TO: Chair and Members
Economic Development and Planning Committee

WARD AFFECTED: WARD 15

COMMITTEE DATE: October 5, 2010

SUBJECT/REPORT NO:
Application to Amend Flamborough Zoning By-law 90-145-Z for a Property Located at 45 Brian Boulevard (Flamborough) (PED10223) (Ward 15)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
Timothy Lee
(905) 546-2424, Ext. 1249

SIGNATURE:

RECOMMENDATION

That approval be given to Zoning Application ZAR-10-030, by Karen Bulmer, Owner, for changes in zoning from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-47” Zone, Modified, with a Special Exception (Block 1), and to the Urban Residential “R1-25” Zone, Modified, with a Special Exception (Block 2), to permit single-detached dwellings on the lands located at 45 Brian Boulevard (Flamborough), as shown on Appendix “A” to Report PED10223, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10223, 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 “R1-47”.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
(c) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan, and the West Waterdown Secondary Plan.

EXECUTIVE SUMMARY

The purpose of the Zoning By-law Amendment application is to amend the Town of Flamborough Zoning By-law on the lands located at 45 Brian Boulevard (see Appendix “A”). The Zoning Amendment application is to satisfy Condition 3 of approved Severance Application FL/B-10:48, which was approved by the Committee of Adjustment on May 20, 2010 (see Appendix “D”). The retained portion of the property is located on Part 1 of the property, and the severed portion of land is located on Part 2 of the subject property (see Appendix “C”).

The effect of the application is to permit the construction of a single-detached dwelling on the severed lands, and to apply site-specific zoning provisions on the retained lands to recognize the location of an existing dwelling.

Alternatives for Consideration - See Page 12.

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-10:48)

A consent application to sever a portion of lands located at 45 Brian Boulevard was submitted to the Planning and Economic Development Department on April 20, 2010. The purpose of the application was to sever the rear portion (Part 2) of the subject property, and to retain the front portion (Part 1) of the subject property, which currently contains an existing single-detached dwelling (see Appendix “C”).

The Committee of Adjustment approved the application on May 20, 2010, subject to a number of conditions (see Appendix “D”). One condition of approval is that the owner receives zoning approval to permit the single-detached dwellings on the severed and retained portions of the subject property (Condition 3 - Appendix “D”). In addition,
Condition 7 states that the owner shall receive final approval of any necessary variances from the requirements of the Zoning By-law. Both of these conditions are the subject of the Zoning By-law Amendment application.

**Current Zoning By-law Amendment (ZAR-10-030)**

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

The subject property is located on the northeast corner of Brian Boulevard and Braeheid Avenue (see Appendix “A”). Lands surrounding the subject property are comprised of low density residential uses in the form of single-detached dwellings.

**Chronology**

- **April 20, 2010**: Consent Application to sever a portion of 45 Brian Boulevard was submitted to the Planning and Economic Development Department.
- **May 20, 2010**: Consent Application approved by the Committee of Adjustment.
- **June 30, 2010**: Submission of Application ZAR-10-030 by Karen Bulmer.
- **July 13, 2010**: Application ZAR-10-030 deemed complete; Circulation of Notice of Complete Application to residents within 120 metres of subject lands.
- **July 15, 2010**: Circulation of the Application to internal departments and external agencies.
- **August 16, 2010**: Circulation of Survey to Building Services.
- **September 17, 2010**: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.
Details of Submitted Application:

Location: 45 Brian Boulevard

Owner: Karen Bulmer

Property Description:

(Part 1: Retained Parcel)  
Frontage: 30.5 metres on Brian Boulevard  
Lot Depth: 30.5 metres  
Area: 918.9 square metres

(Part 2: Severed Parcel)  
Frontage: 15.2 metres on Brian Boulevard  
Lot Depth: 30.5 metres  
Area: 463.6 square metres

EXISTING LAND USE AND ZONING:

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<th>Existing Zoning</th>
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Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
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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 is consistent with the Places to Grow Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

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

The subject property is located approximately 55 metres from Parkside Drive. Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities such as transportation corridors and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from nuisances such as noise. Staff had required that a noise warning clause, advising potential purchasers that there may be occasional noise impacts due to increasing road traffic, be included within the Consent Agreement and all purchase and sale and/or lease/rental agreements for the subject property through Severance Application FL/B-10:48. This requirement was included as Condition 2 of the approved severance application (see Appendix “D”). Accordingly, the proposal 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 changes in zoning conform 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. The proposed use is permitted in the “Urban Residential” designation in accordance with Policy A.2.1, and is consistent with the Low Density provisions of Policy A.2.3.

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

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

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

E.3.2.4(i) As a concept and guideline for the consideration of infilling applications in the Urban Area, compatibility means mutually tolerant and capable of existing together in harmony in the same area. Compatibility should not be narrowly interpreted to mean “the same as” or even as “being similar to”. In the final analysis, the goal of this policy is to allow for intensification which does not cause an unacceptable impact upon the existing neighbourhood.
E.3.2.4(ii) When considering infilling development, regard will be had to the following criteria to determine the compatibility of the proposal:

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

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

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

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

The proposed development of the subject property represents an example of infilling that takes into consideration the existing uses in the community, the streetscape, and general compatibility of the surrounding area. With respect to the use, the permitted use on the subject property will be single-detached dwellings, which is compatible with uses on the adjacent properties and in the surrounding neighbourhood. The proposal conforms with the lot size within the surrounding area as there are similar lot sizes to the north and west of the subject property. The proposal also conforms to the height and mass of the buildings in the surrounding area as the proposed building form will have a similar size as other homes in the area. The height of the proposed building will conform to the general provisions of the Urban Residential “R1” Zone.

The subject property is also located within the West Waterdown Secondary Planning Area, and Secondary Plan policies apply. As the proposed development complements the surrounding development, and is located where water and sewerage systems exist, the application conforms to the Town of Flamborough Official Plan.

**West Waterdown Secondary Plan**

The subject lands are designated “Low Density Residential” on the West Waterdown Secondary Plan, which permits the proposed single-detached dwelling. The proposal conforms to Policy A.7.2.4, where “development of Low Density Residential shall be by plan of subdivision, except where consent to sever is granted by the Committee of Adjustment.” Consent to sever the subject property was approved by the Committee of Adjustment on May 20, 2010.

In addition, Policy A.7.2.2 of the West Waterdown Secondary Plan outlines development policies where a number of considerations should be undertaken when proposing residential development within the Secondary Planning area:
“Proposed residential development shall be compatible in scale and general character with the surrounding area in order to avoid or reduce potential adverse impact on existing residential development.”

The subject property is to be developed within an existing residential neighbourhood that is complementary with adjacent residential uses with respect to the scale and general character of the surrounding area. Like adjacent residential lots within the neighbourhood, the subject properties will only permit single-detached dwellings. The setbacks for the severed portion of lands (Part 2 - Appendix “C”) will have similar setbacks with the property located at 105 Braheheid Avenue / 59 Brian Boulevard, which is to the west of the subject property.

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

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

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

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

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

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

The subject lands are also located within the West Waterdown Secondary Plan Area of the Urban Hamilton Official Plan. The application conforms to Policy 4.1.3.3a) with respect to single-detached dwellings as a permitted use in the Low Density Residential Designation. Based on the foregoing, the proposal conforms to the Urban Hamilton Official Plan.
RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections.

- Traffic Engineering Section, Public Works Department.
- Urban Forestry Section, Public Works Department.
- Hamilton Municipal Parking Services.
- Horizon Utilities.

Corporate Services (Taxation) staff indicated that the owner had an outstanding balance, however, all taxes have now been paid as of mid-August 2010.

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-10:48, which was approved by the Committee of Adjustment on May 20, 2010 (see Appendix “D” - Conditions 3 and 7). Therefore, preliminary circulation was not required. There was no opposition to the consent application.

Notice of the Public Meeting was 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-August 2009.

ANALYSIS / RATIONALE FOR RECOMMENDATION

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

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

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

   (iii) It is compatible with planned development in the surrounding area; and,
2. A consent application to sever 45 Brian Boulevard was approved by the Committee of Adjustment on May 20, 2010 (see Appendix “D”). There is an existing 1-storey, single-detached dwelling on 45 Brian Boulevard (Part 1), whereas Part 2 of the subject property is currently vacant (see Appendix “C”). Lands surrounding the subject property are mostly low-density, single-detached residential, with Parkside Drive located to the west. The proposed modifications with respect to minimum Lot Area, minimum Lot Frontage, maximum Lot Coverage, and minimum Rear Yard to the zoning will complement the existing residential neighbourhood.

3. The proposed development of the subject property represents infilling that takes into consideration the current uses in the community, the general streetscape, and the general compatibility of the surrounding area. The permitted use on the subject property will be single-detached dwellings, which is consistent with uses in the surrounding area. In addition, the streetscape of Brian Boulevard and Braeheid Avenue will be maintained, as the proposed development will have sufficient front yard setbacks, and will be similar to the development on the west side of Braeheid Avenue.

4. A change in zoning has been requested from the Urban Residential “R1-6” Zone, Modified, to the Urban Residential “R1-47” Zone, Modified, for the retained potions of land (Part 1 - Appendix “C”) to establish site-specific regulations for minimum lot area, minimum lot frontage, and the minimum rear yard setback. The zoning for the severed portions of land (Part 2 - Appendix “C”) will also be modified to an Urban Residential “R1-25” Zone, Modified, to provide site-specific provisions for minimum lot area, reduction in the minimum lot frontage, maximum lot coverage, and the minimum side yard setback. The site-specific changes are in keeping with the surrounding area, as only single-detached dwellings will continue to be permitted.

(a) **Minimum Lot Area**

The retained portion of land (Part 1) has a lot area of 918.9 square metres, and the severed portion of land (Part 2) will have a lot area of 464.5 square metres. The provisions of the site-specific Urban Residential “R1-6” Zone, Modified, requires a minimum lot area of 1,390 square metres. As a result, both Parts 1 and 2 currently do not conform to the Urban Residential “R1-6” Zone provisions with respect to the Minimum Lot Area. A site-specific provision has been added to address the deficiency in the minimum lot area where the lot area has been modified to reflect the proposed reduction in the lot area as a result of the severance
of the subject property, and would be consistent with the approved zoning provisions across the street.

The proposed lot sizes for Part 1 and Part 2 will allow for single-detached dwellings to be a permitted use, while maintaining the streetscape of the neighbourhood, and be in keeping with residential lots to the west where lots are of similar size to the subject lands. Therefore, the requested reduction in the minimum lot area for the subject property can be supported.

(b) Minimum Lot Frontage

The lot frontage for the retained portion of land (Part 1 - Appendix “C”) is 26.0 metres, which does not conform to the Urban Residential “R1-6” Zone, Modified, where a minimum lot frontage of 30 metres is required.

The lot frontage for the severed portion (Part 2) is 15.2 metres, which does not conform to the site-specific Urban Residential “R1-6” Zone, Modified, provisions. As a result, the established site-specific “R1-25” Zone will be applied to the severed portion of lands to address the deficiency in the minimum lot frontage.

The reduction in the lot frontage is in character with the lots to the west of Braeheid Avenue, as the lot frontage for 105 Braeheid Avenue is 15.2 metres, and was previously severed and zoned “R1-25” Zone, Modified. Also, the proposed site-specific provisions are consistent with the minimum lot frontage requirements with the zoning across the street. Therefore, the modification to the minimum lot frontage for the subject property can be supported.

(c) Maximum Lot Coverage

The lot coverage for the retained lands (Part 1) is 14.9%, which conforms to the Urban Residential “R1-6” Zone, Modified, which permits a maximum of 15%.

The applicant has requested a proposed building footprint of 140 square metres for the severed portion of lands (Part 2 - Appendix “C”). In this regard, the lot coverage would be 30%, which is above the maximum 15% permitted in the “R1-6” Zone, Modified, provisions. A site-specific zone provision has been added to limit the maximum lot coverage to 30%, which would be consistent with the site-specific “R1-25” zoning provisions to the south of the subject property.
(d) Minimum Rear Yard

The front lot line for the retained portion of land is on Brian Boulevard and, as a result, the rear yard is 5.2 metres. The general provisions of the Urban Residential “R1-6” Zone, Modified, requires a minimum rear yard of 7.5 metres and, as a result, the retained portion (Part 1 - see Appendix “C”) does not conform to the zoning provisions. A site-specific provision has been added to the draft By-law, as shown in Appendix “B”.

5. Development Engineering’s concern with respect to this application has been addressed through the consent application. As conditions of approval (see Appendix “D” - Conditions 5 and 6), the owner will be required to dedicate to the City, by deed, a 4.5 x 4.5 metre daylight triangle at the intersection of Braeheid Avenue and Brian Boulevard, as shown in Appendix “C”. In addition, the owner will be required to pay the City of Hamilton for the future urbanization of Braeheid Avenue based on the metres of frontage of the conveyed lot and the New Road Servicing Rate for the year that final approval is obtained.

6. The subject property is located approximately 55 metres from Parkside Drive and, as a result, staff had required a noise warning clause advising potential purchasers that there may be occasional noise impacts due to increasing road traffic. The noise warning has been included as Condition 2 of Consent Application FL/B-10:48 (see Appendix “D”).

**ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property would remain zoned as Urban Residential “R1-6” Zone, Modified, where the existing single-detached dwelling would continue to be a permitted use. However, the Zoning Application is a condition of Consent Application FL/B-10:48. If the application is denied, the consent application will lapse and become void.

**CORPORATE STRATEGIC PLAN**


**Financial Sustainability**

- Effective and sustainable Growth Management.

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

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
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”: Survey
• Appendix “D”: Consent Application FL/B-10:48

TL
Attachs. (4)
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 45 Brian Boulevard (Flamborough)

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as “The Town of Flamborough”, 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 of the City of Hamilton;

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 10- of the Economic Development and Planning Committee, at its meeting held on the day of , 2010, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

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

1. 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 “R1-47” Zone, Modified, (Block 1) and the Urban Residential “R1-25” 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 Subsection:

   6.3 Exception Numbers

   6.3.47 “R1-47” (See Schedule A-30)

Permitted Uses:

(a) Subsection 6.1 shall apply.

Zone Provisions:

(a) Lot Area (minimum) 900 square metres

(b) Lot Frontage (minimum) 30 metres

(c) Lot Coverage (maximum) 30%

(d) Rear Yard (minimum) 5.2 metres for the dwelling existing on the date of passing of the By-law, being the ___ day of ___ , 2010.

(e) All other zone provisions of Subsection 6.2 shall apply.

3. That By-law No. 90-145-Z (Flamborough) is amended by adding this By-law to Section 6 as “R1-47”.

4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law, in accordance with the Planning Act.
PASSED and ENACTED this ___ day of ____, 2010.

___________________________  _______________________
Fred Eisenberger           Rose Caterini
Mayor                     Clerk

ZAR-10-030
This is Schedule "A" to By-Law No. 10-____
Passed the ........ day of ......................, 2010

Mayor

---

Clerk

**Schedule "A"**

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

**Subject Property**  
45 Brian Boulevard  

1. Block 1 - Change in Zoning from the Urban Residential "R1-6" Zone, Modified to Urban Residential "R1-47" Zone, Modified  
2. Block 2 - Change in Zoning from the Urban Residential "R1-6" Zone, Modified to Urban Residential "R1-25" Zone, Modified  

**Scale:** N.T.S.  
**File Name/Number:** ZAR-10-030  
**Date:** August 27, 2010  
**Planner/Technician:** TLAL  

Hamilton  

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. FL/B-10:48
SUBMISSION NO. B-48/10

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 45 Brian Blvd., formerly in the Town of Flamborough, now in the City of Hamilton; AND IN THE MATTER OF AN APPLICATION by the agent Sara Chapman on behalf of the owner Karen Diane Bulmer, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 15.24m² (50'x) x 30.48m² (100') containing an existing shed (to be demolished) for single family residential purposes, and to retain a parcel of land measuring 30.48m² (100'x) x 30.48m² (100') containing an existing dwelling and shed (both to remain) for single family 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/applicant applies for and receives rezoning approval to the satisfaction of the Manager of Development Planning.

4. That the Owner be required to enter into and register on title of the lands, a consent agreement with the City, to deal with grading and drainage of the conveyed lot.

5. That the Owner be required to dedicate to the City by deed, a 4.5 X 4.5 metre daylight triangle at the intersection of Braheid Avenue and Brian Boulevard; if required.

.../2
6. That the Owner be required to pay the City of Hamilton for the future urbanization of Braeheid Avenue based on the metres of frontage of the conveyed lot and the New Road Servicing Rate for the year that final approval is obtained.

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

8. The owner shall demolish the existing metal shed located on the lands to be severed, to the satisfaction of the Planning and Economic Development Department (Building Services Division).

9. The owner shall submit survey evidence that the existing single detached dwelling located on the lands to be retained conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

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

11. That 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 setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 20th day of May, 2010.

M. Dudzic, Chairman

L. Gaddye

C. Lewis

D. Serwatuk

D. Smith

M. Switzer

L. Tew

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS May 27th, 2010. 
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (May 27th, 2011) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS June 16th, 2010.

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

Note:

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 Unit of the Ministry of Small Business and Consumer Services (416.326.8392).