That approval be given to Zoning Application ZAR-10-049, by Vitalina De Oliveira Aggus, Owner, for a change in zoning from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-56” Zone, Modified, with a Special Exception (Block 1), and the Urban Residential “R1-57” Zone, Modified, with a Special Exception (Block 2), to permit single-detached dwellings on the lands located at 23 Orchard Drive (Flamborough), as shown on Appendix “A” to Report PED11084, on the following basis:

(a) That the draft By-law, attached as Appendix "B" to Report PED11084, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law be added to Section 6 of Zoning By-law No. 90-145-Z as “R1-56” and “R1-57”.

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

The purpose of the application is to implement Condition 3 of approved Severance Application FL/B-10:73, which was approved on July 15, 2010. The retained and severed portions of the property are shown on Appendix “C”.

The effect of the application is to permit the construction of a single-detached dwelling on the lands to be severed, and continue to permit the existing single-detached dwelling on the lands to be retained, and apply site-specific zoning provisions for both the retained and severed portions of 23 Orchard Drive (Flamborough) as a result of the approved severance application (see Appendix “D”).

Alternatives for Consideration - See Page 15.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

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

HISTORICAL BACKGROUND

Consent Application (FL/B-10:73)

A Consent application to sever lands located at 23 Orchard Drive (Flamborough) was submitted to the Committee of Adjustment on May 21, 2010. The purpose of the application was to sever the westerly vacant portion of the subject property for a new single-detached dwelling, and to retain the easterly portion of the subject property, which currently contains an existing single-detached dwelling (see Appendix “C”).

The Committee of Adjustment approved the application on July 15, 2010, subject to a number of conditions, including that “the owner apply for and receive rezoning approval” (see Appendix “D” - Condition 3).

Current Zoning By-law Amendment (ZAR-10-049)

The purpose of the subject application is for a change to the current zoning for the severed portion of land to reduce the minimum lot area and frontage, increase the maximum lot coverage, and restrict the maximum floor space of the proposed new dwelling. The application is also to change the current zoning for the retained portion of

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land to reduce the minimum lot area and frontage, restrict the maximum floor space of
the existing dwelling, recognize the existing easterly side yard setback, and permit the
required parking space in the required front yard (see Appendix “B”). Single-detached
dwellings will remain as a permitted use on the subject property, as identified in the
Urban Residential “R1” general zoning provisions.

Chronology:

May 21, 2010: Consent Application FL/B-10:73, to sever a portion of 23 Orchard Drive (Flamborough), was submitted to the Planning and Economic Development Department.

July 15, 2010: Consent Application approved.

August 11, 2010: Last day of Appeal for the Consent Application.

December 22, 2010: Submission of Application ZAR-10-049 by Vitalina De Oliveira Aggus (Owner).

January 17, 2011: Application of ZAR-10-049 was deemed complete.

April 29, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application:

Location: 23 Orchard Drive (Flamborough)

Owner: Vitalina De Oliveira Aggus

Property Description:

Lands to be Severed: Frontage: 13.9 metres
Lot Depth: 45.7 metres
Lot Area: 639.8 square metres

Lands to be Retained: Frontage: 16.5 metres
Lot Depth: 45.7 metres
Lot Area: 754.1 square metres
EXISTING LAND USE AND ZONING:

<table>
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<th>Existing Land Use</th>
<th>Existing Zoning</th>
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POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe

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

Provincial Policy Statement

The proposal is consistent with the Provincial Policy Statement with respect to the policies that contribute to the development of healthy, liveable, and safe communities, as per the policies contained in Section 1.1.1 of the Provincial Policy Statement. In addition, the application is consistent with Section 1.1.3.1 that focuses growth in Settlement Areas.
The subject property is located approximately 190 metres from Highway No. 5 East. Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities such as transportation corridors and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from nuisances such as noise. Staff had requested that a noise warning clause advising potential purchasers that there may be occasional noise impacts due to increasing road traffic be included within the Consent Agreement for the subject property through Severance Application FL/B-10:73. This requirement was included as Condition 2 of the approved severance application (see Appendix “D”).

In addition, Policy 2.6.2 states that development and site alteration may be permitted on lands containing archaeological potential if significant archaeological resources have been conserved by removal or documentation, or preservation on-site. Where significant archaeological resources must be preserved on site, only development and site alteration, which maintains the heritage integrity of the site, may be permitted. Staff has determined that due to the current surface conditions of the property and the size of the parcel to be developed, an archaeological assessment is not required. A note has been attached to Severance Application FL/B-10:73 that the subject property has been determined to be an area of archaeological potential and it is reasonable to encounter archaeological resources during demolition, grading, construction, landscaping, staging, and stockpiling of equipment and soils. Should any archaeological materials be found on the property, the Ministry of Culture should be notified (see Note 2 of Appendix “D”).

Based on the foregoing, the proposed development on the subject lands is consistent with the Provincial Policy Statement.

**Hamilton-Wentworth Regional Official Plan**

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

**Town of Flamborough Official Plan**

The subject property is designated “Urban Residential” on Schedule “A”, Waterdown Urban Area Land Use Plan, in the Town of Flamborough Official Plan, where the proposed use is permitted in the designation in accordance with Policies A.2.1 and A.2.3. As the applicant has proposed single-detached dwellings, the subject property is further designated as Low Density Urban Residential.
Policy A.2.3(1) states that Council will consider proposals for development within the Low Density Urban Residential designation if the development is compatible with the surrounding community, and if the proposed development is contiguous to the existing development in order to achieve logical and sequential extensions to roads and Municipal water and sewerage systems.

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

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

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

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

E.3.2.1 Residential Intensification involves the creation of additional housing units generally in existing areas. Intensification may include conversion and the creation of additional units, infilling, redevelopment, and temporary mobile dwellings, which are defined as follows:

(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, predominately in built-up areas.

E.3.2.4 Infilling, as defined in Section E.3.2, may be permitted on lands designated Settlement Residential and in the Urban Area, subject to consideration of the following, where applicable:

(i) As a concept and guideline for the consideration of infilling applications in the Urban Area, compatibility means mutually tolerant and capable of existing together in harmony in the same area. Compatibility should not be narrowly interpreted to mean
“the same as”, or even as “being similar to”. In the final analysis, the goal of this policy is to allow for intensification which does not cause an unacceptable impact upon the existing neighbourhood.

- The proposal is compatible with the surrounding area in terms of height and mass;

- The existing pattern of streetscape and landscape can be maintained or improved; and,

- The appropriate provisions of the Zoning By-law, including adequate off-street parking, buffering, landscaping, and distance separations can be met.

(ii) When considering infilling development, regard will be had to the following criteria to determine the compatibility of the proposal:

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

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

(c) Provision for adequate off-street parking; and,

(d) Proposed building separations and possible buffering provisions and impacts on existing and proposed privacy areas.”

The proposed development of the subject property represents an example of infilling. The permitted use on the subject property will be single-detached dwellings, which is compatible with uses on the adjacent properties and in the surrounding neighbourhood. In addition, the proposed infill development will have lot sizes, densities, and building mass comparable to properties to the east along Silver Court. The existing streetscape will be maintained along Orchard Drive as the building footprint and size of the proposed dwelling on the severed portion of land will be of similar size as other neighbouring dwellings. Parking will be provided on-site.

As the proposed development complements the surrounding development, and is located where water and sewer systems exist, the application conforms to the Town of Flamborough Official Plan.
New Urban Hamilton Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan received ministerial approval on March 17, 2011, but has been appealed to the Ontario Municipal Board (OMB) and is, therefore, not yet in force and effect. The subject lands are designated “Neighbourhoods” on Schedule E - Urban Structure and Schedule E-1 Urban Land Use Designations of the New Urban Hamilton Official Plan. The following policies apply with respect to the proposed construction of the new single detached dwelling in the Neighbourhoods Designation:

“B.3.2.4.1 The development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development. A full range of housing forms, types, and densities means the full spectrum of physical housing types including single-detached dwellings, semi-detached dwellings, duplexes, townhouses or various types (street, block, stacked), apartments and other forms of multiple dwellings, and lodging houses, built at a range of densities.”

As the proposed development is to sever the property for the creation of two lots to permit the construction of one additional single-detached dwelling and to maintain the existing single-detached dwelling on the retained portion of land, the proposed development is compatible with adjacent land uses with respect to housing form, type, and density.

The New Urban Hamilton Official Plan defines Intensification to include infill development. As the proposed development is to permit the construction of a single-detached dwelling on a severed parcel of land, it represents an example of infill development, and the following policies apply with respect to residential intensification:

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

(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;
The proposed construction of a new single-detached dwelling on the severed portion of land, and to maintain the existing single-detached dwelling on the retained portion of land, represents a compatible form of development within an existing residential community with respect to shadowing, traffic, height, density, lot pattern, and configuration. The proposed development respects and maintains the streetscape with respect to setbacks and building separations as the setback from the street is consistent with other dwellings on the street. This will be attained through the Zoning By-law Amendment application, which will address deficiencies in lot area and frontage, lot coverage, and maximum floor space for the severed portion of land, and lot area and frontage, side yard setback, maximum floor space, and parking requirements for the retained portion of land. The proposed development also complements the existing functions of the residential neighbourhood consisting of single-detached dwellings.

In addition to the above policies, the following policies apply to the “Neighbourhood” land use designation:

E.3.1.3 Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.

E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities, as well as supporting uses intended to serve the local residents.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 - Residential intensification and other applicable policies of this Plan.
E.3.12 Innovative neighbourhood designs incorporating energy and environmental design standards and the conservation of natural resources shall be promoted in accordance with Section B.3.3 - Urban Design Policies and Section B.3.7 - Energy and Environmental Design Policies.

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

As the proposed development is for a single-detached dwelling, the Zoning Amendment application would conform to the Urban Hamilton Official Plan.

#### RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections.

- Taxation Division, Corporate Services Department.
- Traffic Engineering Section, Public Works Department.
- Environment and Sustainable Infrastructure Division, Public Works Department.
- Hamilton Municipal Parking System Section, Parking and Bylaw Services Division, Planning and Economic Development Department.
- Niagara Escarpment Commission.
- Horizon Utilities.

**Public Works Department (Operations and Waste Management Division)** staff has indicated that the property is eligible for weekly collection of garbage, organics, recyclable material, and leaf and yard waste through the City of Hamilton, subject to the compliance of the current City’s Solid Waste Management By-law 09-067 and specifications indicated by the Operations and Waste Management Division.

**Public Works Department (Urban Forestry)** staff indicated that there is no urban forestry conflict. There is a Municipal Tree Asset located on the road allowance fronting onto the retained portion of the subject property, but this tree is insignificant and its removal is permitted to allow for grading and overall construction. There are a number of mature spruce trees on private property, but these trees are unregulated as Hamilton does not have a Private Tree By-law.

**Public Consultation**

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities.
The subject rezoning application is part of the implementation of Consent Application FL/B-10:73, which was approved by the Committee of Adjustment on July 15, 2010 (see Appendix “D”). Therefore, preliminary circulation was not required. No resident was in opposition to the consent application.

Notice of Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice sign was posted on the property in early-February, 2011.

ANALYSIS / RATIONALE FOR RECOMMENDATION

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

   (i) It is consistent with the Provincial Policy Statement and conforms to the Places to Grow Growth Plan;

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

   (iii) It is compatible with the existing development in the surrounding area; and,

   (iv) It implements a condition of severance approval (see Condition 3 - Appendix “D”).

2. A consent application to sever 23 Orchard Drive (Flamborough) was approved by the Committee of Adjustment on July 15, 2010 (see Appendix “D”). The severed portion of the property contains an existing garage that is associated with the existing single-detached dwelling on the retained portion. As a condition of Severance approval, the owner will be required to demolish the attached garage (see Appendix “D” - Page 2, Condition 5).

3. The proposed development of the subject property represents infill development that takes into consideration the current uses in the community, the general streetscape, and general character of the surrounding area. With respect to the use, a single-detached dwelling is proposed on the severed portion of the subject property, which is compatible with uses on the adjacent properties. Also, the streetscape of Orchard Drive will be maintained as the proposed development will have sufficient front yard and side yard setbacks. A review of the frontages on Orchard Drive was conducted, where the lot widths range from 17 metres to 30 metres.
4. A change in zoning has been requested from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-56” Zone, Modified, for the severed portion of lands to permit a single-detached dwelling, and to permit site-specific changes to the minimum lot area and frontage, maximum lot coverage, and maximum floor space for dwelling units (see Appendix “B”). The following are the requested modifications to the zoning.

(a) Minimum Lot Area

The current zoning provisions in the Urban Residential “R1-6” Zone, Modified, require a minimum lot area of 1,390 square metres. The proposed lot area for the severed parcel will be 636.3 square metres, whereas the draft By-law will require a minimum lot area of 635.0 square metres.

The reduction in lot area can be supported as lot areas for existing properties on Orchard Drive range from 575 square metres to 1,390 square metres. The proposed lot size will allow for a single-detached dwelling to be a permitted use, while maintaining the streetscape of the neighbourhood, and be in keeping with existing residential lots on the street. Therefore, the requested reduction in minimum lot area for the subject property can be supported.

(b) Minimum Lot Frontage

The current zoning provisions in the Urban Residential “R1-6” Zone, Modified, require a minimum lot frontage of 30 metres. The proposed lot frontage for the severed parcel will be 13.9 metres and the draft By-law reflects this reduction in the minimum lot frontage.

There are a range of lot frontages along Orchard Drive, and similarly there are a range of lot frontages in the surrounding neighbourhood. This range in lot frontages is primarily attributed to the introduction of public services and the change to intensification policies. Lot frontages of 30 metres are no longer required to accommodate septic systems, which eliminates a barrier to intensification in the general vicinity of the subject lands. It has been demonstrated throughout the various modifications of the Urban Residential (Single-Detached) “R1” Zone that 13 metres of frontage is sufficient to accommodate residential development. Many mature residential areas of Flamborough, including Orchard Drive, are currently transitioning to incorporate a more compact form of residential development. The lands surrounding the properties on Orchard Drive are comprised of townhouse dwellings to the north, and a more compact form of single-detached dwellings to the south. There are also medium to high
density residential uses to the northeast and southeast of Orchard Drive (see Appendix “A”). The reduction in frontage can be supported, as the proposal does not negatively impact the overall character of the street and maintains the integrity of the neighbourhood.

(c) Maximum Lot Coverage

The proposed lot coverage for the severed lands is 195 square metres, or 30.1% of the total lot area of 639.8 square metres, which does not conform to the Urban Residential “R1” Zone provisions which permits a maximum lot coverage of 25%, or the Urban Residential “R1-6” Zone, Modified, provisions which permits a maximum lot coverage of 15%. Staff has determined that the site-specific zoning provision to increase the Maximum Lot Coverage to 35% maintains and respects the character of the streetscape found in the neighbourhood, and provides flexibility in terms of building design (i.e. 1-storey or 2-storey dwellings). In addition, the site-specific zoning provision to limit the Maximum Floor Space will restrict the size of the single-detached dwelling, limiting the owner’s ability to construct homes that are too large and less compatible with the neighbourhood.

(d) Maximum Floor Space

The applicant proposes to permit the construction of a 2-storey, single-detached dwelling on the severed parcel of land with a main floor and second floor square footage of 195 square metres per floor, for a total of 390 square metres (see Appendix “C”). Staff has determined that the requested modification to the maximum square footage for the main floor and second floor space from the permitted 186 square metres in the current Urban Residential “R1-6” Zone, Modified, to 195 square metres is minor in nature and can be supported.

Based on the foregoing, staff supports the above site-specific changes to the Urban Residential “R1” Zone for the severed parcel of land with respect to the Minimum Lot Area, Minimum Lot Frontage, Maximum Lot Coverage, and Maximum Floor Area Space.

5. A change in zoning has also been requested from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-57” Zone, Modified, for the retained portion of lands to recognize the location of the existing single-detached dwelling, subject to specific changes to the minimum lot area and frontage, the existing easterly side yard setback, and maximum floor space for dwelling units (see Appendix “B”). The site-specific changes are in keeping with the surrounding area, as only single-detached dwellings will continue to be permitted.
(a) **Minimum Lot Area**

The retained parcel will have a lot area of 753.1 square metres, whereas the current Urban Residential “R1-6” Zone, Modified, requires a minimum lot area of 1,390 square metres. The draft By-law has addressed this deficiency by requiring a minimum lot area of 750 square metres. The reduction in lot area is in keeping with the range of lot areas on Orchard Drive and, therefore, can be supported.

(b) **Minimum Lot Frontage**

The retained parcel will have a lot frontage of 16.5 metres, whereas the current Urban Residential “R1-6” Zone, Modified, provisions require a minimum lot frontage of 30 metres. A modification to the zoning has been incorporated into the Draft By-law requiring a minimum lot frontage of 16.5 metres. The reduction in frontage can be supported, as it is compatible with the lot pattern of the surrounding area.

(c) **Minimum Side Yard Setback**

The current easterly side yard setback for the existing single-detached dwelling located on the retained parcel of land is 1.15 metres. However, the Urban Residential “R1-6” Zone, Modified, provision requires a minimum 3 metre side yard setback. In addition, the Urban Residential “R1” Zone provision requires a minimum side yard setback of 1.2 metres. The reduction in the easterly side yard setback will provide sufficient side yard for the maintenance of the dwelling on the subject property and buffering between the neighbouring properties. The westerly side yard setback will be 1.2 metres and is consistent with the existing Urban Residential “R1” Zone provisions for side yard setbacks.

(d) **Maximum Floor Space**

The existing Urban Residential “R1-6” Zone, Modified, provisions provide for maximum floor spaces for 1 and 2-storey dwelling units. The maximum floor space is 186 square metres for the first storey and the first floor of a 1.5-storey dwelling, and 372 square metres for a 2-storey dwelling. The purpose of this zoning provision is to restrict the size of the dwelling and to prevent “Monster Homes” from being constructed. This zoning provision has been incorporated into the Draft Zoning By-law. This will maintain the general streetscape of the community, and also prevent excessively large homes from being built on the subject lands.

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(e) **Required Parking in Required Front Yard**

The parking requirements in the Flamborough Zoning By-law identify 1 required parking space for single-detached dwellings. In addition, Section 5.21.5(a) of the Flamborough Zoning By-law prohibits required parking spaces to be located within the required front yard. Currently, there is an attached garage that is accessory to the existing single-detached dwelling. The existing garage straddles the proposed property line, and as a condition to the Consent application, the owner is required to demolish the existing attached garage (see Appendix “D” - Page 2).

Due to the removal of the existing garage, the required parking space will be relocated to the front yard of the existing single-detached dwelling. The front yard is 10.7 metres, whereas the minimum required front yard is 7.5 metres. As a result, the relocated parking space will be partially within the required front yard. In addition, the Minimum Lot Frontage is 16.5 metres, which will be sufficient to permit the required parking in the required front yard and continue to provide landscaping in the front yard.

Staff is supportive of the modification to Section 5.21.5(a) to permit the required parking space within the required front yard setback as it will be the only space available to locate the required parking space. In addition, parking in the front yard will not alter the streetscape, as a recent visit shows cars parked in the front yard of neighbouring properties along Orchard Drive.

Based on the foregoing, staff supports the above site-specific changes to the Urban Residential “R1” Zone with respect to Minimum Lot Area and Frontage, Minimum Side Yard Setback, Maximum Floor Space, and parking in the required front yard for the retained portion of land.

6. Through Condition 4 of the Consent application (see Appendix "D"), the applicant shall register on title a Consent Agreement with the City of Hamilton to address grading, drainage, and stormwater management on the severed lot. In addition, the applicant shall demonstrate that all drainage from the site shall be taken to a suitable outlet.

### ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the subject property would remain zoned Urban Residential “R1-6” Zone, Modified, where the existing single-detached dwelling would continue to be a permitted use. However, the Zoning Amendment application is a condition of Consent Application FL/B-10:73. If the application is denied, the consent application will lapse and become void.
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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

CORPORATE STRATEGIC PLAN


Financial Sustainability
• Effective and sustainable Growth Management.
• Generate assessment growth/non-tax revenues.

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

APPENDICES / SCHEDULES

• Appendix “A”: Location Map
• Appendix “B”: Draft By-law
• Appendix “C”: Draft Survey Plan
• Appendix “D”: Consent Application FL/B-10:73

:TL
Attachs. (4)
CITY OF HAMILTON

BY-LAW NO. 90-145-Z

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 23 Orchard Drive (Flamborough)

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

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

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

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th of November 1990 and approved by the Ontario Municipal Board on the 21st of December, 1991;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 11- of the Planning Committee, at its meeting held on the day of , 2011, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

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

1. That Schedule “A-30” of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by rezoning from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-56” Zone, Modified (Block 1), and Urban Residential “R1-57” Zone, Modified (Block 2), on the lands, the extent and boundaries of which are more particularly shown on Schedule “A”, annexed hereto and forming part of this By-law.

2. That Section 6 - Urban Residential (Single-Detached) Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

6.3 Exception Numbers

6.3.56 “R1-56” (See Schedule A-30)

Permitted Uses:

(a) Sub-section 6.1 shall apply.

Zone Provisions:

(a) Minimum Lot Area 635 square metres.
(b) Minimum Lot Frontage 13.9 metres.
(c) Maximum Lot Coverage 35%.
(d) Maximum Floor Space:
   1 storey 195 square metres.
   1-1/2 storeys 195 square metres on the main floor.
   2 storeys 390 square metres.
(e) All other zone provisions of Sub-section 6.2 shall apply.

6.3.57 “R1-57 (See Schedule A-30)

Permitted Uses:

(a) Sub-section 6.1 shall apply.
Appendix “B” to Report PED11084 (Page 3 of 4)

Zone Provisions:

(a) Minimum Lot Area
750 square metres.

(b) Minimum Lot Frontage
16.5 metres.

(c) Minimum Side Yard Setback
1.2 metres, except 1.1 metres for the dwelling existing on the date of the passing of this By-law, being the day of , 2011.

(d) Maximum Floor Space:

1 story
186 square metres.

1-1/2 stories
186 square metres on the main floor.

2 stories
372 square metres.

(e) Notwithstanding Section 5.21(a), the required parking space may be located within the required front yard for the dwelling existing on the date of the passing of the By-law, being the day of , 2011.

(f) All other zone provisions of Sub-section 6.2 shall apply.

3. That By-law No. 90-145-Z (Flamborough) is amended by adding this By-law to Section 6 as “R1-56” and “R1-57”.

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

PASSED and ENACTED this day of , 2011.

________________________________________  ________________________________________________
R. Bratina Rose Caterini
Mayor Clerk

ZAR-10-049
Appendix “B” to Report PED11084 (Page 4 of 4)

This is Schedule “A” to By-Law No. 11-

Passed the .......... day of ....................., 2011

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Schedule "A"

Map Forming Part of
By-Law No. 11-_____

to Amend By-law No. 90-145-Z

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Subject Property

23 Orchard Drive

Block 1 - Change in zoning from the
Urban Residential “R1-6” Zone, Modified to the
Urban Residential “R1-58” Zone, Modified

Block 2 - Change in zoning from the
Urban Residential “R1-6” Zone, Modified to the
Urban Residential “R1-57” Zone, Modified

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Scale: N.T.S. File Name/Number: ZAR-1G-049
Date: March 30, 2011 Planner/Technician: TL / AL

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
APPENDIX "D" TO REPORT PED11084 (Page 1 of 2)

Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. FL/B-10:73
SUBMISSION NO.  B-73/10

IN THE MATTER OF  The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 23 Orchard Drive,
formerly in the Town of Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Lazier Hickey LLP (Gerald
B. Aggus) on behalf of the owner Vitalina De Oliveira Aggus, for consent under Section
53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a
vacant parcel of land measuring 13,956m² (45.78' x 45.72m (150' x) for single
family residential purposes, and to retain a parcel of land measuring 16,524m²
(54.2' x 45.68' (149.9) containing an existing single family dwelling for
residential purposes.

THE DECISION OF THE COMMITTEE IS:

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

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and Town of
Flamborough Official Plans.

2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and
orderly development of the lands.

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

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P.
13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the
Committee of Adjustment Office, unless exempted by the Land Registrar.

2. 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 apply for and receive rezoning approval to the satisfaction of the
Manager of Development Planning.

4. That the applicant enter into and have registered on title a Consent Agreement with the
City of Hamilton to the satisfaction of the Director of Development Engineering to deal
with the grading, drainage and stormwater management on the severed lot. The
applicant shall demonstrate that all drainage from the site shall be taken to a suitable
outlet.
5. The owner shall demolish all or an appropriate portion of the attached garage straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Building Services Division). Such demolition may be subject to a demolition permit issued in the normal manner.

6. That the owner/applicant apply for and receive any required building permits in the normal manner to the satisfaction of the Planning and Economic Development Department (Building Services Division)

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

8. The owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of settling up a new tax account for the newly created lot.

DATED AT HAMILTON this 15th day of July, 2010.

M. Dudzić, Chairman

C. Lewis

D. Serwatuk

D. Smith

M. Switzer

L. Tew

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS July 22nd, 2010. HEREBY NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (July 22nd, 2011) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(4)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS August 11th, 2010.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTE TO BE INCLUDED IN DECISION IF APPROVED:

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 21 Orchard Drive, and that the lands to be retained will remain as 23 Orchard Drive.

2. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the applicant is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation (1 of the Ministry of Small Business and Consumer Services (416.226.6352)).