SUBJECT: Applications for a Draft Plan of Subdivision and Zoning By-law Amendment for Lands Located in the Southwest Quadrant of the Westover Settlement Area (Flamborough) (PED06034) (Ward 14)

RECOMMENDATION:

(a) That approval be given to amended Subdivision Application 25T-89001, by Gary Aikema, owner, to establish a draft plan of subdivision to create seven lots for single detached dwellings, on lands located on Part of Lot 30, Concession 5 (former Town of Flamborough), as shown on Appendix “A” to Report PED06034, subject to the execution of a City standard form Subdivision Agreement, including the conditions contained in Appendix “C” to Report PED06034, and the following:

(i) Acknowledgement that there will be no City share for any municipal works related to this development.

(ii) That payment of Cash-in-Lieu of parkland will be required for the development, prior to the issuance of each building permit for the lots within the plan. The calculation of the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of the Building Permit.

all in accordance with the Financial Policies and the City’s Parkland Dedication By-law, as approved by Council.

(b) That approval be given to amended Zoning Application ZAR-05-117, Gary Aikema, owner, for a change in zoning from the Settlement Residential Holding “R2(H)” Zone to the Settlement Residential “R2-28” Zone to permit the development of six lots for single detached dwellings on Block 1, from the Settlement Residential Holding “R2(H)” Zone to the Settlement Residential “R2-29” Zone to permit the development of one lot for a single detached dwelling on Block 2, and from the Settlement Residential Holding “R2(H)” Zone to the
SUBJECT: Applications for a Draft Plan of Subdivision and Zoning By-law Amendment for Lands Located in the Southwest Quadrant of the Westover Settlement Area (Flamborough) (PED06034) (Ward 14) - Page 2 of 12

Conservation Management “CM” Zone to permit Conservation uses on Block 3, for lands located in the Westover Settlement Area being Part of Lot 30, Concession 5 (former Town of Flamborough), as shown on Schedule “A” to Appendix “D” of Report PED06034, subject to the following:

(i) That Block “1” be rezoned from the Settlement Residential Holding “R2(H)” Zone to the Settlement Residential “R2-28” Zone.

(ii) That Block “2” be rezoned from the Settlement Residential Holding “R2(H)” Zone to the Settlement Residential “R2-29” Zone.

(iii) That Block “3” be rezoned from the Settlement Residential Holding “R2(H)” Zone to the Conservation Management “CM” Zone.

(iv) That the draft By-law, attached as Appendix “D” to Report PED06034, which has been prepared in a form satisfactory to the City Solicitor, not be enacted by City Council until a survey has been provided to delineate the boundary of the Conservation Management “CM” Zone, to the satisfaction of the Manager of Development Planning.

(v) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applications are for an Amended Draft Plan of Subdivision and corresponding Zoning By-law Amendment to permit seven lots for single detached residential development (Appendix “B”). The proposal has merit and can be supported since it is consistent with the Greenbelt Plan and the Provincial Policy Statement, and complies with the Hamilton-Wentworth Official Plan and the Flamborough Official Plan. The proposed subdivision is appropriate and would be compatible with existing residential development in the Westover Settlement Area.
BACKGROUND:

Proposed Draft Plan of Subdivision 25T-89001

The subject lands are located within the southwest quadrant of the Westover Settlement Area. Draft Plan approval for Subdivision 25T-89001 was originally granted by the Council of the former Town of Flamborough on September 10, 1990, to Maas Realty Limited, for the creation of ten residential lots on private services. The original Draft Plan of Subdivision proposed nine lots to be created along a new public street, which would be developed as a cul-de-sac with access to Westover Road. The remaining lot would front directly onto 6th Concession Road and Westover Road (see Appendix “E”). The original Draft Plan was never registered and was assigned to the current owner in February, 2004.

The purpose of the application is to consider a revised Draft Plan of Subdivision (Appendix “B”) for the creation of seven residential lots on private services. Five lots would have direct frontage on Westover Road (Lots 2-6), and two on 6th Concession Road (Lots 1 and 7). The proposed lots have lot frontages which range from 20.12 metres to 94.78 metres, and lot areas ranging from 0.51 hectares to 1.97 hectares.

The subject lands have undergone significant disturbance through the removal of topsoil and are currently vacant. Most of the property is zoned Settlement Residential Holding “R2(H)” Zone (Appendix “A”). The southwest portion of the subject lands, which includes most of Lot 6 and the rear part of Lots 4 and 5 (Appendix “B”) are wooded and traversed by a portion of the Westover Creek. This area is part of an Environmentally Significant Area known as the “Westover Southwest Complex Environmentally Significant Area” (ESA) and the “Sheffield-Rockton Complex Provincially Significant Wetland” (PSW). Most of this area is currently zoned Conservation Management “CM” Zone and a smaller portion is zoned Settlement Residential Holding “R2(H)” Zone.

Proposed Zoning By-law Amendment ZAR-05-117

The proposed Zoning By-law Amendment is required to address technical issues which have been identified through the review of the proposed Draft Plan of Subdivision. The proposed rezoning is required primarily to allow for a realignment of the Conservation Management “CM” Zone boundary, as recommended by the Hamilton Conservation Authority to implement the applicant’s Environmental Impact Study. The proposed zoning boundary adjustment would allow for a slight increase in the amount of Conservation Management “CM” zoned lands on proposed Lots 4, 5 and 6. These changes would allow the “CM” Zone Boundary to correspond to the boundary for the PSW.

The Hamilton Conservation Authority has also recommended that a minimum 30 metre setback be established for residential development from the Conservation Management “CM” Zone. This would require that the Settlement Residential Holding “R2(H)” Zone be modified to include this setback provision.
The proposed rezoning would also address the removal of the ‘H’ Holding symbol to permit residential development, and a reduced minimum lot frontage regulation of 20 metres in lieu of 30 metres for proposed Lot 7 along 6th Concession Road.

Owner: Gary Aikema

Agent: George McKibbon, McKibbon Wakefield Ltd.

Location: Part of Lot 30, Concession 5 West, Flamborough, located on the southwesterly quadrant of Westover Road and 6th Concession Road (See Appendix “A”)

Property Size:
- Area: 5.66 Ha. (13.99 Acres)
- Frontage: 302.78 metres along Westover Road
  20.12 metres and 54.48 metres along 6th Concession Road
- Depth: 213.74 metres

Existing Land Use and Zoning:

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Subject Lands:</td>
<td>Vacant and partially wooded (ESA and PSW)</td>
<td>Settlement Residential Holding “R2(H)” Zone, and Conservation Management “CM” Zone</td>
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<tr>
<td>Surrounding Lands:</td>
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<tr>
<td>West</td>
<td>Vacant and Wooded Lands (ESA and PSW)</td>
<td>Agricultural “A” Zone and Conservation Management “CM” Zone</td>
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<tr>
<td>North</td>
<td>Single detached dwellings and Cemetery (abutting Proposed Lot 7)</td>
<td>Settlement Residential “R2” Zone, Park Open Space “O2” Zone</td>
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<tr>
<td>East</td>
<td>Single detached dwellings and Vacant Land</td>
<td>Settlement Residential “R2” Zone and Settlement Residential Holding “R2(H)” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Wooded Lands and Swamp (ESA and PSW)</td>
<td>Agricultural “A” Zone and Conservation Management “CM” Zone</td>
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ANALYSIS/RATIONALE:

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

   (i) It is consistent with the Greenbelt Plan and Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.

   (ii) It conforms to the policies of the Flamborough Official Plan for the development of Rural Settlement Areas.

   (iii) It is compatible with the surrounding residential development and allows for the reasonable development of an underutilized parcel within an existing Settlement Area.

2. The configuration, lot depth and arrangement of the proposed lots addresses the protection and sustainability of the existing ESA and PSW, as recommended by the approved EIS by Natural Resource Solutions Inc. Through the creation of deep lots (i.e. 214 metres) along Westover Road, the proposal allows for the integration of residential development and conservation uses. The proposed adjustment to the Conservation Management “CM” Zone boundary would enhance the existing ESA/PSW by protecting a larger portion of Lots 4, 5 and 6. The proposed 30 metre minimum development setback for the Settlement Residential “R2-28” Zone will establish a buffer between the residential uses of Lots 3, 4, 5 and 6 and the ESA/PSW to protect the groundwater and ecological functions of the wetland. The oversizing of Lot 6 is necessary in order to address the environmental issues, while allowing for the provision of a modest development envelope.

3. The special provision to permit a minimum lot frontage of 20 metres (in lieu of 30 metres) for Lot 7 is necessary due to the development of existing uses along 6th Concession Road, which abut the property. The applicant advises that it was not possible to acquire additional land to create a wider parcel or to sell the frontage portion to the abutting neighbour. The reduced frontage of Lot 7, while less than the minimum requirement of the Settlement Residential “R2” Zone of a minimum 30 metres, would not create any negative impacts to the cemetery to the west or the neighbouring residence to the east. As this change only affects Lot 7, it is recommended that a separate residential zone be established to address this provision, to be known as the Settlement Residential “R2-29” Zone. In order to protect the existing cemetery hedgerow and to ensure that existing gravestones along the property line are not disturbed, a special provision is included for Lot 7 in the Settlement Residential “R2-29” Zone to establish a minimum 1 metre buffer from the cemetery property line in which no buildings, structures and fences are permitted. In addition, a condition of draft plan approval has been included in Appendix “C” to prohibit construction, grading and subsurface disruption within the 1 metre buffer and to limit maintenance to the existing trees and removal of
dead trees. The condition also requires a warning clause in all agreements of purchase and sale.

4. When Flamborough Zoning By-law No. 90-145-Z was enacted by the former Town of Flamborough on November 5, 1990, a number of properties located within Rural Settlement Areas, which were not the subject of formal development proposals, had been zoned with the Holding symbol ‘H’. The purpose of the Holding symbol ‘H’ was to prohibit development until such time as further planning applications on the lands were approved by the Town. As the lands are within a proposed Draft Plan of Subdivision which can be supported, the ‘H’ Holding symbol can be removed.

5. As there will be no new roads created and development will occur on individual private services, there is no City cost sharing required for the proposed development.

6. The conditions of draft approval set out in Appendix “C” to this report are comprised of the standard conditions from the Streamlining and Harmonization of Subdivision, Condominium and Part Lot Control Approvals and Administration Process, and have been updated to meet the new Financial and Engineering Guidelines for development.

Special conditions have also been added to the conditions of draft approval for this subdivision, which include the following:

- That the Owner dedicate a road widening of 3 metres along Westover Road for the full length of the subdivision (Special Development Engineering Condition No. 6).

- That the Owner submits a Storm Water Management report to address quality and quantity treatment of run-off which demonstrates the resulting runoff from the proposed development will not negatively impact downstream properties (Special Development Engineering Condition No. 7).

- That the Owner install street lighting on 6th Concession Road and Westover Road adjacent to the subdivision (Special Development Engineering Condition No. 8).

- That the Owner submits detailed site grading and drainage and tree preservation plans, to the satisfaction of the Hamilton Conservation Authority (Special Hamilton Conservation Authority Conditions No. 16 and 17).
That the Owner undertakes a programme for ground water monitoring to ensure adequate potable water, to the satisfaction of the Medical Officer of Health, and provide the required securities for such a programme (Special Public Health & Community Services Department Conditions 11-15).

ALTERNATIVES FOR CONSIDERATION:

A previous alternative has been considered in the form of the original subdivision proposal for ten lots. This alternative, although draft approved, would introduce a new public street adjacent to an Environmentally Significant Area and Provincially Significant Wetland. At the time of the original draft approval, an Environmental Impact Study had not been required to assess the impacts on the ESA and wetland. This option may have a negative impact upon the ESA and wetland.

The current application is favoured because it represents a comprehensive approach to development through the consideration of environmental impacts, groundwater issues and development engineering matters. In particular, it would allow for an appropriate scale of residential development within an existing Settlement Area and the protection and enhancement of the adjacent ESA and Provincially Significant Wetland.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: No implications on financial resulting, except for a cost share of 50% for fencing adjacent to the cemetery.

Staffing: No implications on staffing resulting.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider applications for a Zoning By-law Amendment and a Draft Plan of Subdivision.

POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject lands are designated as “Protected Countryside/Hamlet” within the Greenbelt Plan. The Greenbelt Plan permits infill and intensification of Hamlets through Policy 3.4.3.1, subject to appropriate water and sewage services. The proposed Draft Plan of Subdivision would represent appropriate infill by introducing lots for single detached dwellings into the southwest quadrant of the Westover Settlement Area. A peer-reviewed Hydrogeological Study has confirmed that the proposed lots are suitable for the provision of private wells. The subject lands are outside, but adjacent to lands which are designated “Natural Heritage System”.
Provincial Policy Statement

The proposed Draft Plan of Subdivision is consistent with the PPS by focusing growth in urban areas, which includes hamlets. As a portion of the subject lands are within a Provincially Significant Wetland (PSW), an Environmental Impact Study (EIS) has been required to demonstrate that adjacent development (defined as being within 120 metres of the PSW) will not negatively impact the natural features or ecological functions of the area. The applicant’s EIS is consistent with the recommendations of the Hamilton Conservation Authority and ESAIEG to ensure that an appropriate buffer is maintained from the PSW for new residential development. This is being addressed by requiring a minimum setback of 30 metres from the revised Conservation Management “CM” Zone boundary.

Hamilton-Wentworth Official Plan

The subject property is designated “Rural Area”, (Rural Settlement Area – Westover) within the Hamilton-Wentworth Official Plan.

As portions of the property are designated as an Environmentally Sensitive Area (ESA No. 25 – Westover Lowland Forest and Drumlin Field), an Environmental Impact Study was required for review by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG). As noted in the PPS section, the applicant’s EIS is consistent with the recommendations of ESAIEG and the Hamilton Conservation Authority to ensure appropriate buffers from the ESA/PSW for new residential development.

Flamborough Official Plan

The subject lands are identified as part of a “Rural Settlement Area” (Westover) on Schedule “B”, Rural Land Use Plan to the Flamborough Official Plan. The lands are further designated “Residential” within the Westover Settlement Area on Schedule ‘B-9’.

Policy B.10.3 states that all development in the “Rural Settlement Areas” shall be required to provide an adequate supply of potable water and septic disposal capability to the satisfaction of the Public Health Department. As part of the subdivision review, the applicant was required to submit a hydrogeological report which assessed the capability of the soils for accommodating septic systems and a potable water supply. This report has been found to be acceptable to both the peer reviewer and the Public Health Department.

Policy B.10.5 states that development in a “Rural Settlement Area” shall proceed only when it is proven that the quality of the environment will not be adversely affected, and that the proposed uses are compatible with existing uses. An EIS has been provided for the proposed Draft Plan of Subdivision, to the satisfaction of the Hamilton Conservation Authority and ESAIEG, which indicates that there would be no direct impacts upon the ESA and wetlands from the development. The applicant’s Hydrogeological Study has also indicated that the infiltration of septic effluent will not adversely affect surface
or groundwater quality. The ESA and PSW would be protected through the establishment of a minimum 30 metre setback, which is a recommendation of the EIS and supported by the Hamilton Conservation Authority and ESAIEG. In terms of compatibility, the proposed lots, although deeper and larger in area, would be compatible with the existing residential lots within the Westover Settlement Area.

The proposed Draft Plan of Subdivision conforms to Policy B.10.6, which directs that the permitted use in areas designated “Settlement Residential” shall generally be single detached dwellings.

The proposed Draft Plan of Subdivision and Zoning By-law Amendment, therefore, conform to the policies of the Flamborough Official Plan.

**RELEVANT CONSULTATION:**

Department/Agencies with no concerns or objections:

- Strategic and Environmental Planning, Capital Planning and Implementation, Public Works Department.
- Traffic Engineering Section, Operations and Maintenance Division, Public Works Department.
- Budgets and Finance Division, Corporate Services Department.
- Hamilton-Wentworth District School Board.
- Bell Canada.

**Environmental Health Section, Health Protection Branch, Public Health & Community Services Department**

Cash-in-Lieu of Parkland Dedication is required as a condition of approval. Initial concerns are with respect to the impact on the Provincially Significant Wetlands for proposed Lot 6. The amount of space for a building envelope appears to be congested. Consideration should be given to the reconfiguration of Lot 6 to provide more buffer space to the wetlands.

Public Health is satisfied that the additional peer review work submitted by Goffco Limited has addressed issues raised in the applicant’s Hydrogeological Report by Peto McCallum Limited. However, conditions are recommended which address ground water monitoring for the proposed lots to ensure adequate potable water.

Comment: The Recommendation Section of this report and Development Planning Standard Condition 14 (Appendix “C”) require Cash-in-Lieu of parkland. The recommended zoning would establish a minimum 30 metre setback for residential development from the adjacent ESA/PSW, which is recommended in the approved EIS and required by the Hamilton Conservation Authority. This would serve as an adequate buffer to protect the ESA/PSW.
Concerning Lot 6, although most of the lot is restricted to development due to the realigned “CM” Zone boundary and the required 30 metre minimum setback, the development envelope, which would be approximately 2000 square metres and located in the northeast portion of the lot, would be adequate. The adequacy of the development envelope for Lot 6 has also been confirmed by the peer reviewed hydrogeological study and the approved EIS.

Recommendations: That Special Conditions 11, 12, 13, 14, and 15 for ground water monitoring and securities be included in the Draft Plan of Subdivision Approval Conditions in Appendix “C.

Forestry and Horticulture Section, Operations and Maintenance Division, Public Works Department

A Landscape Plan shall be provided and submitted for review by this Section. One tree, as described in the City of Hamilton’s Suitable Tree Species List, shall be planted on the Road Allowance of each lot unless it is a corner lot, in which three trees shall be planted.

Recommendations: That Development Planning Standard Condition 17 be included in the Draft Plan of Subdivision Approval Conditions in Appendix “C.

Open Space Development and Park Planning Section, Capital Planning and Implementation Division, Public Works Department

The subject lands adjoin the Westover Cemetery. The hedgerow vegetation has grown into the existing farm style fence abutting proposed Lot 7. The three large spruce trees and elm are well established, helping to define the property boundary of the cemetery lands to the North. The old grave markers within the cemetery located adjacent to the fence line can not be disturbed by new construction. A 1 metre buffer is required on proposed Lot 7 in which no new construction may occur. Only maintenance pruning of vegetation and removal of dead trees would be permitted along the fence line. No subsurface disturbance along the fence line will be permitted. If the owner wishes to establish new fencing, it shall be erected outside of the 1 metre buffer area, at the full cost to the owner.

An EIS will be required under provincial policy as the lands are within 120 metres of a Provincially Significant Wetland. The wetland boundary should be staked in the field by the Hamilton Conservation Authority.

Consideration should be given to the size of the adjacent lands to the PSW and, if appropriate, a minimum 30 metre wide open space trail connection from the street frontage to the wetland should be considered as part of the open space requirements.

Comment: To address the protection of the hedgerow and to minimize disruption to existing grave sites, a minimum 1 metre setback is recommended in the site-specific
Zoning for Lot 7 ("R2-29" Zone) along the boundaries of the cemetery property. Concerning a future trail connection, human activity is generally discouraged within the ESA/PSW because of the environmental sensitivity of the area. A trail would not form part of a continuous trail system and would have only limited value because it would only apply to Lots 4, 5 and 6. There is an issue of long-term maintenance because the lands would be held in private ownership rather than under the ownership of the Hamilton Conservation Authority or by the City. It is noted that the lands located on the northeast quadrant of the Westover Settlement Area, which contain the drumlin feature, are under the ownership of the Hamilton Conservation Authority and include a trail. A trail is not appropriate for the wetland/ESA portion of the proposed subdivision.

**Recommendations:** A minimum 1 metre setback for any buildings, structures and fences should be provided in the Settlement Residential “R2-29” Zone along the boundaries with the cemetery property (Park Open Space “O2” Zone).

**Cemeteries Section, Capital Planning and Implementation Division, Public Works Department**

Along the common property line with the Cemetery there is an existing mature hedgerow. Only maintenance pruning of vegetation and removal of dead trees would be permitted along the common lot boundary.

**Recommendations:** That a Special Development Planning Condition 10 be included in the Draft Plan of Subdivision Approval Conditions in Appendix “C.”

**Hamilton Conservation Authority**

The Authority is satisfied that the proposed rezoning would implement the recommendations of the applicant’s EIS by Natural Resource Solutions Inc. to establish a minimum 30 metre setback from the PSW boundary. The minimum 30 metre setback would apply to all buildings, structures, swimming pools, septic beds, and any grading or filling works. The adjustment to the Conservation Management “CM” Zone boundary would enable the zoning to correspond to the boundary of the Provincially Significant Wetland.

With respect to the proposed Draft Plan of Subdivision, a site grading and drainage plan, and a sediment and erosion control plan would be required to satisfy the Authority’s concerns that the proposed Appendix “B” to Report PED06034. Proposed Draft Plan of Subdivision, “Westover Winds”, development maintains appropriate buffers from the wetland as well as maintaining existing drainage patterns.

Although the EIS states that there would only be a minimal increase in impervious surfaces and there is no need for a storm water management report, the Authority requests that a storm water management report be submitted to address pre to post quantity control and Level 1 quality control. Quality control could be achieved through grassed swales.
The Authority is also requesting that a landscaping plan and tree preservation plan be included as conditions of draft plan approval.

**Recommendations** - That Hamilton Conservation Authority Standard Conditions 1 and 2 and two Special Conditions 16 and 17 be included in the Draft Plan of Subdivision Approval Conditions in Appendix “C.”

**Public Consultation**

In accordance with the new Public Participation Policy, approved by City Council on May 29, 2003, revised applications were circulated to 35 property owners within 120 metres of the property and a public notification sign was posted on the property. No public comments have been 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  
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 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

:CT

Attachs. (5)
“Westover Winds Subdivision” – Conditions of Draft Approval


2. That the following standard conditions from Appendix “A” of Report PD01184 (Streamlining and Harmonization of Subdivision, Condominium and Part Lot Control Approvals and Administration Processes) shall apply:

(a) Development Engineering
   Standard Conditions 1, 2, 7, 21, 24, 25, 26, 29, and 33.

(b) Development Planning
   Standard Conditions 1, 3, 4, 5, 12, 14, 15, 17, 20 and 21

(c) Hamilton Conservation Authority
   Standard Conditions 1 and 2

Planning and Development, Development Engineering Section

3. That the Owner enter into a subdivision agreement with the City of Hamilton prior to registration of any portion of the draft approved plan.

4. That the Owner agree in writing to satisfy all conditions, financial and otherwise, of the City of Hamilton prior to registration of any portion of the draft approved plan.

5. That the Owner agree in writing to make a cash payment to the City in-lieu of providing Horizontal and Vertical Control Survey Monumentation.

6. That the owner be required to dedicate a road widening of 10 feet along Westover Road for the full length of the subdivision.

7. That the owner submits a detailed Storm Water Management report to address quality and quantity treatment of run-off, to the satisfaction of the Manager of Development Engineering. The report must also demonstrate that the resulting runoff from the proposed development will not negatively impact downstream
properties, to the satisfaction of the Manager of Development Engineering.

8. That the owner agrees to provide street lighting on 6th Concession Road and Westover Road adjacent to the subdivision to the satisfaction of the Manager of Development Engineering at his sole expense.

9. That the Owner covenants and agrees to include the following notice in offers of purchase, sale or lease for Lots 1-6 inclusive:

“It shall be the sole responsibility of the lot owners and occupiers, to maintain the physical appearance of the drainage swale to the City’s standards and as depicted on the grading plan approved by the City of Hamilton. It is also acknowledged that flooding may occur within the drainage swale during storm events. The subsequent owners are hereby notified that entry into the drainage swale shall be done at their own legal and physical risk.”

Planning and Development, Development Planning Section

10. That the Owner agrees that there will be no construction, grading or subsurface disruption of soil on Lot 7 within 1 metre of the Westover Cemetery, and that maintenance along the boundary with the Westover Cemetery shall be limited to the pruning of existing trees and the removal of dead trees. Furthermore, a warning clause shall be included in all Purchase and Sale Agreements to address this buffer requirement.

Public Health & Community Services Department

11. The Owner agrees to undertake a ground water monitoring programme, to be approved by the “Medical Officer of Health or his/ her designate” for the entire subdivision prior to the date of issuance by the City for a sewage system on any lot or block in the plan.

12. The Owner agrees to carry out at his expense for a period of not less than two (2) years and not more than five (5) years the time period to be determined by the “Medical Officer of Health or his/ her designate” after 80 % of the homes in the plan are occupied, including but not restricted to the construction of monitoring wells, twice yearly samplings for nitrate, and total organic carbon orthophosphates or as directed by the approved monitoring programme.
13. The Owner agrees to ensure that the results of the ground water monitoring programme are reviewed by a qualified person and to submit a written report containing such results to the “Medical Officer of Health or his/ her designate” on or before the first day of February each year that the ground water monitoring programme is required.

14. The Owner agrees that should the ground water monitoring program indicate that further action is necessary to reduce nitrate concentrations, the Owner agrees to take all actions as may be necessary, at his entire expense to reduce the nitrate concentration to a level acceptable to the “Medical Officer of Health or his/ her designate”.

15. The Owner shall submit securities for the cost of undertaking a ground water monitoring programme to the satisfaction of Director of Public Health & Community Services Department.

Hamilton Conservation Authority

16. That the Owner shall submit a detailed site grading and drainage plan to the satisfaction of the General Manager, Hamilton Conservation Authority.

17. That the Owner shall submit a tree preservation Appendix “B” to Report PED06034 Proposed Draft Plan of Subdivision “Westover Winds” plan and landscape plan to the satisfaction of the General Manager, Hamilton Conservation Authority.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 90-145-Z (Flamborough), respecting lands described as being Part of Lot 30, Concession 5 (Beverly), in the former Town of Flamborough, now in the City of Hamilton

WHEREAS the City of Hamilton Act, 1999, Statues 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 of 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 or 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 (Formerly the Town of Flamborough Official Plan), 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-42, attached to and forming part of Zoning By-law No. 90-145-Z, is hereby amended by changing the zoning from Settlement Residential Holding “R2(H)” Zone to the following:

(i) the Settlement Residential “R2-28” Zone for lands comprised in Block 1; and,

(ii) the Settlement Residential “R2-29” Zone for lands comprised in Block 2;

(iii) the Conservation Management “CM” Zone for lands comprised in Block 3;

the extent and boundaries of which are set out in Schedule “A” annexed hereto and forming part of this By-law.

2. Section 7 – Settlement Residential Zone of Zoning By-law No. 90-145-Z (Flamborough) is hereby amended by adding thereto the following subsections:

“7.3.28 ‘R2-28’ (see Schedule A-42)

Permitted Uses:

In accordance with Section 7.1

Zone Provisions:

(a) Minimum setback from Conservation Management “CM” Zone 30 metres for all buildings and structures, including septic systems, swimming pools and driveways.

(c) All other provisions of Subsection 7.2 “R2” Zone shall apply.”

“7.3.29 ‘R2-29’ (see Schedule A-42)

Permitted Uses:

In accordance with Section 7.1

Zone Provisions:

(a) Minimum setback from Conservation Management “CM” Zone 30 metres for all buildings and structures, including septic
systems, swimming pools and driveways.

(b) Minimum Lot Frontage 20 metres
(c) Minimum Setback from an “O2” Zone 1 metre for all buildings, structures and fences
(d) All other provisions of Subsection 7.2 “R2” 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 , 2006.

_________________________________________         _______________________________
MAYOR             CLERK

ZAR-05-117, 25T-89001
Schedule "A"

Map Forming Part of By-Law No. 06—____ to Amend By-Law No. 90-145-Z

Subject Property

- Block 1 - Lands to be Rezoned to Settlement Residential "R2-26" Zone
- Block 2 - Lands to be Rezoned to Settlement Residential "R2-29" Zone
- Block 3 - Lands to be Rezoned to Conservation Management "CM" Zone

Conservation Management "CM" Zone Boundary to be confirmed prior to enactment

Planning and Economic Development Department

Hamilton

Scale: Not to Scale

File Name/Number: 25T89001 / ZAR-05-117

Date: January 6, 2006

Planner/Technician: CT/MC