analysis/Rationale section of this report.

PUBLIC CONSULTATION:

In accordance with Council’s Public Participation Policy, preliminary circulation is not required if the application is part of a Planning Study or other application (i.e. 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 property at 236 Parkside Drive was denied by the
Committee of Adjustment on October 2, 2008. There was one written response with respect to the proposed severance (see Appendix “E”), and only one interested party that attended the Public Meeting of the Committee of Adjustment. The concerns have been addressed in the Analysis/Rationale section of this report.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice sign was posted on the property on April 20, 2009.

**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 in that the proposed rezoning will be in keeping with City and Provincial infill policies, while maintaining the character of the neighbourhood.

**Environmental Well-Being is enhanced.** ☑ Yes ☐ No
Air quality, and water quality and quantity are protected in that the proposed rezoning will not have a negative impact on the environment.

**Economic Well-Being is enhanced.** ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported in that it is expected that firms within the City of Hamilton will be employed to facilitate the construction of the new dwelling.

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

:KM

Attachs. (6)
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 90-145-Z Respecting Lands Located at 236 Parkside Drive, in the former Town of Flamborough, now in the City of Hamilton

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 09- of the Economic Development and Planning Committee at its meeting held on the day of , 2009, recommended that Zoning By-law No. 90-145-Z, be amended as hereinafter provided;

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

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Schedule A-30 of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by changing the zoning from the Urban Residential (Single Detached) “R1-6” Zone to the Urban Residential (Single Detached) “R1-1” Zone on the lands, the extent and boundaries of which are more particularly shown on Schedule “A” annexed hereto and forming part of this by-law.

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

PASSED and ENACTED this  day of  , 2009.

__________________________________________  __________________________________________
Fred Eisenberger                                   Kevin C. Christenson
Mayor                                             Clerk

ZAR-09-012
This is Schedule "A" to By-Law No. 09-
Passed the ........... day of ......................, 2009

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Clerk
Mayor

Schedule "A"

Map Forming Part of By-Law No. 09-_____
to Amend By-law No.90-145-Z

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Subject Property

236 Parkside Drive, Flamborough
Change in Zoning from the Urban Residential (Single Detached) "R1-6" Zone to the Urban Residential (Single Detached) "R1-1" Zone.
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT LAND SEVERANCE
APPLICATION NO. FL/B-08:105
SUBMISSION NO. B-105/08

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 236 Parkside Drive,
formerly in the Town of Flambooth, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Millington and Associates on behalf of
the owner Michael Murray, for consent under Section 53(1) of The Planning Act, R.S.O. 1990,
Chapter 13, so as to permit the conveyance of a parcel of land measuring 12m x 45.72m (150')
containing a portion of an existing greenhouse (to be removed) for single family
residential purposes, and to retain a parcel of land measuring 18.43m x 45.72m (150')
containing an existing single family dwelling (to remain) and a portion of an existing
greenhouse (to be removed) for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS DENIED for the following reasons:

1. Having regard to the evidence, the Committee is of the opinion that the creation of a 12m
wide lot is out of character with the surrounding properties which front onto Parkside Drive
and does not appear to be in the interest of proper planning and development for the area.

2. The proposal does not comply with the requirements of the Zoning By-law.

3. The proposal does not comply with Section 51(24) of The Planning Act.

DATED AT HAMILTON this 2nd day of October, 2008.

M. Dudzic, Chairman

C. Lewis

D. Smith

L. Tev

L. Godfrey

D. Senftuk

M. Switzer

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS October 9th, 2008.

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL
BOARD MAY BE FILED IS October 29th, 2008.

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

CERTIFIED A TRUE COPY
SECRETARY/TREASURER
To Whom It May Concern,

Our home is at 232 Parkside Drive, which is adjacent to Mr. Murray’s property. We are opposed to this severance for many reasons.

Our home is set back approximately 85’ from the road. Previous developers have built a house on the driveway side of our property. The entire house is forward of our house thus we already have a brick wall on that side. If you allow a house to be built on this proposed severed property it will undoubtedly have to be at least partially forward of our home. Our front yard would have a brick wall on both sides.

There are currently 5 bungalows in a row; Mr. Murray’s being the middle one. A property this narrow wouldn’t lend itself to a bungalow, but a two-storey house wouldn’t be in keeping with the existing houses around it.

There are at least six mature trees that would have to be removed two of which are on the city’s property.

Mr. Murray’s property is 100” wide and is flanked on both sides by 100” wide properties. Presently that is in keeping with the nearest neighbors. If the property is severed it will not be.

The result of a house being built on this narrow property would severely diminish the enjoyment of our home as well as devalue our home. $4,800.00 per year in taxes on a 50-year-old 1,800 sq. ft. house already makes our property unattractive to buyers, this would make it more so and we would be left in a bad situation.

Our hope is that this committee would put themselves in our shoes and will turn this application down.

Thank you for taking the time to listen to our concerns.

Regards

Dave and Sue Smith