SUBJECT: Removal of Niagara Escarpment Commission Development Control from Urban Areas of Ancaster and Rezoning of 197 and 205 Lovers Lane (Ancaster) (PED07205) (Ward 12)

RECOMMENDATION:

That approval be given to City Initiative CI-07-F to remove the Niagara Escarpment Development Control Area from a portion of Map 1 to Schedule “B” (Urban Area) and Map 2 to Schedule “B” (Village Core) of the Town of Ancaster Zoning By-law No. 87-57, as shown on Schedules “A” and “A1” of Appendix “A” to Report PED07205, and to change the zoning on the properties located at 197 and 205 Lovers Lane from the Deferred Development “D” Zone to the Residential “R3” Zone, as shown on Schedule “A” of Appendix “B” to Report PED07205, on the following basis:

(a) That the Niagara Escarpment Development Control Area be removed from Map 1 to Schedule “B” (Urban Area) and Map 2 to Schedule “B” (Village Core) of the Town of Ancaster Zoning By-law No. 87-57, for the lands shown on Schedules “A” and “A1” of Appendix “A” to Report PED07205.

(b) That lands shown on Schedule “A” of Appendix “B” to Report PED07205, known as 197 and 205 Lovers Lane, be rezoned from the Deferred Development “D” Zone to the Residential “R3” Zone.
(c) That the draft By-laws, attached as Appendices “A” and “B” to Report PED07205, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(d) That the proposed changes in zoning are in conformity with the Official Plans for the Region of Hamilton-Wentworth and the City of Hamilton.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

On July 19, 2007, the Minister signed the regulation that lifted Niagara Escarpment Commission (NEC) Development Control from the NEC Urban Area designated lands in Ancaster under the Niagara Escarpment Plan (NEP). This initiative is proposing to amend Maps 1 and 2 to Schedule “B” of the Town of Ancaster Zoning By-law to remove the areas shown on Schedules “A” and “A1” of Appendix “A” from Niagara Escarpment Commission (NEC) Development Control.

In addition, this initiative is proposing to rezone the properties at 197 and 205 Lovers Lane from the Deferred Development “D” Zone to the Residential “R3” Zone. This is required because the “D” Zoning, which will come into effect on these two properties when Development Control is removed, does not permit the construction of a new single detached dwelling. As these two building lots were previously created by approval of a severance application by the Committee of Adjustment and a Development Permit by the NEC, staff is of the opinion that it is appropriate, at this time, to establish zoning which will allow the residential development.

**BACKGROUND:**

A large portion of lands within the City of Hamilton are under the jurisdiction of the NEC, and are subject to NEC Development Control, as per Regulation 826/90. NEC Development Control requires a landowner to obtain a Development Permit for any development on their property. For areas which are subject to NEC Development Control, local zoning does not apply. When a Development Permit application is received by the NEC, the application is circulated to the local municipality for comments. However, the final decision on approval of the Development Permit rests with the NEC.

The NEP establishes several land use categories, including Escarpment Natural Area, Escarpment Protection Area, Escarpment Rural Area, and Urban Area. Within the City of Hamilton, most of the lands designated as Urban Area within the NEP have been
removed from Development Control. This is true of most of the Urban Area lands in the former municipalities of Hamilton, Stoney Creek, Dundas and Flamborough. However, the Urban Area lands in Ancaster were subject to NEC Development Control.

The notice that the NEC had initiated the process to remove Development Control from the Urban Area of Ancaster was posted on the Ministry of Natural Resources' Environmental Bill of Rights (EBR) Registry website. The proposed amendment was posted to the EBR website on May 28, 2007. Any interested parties were to have provided comments by June 27, 2007. On July 19, 2007, the Minister of Natural Resources signed the regulations that lifted Development Control from the lands subject of this initiative. This City Initiative brings the former Town of Ancaster Zoning By-law in conformity with the amended NEP.

**ANALYSIS/RATIONALE:**

**Removal of Development Control from Maps 1 & 2 to Schedule B – Town of Ancaster Zoning By-law**

The areas which are removed from NEC Development Control are largely developed or approved for development. Several areas within the Urban Area in Ancaster have already been removed from Development Control in the past as part of previous applications for subdivision approval. The effect of this initiative is that the former Town of Ancaster Urban Area will now only be regulated by the Zoning By-law.

Areas that are designated as Escarpment Natural Area, Escarpment Protection Area, and Escarpment Rural Area within the NEP will remain under Development Control. This will ensure that the NEC can continue to meet its objective to protect the unique ecological and natural aspects of the Niagara Escarpment.

It is noted that this initiative is for approval only to amend the affected Zoning Maps of the Town of Ancaster Zoning By-law to reflect the lands being removed from the Development Control Area. This initiative is not seeking approval to remove the lands from Development Control. That is a separate process which was initiated by the NEC and approved by the Minister of Natural Resources, as described above. With the approval by the Minister, it is necessary for the City to implement this decision by updating the Zoning Maps accordingly.

**Underlying Municipal Zoning and 197 & 205 Lovers Lane**

For lands which are under Development Control, municipal zoning does not apply. If a landowner wishes to develop their property in any manner, they must apply for a Development Permit from the NEC, and if approved, a building permit from the City of Hamilton. The removal of Development Control from the Urban Area in Ancaster requires that municipal zoning be applied to these properties. Any new development in the future will be required to comply with the Ancaster Zoning By-law before any
building permit is issued. The area removed from Development Control already contains underlying municipal zoning which has not been in effect while the area has been under Development Control. With the removal of Development Control, this underlying zoning is in effect for all properties.

Staff has reviewed the existing underlying zoning and generally has no concerns with it coming into effect with the removal of Development Control. However, there are two properties which staff are recommending be rezoned as part of this initiative. These properties are located at 197 and 205 Lovers Lane. These are 2 of 5 lots, which were created as a result of a severance application by the Committee of Adjustment and a Development Permit issued by the NEC in 2005, for 5 new single detached dwellings on an existing lot at 189 Lovers Lane. One of these lots containing the existing house was retained by the owner. Two additional lots have been issued Development Permits by the NEC and the new homes are under construction. However, the remaining two lots (197 and 205 Lovers Lane) have not yet received Development Permits from the NEC (a Development Permit application has been received for 197 Lovers Lane, but has not been approved). The underlying zoning on these two lots, which is now in effect upon removal of Development Control, is the Deferred Development “D” Zone of the Town of Ancaster Zoning By-law. This Zone permits only agricultural uses, dwellings existing at the date of passing of the By-law, enlargement of the existing dwelling, and accessory structures. Therefore, this Zone would not permit the development of new homes on these two lots. As approval to create these two lots has already been granted, and an application for approval to construct a new home on one of the lots has already been received, it is staff’s opinion that the zoning on these two lots should be changed to an appropriate zone which will permit the development of a new single detached dwelling on each lot. Based on the sketch received with the Development Permit application at 197 Lovers Lane, staff is recommending that these two lots be rezoned to the Residential “R3” Zone. The proposed dwelling at 197 Lovers Lane would comply with all the regulations of this Zone.

**ALTERNATIVES FOR CONSIDERATION:**

If this initiative is not approved, the zoning maps of the Town of Ancaster Zoning By-law will not be updated to reflect the removal of Development Control from the NEP Urban Area of Ancaster. This would lead to confusion for staff and the public when dealing with development applications on these lands.

If the rezoning of 197 and 205 Lovers Lane is not approved, these property owners will not be able to build a new single detached dwelling on their properties under the Deferred Development “D” Zone now that Development Control has been removed. Consequently, the property owners would be required to apply for, and receive, approval of a rezoning application prior to the construction of a new dwelling.
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 amendment to the Zoning By-law.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The proposal is consistent with the principles and policies of the Provincial Policy Statement (PPS), which focus growth in settlement areas, Policy 1.1.3.1.

Hamilton-Wentworth Official Plan

The subject lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. The proposal to rezone the two properties at 197 and 205 Lovers Lane to permit a single detached dwelling on each lot complies with this designation.

Town of Ancaster Official Plan

The subject lands are designated “Residential” in the Town of Ancaster Official Plan. This designation permits a variety of residential dwelling types and encourages residential intensification. The proposed rezoning of 197 and 205 Lovers Lane complies with this designation.

RELEVANT CONSULTATION:

As part of the process to remove Development Control from the Urban Area of Ancaster, the proposal was posted on the Environmental Bill of Rights Registry website by the Minister of Natural Resources for public view and comment.

Staff attended the Ancaster Community Council to review this proposal and unanimous support was provided for the City Initiative.

Notice of the Public Meeting and rezoning was posted in the Hamilton Spectator on July 20, 2007. Regarding the rezoning of 197 and 205 Lovers Lane, staff has contacted the property owners to notify them of the proposed rezoning. At the time of writing this report, no response had been received from either property owner.
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 is involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☐ Yes ☑ No

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
Removal of Development Control from the Urban Area of Ancaster will provide consistency in application of zoning for all lands within the Urban Area.

:HT/AF
Attachs. (2)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 87-57 (Ancaster), as amended, Respecting Lands Within the Urban Area of Ancaster

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

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

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

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS the Council of the City of Hamilton, in adopting Section _____ of Report _____ of the Economic Development and Planning Committee at its meeting held on the _____ day of _____, 2007, recommended that Zoning By-law No. 87-57 (Ancaster), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the Former Town of Ancaster) in accordance with the provisions of the Planning Act.

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

1. Map 1 to Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by removing the Niagara Escarpment Development
Control Area from the Urban Area of Ancaster, the extent and boundaries of which are more particularly shown on Schedule “A” annexed hereto and forming part of this by-law.

2. Map 2 to Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by removing the Niagara Escarpment Development Control Area from the Village Core of Ancaster, the extent and boundaries of which are more particularly shown on Schedule “A1” annexed hereto and forming part of this by-law.

3. That the amending By-law be added to Maps 1 and 2 of Schedule B of Ancaster Zoning By-law No. 87-57.

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

PASSED and ENACTED this day of , 2007.

______________________________   ______________________________
Fred Eisenberger                 Kevin C. Christenson
Mayor                            City Clerk

CI-07-F
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.87-57

Subject Property

- Lands to be removed from
  Niagara Escarpment Development Control Area
  on Map 1 to Schedule "B" of
  Town of Ancaster Zoning By-law 87-57.
This is Schedule "A" to By-Law No. 07-
Passed the .......... day of ..................., 2007

Schedule "A1"

Map Forming Part of
By-Law No. 07-____
to Amend By-law No. 87-57

Subject Property

Lands to be removed from
Niagara Escarpment Development Control Area
on Map 2 to Schedule "B" of
Town of Ancaster Zoning By-law 87-57.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 87-57 (Ancaster), as amended,
Respecting 197 & 205 Lovers Lane (Ancaster)

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

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

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

AND WHEREAS Zoning By-law No. 87-57 (Ancaster) was enacted on the 22nd day of June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

AND WHEREAS the Council of the City of Hamilton, in adopting Section ___ of Report ___ of the Economic Development and Planning Committee at its meeting held on the ____ day of ____ , 2007, recommended that Zoning By-law No. 87-57 (Ancaster), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the Former Town of Ancaster) in accordance with the provisions of the Planning Act.

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

1. Map 1 of Schedule “B” of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by changing from the Deferred Development “D” Zone to
the Residential “R3” Zone, 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 amending By-law be added to Map 1 of Schedule B of Ancaster Zoning By-law No. 87-57.

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.

________________________________________  __________________________________________
Fred Eisenberger                          Kevin C. Christenson
Mayor                                    City Clerk

CI-07-F
Change in Zoning from Deferred Development "D" Zone to Residential "R3" Zone

Schedule "A"

Map Forming Part of By-Law No. 07-____

to Amend By-law No. 87-57

This is Schedule "A" to By-Law No. 07-

Passed the ........... day of .................., 2007

Clerk

Mayor

Subject Property

197 & 205 Lovers Lane, Ancaster
Change in Zoning from Deferred Development "D" Zone to Residential "R3" Zone

Scale: N.T.S.
File Name/Number: CI-07-F
Date: June 6, 2007
Planner/Technician: HT/F

Hamilton PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT