RECOMMENDATION

That approval be given to Zoning Application ZAR-10-016, by James Pelletier, Owner, for a modification in zoning from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential R1-45” Zone, Modified, with a Special Exception, to permit single-detached dwellings on the lands located at 15 McDonald Court and 45 Scott Street (Flamborough), as shown on Appendix “A” to Report PED10188, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10188, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law be added to Section 6 of Zoning By-law No. 90-145-Z as “R1-45”.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan, and the West Waterdown Secondary Plan.

EXECUTIVE SUMMARY

The purpose of the Zoning By-law Amendment application is to amend the Town of Flamborough Zoning By-law on the lands municipally known as 15 McDonald Court / 45 Scott Street (see Appendix “A”). The Zoning Amendment application is to satisfy Condition 3 of approved Severance Application FL/B-09:96, which was given final approval on February 17, 2010. The retained portion of the property is located in Part 1 of the property, and the severed portion of land, now known as 45 Scott Street, is located in Parts 2 and 3 of the subject property. There is an existing Bell easement, identified as Part 3 of the survey (see Appendix “C”).

The purpose of the application is to permit the construction of a single-detached dwelling and apply site-specific zoning provisions on 45 Scott Street (Part 2), and to modify the Urban Residential “R1-6” zone provisions of 15 McDonald Court (Part 1) as a result of the approved severance application (see Appendix “C”).

Alternatives for Consideration - See Page 13.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Consent Application (FL/B-09:96)

A Consent application to sever lands located at 15 McDonald Court was submitted to the Planning and Economic Development Department. The purpose of the application was to sever the rear portion (Parts 2 and 3) of the subject property and to retain the front portion (Part 1) of the subject property, which currently contains an existing single-detached dwelling (see Appendix “C”). There is an existing Bell easement located on Part 3 of the survey.
The Committee of Adjustment approved the application on January 28, 2010, and it was given final approval on February 17, 2010, subject to a number of conditions (see Appendix “D”). One condition of approval was that the owner receive zoning approval to permit the single-detached dwellings on the severed and retained portions of the subject property (Condition 3 - Appendix “D”), which are the subject of the Zoning By-law Amendment application.

Current Zoning By-law Amendment (ZAR-10-016)

The purpose of the subject application is for the modification to the current zoning to permit a reduction in the minimum rear yard setback for the retained lands (Part 1) of the subject property, and minimum lot area, maximum lot coverage, minimum rear yard, and maximum floor space for the severed lands (Part 2) of the subject property (see Appendix “C”). Single-detached dwellings will remain as a permitted use on the subject lands, as identified in the Urban Residential “R1” general zoning provisions.

The subject property is located on the northeast corner of McDonald Court and Scott Street (see Appendix “A”). Lands surrounding the subject property comprise of low density residential uses in the form of single-detached dwellings, and the Waterdown Municipal Service Centre (formerly the Town of Flamborough Municipal Hall).

Chronology:

January 28, 2010: Consent Application to sever a portion of 15 McDonald Court was submitted to the Planning and Economic Development Department.

February 18, 2010: Consent Application final approved.


April 15, 2010: Application of ZAR-10-016 was deemed complete; Circulation of Notice of Complete Application to residents within 120 metres of subject lands.

July 12, 2010: Meeting between the applicant and Urban Forestry staff to address the protection of a Municipal Asset tree.

August 20, 2010: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.
SUBJECT: Application to Amend Flamborough Zoning By-law 90-145-Z for the Property located at 15 McDonald Court / 45 Scott Street (Flamborough) (PED10188) (Ward 15) - Page 4 of 14

Details of Submitted Application:

Location: 15 McDonald Court / 45 Scott Street

Owner: James and Bernadette Pelletier

Property Description:

(15 McDonald Court)
- Frontage: 21.3 metres
- Lot Depth: 30.47 metres
- Area: 878.6 square metres

(45 Scott Street)
- Frontage: 21.6 metres
- Lot Depth: 30.47 metres
- Area: 658.1 square metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Single-detached Dwelling</td>
<td>Urban Residential (Single-Detached) “R1-6” Zone, Modified</td>
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<th>Surrounded Lands</th>
<th>Existing Land Use</th>
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<td>West Single-Detached Dwellings</td>
<td>Urban Residential (Single-Detached) “R1-6” Zone, Modified</td>
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<tr>
<td>North Single-Detached Dwellings</td>
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<tr>
<td>East Single-Detached Dwellings</td>
<td>Urban Residential (Single-Detached) “R1-2” Zone, Modified</td>
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<tr>
<td>South Single-Detached Dwellings; Waterdown Municipal Service Centre</td>
<td>Urban Residential (Single-Detached) “R1-15” Zone, Modified; Public Use “P-1” Zone, Modified</td>
<td></td>
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</table>

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The subject property is located in the Built-up Area, as defined by the Places to Grow Growth Plan. The application is consistent with the policies that direct new growth to the built-up areas, as per the policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan. The proposals maintain the intent to develop and create compact and complete communities by providing a balance of housing types in the community, and encourage intensification within the built-up area. Therefore, the application is consistent with the Places to Grow Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

The proposal is consistent with the Provincial Policy Statement with respect to the policies that contribute to the development of healthy, liveable, and safe communities, as per the policies contained in Section 1.1.1 of the Provincial Policy Statement. In addition, the application is consistent with Section 1.1.3.1 that focuses growth in settlement areas.

The subject property is located approximately 140 metres from Highway No. 5 East. Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities such as transportation corridors and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from nuisances such as noise. Staff had required that a noise warning clause advising potential purchasers that there may be occasional noise impacts due to increasing road traffic be included within the consent agreement for the subject property through Severance Application FL/B-09:96. This requirement was included as Condition 2 of the approved severance application (see Appendix “D”).

In addition, Policy 2.6.2 states that the development and site alteration of the subject property may be permitted on lands containing archaeological potential if significant archaeological resources have been conserved by removal or documentation, or preservation on-site. Where significant archaeological resources must be preserved on site, only development and site alteration, which maintains the heritage integrity of the site, may be permitted. After consultation with the applicant, staff has determined that due to the current surface conditions of the property and the size of the parcel to be developed, an archaeological assessment is not required.
Hamilton-Wentworth Regional Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. The proposed change in zoning conforms to the policies of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The subject property is designated “Urban Residential” on Schedule “A”, Waterdown Urban Area Land Use Plan, in the Town of Flamborough Official Plan, where the proposed use is permitted in the designation in accordance with Policies A.2.1 and A.2.3. As the applicant is proposing single-detached dwellings, the subject property is further designated as Low Density Urban Residential.

Policy A.2.3(1) states that Council will consider proposals for development within the Low Density Urban Residential designation if the development is compatible with the surrounding development, and if the proposed development is contiguous to the existing development in order to achieve logical and sequential extensions to roads and Municipal water and sewerage systems.

The Official Plan also contains policies to the provision of housing and intensification:

“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 the surrounding uses;
- That adequate off-street parking is provided and maintained;
- That the existing pattern of the streetscape and landscape is maintained or improved; and,
- 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.3.2.4 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:

E.3.2.4(i) As a concept and guideline for the 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.

- The proposal is compatible with the surrounding area in terms of height and mass;
- The existing pattern of streetscape and landscape can be maintained or improved; and,
- The appropriate provisions of the Zoning By-law, including adequate off-street parking, buffering, landscaping, and distance separations can be met.

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;
(c) Provision for adequate off-street parking; and,
(d) Proposed building separations and possible buffering provisions and impacts on existing and proposed privacy areas."

The proposed development of the subject property represents an example of intensification that takes into consideration the existing uses in the community, the streetscape, and general compatibility of the surrounding area. With respect to the use, the permitted use on the subject property will be single-detached dwellings, which is compatible with uses on the adjacent properties and in the surrounding neighbourhood.
The subject property is also located within the West Waterdown Secondary Planning Area, and Secondary Plan policies apply. As the proposed development complements the surrounding development, and is located where water and sewerage systems exist, the application conforms to the Town of Flamborough Official Plan.

**The West Waterdown Secondary Plan**

The subject lands are designated “Low Density Residential” in the West Waterdown Secondary Plan, which permits the proposed single-detached dwelling. The proposal conforms to Policy A.7.2.4, where “development of Low Density Residential shall be by plan of subdivision, except where consent to sever is granted by the Committee of Adjustment.” Consent to sever the subject property was given final approval on February 17, 2010.

In addition, Policy A.7.2.2 of the West Waterdown Secondary Plan outlines development policies where a number of considerations should be undertaken when proposing residential development within the Secondary Planning area:

“Proposed residential development shall be compatible in scale and general character with the surrounding area in order to avoid or reduce potential adverse impact on existing residential development.”

The subject property is to be developed within an existing residential neighbourhood that is complementary with adjacent residential uses with respect to the scale and general character of the surrounding area. Like adjacent residential lots within the neighbourhood, the subject properties will only permit single-detached dwellings.

Based on the foregoing, the proposal conforms to the West Waterdown Secondary Plan.

**New Urban Hamilton Official Plan (Council Adopted)**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for ministerial approval, but is not approved by the Province and is, therefore, not yet in effect. The subject lands are designated “Neighbourhoods” on Schedule E - Urban Structure and Schedule E-1 Urban Land Use Designations of the New Urban Hamilton Official Plan. The following policies apply to the “Neighbourhood” land use designation:

“E.3.1.3 Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.
E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities, as well as supporting uses intended to serve the local residents.

E.3.4.3 Uses permitted in low density residential areas include single-detached, semi-detached, duplex, triplex, and street townhouse dwellings.

The subject lands are also located within the West Waterdown Secondary Plan Area of the Urban Hamilton Official Plan. The application conforms to Policies 4.1.3a)i) with respect to single-detached dwellings as a permitted use in the Low Density Residential Designation.

As the Urban Official Plan is not in force and effect, the West Waterdown Secondary Plan within the Flamborough Official Plan continues to be in effect. Based on the foregoing, the proposal conforms to the Urban Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections.

- Traffic Engineering Section, Public Works Department.
- Taxation Division, Corporate Services Department.
- Hamilton Municipal Parking Services.

**Public Works Department (Urban Forestry)** staff indicated that there is a Municipal Tree Asset located on the road allowance of Scott Street. The draft Site and Grading Plan showed the construction of a 1.2 metre manhole within the dripline, as well as the sanitary sewer entering the dripline of the tree from the west to the manhole diverting north to the proposed new residence on 45 Scott Street.

A meeting was held in early-July, 2010, between the applicant and Urban Forestry staff. As there was no alternative location for the sanitary sewers, staff will require a two-year security, in the amount of $4,249.00, plus HST. This cost includes the Replacement Fee and the cost of removing the tree and stump if the tree dies within two years. Payment was submitted to Urban Forestry staff in late-July, where staff will refund the monies within two years on the condition the Municipal Asset tree does not die.

**Environment and Sustainable Infrastructure** staff indicated that the proponent should follow the recommendations in the Waterdown/Aldershot Transportation Master Plan (2008). In addition, it is anticipated that the proposed development will not impact the existing stormwater management infrastructure.
Public Consultation

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation 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.

The subject rezoning application is part of the implementation of Consent Application FL/B-09:96, which was approved by the Committee of Adjustment on January 28, 2010, and was given final approval on February 17, 2010 (see Appendix “D”). Therefore, preliminary circulation was not required. There was one resident in opposition to the consent application with respect to the size of the newly created lots and the compatibility of the development.

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 in early-May 2010.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement and the Places to Grow Growth Plan;

   (ii) It conforms to the Hamilton-Wentworth Regional Official Plan, the Town of Flamborough Official Plan, the West Waterdown Secondary Plan, and the New Urban Hamilton Official Plan; and,

   (iii) It is compatible with planned development in the surrounding area.

2. A consent application to sever 15 McDonald Court was approved by the Committee of Adjustment on January 28, 2010, and was given final approval on February 17, 2010 (see Appendix “D”). There is an existing one-storey single-detached dwelling on 15 McDonald Court (Part 1). The subject property located at 45 Scott Street (Part 2) is currently vacant, with a cedar hedge and a maple tree on the road allowance. Lands surrounding the subject property are mostly low density, single-detached residential, with the Waterdown Municipal Service Centre located near the southeast of the property. The proposed modification to the zoning will complement the existing residential neighbourhood.
Properties located at 13 McDonald Court and 46 Scott Street will be zoned Urban Residential “R1-45” Zone, Modified (see Appendix “A”), where the zoning will be modified to reduce the rear yard setback for the corner lot, reduce the minimum lot area, and to increase the maximum lot coverage for the interior lot. A limit on the maximum floor size of the dwelling has been placed on both the corner lot and interior lot. The subject properties have similar lot sizes to the properties on the south side of Scott Street, and will complement each other, while providing for a uniform streetscape.

3. The proposed development of the subject property represents intensification that takes into consideration the current uses in the community, the general streetscape, and general compatibility of the surrounding area. With respect to the use, the permitted use on the subject property will be single-detached dwellings, which is compatible with uses in the adjacent properties. In addition, the streetscape of Scott Street and McDonald Court will be maintained, as the proposed development will have sufficient front yard and side yard setbacks, and will be similar to the recent development on the south side of Scott Street. With respect to building separation, there is sufficient yard space.

4. A change in zoning has been requested from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-45” Zones, Modified, to permit single-detached dwellings, and to permit the site-specific changes to the minimum lot area, maximum lot coverage, minimum rear yard, and the maximum floor space in the required front yard (see Appendix “B”). The site-specific changes are in keeping with the surrounding area, as only single-detached dwellings will continue to be permitted.

(a) Minimum Lot Area

The retained portion of land (Part 1) has a lot area of 878 square metres, and the severed portion of land (Part 2) has a lot area of 658 square metres. The lot area for Part 1 conforms to the Urban Residential “R1” Zone provisions with respect to Minimum Lot Area. However, the Minimum Lot Area for Part 2 of the subject lands does not conform to the zoning provisions, and a site-specific provision has been added to address the deficiency in the Minimum Lot Area.

The proposed lot sizes for Part 1 and Part 2 will allow for single-detached dwellings to be a permitted use, while maintaining the streetscape of the neighbourhood, and be in keeping with residential lots to the south where the lots are of similar size to the subject lands.
(b) Maximum Lot Coverage

The lot coverage for the retained lands (Part 1) is 129.6 square metres, or 14.7%, which conforms to the general zoning provisions of the Urban Residential “R1” Zone where the maximum lot coverage is 20%. The maximum lot coverage for the Urban Residential “R1-6” Zone, Modified, is 15%.

The applicant initially proposed to increase the lot coverage for the severed portion of the subject property to approximately 40%, or approximately 235 square metres, however, the lot coverage would be out of character for the area where the building footprint would be too close to neighbouring dwellings in adjacent properties. In addition, there would be insufficient amenity space in the rear yard.

The proposed maximum lot coverage has been reduced to approximately 29%, or 186 square metres. Staff has determined that the reduction in the maximum lot coverage proposed by the applicant would still allow for the maximum floor area of 186 square metres, which would conform to the Urban Residential “R1-6” Zone, Modified, provisions with respect to the Maximum Floor Area and the character of the surrounding neighbourhood.

(c) Minimum Rear Yard

The applicant has requested a reduction in the rear yard setbacks for the retained portion of lands (15 McDonald Court) from the Urban Residential “R1-6” Zone, Modified, of 10 metres to 2.4 metres (see Appendix “C”). This is a result of the severance of the subject property, and is an existing situation for the existing dwelling only. The existing dwelling is oriented towards McDonald Court, where the 2.4 metre rear yard is, in fact, the side yard for the purposes of this property. The proposed modification to the zoning is due to a technicality, as the proposed rear yard is shorter than the side yard, meaning that the lot line on McDonald Court will become the front lot line, as the “side yard” is actually the “rear yard” for By-law purposes.

The reduction in the rear yard is supportable as additional amenity space can be provided between the existing single-detached dwelling and Scott Street. In addition, the rear yard will allow for sufficient space between the existing dwelling in the retained portion of land from the proposed dwelling in the severed portion of land, providing appropriate privacy and buffering.
(d) **Maximum Floor Space**

The existing zoning for properties surrounding the subject lands, and the previous zoning for the subject property, includes a maximum floor space for single-detached dwellings. The maximum floor space is 186 square metres for the 1st storey and the first floor of a 1.5 floor dwelling, and 372 square metres for a two-storey dwelling. The purpose of this zoning provision is to provide a limit on the size of the dwelling and to prevent “Monster Homes” from being constructed. This zoning provision has been incorporated into both 15 McDonald Court and 45 Scott Street in order to maintain the general streetscape of the community, and also to prevent excessively large homes from being built on the subject lands.

Based on the foregoing, staff supports the above site-specific changes to the Urban Residential “R1” Zone with respect to the Minimum Lot Area, Maximum Lot Coverage, Minimum Rear Yard, and Maximum Floor Space.

5. The subject property meets two of the ten criteria in determining archaeological potential with respect to the property being in close proximity to a primary watercourse or waterbody, a secondary watercourse or seasonal waterbody, or a prehistoric watercourse or waterbody, and within the vicinity of a distinctive or unusual landform. Due to the small size of the property and the current surface conditions, staff has determined that no archaeological studies will be required, and Cultural Heritage staff has no objections to this application.

6. Development Engineering’s concern with respect to this application has been addressed through the consent application. As conditions to the application, the owner shall address grading and drainage on the subject property, and the owner shall make a cash payment based on the current flat rate fee of $372.62 per metre frontage for the future urbanization of McDonald Court and Scott Street.

**ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property would remain zoned as Urban Residential “R1-6” Zone, Modified, where the existing single-detached dwelling would continue to be a permitted use. However, the Zoning Amendment application is a condition of the Consent Application FL/B-09:86. If the application is denied, the consent application will lapse and become void.
CORPORATE STRATEGIC PLAN


Financial Sustainability

• Generate assessment growth/non-tax revenues.

Social Development

• Everyone has a home they can afford that is well maintained and safe.

APPENDICES / SCHEDULES

• Appendix “A”: Location Map
• Appendix “B”: Draft By-law
• Appendix “C”: Site and Grading Plan
• Appendix “D”: Consent Application FL/B-09:96

:TL
Attachs. (4)
**Location Map**

**Planning and Economic Development Department**

**File Name/Number:** ZAR-10-016  
**Date:** July 29, 2010

**Appendix "A"**  
**Scale:** N.T.S.  
**Planner/Technician:** TL/JL

**Subject Property**  
15 Scott Street, Flamborough  
Change in Zoning from the Urban Residential "R1-5" Zone Modified to the Urban Residential "R1-45" Zone, Modified

**Ward 15 Key Map**  
N.T.S.
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 15 McDonald Court / 45 Scott Street (Flamborough)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario 1999 Chap. 14, Schedule 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 City of Hamilton”, 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 of November 1990 and approved by the Ontario Municipal Board on the 21st of December, 1991;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 10- of the Economic Development and Planning Committee, at its meeting held on the day of , 2010, 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. The Schedule “A-30” of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended to rezone from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-45” Zone, Modified, 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 Section 6 - Urban Residential (Single Detached) Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following subsection:

   6.3 Exception Numbers

   6.3.45 “R1-45” (See Schedule A-30)

   Permitted Uses:
   (a) Subsection 6.1 shall apply.

   Zone Provisions:
   (a) Lot Coverage: (Maximum) 29% for interior lot only.

   (b) Minimum Lot Area: 658 square metres.

   (c) Rear Yard: 2.4 metres for the building existing on the date of passing of the By-law, being the day of , 201.

   (d) Floor Space: (Maximum)

      1 storey 186 square metres.

      1-1/2 storeys 186 square metres on main floor.

      2 storeys 372 square metres.

   (e) All other zone provisions of Subsection 6.2 shall apply.
3. That By-law No. 90-145-Z (Flamborough) is amended by adding this By-law to Section 6 as “R1-45”.

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

PASSED and ENACTED this ___ day of ___, 2010.

__________________________________  ________________________________
Fred Eisenberger                    Rose Caterini
Mayor                             Clerk

ZAR-10-016
Schedule "A"

Map Forming Part of By-Law No. 10-_____
to Amend By-law No. 90-145-Z

Subject Property
15 Scott Street, Flamborough

Change in Zoning from the Urban Residential "R1-6" Zone Modified to the Urban Residential "R1-45" Zone, Modified
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. FL/B-09:96
SUBMISSION NO. B-96/09

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 15 McDonald Court, formerly in the Town of Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners James and Bernadette Pelletier, 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 having a frontage of 21.59m± (70.83') and an area of 658.1m² (7,035.96 sq.ft.) for residential purposes, and to retain an irregular shaped parcel of land having a frontage of 37.19m± (121.98') and an area of 978.6m² (10,574.44 sq.ft.) containing an existing dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, IS APPROVED for the following reasons:

1. After conducting a site inspection, the Committee is satisfied that the proposal does not conflict with the intent of the Hamilton-Wentworth and Town of Flamborough Official Plans.

2. The Committee considers the proposal to be in keeping with development in the area.

3. After conducting a site inspection, the Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

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. The owner/applicant shall agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria."

3. The owner shall receive rezoning approval to the satisfaction of the Manager of Development Planning.

4. The owner shall ensure compliance with Ontario Building Code requirements regarding separation distances to the satisfaction of the Planning and Economic Development Department (Building Services Division).
5. The owner shall enter into and register on the title, a Consent Agreement with the City of Hamilton to deal with grading and drainage on the subject property. The owner shall demonstrate that all drainage from the site shall be taken to a suitable outlet. The owner will be further required to extend the sanitary sewer from McDonald Court to Scott Avenue to the limit of the proposed severance, to the satisfaction of the Planning and Economic Development Department, Development Engineering (West) Division.

6. The owner shall make a cash payment based on the current flat rate fee of $372.62 per metre frontage, to the City of Hamilton for the future urbanization of McDonald Court and Scott Avenue adjacent to the severed and retained parcels, to the satisfaction of the Planning and Economic Development Department, Development Engineering (West) Division.

7. The owner/applicant shall satisfy the requirements of the Public Works Department, Operations and Maintenance Division, Forestry & Horticulture Section.

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

9. The owner shall submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 21st day of January, 2010.

M. Dudic, Chairman

V. Abraham

D. Drury

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (January 28th, 2011) 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 February 17th, 2010.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE: to be included in decision if approved:

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 45 Scott Avenue, and that the lands to be retained will remain as 10 McDonald Court.