That **Zoning Application ZAR-12-060 by Michael Wortel, Owner**, for a change of Zoning from the “R1-6” (Urban Residential (Single Detached)) Zone to an new site-specific “R1-XX” (Urban Residential (Single Detached)) Zone, to permit 3 single detached residential dwellings, on lands located at the south-west corner of Parkside Drive and Braeheid Avenue, known municipally as 176 Parkside Drive (Flamborough), as shown on Appendix “A” to Report PED13175, **be DENIED** on the following basis:

(a) That the proposed development does not conform to the policies of the former Town of Flamborough Official Plan, and the New Urban Hamilton Official Plan;

(b) That the proposed lot sizes are not compatible with the character of the area;

(c) It represents an over-intensification of development on the subject lands;
(d) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Urban Hamilton Official Plan and Zoning By-law.

EXECUTIVE SUMMARY

The purpose of the application is to modify the existing zoning to facilitate a proposed severance of the property to create a total of 3 single detached residential lots, on lands municipally known as 176 Parkside Drive (Flamborough) (see Appendix “A”).

It is recommended that the application be denied for the following reasons:

- The proposal does not conform to the policies of the former Town of Flamborough Official Plan, and the new Urban Hamilton Official Plan;
- The proposal does not conform to the character of the area;
- The proposal represents an over-intensification of development on the subject lands; and,
- Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan.

*Alternatives for Consideration - See Page 21.*

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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 approval of a change in Zoning.

HISTORICAL BACKGROUND (Chronology of events)

The subject application is to facilitate the severance of the subject property to create a total of 3 single detached residential lots. The applicant applied for the severance of the southerly lot (Lot 1- see Appendix “B”), as part of Severance Application FL/B-12:106.
Chronology:

December 20, 2012: Formal Consultation is Waived.

December 24, 2012: The applicant applied for rezoning to facilitate the severance of the property into 3 lots.


January 17, 2013: Rezoning Application deemed complete.

January 31, 2013: Severance application heard before the Committee of Adjustment. Comments from staff recommended that the application be denied. Several neighbouring residents spoke in opposition to the proposed severance (see Appendices “C” and “D”). The Committee of Adjustment tabled the Application until a decision was made by Council with respect to the rezoning.

February 5, 2013: Notice of Complete Application and Preliminary Circulation was circulated to all residents within 120m of the subject property.

February 5, 2013: The public notice sign was posted on the subject property.

April 18, 2013: Tree Protection plans were submitted to the City to review the impact of the proposed development on existing trees on-site.

October 18, 2013: Notice of Public Meeting sent to all residents within 120m and the public notice sign was updated.

Details of Submitted Application:

Owner/Applicant: Michael Wortel

Location: 176 Parkside Drive (Flamborough)

Description: Frontage: 26.57m
Depth: 45.61m
Lot Area: 1,238.4 sq. m. (0.12ha)
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject Lands:</strong></td>
<td>Single Detached Dwelling (Proposed to be Demolished)</td>
<td>“R1-6” (Urban Residential (Single Detached)) Zone</td>
</tr>
<tr>
<td><strong>Surrounding Lands:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>Storm Water Management Pond</td>
<td>“CM” (Conservation Management) Zone</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Dwellings</td>
<td>“R1-25” (Urban Residential (Single Detached)) Zone</td>
</tr>
<tr>
<td>East</td>
<td>Single Detached Dwellings</td>
<td>“R1-43” (Urban Residential (Single Detached)) Zone and “R1-44” (Urban Residential (Single Detached)) Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single Detached Dwellings</td>
<td>“R1-6” (Urban Residential (Single Detached)) Zone</td>
</tr>
</tbody>
</table>

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS).

“1.1.3.1 Settlement Areas shall be the focus of growth, and their vitality and regeneration shall be promoted.

1.1.3.2 Land use patterns within Settlement Areas shall be based on:

  a. Densities and a mix of land uses which:

     1. Efficiently use land and resources;
2. Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; and,

3. Minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with Policy 1.8; and,

b. A range of uses and opportunities for intensification and redevelopment, in accordance with the criteria in Policy 1.1.3.3."

1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated, taking into account existing building stock or areas, including Brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.”

The Provincial Policy Statement contains policies that encourage intensification and redevelopment; however, these policies should not be interpreted as permitting all forms and levels of intensification in any location within the Settlement Area. The Provincial Policy Statement requires that Planning authorities identify and promote opportunities for intensification and redevelopment, where it can be accommodated, taking into account existing building stock and areas and available infrastructure. These opportunities, as well as their limitations, are outlined in the Municipal Official Plans and Zoning By-laws.

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).

“2.2.2 Managing Growth

1. Population and employment growth will be accommodated by:

a. Directing a significant portion of new growth to the built-up areas of the community through intensification.

b. Focusing intensification in intensification areas.

c. Building compact, transit-supportive communities in designated Greenfield areas.
6. All municipalities will develop and implement, through their Official Plans and other supporting documents, a strategy and policies to phase-in and achieve intensification and the intensification target. This strategy and policies will:

   a. Be based on the growth forecasts contained in Schedule 3, as allocated to lower-tier municipalities, in accordance with Policy 5.4.2.2.

   b. Encourage intensification generally throughout the built-up area.

   c. Identify intensification areas to support achievement of the intensification target.

   d. Incorporate the built boundary delineated, in accordance with Policy 2.2.3.5.

   e. Recognize urban growth centres, intensification corridors, and major transit station areas as a key focus for development to accommodate intensification.

   f. Facilitate and promote intensification.

   g. Identify the appropriate type and scale of development in intensification areas.

   h. Include density targets for urban growth centres, where applicable, and minimum density targets for other intensification areas consistent with the planned transit service levels, and any transit-supportive land-use guidelines established by the Government of Ontario.

7. All intensification areas will be planned and designed to:

   a. Cumulatively attract a significant portion of population and employment growth.

   b. Provide a diverse and compatible mix of land uses, including residential and employment uses, to support vibrant neighbourhoods.

   c. Provide high quality public open spaces with site design and urban design standards that create attractive and vibrant places.

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork
d. Support transit, walking, and cycling for everyday activities.

e. Generally achieve higher densities than the surrounding areas.

f. Achieve an appropriate transition of built form to adjacent areas."

The proposed development focuses growth in the built up area; however, the policies of the Places to Grow Plan outline that appropriate type and scale of development be identified, and appropriate transition be achieved. The proposed development creates a lot fabric that is not of an appropriate scale compared to the lots along Parkside Drive, therefore, the proposed development does not conform to the policies of the Places to Grow Plan.

**Urban Hamilton Official Plan (Policies Approved by the OMB and Therefore Now in Effect):**

The subject property is designated as “Neighbourhoods” in the Urban Hamilton Official Plan. The Urban Hamilton Official Plan (UHOP) was still under appeal and, therefore, not in effect at the time the application was submitted. The UHOP was adopted by Council prior to receipt of the application and represents the direction of Council. The Ontario Municipal Board (OMB) has approved the majority of the UHOP. The following policies are now in force and effect:

**E.2.6.2** Neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents. These facilities and services may include parks, schools, trails, recreation centres, places of worship, small retail stores, offices, restaurants, and personal and government services.

**E.2.6.7** Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context, and shall be permitted in accordance with Sections B.2.4 - Residential Intensification, E.3.0 - Neighbourhoods Designation, E.4.0 - Commercial and Mixed-Use Designations, and E.6.0 - Institutional Designation.”
The “Neighbourhoods” designation notes that each neighbourhood can have a unique scale and character, and changes that are compatible with the existing character or function of the neighbourhood shall be permitted. The size of the proposed lots are not compatible with the existing character along Parkside Drive and require setbacks that are not in keeping with the character of the area, and cannot reasonably co-exist with the surrounding lotting pattern and physical character of the area.

The following policies deal with intensification:

“B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

b) The development’s contribution to maintaining and achieving a range of dwelling types and tenures;

c) The compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

d) The development’s contribution to achieving the planned urban structure, as described in Section E.2.0 - Urban Structure;

e) Infrastructure and transportation capacity; and,

f) The ability of the development to comply with all applicable policies.”

Based on the size, scale, and massing of the proposed three dwellings and associated lots, the proposal does not represent a compatible integration with the surrounding area in terms of scale and character.

“B.2.4.2.2 When considering an application for a residential intensification development within the “Neighbourhoods” designation, the following matters shall be evaluated:

a) The matters listed in Policy B.2.4.1.4;

b) Compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
c) The relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;

d) The consideration of transitions in height and density to adjacent residential buildings;

e) The relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;

f) The provision of amenity space and the relationship to existing patterns of private and public amenity space;

h) The ability to complement the existing functions of the neighbourhood;

i) The conservation of cultural heritage resources; and,

j) Infrastructure and transportation capacity and impacts.”

The proposed three dwellings do not reflect the massing and scale of nearby residential buildings, nor does the proposed three dwellings reflect the lot pattern and configuration of the neighbourhood, which is comprised of large, open spacious lots along Parkside Drive, with generous setbacks for the dwellings, and is also comprised of large corner lots along Braeheid Avenue that have lot sizes of 22.8m wide or larger, and have large front yard and exterior side yard setbacks of more than 9m.

“B.3.3.3  Built form shapes the visual qualities of streets and open spaces, but also affects how the public spaces around buildings are used, experienced, and perceived. Our City is built one building at a time, and each building contributes to the overall design of the City; therefore, attention to each building is an important step in the City building process. Built form plays a large role in defining the character of an area. New development shall serve to maintain and support existing character, or create and promote the evolution of the character in areas where transformations are appropriate and planned.”

The proposed new development creates lots that are significantly smaller than what is found along Parkside Drive, and based on the requested zoning modifications, would result in a built form that does not reflect the open spacious character of the area.

“B.3.3.3.1  New development shall be located and organized to fit within the existing or planned context of an area, as described in Chapter E - Urban Systems and Designations.
B.3.3.3.3 New development shall be massed to respect existing and planned street proportions.

B.3.3.3.4 New development shall define the street through consistent setbacks and building elevations. Design directions for setbacks and heights are found in Chapter E - Urban Systems and Designations, and in the Zoning By-law."

The proposed new development establishes a massing that does not respect the existing street pattern and is not consistent with the setbacks of other dwellings in the area.

“F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the “Neighbourhoods” designation, shown on Map E-1 - Urban Land Use Designation, shall be permitted provided the following conditions are met:

a) The lots comply with the policies of this Plan, including Secondary Plans, where one exists;

b) The lots comply with existing Neighbourhood Plans;

c) The lots are in conformity with the Zoning By-law, or a minor variance is approved;

d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;

e) The lots are fully serviced by municipal water and wastewater systems; and,

f) The lots have frontage on a public road.”

The proposed rezoning is required to facilitate a proposed severance of the property. Consents for new lot creation shall reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, massing, and setbacks. The proposed severance to create three lots does not reflect the character of the lots along Parkside Drive, which consist of large lots. The dwellings proposed for the three lots will be of a size and massing that does not reflect the character of the dwellings along Parkside Drive, and requires
modifications to the setbacks that do not reflect the character along Parkside Drive and Braeheid Avenue.

“C.4.5.7 The City shall require the conveyance of property for appropriate daylighting triangles and corner rounding on existing roads at such times as the property is to be developed or redeveloped, as a condition of Site Plan approval, consent, or Plan of Subdivision approval, in accordance with City standards based on the intersecting roadways of the functional road classification, detailed in Section C.4.5.2. Daylighting triangles at intersections shall generally be as follows:

c) Arterial to collector or arterial (Urban): 12.19m x 12.19m triangle.”

Parkside Drive is considered to be a minor arterial road and, therefore, a 12.19m x 12.19m is required. The applicant’s concept plan shows a 7.5m x 7.5m daylight triangle and, as such, does not conform to Policy C.4.5.7 of the UHOP. To comply with the UHOP Policy, the daylight triangle would need to be increased in size to 12.19m x 12.19m.

“C.5.3.5 All new development and redevelopment within the Urban Area shall be connected to the City’s water and wastewater system.

C.5.3.12 Water and wastewater systems shall be designed and constructed in accordance with the specifications and standards of the City, provincial guidelines, and other applicable standards, regulations, and guidelines.

C.5.3.14 Expansion of water and wastewater systems within the Urban Area shall be in accordance with the Water and Wastewater Master Plan and Staging of Development Plan, as well as supporting the City’s density and intensification targets, as detailed in Sections A.2.3.3 - Other Targets and B.2.4 - Residential Intensification.”

The policies of the Urban Hamilton Official Plan require that all new development be connected to the City’s water and wastewater system. While there are water services along Braeheid Avenue, there are no sanitary sewers. In order to establish wastewater services for the two proposed lots fronting onto Braeheid Avenue, the applicant will be required to establish services along Braeheid Avenue. Based on previous private servicing agreements established for the three lots currently fronting onto Braeheid Avenue (105, 106, and 110 Braeheid Avenue, the owners of these lots would be required to connect and pay for the new services, as well as decommission any existing private servicing connections.
As the proposed development does not reflect the character of the area, the proposed redevelopment does not conform to the policies of the Urban Hamilton Official Plan.

**Urban Hamilton Official Plan (Policies Still Under Appeal and Not In Effect):**

The following relevant policies represent the direction and position of Council, but are still under appeal and, therefore, not in force and effect.

"B.2.4.1.4  Residential intensification developments shall be evaluated based on the following criteria:

b) The relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form.

B.2.4.2.2  When considering an application for a residential intensification development within the "Neighbourhoods" designation, the following matters shall be evaluated:

g) The ability to respect and maintain or enhance the streetscape patterns, including block lengths, setbacks, and building separations."

The proposed development does not maintain or enhance the existing pattern and built form of the area, nor does the proposed development maintain or enhance the streetscape patterns including block lengths, setbacks, and building separations.

**Hamilton-Wentworth Official Plan (Policies Still In Effect):**

The application has been reviewed with respect to the Hamilton-Wentworth Official Plan, which was in effect at the time the application was submitted, but as the Urban Hamilton Official Plan was partially approved by the OMB on August 16, 2013, the majority of the Hamilton-Wentworth Official Plan is no longer in effect; however, staff notes the following polices, which remain in effect.

"C-3.1  A wide range of urban uses, defined through Area Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

C-3.1.1.7  Review, in conjunction with Area Municipalities, development standards and policies which influence urban form, such as setbacks and road-widths, and provide information on alternative development
standards or subdivision lay-out which are more energy-efficient or require less land."

As the proposal is establishing new residential housing within the Urban Area, the proposal conforms to Policy “C-3.1 of the Hamilton-Wentworth Official Plan; however, this policy was never meant to be evaluated on its own, but in conjunction with other polices that have now been repealed and replaced with the policies of the Urban Hamilton Official Plan.

**Town of Flamborough Official Plan (Policies Still In Effect):**

The application has been reviewed with respect to the Town of Flamborough Official Plan, which was in effect at the time the application was submitted, but as the Urban Hamilton Official Plan was partially approved by the OMB on August 16, 2013, the majority of the Town of Flamborough Official Plan is no longer in effect, however, staff notes the following polices, which remain in effect.

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

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 the existing pattern of the streetscape and landscape is maintained or improved.

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 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.”

The streetscape character along Parkside Drive consists of large lots (30m lot widths and approximately 1,400 sq. m. lot areas). The proposed development, of three single detached dwellings, is on lots that are 15m wide, with lot areas of between 388 sq. m. and 460 sq. m. The new lots would not be in keeping with the existing lotting pattern along Parkside Drive.
The dwellings along Parkside Drive have front yard setbacks greater than the required 7.5m, with front yards of 11m to 13m in depth. The proposed corner lot would maintain a 4.5m setback from the Parkside Drive flanking lot line for the dwelling and a 3m setback for a porch. The proposed 4.5m setback, with a further 1.5m encroachment for a porch, would be significantly less than the established 11m to 13m setback that currently exists along Parkside Drive and would, therefore, not conform to the existing streetscape character along Parkside Drive.

It is also noted that the dwellings along Braeheid Avenue have front yard setbacks of 7.5m, and that the corner lot, as well as the interior lots proposed by the applicant, would maintain a 6m setback from the Braeheid Avenue lot line for the dwelling and a 4.5m setback for a porch. The reduced setbacks will not be in keeping with the streetscape character along Braeheid Avenue.

On the bases of the forgoing, the proposed lot size and building setbacks would not be compatible with the surrounding area, will not maintain or improve the existing streetscape pattern, and will negatively impact the existing streetscape. Therefore, the proposed development does not conform to the policies of the Town of Flamborough Official Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections.

- Taxation Division, Corporate Services Department.
- Hamilton Municipal Parking Services.

**Forestry and Horticulture Section (Public Works Department):**

Forestry and Horticulture staff identified that there are 5 Municipal Tree Assets fronting onto Braeheid Avenue, as well as several private trees located on the development site. Forestry and Horticulture staff required a Tree Management Plan noting Tree preservation techniques. Any healthy trees on Municipal property which are found to be in conflict with the proposed development, or become damaged as a result of construction, will be subject to a Replacement Fee, as outlined in the Reforestation Policy - Municipal Owner Lands. The applicant subsequently submitted a Tree Protection Plan. The Tree Protection Plan showed that the 5 Municipal Tree Assets identified by Forestry and Horticulture staff are located on private property and not on municipal property. Subsequent Forestry and Horticulture comments noted that the 5 trees were located on private property and not on City property; the comments also noted that Forestry and Horticulture staff appreciated the retention of trees on-site and suggested that Tree Protection Zones remain in place until final sodding and the project
is finished, and noted that changes to grading can have a negative impact on the health of trees and that grading should not be changed within the Tree Protection Zones.

Traffic Engineering Section (Public Works Department):

In review of the rezoning application, Traffic staff noted that access to Lot 3 will not be permitted in the daylight triangle, and will not be granted from Parkside Drive. It is also noted that on the concept plan, a 7m x 7m daylight triangle is shown, however, a 12m x 12m daylight triangle is required; and that 12m x 12m daylight triangles have been taken from the north-west, north-east, and south-east corners of the intersection. Traffic staff also noted that given the potential for a future traffic signal at this location, a reduction to the daylight triangle would not be supported.

The applicant's proposal is largely premised on the approval of a reduce daylight triangle, which maintains at least half the frontage on Braeheid Avenue and only reduces the lot area from 460 sq. m. to 431 sq. m. Whereas the required 12m x 12m daylight triangle (required by Policy C.4.5.7 or the Urban Hamilton Official Plan) maintains only 3m directly fronting onto Braeheid Avenue, which is not sufficient to provide a driveway and maintain appropriate landscaping and separation from the abutting lot line, and reduces the lot area from 460 sq. m. to 388 sq. m. In addition, given that access would not be granted from Parkside Drive the reduction to the Braeheid Avenue further limits the potential access to the proposed corner lot.

Operations Support, Strategic Planning Section (Public Works Department):

Operation Support staff notes that “All residential properties are eligible for weekly collection of garbage, organic, recyclable material, and leaf and yard waste through the City of Hamilton, subject to compliance with specifications indicated by Public Works and subject to compliance with the City’s Solid Waste Management By-law No. 09-067.”

Public Health Services Department:

In review of the application, Public Health Services staff noted that if the applicant is aware that a septic tank existed on the subject property, it is recommended that it be emptied by a Ministry of Environment licensed sewage hauler and then filled with soil in order to reduce the likelihood of a safety hazard.

PUBLIC CONSULTATION

In accordance with Council’s Public Participation Policy, the application was pre-circulated as part of the Notice of Complete Application to 60 property owners within 120m of the subject lands on February 5, 2013. Three local resident/property owners wrote to the Department raising issues with the proposed application. The issues raised
were the cost and disruption created by the requirement to decommission existing private sewage connections and install new sewage connections; concerns over the height of the dwellings; lot coverage of the dwellings; loss of mature trees; loss of on-street parking; traffic disruptions; property values; and that the development does not maintain the character of the area (see Appendix “E”). These issues have been highlighted and addressed in the Analysis/Rationale for Recommendation section of this Report. Notice of the Public Meeting was given in accordance with the requirements of the Planning Act through circulation to property owners within 120m of the subject lands. In addition, a Public Notice Sign was posted on the property on February 5, 2013.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

1. It is recommended that the application be denied for the following reasons:
   
   (ii) That the proposed development does not conform to the policies of the Town of Flamborough Official Plan and Urban Hamilton Official Plan that are currently in force;
   
   (ii) That the proposed lot sizes are not compatible with the character of the area;
   
   (iii) It represents an over-intensification of development on the subject lands; and,
   
   (iv) Approval of the application would encourage other similar applications which, if approved, would undermine the intent of the Official Plan and Zoning By-law.

2. The subject property is located at the south-west corner of Parkside Drive and Braeheid Avenue, and contains an existing single detached dwelling fronting onto Parkside Drive. The properties to the east, south, and west are single detached lots, and the land to the north is a stormwater management pond.

   The applicant is proposing to establish a total of three lots for single detached dwellings. The proposed rezoning is required in order to establish zoning standards to permit smaller lot area and frontage requirements in order for the proposed three lots. The applicant is also seeking to modify the By-law provisions with respect to setbacks, building height, and lot coverage in order to construct a suitable size dwelling unit on each of the three lots.
The changes to the zoning regulations are outlined below.

<table>
<thead>
<tr>
<th>Required In “R1-6” Zone</th>
<th>Required In “R1” Zone</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>1,390 sq. m.</td>
<td>665 sq. m.</td>
</tr>
<tr>
<td></td>
<td>460 sq. m (2 Interior Lots)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>388 sq. m. (Corner Lot)</td>
<td></td>
</tr>
<tr>
<td>Minimum Lot Frontage</td>
<td>30m</td>
<td>18m</td>
</tr>
<tr>
<td></td>
<td>15m (2 Interior Lots)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8.5m (Corner Lot)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(As per By-law)</td>
<td></td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>15%</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>35% (Interior Lots)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>41.5% (Corner Lot)</td>
<td></td>
</tr>
<tr>
<td>Minimum Front Yard</td>
<td>7.5m</td>
<td>7.5m</td>
</tr>
<tr>
<td></td>
<td>6m</td>
<td></td>
</tr>
<tr>
<td>Minimum Interior Side Yard Setback</td>
<td>3m</td>
<td>1.2m</td>
</tr>
<tr>
<td>Minimum Exterior Side Yard Setback</td>
<td>7.5m</td>
<td>7.5m</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>8.2m</td>
<td>11m</td>
</tr>
<tr>
<td></td>
<td>9m</td>
<td></td>
</tr>
</tbody>
</table>

Lot Area and Lot Frontage:

The existing properties along Parkside Drive have lot areas of approximately 1,392 sq. m. and lot frontages of 30m, with the exception of 182 Parkside Drive, which has a lot area of approximately 624 sq. m. and a lot frontage 16.5m, (as defined by the Zoning By-law). The corner lot proposed by the applicant would have a lot area of 388 sq. m. and a lot frontage of 8.5m, (as defined by the Zoning By-law). The lot size of the corner lot would be 72.1% smaller than the majority of the lots on Parkside Drive and 37.8% smaller than the lot at 182 Parkside Drive with respect to lot area. With respect to lot width of the corner lot, the lot is 50% smaller than the lots along Parkside Drive and 34.2% smaller than the lot width of Parkside Drive.
The reductions in lot area and frontage are not in keeping with the character of the area and, therefore, cannot be supported by staff. Furthermore, as a result of the required daylight triangle, the corner lot would only maintain 3m of direct frontage onto Braeheid Avenue, which is not sufficient to provide both a driveway with appropriate landscaping buffers between the driveway and the abutting property.

Front and Exterior Side Yard Setbacks:

The small lot sizes proposed by the applicant necessitate reductions in required setbacks in order to facilitate a suitable sized dwelling on the proposed lots. The dwellings along Braeheid Avenue have front yard setbacks of 7.5m, whereas the applicant is proposing a front yard setback of 6m, with a porch encroachment of 1.5m, which will create a 4.5m front yard setback for the front porch to the property line. The dwellings along Parkside drive all exceed the minimum setback requirement of 7.5m, with front yard setbacks of 11m to 13m in depth. These setbacks create a spacious open streetscape with a great deal of vegetation and landscaping. The proposed dwelling on the corner lot would have an exterior side yard setback from Parkside Drive of 4.5m, with a 1.5m encroachment for a porch, which would be setback 3m from the property line. The reduced exterior side yard setback of 4.5m for the dwelling and 3m for the porch would be significantly closer to the street than the other lots, would not maintain the open spacious streetscape, would have limited vegetation and landscaping potential and would, therefore, not be in keeping with the established character along Parkside Drive. It is further noted that the lot line created by the daylight triangle would be considered an exterior side yard setback, and the dwelling proposed by the applicant would be located 1.2m from this lot line.

Lot Coverage:

The reduced lot size also necessitates an increase in lot coverage from 15% to 35%. The lots along Parkside Drive have a lot coverage of approximately 15%, while the lot coverage for the lots along Braeheid Avenue range from 25% to 30%. Therefore, the proposed 35% lot coverage would establish the highest lot coverage for the area and would not be in keeping with the character of the area, which is comprised primarily of spacious lots with significant green space. Staff notes that the 35% lot coverage proposed by the applicant for the corner lot does not take into account the reduced lot area created by the daylight triangle. Based on a lot area of 388 sq. m., a lot coverage of 41.5% would be required for the corner lot. A lot coverage of 41.5% would not be in keeping with the character of the area and exceeds the maximum allowable lot coverage of 40% for
STORMWATER MANAGEMENT. Therefore, the proposed lot coverage of 41.5% cannot be supported.

BUILDING HEIGHT:

The applicant also requested an increase in building height from 8.2m to 9m. The proposed 0.8m increase in building height on its own is a minor increase in height and would not detract from the character of the area; however, the increase in height in conjunction with the reduced setbacks and increase in lot coverage represents an over intensification of the subject property and does not maintain the character of the area.

3. If the application were to be amended to sever the property into two lots of approximately 22.5m (74 ft.) wide with lot areas of 618 sq. m. and 690 sq. m., the lots would be similar in size to the lots at the south-east corner of Parkside Drive and Braeheid Avenue (182 Parkside Drive), which were previously severed and rezoned. The previous severance and rezoning of the property at 182 Parkside Drive was supported by staff, as the severance represented an infill development in the Urban Area that was compatible with the established character of the area. The required 12m x 12m daylight triangle would still be required; however, as the corner lot would be larger in size, 22.5m wide instead of 15m wide, while maintaining 10.5m of direct frontage onto Braeheid Avenue instead of 3m, as is currently being proposed, which will maintain adequate space for access to Braeheid Avenue. If the application was to be amended to divide the lot into two equal lots, the 22.5m wide the corner lot would be able to maintain or exceed the minimum front yard and exterior side yard setback requirements of the By-law, while permitting the establishment of a dwelling that is compatible in size to the character of the area, and the interior lot would also be able to conform to the front yard setback, while permitting the establishment of a dwelling that is compatible in size to the character of the area.

4. At severance stage, the applicant will be required to dedicate a 12.19m x 12.19m (40 ft. x 40 ft.) daylight triangle at the intersection of Parkside Drive and Braeheid Avenue. This daylight triangle would affect the viability of the creation of the number of lots proposed under this application. The applicant is proposing a daylight triangle of only 7.5m x 7.5m (24.61 ft. x 24.61 ft.). This requirement is outlined in the policies of the Urban Hamilton Official Plan.

There is an existing 400mm diameter watermain on Parkside Drive and an existing 300mm diameter watermain on Braeheid Avenue available to service the subject property. There is an existing 375mm diameter and 525mm diameter sanitary sewer on Parkside Drive adjacent to the subject property; however, there are no sanitary sewers on Braeheid Avenue to service any additional lots.
At severance stage, the applicant will be required to construct a municipal sanitary sewer within the Braeheid Avenue road allowance, at their sole expense, to service any new lots as well as any existing lots in this block currently serviced with private sanitary sewers.

The expense of installing the main sewer is to be specially accessed against the benefiting lots. There are special sewer agreements on separate title of three other benefiting lots within this block, municipally known as Nos. 105, 106, and 110 Braeheid Avenue. Under these agreements, the land owners are responsible to remove their temporary connections and install a permanent connection, at their own cost; however, they can make arrangements with the developer to have this work done at the time of the main sewer installation. Upon completion of the municipal sewer works, the actual cost will be calculated by the City and then apportioned to the benefiting properties. A Municipal Act By-law, describing the apportioned cost and benefiting properties, will be prepared and passed by the City. The City will then invoice the current property owner for their apportioned cost. The property owners have the option of paying the apportioned cost in full at the time of invoice, or they may elect to have the cost included on their tax roll. Since this is a Best efforts recovery, if the property owners place the charge on their tax roll, the City will pay the developer in full and then recover from the property owners over a 15 year period, applying typical interest charges.

5. Following the notice of complete application, staff received three letters of objection from area residents. The letters of objection (see Appendix “E”) included concern with respect to the cost and disruption created by the requirement to decommission existing private sewage connections and install new sewage connections, concerns over the height of the dwellings and the lot coverage of the dwellings, loss of mature trees, loss of on-street parking, traffic disruptions, property values, and the development not maintain the character of the area.

In respect to the issues of character, as previously noted, staff agrees with the concerns raised by the objecting parties with respect to assertion that the three lots, particularly the corner, would not be in keeping with the character of the area both in terms of the size, setbacks, and lot coverage proposed for the lots. The proposed development would lead to a loss of mature trees on site, and would negatively impact on other trees not proposed to be removed but located in proximity to the proposed dwellings; however, there is no private Tree Cutting By-law in Flamborough that would preclude the removal of private trees, even in the absence of the proposed development. With respect to building height, the applicant is requesting a height increase from 8.2m to 9m. The 0.8m increase in height on its own would be a minor increase in building height; however, when
taken in conjunction with the proposed increases in lot coverage, the reduction in lot size, and reduction in setbacks, the proposed increase in height does not conform to the character of the area. As noted in the comments from Traffic engineering staff, driveway access off of Parkside Drive would not be permitted and, therefore, the proposed development would establish three driveways onto Braeheid Avenue, which would reduce potential on-street parking given that parking cannot occur in front of a driveway, but would not preclude all on-street parking, as sufficient space would be able to be maintained between driveways to provide at least one on-street parking space between driveways.

With respect to the issues of services, previous severances along Braeheid Avenue were permitted with private servicing connections, but included agreements that were to be placed in any purchase agreement outlining that once municipal services are established, the owners of the properties with private servicing connections would be required to decommission their existing private servicing connections and establish new servicing connections, at their own expense. As staff would require the applicant to establish municipal services along Braeheid Avenue, these agreements would require the other property owners on Braeheid Avenue with private servicing connections to connect to the municipal servicing along Braeheid Avenue and decommission existing private services, at their own expense.

<table>
<thead>
<tr>
<th>ALTERNATIVES FOR CONSIDERATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)</td>
</tr>
</tbody>
</table>

If the application is denied, the applicant may continue to use the property as a single detached dwelling, but would not be able to sever the property.

Council may also choose to approve an alternative rezoning to establish By-law standards for the creation of one additional lot, for a total of two dwellings, for the subject lands. If Council adopts this alternative, a By-law and revised Report would be prepared and presented to Planning Committee and Council for approval.

<table>
<thead>
<tr>
<th>ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:</th>
</tr>
</thead>
</table>

**Strategic Priority #1:**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play, and learn.*
Strategic Objective:

1.5 Support the development and implementation of neighbourhood and City Wide strategies that will improve the health and well-being of residents.

1.6 Enhance Overall Sustainability (financial, economic, social, and environmental).

Strategic Priority #2:
Valued and Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective:

2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

Strategic Priority #3:
Leadership and Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective:

3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Concept Plan
- Appendix “C”: Staff Comments to the Committee of Adjustment (FL/B-12:106)
- Appendix “D”: Minutes of the Committee of Adjustment Meeting (January 31, 2013)
- Appendix “E”: Letters of Objection
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-12-060
Date: January 22, 2012
Appendix "A"

Scale: N.T.S.
Planner/Technician: DB/AL

Subject Property
178 Parkside Drive

Change in Zoning from the Urban Residential (Single Detached) "R1-8" Zone to the Urban Residential (Single Detached) "R1-__" Zone

Ward 15 Key Map N.T.S.
CONSOLIDATION REPORT
SEVERANCES

The attached comments have been reviewed with regard to Committee of Adjustment Severance File FL/B-12:106 (176 Parkside Drive, Flamborough) and the following is submitted:

Should the Committee grant the severance, an approval should 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. The reference plan must be submitted in hard copy and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.

2. That the owner/applicant 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. That the owner/applicant receive rezoning approval to the satisfaction of the Manager of Development Planning.

4. That municipal services be made available along Braehead Avenue to the satisfaction of the Manager of Development Engineering.

5. "That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."
6. The Owner shall dedicate to the City of Hamilton by deed, a 40 by 40 foot (12.19m x 12.19m) daylight triangle at the intersection of Parkside Drive and Braeheid Avenue.

7. The Owner shall enter into a development agreement with the City of Hamilton to design, build and secure sanitary sewers on Braeheid Avenue for the severed lot as well as three additional properties that are currently serviced by private sanitary sewer connections.

8. The Owner shall provide sanitary sewer service connections for the properties municipally known as 105, 106 and 110 Braeheid Avenue.

9. The Owner shall pay for the future urbanization of Parkside Drive and Braeheid Avenue adjacent to the severed land, based on the City's "New Roads Servicing Rate".

10. The owner shall receive final approval of any necessary variances for the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

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

12. The owner submit to the Committee of Adjustment office an administration fee of $16.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

Note (To Be Included If Approved):

1) Note: 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 109 Braeheid Avenue and that the lands to be retained will remain as 178 Parkside Drive.
Appendix “C” to Report PED13175 (Page 3 of 8)

FL/B-12:106 (176 Parkside Drive, Flamborough)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant is proposing to sever the subject property in order to create a new 15m wide lot for a new single detached residential dwelling. Staff note that based on the current application for rezoning and discussions with the applicant that a future severance application will be forthcoming to establish a total of 3 lots each 15m in width.

Provincial Policy Statement and Hamilton Wentworth Official Plan

The application is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.

Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated form each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are intended to be developed for residential purposes and are located adjacent to Parkside Drive. As such, should the Committee approve the subject application, staff require the fulfillment of condition No. 1 stated below.

Town of Flamborough Official Plan

The subject property is designated “Urban Residential” in the Town of Flamborough Official Plan. Policy A.2.1 states “The uses permitted in areas designated Urban Residential on Schedule “A”, shall be: detached and semi-detached single dwellings; low to medium density linked multiple unit dwellings, apartment units; converted dwellings; quadruplex dwellings; shared accommodation; rooming and boarding house; and other suitable forms of dwellings.”

Policy A.2.3 i) states “Low Density – up to 26 units per net Residential Hectare. This density range permits single detached, semi-detached and duplex dwellings, converted dwellings, shared accommodation, rooming and boarding houses and other similar forms of housing. Development at this density level shall be by plan of subdivision except where consent to sever is granted by the Land Division Committee. Development proposed on the basis of a plan of subdivision shall be subject to the Town’s Design criteria for subdivision development.

Council when considering proposals for development in this density level shall be guided by the following:

- Compatibility of the proposed use to surrounding development; and,
- Proposed development shall be contiguous to existing development in order to achieve logical and sequential extensions to roads and Municipal water and sewage systems.

Policy A.2.4 states “Development at the density ranges specified in Policy A.2.3 shall be considered in conjunction with an amendment to the applicable Secondary Plan and Zoning By-law. Council when considering amendments for development at these density levels shall be guided by the following:
Compatibility of the proposed use with surrounding development;
- The design and location of access to and from the site shall be approved by the pending authority;
- The proposal is in proximity to public transit services (existing or proposed);
- Sufficient lands shall be allotted for landscaping to protect the amenity of adjacent Residential properties. In addition, visual screening by vegetation, berms, fencing or a combination of these may be required as a buffer;
- The height and bulk of the structure will not overshadow, block light or result in the loss of privacy for adjacent residential uses; and,
- The potential of the proposal to contribute to the provision of affordable housing.

Policy D.2.5 states "All development in the Urban Area shall be connected to the Municipal Sanitary Sewer."

Policy D.2.8 states "All development in the Urban Area shall be connected to the Storm Water Sewer System."

Policy E.3.1.1 xii) states "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;
- That consideration be given to the provision of pedestrian walkways and bicycle paths, where feasible, to facilitate access to the various land use areas and provide physical separation between vehicular and pedestrian traffic;
- That consideration be given to how the proposal will contribute to the provision of affordable housing; and,
- Other actions as may be deemed necessary."

Policy E.3.2.4 ii) states "When considering infill development, regard will be had to the following criteria to determine the compatibility of the proposal:

b) Lot size, building setbacks, density and the height and mass of buildings in the surrounding area;

c) Impact on the existing streetscape and landscape and opportunities to maintain and/or enhance the existing streetscape;

d) Provision of adequate off-street parking;

e) Proposed building separation and possible buffering provisions and impacts on existing and proposed privacy areas;

f) Impacts on historical and heritage features and amenities;

g) The contribution of the proposed use to the provision of affordable housing;

h) 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; and,

.../3
Appendix "C" to Report PED13175 (Page 5 of 8)

FL/B-12:106  
Page 3  

i) Other actions which may be deemed necessary through the Zoning By-law or Site Plan approval process.

The proposed severance is for the creation of a lot size that is not consistent with the lot sizes existing along Parkside Drive or the size of lot created through a previous application for severance for the property at 182 Parkside Drive. Therefore, the proposed severance is not compatible with the character of the area and does not maintain or improve the existing pattern of the streetscape.

There is currently only water services on Braeheid Avenue between Parkside Drive and Brian Boulevard, therefore the proposal cannot be adequately serviced with sanitary sewers or storm sewers. Therefore, the proposed severance does not conform to the policies of the Town of Flamborough Official Plan.

The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

1) Within 250 metres of known archaeological sites;
2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and
3) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. If this severance is granted, staff require the inclusion of condition No. 4 as stated below.

Town of Flamborough Zoning By-law

The subject property is zoned Urban Residential (Single Detached) "R1-6" Zone in the Town of Flamborough Zoning By-law, to which the proposed use complies.

The proposed lands to be severed with a lot frontage of 15m and a lot area of 464.5 sq. m. will not comply with the minimum lot width requirement of 30m and will not comply with the minimum lot area requirement of 1,390 sq. m. A 12m by 12m daylight triangle is required at the corner of Parkside and Braeheid. Once the daylight triangle has been dedicated to the City, the lands to be retained will maintain a lot frontage of 18.3m and a lot area of 852.7 sq. m. Therefore the lands to be retained will not comply with the minimum lot frontage and lot area requirement of the by-law. Therefore, rezoning approval will be required prior to any approval of consent.

Staff note that it is the applicants intention to ultimately create 3 lots each with a frontage of 15m. Staff note that due to the daylight triangle the corner lot of the 3 lots would have a lot area of 390 sq. m. and a lot frontage of less than 15m, and would be the smallest of 3 properties; whereas, corner properties tend to be larger lots. Staff is of the opinion that 3 lots is an over intensification of the subject property and is not consistent with the lotting pattern along Parkside Drive or the lot sizes established through the previous lot severance at the south-east corner of Parkside and Braeheid (182 Parkside Drive) in which lots of approximately 22m in
width were created. It is the opinion of staff that lot sizes similar to what was established at 182 Parkside Drive would be in keeping with the character of the area.

**Recommendation:**

The applicant should consider tabling the application in order to amend the proposal to establish to lots with a lot frontage of approximately 22m similar to the lots created at 182 Parkside Drive. Furthermore, until such time as a successful rezoning has been finalized, the proposed severance would be considered premature.

If the applicant wishes to proceed with the application as proposed staff makes the following Recommendation:

Staff recommends that the proposed severance be **Denied**.

**Conditions (If Approved Despite Staff Recommendation):**

1) That the owner/applicant 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."

2) That the owner/applicant receive rezoning approval to the satisfaction of the Manager of Development Planning.

3) That municipal services be made available along Braeheid Avenue to the satisfaction of the Manager of Development Engineering.

4) "That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport."

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."
Note (To Be Included If Approved):

1) Note: 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 109 Braeheid Avenue and that the lands to be retained will remain as 176 Parkside Drive.

Building Services Division:

1. Variances for lot width and lot area will be required for zoning compliance of the lands to be conveyed and the lands to be retained.

2. This applicant should obtain an appropriate municipal address for the proposed parcel from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.

3. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Conditional Upon:

The owner shall receive final approval of any necessary variances for the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).

Development Engineering – West:

Information

1. There is an existing 400mm diameter watermain on Parkside Drive and an existing 300mm diameter watermain on Braeheid Avenue adjacent to the subject lands to service this site directly.

2. There are existing 375mm diameter and 525mm diameter sanitary sewers on Parkside Drive adjacent to the lands to be retained to service this site directly.

3. There are no sanitary sewers available on Braeheid Avenue available to service the land to be severed. The Owner will be required to design, build and secure a municipal sanitary sewer to service the severed lot as well as those lots currently serviced with private sanitary sewers. The owners of properties fronting the proposed municipal sanitary sewer that currently have private sanitary sewer connections will be required to disconnect every portion of the private sanitary laterals and connect their private drains to the new sewer as per the requirements of their respective special sewer agreements with the City. The applicant shall dedicate to the City, a 40 feet by 40 feet (12.19m x 12.19m) daylight triangle at the intersection of Parkside Drive and Braeheid Avenue on the lands to be retained.
4. The City has no road widening requirements on this section of either Parkside Drive or Braeheid Avenue.

**Recommendation**

1. The Owner shall dedicate to the City of Hamilton by deed, a 40 by 40 foot (12.19m x 12.19m) daylight triangle at the intersection of Parkside Drive and Braeheid Avenue.

2. The Owner shall enter into a development agreement with the City of Hamilton to design, build and secure sanitary sewers on Braeheid Avenue for the severed lot as well as three additional properties that are currently serviced by private sanitary sewer connections.

3. The Owner shall provide sanitary sewer service connections for the properties municipally known as 105, 108 and 110 Braeheid Avenue.

4. The Owner shall pay for the future urbanization of Parkside Drive and Braeheid Avenue adjacent to the severed land, based on the City’s “New Roads Servicing Rate”.

**Source Water Protection:**

No comment.

**Hamilton Municipal Parking System (Parking Services):**

No concerns.

**PUBLIC WORKS DEPARTMENT**

**Traffic, Engineering and Operations Division:**

Separate access is required for the retained and severed lands. Any new access will require an Access Permit from Municipal Parking. Details about the permit process can be obtained from Dave Lavalie at ext 4578
Appendix "D" to Report PED13175 (Page 1 of 3)

January 31st, 2013

FL/B-12:108

Michael & Michelle Wortel
176 Parkside Drive, Flamorough

Appearances were:
M. Wortel, applicant. Interested parties were: Nicole Bawolin, 110 Braeheid Ave., Waterdown, ON LOR 2H5; occupant/owner, 106 Braeheid Ave., Waterdown, ON LOR 2H5; D. MacNeil, 105 Braeheid Ave., Waterdown, ON LOR 2H5; P. Wallace, 174 Parkside Dr. RR 1 Waterdown, ON LOR 2H1.

Those members present for the hearing of this application were: M. Dudzic, (Chairman), D. Smith, D. Drury, I. Dunlop, L. Gaddye, K. Audzius, V. Abraham.

A summary comment from the Planning and Economic Development Division together with comments from other departments and agencies were entered into the record.

Letters were entered into the record from: Letter of support from A. Tinus & K. Mills, 45 Brian Blvd., Waterdown, ON LOR 2H5; M. Fabiani, 59 Brian Blvd., Waterdown, ON LOR 2H5; R. MacDonald, 67 Brian Blvd., Waterdown, ON LOR 2H5

M. Wortel
- submitted letters of support for the record
- staff are requesting that the application be tabled until such time as the applicant apply for a rezoning application, but he had applied for a rezoning and started the severance process at the same time
- he was advised by staff to apply for the consent application and that is what he has done
- the objectors are all on private services
- the City thinks that private services are not a good idea because of health maintenance
- there are 2 properties that have 75’ lots and 3 are at 50’ lots
- the property across the street received severance approval for a 75’ lot
- property 105 Braeheid is a 50’ lot and property at 59 Brian received approval for 2 50’ lots
- sanitary sewers will be installed, but do not know when
- he is asking for the same severances that were granted to 59 and 45 Brian Blvd.

D. Barnett
(Staff)
- staff are not in support of three lots, but would support two 75’ lots
- there will also be a 12m x 12m daylight triangle being required which also cuts down on the size of the lot
- the severances that were granted were for 75' and 100' lots
- 50' lots in addition to the requirement of a daylight triangle will not be supported by staff
- Staff's position on the rezoning will also be for denial
- the Councillor is also opposed to 3 lots

P. Wallace
- this was his mother's home
- they also had looked at severing, but because of the natural swales and grading issues of the property this would not be allowed
- what size of homes would be built; no information has been provided about the size, height or style
- concerned with water run off; concerned with drainage
- Parkside & Braeheid are getting busier and a 4 way stop was installed if this continues they may want to widen the road plus the added lots will cause the loss of the percolation of water

N. Bawolin
- they purchased their home 2 years ago and did because of the large trees in the surrounding area
- they assumed that this neighbourhood was part of the Greenbelt and could not be severed
- concerned that allowing these severances will devalue their property
- they are not in support of having to connect from her private sewers to city sewers
- concerned with grading and that these new homes will exasperate the drainage and flooding issues they are already experiencing
- they support staff's comments for denial

Owner/occupant
106 Braeheid
- moved into the area in May
- concerned that he would have to disconnect from his private services and connect to the new sewers
- there are many mature trees in this neighbourhood which will be destroyed
- his driveway is done which means it will have to be taken apart to connect to the new sewers who will incur all these costs

.../3
these new homes will be out of character with the existing neighbourhood as all the homes in the area are bungalows

the city is only asking for the applicant to hook up to the sewers not everyone has to
the city is making him hook up which will cost him more money

there is a significant grading difference which has already caused 2 floods in her basement
she can see that water will be a greater issue
the lot in question does not have sidewalks but has a drainage ditch

is the neighbours are experiencing drainage issues already does not see how 2 or 3 homes would increase the problem
he has to keep the swale on his property
if he wants to take the trees down he could because they are on his property not the city's
there is a height by-law requirement which he would adhere to
3 residential lots are in character with this neighbourhood
there are 50' lots to the south and up the street
what he is proposing is an urban type of use

the current zoning is for 100' frontage and the applicant would still have to receive rezoning approval

is not comfortable in approving 3 lots and feels that the application is pre-mature not to mention the requirement for a daylight triangle which will affect the size of the lot further
would the applicant be inclined to table the application until rezoning has been dealt with

asked that the application be tabled until further notice

Following discussion it was moved by Mr. Abraham and seconded by Mr. Audziss that the application be TABLED until further notice.

CARRIED.
Date: Feb. 25th 2013

Attn: Daniel Barnett, City of Hamilton

Ref: Zoning By-law application file no. ZAR-12-060-17 Parkside Drive, Flamborough

I am writing to refute this application for several reasons:

As written in the application for land severance (FL/B-12:106) states this is a mature lot and the proposed application for rezoning and severing into 3 lots does not fit the “character of the area and does not maintain or improve the existing pattern of the streetscape”. The corner lots backyard facing Parkside would look odd and out of place.

As this is a mature developed residential area, why would one lot/property get rezoning approval to “urban residential”? It would make more sense to rezone the whole neighborhood, then one property on its own.

Many heritage trees would be cut down. This takes away from the current appeal of Braeheild, having mature trees on properties.

Disputing the “public sewer” connections. Our builder was denied public sewer access by the city, and spent in upwards of $20,000 to install private sewer connections. Our home is less than 2 years old, and does not make sense to have these sewer systems redone. The applicant made a comment that this is written into our purchase and sale agreement that at any time the city requires a public sewer, the homeowner is required to reconnect at our cost. I reviewed by purchase agreement and this clause is not stipulated anywhere?

Reduced street require parking for existing mailboxes.

Would create further congestion backing up on Braeheild, turning Parkside drive.

We feel this applicant is out to make a profit by requesting to build 3 new homes. I would support him in building one new home on this lot, but 3 is greedy and he is only out to make profits for himself. This has also created a un-neighborly atmosphere.

All the above would also lead to a lower resale value of our property and neighboring properties.

I strongly ask the city to consider this, and support maintaining the existing appeal of Braeheild Ave.

Sincerely,

Nicole and Justin Bawolin
110 Braeheild Ave.
Waterdown, ON L0R 2H5

Email:
Barnett, Daniel

From: Cecil Alkema
Sent: Monday, February 25, 2013 8:36 AM
To: Barnett, Daniel
Subject: Comment > ZAR-12-060 - 176 Parkside, Flamborough

Hello Daniel,

I live around the corner from this property. I drive by it multiple times per day because it's right on the corner of Parkside and Braehead.

Dividing this lot into three (3 separate dwellings), in my opinion, is "outrageous". One of the things that's so attractive about this neighbourhood is the big lots ... something you don't see in any new development areas. So, mixing high-density housing with houses on large lots will look unattractive and possibly even de-value our properties.

So, I object to this request.

Thank you for the opportunity to respond to this application.

Cecil and Tracy Alkema
30 Brian Boulevard
Appendix “E” to Report PED13175 (Page 3 of 4)

Barnett, Daniel

From: Mark Gillner
Sent: Wednesday, February 27, 2013 10:41 PM
To: Barnett, Daniel
Cc: Mark Gillner
Subject: RE: Zoning By-Law Amendment Application (File No. ZAR-12-060)

February 27, 2013

RE: Zoning By-Law Amendment Application (File No. ZAR-12-060)

Dear Mr. Barnett,

My wife and I live at 106 Braeheld Avenue, Waterdown, ON and we are against the application to sever the property at 176 Parkside Drive into three separate lots.

Our primary concern, although not our only one, is that a Committee of Adjustment report outlined the requirement for us (106 Braeheld) to disconnect and remove our private sewer system and to tie into a new public system provided by the applicant at 176 Parkside Drive.

The builder of our dwelling (106 Braeheld) incurred very high costs to install the private sewer system for the property; that cost was factored within the purchase price of our home. Documentation relating to the existing sewer installation cost is available if required.

Since purchasing the property at 106 Braeheld last year, we have completed other expensive enhancements to the property – e.g. professional driveway paving, landscaping design, fencing, decking as well as other external garden structures – all of which are permanent & costly fixtures now surrounding our dwelling and/or on top of the sewer system location.

Who is going to pay for us to disconnect the current sewer system (which exits the rear of our property) and make the necessary provisions to attach to the proposed new public sewer system in the front of our house? What happens to the money we’ve lost during our purchase? We can’t imagine that we would ever be able to bring that cost forward during a resale if that sewer system no longer exists. Our property value just decreased. This is just not feasible!

Other concerns regarding any future development at 176 Parkside Drive or any property/dwelling resulting from severance of the existing lot:

- Height Restriction needs to be adhered to for any future dwellings on, or severed from, the property at 176 Parkside Drive.
- Conformance to 30% Lot Coverage for any future dwelling(s) on, or severed from, the property at 176 Parkside, as was adhered to by our own dwelling built at 106 Braeheld. Not 40% Lot Coverage.
- Neighbourhood Control over Architectural Designs of any future dwelling(s) to be built on, or severed from, the property at 176 Parkside. The proposed severance does not conform to the character of the existing neighbourhood at Braeheld / off Parkside, a mature tree-lined area unlike the crowded new subdivision-style communities as seen in other areas of the city and region. I would like to note that the “look and feel” of the existing neighbourhood surrounding Braeheld was a big factor in our own decision to relocate to Waterdown from the nearby city of Burlington.
• Current and future parking restrictions on Braeheld, given the proposed severance and thereafter another driveway accessing Braeheld, which would remove the designated street parking area for the existing homes at 105, 106, 110 Braeheld for half of each month (as per current Parking By-law regulations). There is a community Canada Post Super Mailbox in that part of Braeheld, as well as a fire hydrant, and Stop Sign – all of which restrict current parking locations.

In closing I would like to reiterate that as homeowners of 106 Braeheld Avenue, we are very concerned about this issue and would like to be advised of any future meetings or available documentation regarding this severance application for 176 Parkside Drive. Thank you for your cooperation.

Regards,

Mark Gillner & Lisa Gillner
106 Braeheld Avenue
Waterdown, ON L0R 2H5