SUBJECT: Application for a Change in Zoning for Lands Located at 55 Rockcliffe Road (Flamborough) (PED08048) (Ward 15)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-07-080, by Steve Kostidis, owner, for a change in zoning from the Parkway Belt Open Space “O1” Zone to a modified Parkway Belt Open Space “O1-2” Zone, in order to permit the future development of one single detached dwelling, for lands located at 55 Rockcliffe Road (Flamborough), shown on Appendix “A” to Report PED08048, on the following basis;

(a) That the draft By-law, attached as Appendix “B” to Report PED08048, 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 Schedule A-30, of Zoning By-law No. 90-145-Z.

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

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is to modify the Parkway Belt Open Space “O1” Zone on the subject lands, in order to permit the future development of a single detached dwelling.

The proposal has merit and can be supported since the proposed rezoning will accommodate an additional single detached dwelling in an already built up area. It is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

BACKGROUND:

Proposal

The applicant proposes to modify the Parkway Belt Open Space “O1” Zone on the subject lands. The current zoning permits the land to be used for Agriculture, Conservation or Park purposes. The effect of the application is to permit the future development of one single detached dwelling. The subject land is identified as Block 13 on Registered Plan 62M-910, and is a part of the “Highland Hill Estates” Subdivision (see Appendix “C”).

25T90013 – “Highland Hill Estates” Subdivision

“Highland Hill Estates” Subdivision established Lots 1-8 for single detached dwellings, Block 9 for the Overdale Avenue road allowance, Block 10 for drainage purposes, Blocks 11 and 12 for one foot reserves to restrict access, and Block 13 (the subject property) for storm water detention purposes, on Registered Plan 62M-910 (see Appendix “C”).

Details of Submitted Application

Location: 55 Rockcliffe Road (Flamborough)

Owner/Applicant: Steve Kostidis

Property Description: Frontage: 20.0 metres

Depth: 29.4 metres

Area: 566 square metres
EXISTING LAND USE AND ZONING:

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<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
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<td>Vacant</td>
<td>Parkway Belt Open Space</td>
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<td>“O1” Zone</td>
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<th>Surrounding Lands</th>
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<td>North</td>
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<td>South</td>
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<td>Escarpment Woods</td>
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<td>West</td>
<td>Single Detached Dwelling</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) It is consistent with the policies of the Provincial Policy Statement.
   (ii) It conforms with the “Urban Area” designation of the Hamilton-Wentworth Official Plan.
   (iii) It conforms with the “Residential” designation of the Waterdown Urban Area Land Use Plan of the Town of Flamborough Official Plan.
   (iv) It is compatible with the existing residential dwellings fronting onto Rockcliffe Road.

2. The subject property was created through the “Highland Hill Estates” Plan of Subdivision, identified as Block 13 on Registered Plan 62M-910 (see Appendix “C”). The subdivision established Lots 1-8 for the development of single detached dwellings, Block 9 for the Overdale Avenue road allowance, Block 10 for drainage purposes, Blocks 11-12 as 0.3 metre reserves along the front portion of the subject property and the abutting Lot/Block(s) to prevent direct access to Rockcliffe Road, and Block 13 (subject property) for storm water detention purposes.
The Supplementary Storm Water Management Report, dated January 1999, indicated that a storm water management pond is not recommended by the Ministry of Environment for the “Highland Hill Estates” development, as the area is less than five hectares. The supplementary report concluded that quantity control and outflow dispersion can be accommodated with the system shown on Block 10, as per approved engineering drawings.

3. In May 2007, the subject property was advertised in the Hamilton Spectator as a property for sale for tax arrears. A note was included in the advertisement indicating that the property was zoned “Open Space”, and was deficient in lot area requirements. There was nothing noted regarding the future development of the property.

4. The Niagara Escarpment Commission has determined that a significant portion of the subject lands is within the Urban Area. The remainder of the property is within the Escarpment Natural Area. The applicant submitted two options for future building envelopes. Both of the options had a portion of the building envelope within the Escarpment Natural Area and, as such, were not acceptable to the Niagara Escarpment Commission. A third option for the proposed building envelope has been drafted in accordance with the requirements of the Niagara Escarpment Plan (see Appendix “D”).

5. In order to facilitate the development of one single detached dwelling on the subject lands, the following regulations shall be incorporated into the amending By-law:

- A maximum Lot Coverage of 30%.
- A minimum Front Yard of 7.5 metres.
- A minimum Rear Yard of 9.5 metres for all buildings, structures, pools, sheds or any other accessory structure, including a fence.
- A minimum Southerly Side Yard of 4 metres.
- A minimum Northerly Side Yard of 2 metres.

The building envelope must be restricted to ensure no development occurs on the Escarpment Natural Lands. The above regulations will ensure the development of the single detached dwelling is consistent with the residential dwellings developed as a part of the “Highland Hill Estates” Subdivision, and in conformity with the Niagara Escarpment Commission policies.

6. The subject lands are currently unkempt and used as a dumping site for area residents. During a site visit, staff discovered that the vacant parcel of land is being used to dispose of yard waste, tires and other waste. The development of
the lot for residential purposes would eliminate the opportunity for disposing of waste on the site and will encourage better maintenance of the land.

Area residents have concerns regarding the loss of natural area and access to the Environmentally Significant Area (ESA), Clappison Escarpment Woods. The site, in its current state, does not offer views to the ESA, as the site is overgrown and appears to be a depository for yard waste detracting from the natural view. Block 10 is owned by the City of Hamilton and offers connectivity between the residential area and the natural area, behind the subject lands.

7. The subject property is consistent in size and shape with the lots in the “Highland Hill Estates” Subdivision. Lots 1-8 on Registered Plan 62M-910 have frontages ranging between 19.5 metres and 22.0 metres, with lot areas between 735 square metres and 850 square metres. The proposed lot will have a frontage of 20.0 metres, and a lot area of 566.5 square metres. While the lot area is less than the existing dwellings on Rockcliffe Road, the lot has been decreased because of the land required for drainage purposes, identified as Block 10 on Registered Plan 62M-910 (see Appendix “C”). Therefore, the subject land will appear to be of a size consistent with those lots created through the “Highland Hill Estates” Subdivision. Block 10 will appear to form part of the subject lands as no development can occur on the land.

8. In accordance with Section 9.1 of By-law 03-294, To Establish Site Plan Control in the City of Hamilton, the subject property will be subject to Site Plan Control for the future development of a single detached dwelling given the proximity of the proposed building envelope to an Environmentally Significant Area, Clappison Woods. Site Plan Control will ensure that all development is sufficiently set back from all natural features in accordance with the policies of the Niagara Escarpment Commission and Conservation Halton.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, the uses would have to conform to the Parkway Belt Open Space “O1” Zone, which permits Agriculture, Conservation and Park uses.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in zoning.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands), unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The subject lands are directly adjacent to an Environmentally Significant Area (ESA), namely, Clappison Escarpment Woods. Natural Heritage Planning staff visited the site and determined that the area of the lot proposed for development has been highly disturbed, and a sufficient building envelope can be established outside of the natural heritage feature. Furthermore, Conservation Halton commented that, given the highly disturbed nature of the site, there are no anticipated issues with Option 3, as forwarded by the Niagara Escarpment Commission (see Appendix ‘D’). As a result, no further studies would be required in support of this application.

Ontario Planning and Development Act

The application has been reviewed with respect to the Ontario Planning and Development Act. Block 13 of the "Highland Hill Estates" Subdivision was previously under the jurisdiction of the Parkway Belt West Plan. On the date that the Green Belt Plan came into effect, being February 24, 2005, the Parkway Belt Plan no longer applied to the subject land, as per the following:

22.1 (1) On the day Section 27 of the Greenbelt Act, 2005 comes into force,

   (a) The Parkway Belt Plan, also known as the Parkway Belt West Plan, referred to in Section 22, shall cease to apply to the lands that are part of the Niagara Escarpment Planning Area and described in Paragraphs 26, 30, 31 and 33 of the Schedule to Regulation 684 of the Revised Regulations of Ontario, 1980 (as the Schedule read on December 31, 1990); and,

   (b) The provisions of the Parkway Belt Plan, also known as the Parkway Belt West Plan, that describe the lands to which the Plan applies, shall be deemed not to refer to the lands referred to in Clause (a). 2005, c. 1, s. 27.

Green Belt Plan

The subject lands fall within the Niagara Escarpment Plan Area. Policy 2.2 states that the requirements of the NEP, established under the Niagara Escarpment Planning and Development Act, continue to apply, and the Protected Countryside policies do not
apply, with the exception of Section 3.3, Parkland, Open Space and Trails. The proposal is, therefore, consistent with the policies of the Greenbelt Plan.

**Hamilton-Wentworth Official Plan**

The subject lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 states that a wide range of urban uses, based on full municipal services, will be concentrated in Urban Areas. The proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

**Town of Flamborough Official Plan**

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

**E.3 Housing**

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

E.3.1.1(xii) When considering all new housing development or redevelopment, Council will require consideration of the following:

- That development or redevelopment is compatible with surrounding uses.
- That adequate off-street parking is provided and maintained.
- That the existing pattern of the streetscape and landscape is maintained or improved.
- That adequate separations are maintained through distance and/or buffering features between residential and adjacent land uses, particularly involving the privacy areas of adjacent residences.
- 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.

**E.3.2 Intensification**

E.3.2.1(ii) Infilling is the use of vacant land for new residential development, either by adding new units to an individual site or on newly created lots or sites, predominantly in built-up areas.
E.3.2.4 (ii) When considering infilling development, regard will be had to the following criteria to determine the compatibility of the proposal:

(a) Lot size, building setbacks, density and the height and mass of buildings in the surrounding area.

(b) Impact on the existing streetscape and landscape, and opportunities to maintain and/or enhance the existing streetscape.

(g) The proposal can be adequately serviced with water, sewage disposal, roads, garbage collection and utilities so as not to compromise the Town’s financial ability to provide such services.

Block 13 is no longer required for Storm Water Detention purposes. The development of the subject lands for residential development is in keeping with the Housing and Intensification policies of the Town of Flamborough Official Plan.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections:

- Capital Planning and Implementation Section, Public Works Department
- Traffic Engineering and Operations Section, Public Works Department
- The Niagara Escarpment Commission reviewed the proposed building envelope configurations as submitted by the applicant, and indicated that the Commission cannot support a proposal that extends a building envelope to all or part of the way into the Escarpment Natural Area. As a result, the Niagara Escarpment Commission recommended a third option; proposing a building envelope that is consistent with the single detached dwellings in the area, and which does not encroach into the Escarpment Natural Area (see Appendix “D”).

Conservation Halton reviewed the application and advised that the subject property is not considered to be within the area regulated by Conservation Halton, pursuant to Ontario Regulation 162/06. Staff of Conservation Halton supports ‘Option 3’ (see Appendix “D”), as forwarded by the Niagara Escarpment Commission, given the highly disturbed nature of the site as it provides the largest buffer from the natural features.

**PUBLIC CONSULTATION:**

In accordance with Council’s Public Participation Policy, 37 pre-circulation notices were mailed to all property owners within 120 metres of the subject property on December 5, 2007, requesting comments or support for the application. To date, three e-mail responses have been received (see Appendix “E”, “F”, and “G”). The concerns raised are discussed in the Analysis/Rationale Section of this report.
Notice of the Public Meeting of the Economic Development and Planning Committee was given in accordance with the provisions of the Planning Act. In addition, a Public Notice sign was posted on the property in December, 2007

**CITY STRATEGIC COMMITMENT:**

By evaluating the "Triple Bottom Line", (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- Community Well-Being is enhanced. ☑ Yes ☐ No
  Shelter, care and satisfying employment are accessible to all Hamiltonians.

- Environmental Well-Being is enhanced. ☑ Yes ☐ No
  Air quality and water quality and quantity are protected.

- Economic Well-Being is enhanced. ☑ Yes ☐ No
  Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:SH

Attachs. (7)
CITY OF HAMILTON

BY-LAW NO. 08-

To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended
Respecting Lands located at 55 Rockcliffe Road (Flamborough)

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2008, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (former Town of Flamborough) in accordance with the provisions of the Planning Act;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule “A-30”, appended to and forming part of By-law No. 90-145-Z (Flamborough) is amended by changing the zoning from the Parkway Belt Open Space “O1” Zone, to the Parkway Belt Open Space “O1-2” Zone on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Section 24 – Parkway Belt Open Space Zone of Zoning By-law No. 90-145-Z, as amended, is hereby further amended by adding the following:

   “24.3.2 “O1-2” (see Schedule Number A-30)

   Permitted Uses:
   (a) Any use permitted in an O1 Zone
   (b) Single Detached Dwelling

   Zone Provisions:
   (a) Lot Coverage (maximum) .................. 30%
   (b) Front Yard (minimum) .................. 7.5 metres
   (c) Rear Yard (minimum) .................. 9.5 metres for all buildings, structures, pools, sheds or any other accessory structure, including a fence.

   (d) Southerly Side Yard (minimum)....... 4.0 metres
   (e) Northerly Side Yard (minimum)....... 2 metres
   (f) All other zone provisions of Subsection 24.2 shall apply.

3. 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 _____, 2008.

Fred Eisenberger
Mayor

Kevin C. Christenson
City Clerk

ZAR-07-080
This is Schedule "A" to By-Law No. 08-
Passed the .......... day of ................., 2008

Schedule "A"

Map Forming Part of
By-Law No. 08-______
to Amend By-law No.90-145-Z

Subject Property

55 Rockcliffe Road
Change in Zoning from the Parkway Belt Open
Space "O1" Zone to the Parkway Belt Open
Space "O1-2" Zone.
OPTION 3 (as advanced by NEC)

55 Rockcliffe Rd.
Lot Area = 562m²
Lot Frontage = 20m

Front Yard = 7.5m
Rear Yard = 9.5m
Side Yard = 4.3m (west); 2.9m (east)
Escarpeinent Brow Set back = 11.1m (36ft)

Potential Building Area
168 m²

NEP Urban Area
NEP Escarpment Natural Area
December 14, 2007

Shannon Hamilton
City of Hamilton
Planning and Economic Development Dept.
Planning Division
Development Planning West Section
77 James Street North, Suite 400
Hamilton, Ontario L8R 2K3

RE: FILE ZAR-07-080 – APPLICATION FOR CHANGE IN ZONING 55 ROCKCLIFFE ROAD – FLAMBOROUGH

As residents of 53 Rockcliffe Road, we are corresponding with regards to the public input on the above file.

At the time of the Vanhoeve Homes development of our property 7 years ago, it was our understanding that this lot was not suitable for a full size dwelling and would serve as the location of the current water retention pond. This understanding was further confirmed when Vanhoeve Homes relinquished the property for non payment of taxes. The property we were told bordered on the Bruce Trail (Niagara Escarpment) and would not be approved by the Commission for development.

Over the last 7 years, the property in question has served as a dumping ground for garbage, construction debris and yard waste. Approval to develop this property will result in this debris being dumped closer to the adjoining properties. We have contacted various city officials in the past to have the vacant land cleaned up however, all efforts have failed.

With the continual development of green space in the area, the deer and other wild life will be forced further from their natural habitat. Area residents currently feed the deer and we are fearful that they will not have this additional source of food if this property is developed.

A final concern is that the single dwelling proposed for this small lot will not be suitable for the area in which it is constructed.

For the above reasons, we strongly object to the approval of rezoning for this property.

Has the Niagara Escarpment/Bruce Trail Commission approved this development?

We look forward to your comments which we understand will be published as part of the staff report. If you wish to contact us by phone, our number is:

Yours Truly,

David W. Clark and Susan B. Clark
January 4, 2008

Shannon Hamilton  
City of Hamilton  
Planning and Economic Development Dept.  
Planning Division  
Development Planning West Section  
77 James Street North, Suite 400  
Hamilton, Ontario L8R 2K3

RE: FILE ZAR-07-080 – APPLICATION FOR CHANGE IN ZONING  
55 ROCKCLIFFE ROAD – FLAMBOROUGH

As residents of 48 Rockcliffe Road, we are submitting our concerns in regards to public input on the above file.

At the time of the Vanhoeve Homes development of our property a little more than 6 years ago, it was our understanding that the lot in question was not suitable for a full size dwelling as I had inquired specifically about the property at that time. At the time and since then it has been our understanding that the lot was purposed to serve as the location of the current water retention pond. This was further confirmed when Vanhoeve Homes relinquished the property for non payment of taxes. We were told the property bordered on the Bruce Trail (Niagara Escarpment) and would not be approved by the Commission for development.

We share the concerns of our neighbors in the area that with the continual development of green space in the area, the deer and other wild life will be forced further from their natural habitat (Goldenview being a classic example). Area residents currently feed the deer and we are fearful that they will not have this additional source of food if this property is developed.

Over the past 6+ years, the property has served as a dumping ground for garbage, construction debris and yard waste and has been a bit of an eyesore at various times of year. Approval to develop this property will result in this debris being dumped closer to the adjoining properties. Should this property be developed we are concerned about where the current debris will be pushed as the land falls away from Rockcliffe Rd and into the forest.

Most importantly, we are concerned that the size of lot will not support the size of home that would be consistent with and complimentary to the surrounding properties and that the City may provide little oversight to ensure that the aesthetics integrate well with the area.

For the above reasons, we strongly object to the approval of rezoning for this property.

We look forward to your comments which we understand will be published as part of the staff report. If you wish to contact us by phone, our number is

Yours Truly,  
Clay & Marilyn McKay
Main Identity

From: <shamilt@hamilton.ca>
To: 55406142
Sent: Friday, January 04, 2008 2:11 PM
Subject: Re: ZONING AMENDMENT APPLICATION FILE ZAR-07-080

As local residents and neighbours of the property in question, we most strongly object to the proposed zoning amendment.

Simply put, this property was sold by the City for tax arrears and was advertised as no building permit being available at the time of sale, or at any time in the future.

We understand the reason the previous owner, a professional developer, was denied a permit was due to concerns regarding drainage, lot size, impact on the Escarpment and a number of other factors. Have these concerns changed? This developer has been long active in the community and has an excellent reputation in terms of trying to get his homes to blend in with the surrounding environment.

We cannot afford to lose yet another piece of escarpment-front property to satisfy someone's ambition or ego. There are deer, coyote, rabbit and other wildlife that have been seen on the property and many smaller animals nest on it and around the retention pond in the back.

This is also the only publicly-accessible view of the city below for quite a radius.

The property in question was sold as greenspace and should be maintained as greenspace. It cannot be replaced at any price - it is too valuable to the current residents of Waterdown and future generations to come.

There are enough other building lots available in the area to allow the new owner of this lot to build his dream home and still respect the no-building-permit-available condition on his purchase. He had full disclosure on his purchase decision and should respect it.

Janet & Klaus Elsaesser