SUBJECT: Application for a Change in Zoning for Lands Located at 182 Parkside Drive (Flamborough) (PED09073) (Ward 15)

RECOMMENDATION:

That Approval be given to **Zoning Application ZAR-08-056, by Jeff Allen, Mike Bottos, Paul Bottos, Owners**, for a change in zoning from the Urban Residential (Single Detached) “R1-6” Zone Modified, to the Urban Residential (Single Detached) “R1-43” Zone Modified (Block 1) and Urban Residential (Single Detached) “R1-44” Zone Modified (Block 2), in order to recognize the existing single detached dwelling on Block 1 and allow for the construction of a single detached dwelling on Block 2, for lands located at 182 Parkside Drive (Flamborough), as shown on Appendix “A” to Report PED09073, on the following basis:

(a) That the Draft By-law, attached as Appendix “B” to Report PED09073, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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

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

The purpose of the application is to further modify the Urban Residential “R1-6” Zone to provide appropriate zoning for two lots resulting from Severance Application FL/B-08:104 (see Appendix “D”). The conveyed parcel (Block 1) contains an existing single detached dwelling, and the retained portion (Block 2) is for a proposed single detached dwelling.

The application has merit and can be supported as the proposed change in zoning is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.

BACKGROUND:

Proposal

The applicant has applied to change the zoning for the property known as 182 Parkside Drive, to permit the severance of a residential lot for the construction of a new single detached dwelling unit (see Appendices A” and “C”).

Approval of the Zoning By-law Amendment application will result in the following modifications to the Urban Residential (Single Detached) “R1-6” Zone:

**Block 1, 182 Parkside Drive (Lands to be Severed):**
- Reduced Minimum Lot area from 1,390 square metres to 618 square metres.
- Reduced Minimum Lot Frontage from 30 metres to 10.8 metres.
- Increased Maximum Lot Coverage from 15% to 25%.
- Reduced Minimum Rear Yard setback from 7.5 metres to 3 metres.

**Block 2, 110 Braeheid Avenue (Lands to be Retained):**
- Reduced Minimum Lot area from 1,390 square metres to 690 square metres.
- Reduced Minimum Lot Frontage from 30 metres to 22.8 metres.
- Increased Maximum Lot Coverage from 15% to 25%.

Consent Application FL/B-08:104

Consent Application FL/B-08:104 for the subject lands was heard before the Committee of Adjustment on October 2, 2008, to sever the subject property into two residential lots with lot areas of 618 square metres and 690 square metres in order to retain the existing single detached dwelling and to construct a new single detached dwelling unit. The Committee of Adjustment approved the application on October 2, 2008, subject to conditions. Condition No. 2 requires that the applicant receive rezoning approval of the subject lands (see Appendix “D”).
Details of Submitted Application:

Owner: Jeff Allen, Mike Bottos, Paul Bottos
Applicant: Jeff Allen
Location: 182 Parkside Drive, Flamborough (see Appendix “A”)

Description: Frontage: 30.48 metres
Depth: 45.72 metres
Area: 1,393.5 square metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<td>Residential “R1-6” Zone</td>
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<tr>
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<tr>
<td>West</td>
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<td>Residential “R1-6” Zone</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.


   (iii) It conforms to the “Low Density Residential” designation of the West Waterdown Secondary Plan.

   (iv) It is compatible with the existing and planned development in the immediate area.
(v) It implements a condition of approval for Severance Application FL/B-08:104 (see Appendix "D" - Condition No. 2).

2. The subject lands are designated as “Urban Residential” in the Town of Flamborough Official Plan. The “Urban Residential” policies of the Flamborough Official Plan permits detached dwelling units. The subject lands are designated “Low Density Residential” in the West Waterdown Secondary Plan, which permits a maximum density of 26 units per Net Residential Hectare and directs that new development must be compatible to the surrounding development. As the proposal is to create two residential lots with a lot area of 618 square metres and 690 square metres, respectively, the proposal will have a density of between 14.5 and 16.2 units per gross hectare and will, therefore, conform to the maximum 26 units per Net Residential Hectare. The proposed lots have a lot fabric that is compatible to other residential development in the area and, therefore, the proposal conforms to the “Urban Residential” policies of the Flamborough Official Plan and the polices of the “Low Density Residential” designation of the West Waterdown Secondary Plan.

3. The subject lands are zoned Urban Residential (Single Detached) “R1-6” Zone Modified in the Town of Flamborough Zoning By-law No. 90-145-Z. The site-specific Residential “R1-6” Zone permits single detached dwelling units with a minimum lot frontage of 30 metres and a minimum lot area of 1,390 square metres. The proposed lands to be retained (Block 2) would have a lot frontage of 22.8 metres and a lot area of 690 square metres, while the lands to be severed (Block 1) is a corner lot and will have a lot frontage of 10.8 metres and a lot area of 618 square metres and, as such, would not comply with the minimum lot frontage and lot area requirements of the By-law. The 10.8 metre lot frontage is a result of the Owner being required to dedicate a 12 metre by 12 metre day light triangle as a condition of consent (Condition 7 on Appendix “D”). The site-specific Residential “R1-6” Zone also permits a maximum lot coverage of 15%. The proposed lands to be severed and lands to be retained would have a proposed lot coverage of 25% and, as such, would not comply with the maximum lot coverage requirement of the By-law. Furthermore, the minimum rear yard setback of the “R1-6” Zone is 7.5 metres, and the proposed 3 metre rear yard setback for the existing dwelling for the proposed lands to be severed would not comply with the requirements of the By-law.

An analysis of the modifications is discussed below:

**Blocks 1 & 2 - Modifications to 182 Parkside Drive and newly created lot to be known if approved as 110 Braeheid Avenue (see Appendix “C”):**

**Lot Area:**

The “R1-6” Zone requires a minimum lot area of 1,390 square metres per lot in order to maintain adequate rear yard amenity space and to maintain streetscape
compatibility. The proposed 618 square metre lot area for Block 1 will have more than 160 square metres of amenity space, while the proposed 690 square metre lot area for Block 2 will have more than 170 square metres of rear yard amenity space. The character of Parkside Drive is comprised predominately of large lots of approximately 1,390 square metres. As the proposal is to sever off land at the rear of the property and maintain the existing dwelling, the proposal will maintain the existing streetscape along Parkside Drive. The character along Braeheid Avenue south of Brian Boulevard is comprised predominately of small lot single detached dwellings with a minimum lot size of 366 square metres. As the proposal is to create a 690 square metre lot on Braeheid Avenue, the proposal will maintain the streetscape character along Braeheid Avenue. Furthermore, it should be noted that the proposed lot for 182 Parkside Drive would have been 690 square metres, however, the applicant is required to dedicate 72 square metres of land to the City as a condition of consent in order to create a 12 metre by 12 metre daylight triangle (see Appendix “D” - Condition No. 7). Therefore, the proposed modifications will maintain the intent and purpose of the By-law.

Lot Frontage:

The “R1-6” Zone requires a minimum lot frontage of 30 metres in order to maintain streetscape character. The subject lands are located at the intersection of Parkside Drive and Braeheid Avenue. The character of Parkside Drive is comprised predominately of large 30 metre wide lots. As the proposal is to sever lands at the rear of the property, the proposal will not reduce the frontage on Parkside Drive apart from the 12 metre by 12 metre daylight triangle that is to be dedicated to the City and will, therefore, maintain the streetscape character of Parkside Drive. The character of Braeheid Avenue is comprised predominately of 12 metre wide lots. As the proposal is to create a 22.8 metre and 10.8 metre wide lots, the proposal will maintain the streetscape character along Braeheid Avenue. It should be noted that most of Block 1 will be 22.8 metres wide, however, a 12 metre by 12 metre daylight triangle is required to be dedicated to the City as a condition of consent, and as a result, the proposed lands to be severed will have a legal lot frontage of only 10.8 metres. Therefore, the proposed modifications will maintain the intent and purpose of the By-law.

Lot Coverage:

The “R1-6” Zone permits a maximum lot coverage of 15% in order to maintain streetscape character and to maintain adequate space for on site services. The character of Parkside Drive is comprised predominately of small dwellings on large lots. As the proposal is to sever lands at the rear of the property and to maintain the existing dwelling, the proposal will maintain the existing small dwelling on a large lot. The character of Braeheid Avenue is comprised predominately of large dwellings on small lots with a maximum lot coverage of 40%. As the proposal is to create a large 690 square metre lot with a maximum lot coverage of 25%, the proposal will maintain the streetscape character along
Braehheid Avenue. Furthermore, it should be noted that the lots in the “R1-6” Zone were established prior to the introduction of full municipal services, and at that time, required private well and septic services. The proposed lots will have full municipal water and sewage connections, and the increased lot coverage to 25% will not impact the servicing of the site. Therefore, the proposed modification will maintain the intent and purpose of the By-law.

Modification to only Block 1 - 182 Parkside Drive (See Appendix “C”):

Rear Yard Setback:

The “R1-6” Zone requires a minimum rear yard setback of 7.5 metres in order to provide adequate amenity space. The Town of Flamborough Zoning By-law defines a rear lot line as the lot line opposite to the front lot line, and defines a front lot line in the case of a corner lot as the shorter lot line abutting a street. As such, for purposes of By-law interpretation, the front lot line of Block 1 will be Braehheid Avenue and, as a result, the existing 3 metre easterly side yard will be defined as the rear yard. As the existing dwelling is located 3 metres from the easterly lot line, the dwelling will not meet the minimum rear yard setback requirement by the By-law. Furthermore, it should be noted that while by definition the lot frontage will be on Braehheid Avenue, the existing dwelling fronts onto Parkside Drive and the proposed lands to be severed will have a large amenity area of more than 160 square metres on the westerly side of the dwelling in what will be defined as the front yard. The proposed lands to be severed will have adequate amenity space. As the proposed modification is a technicality and is to recognize an existing situation, staff recommends that the proposed modification be applied only to the existing dwelling and that any future dwelling be required to adhere to the required 7.5 metre rear yard setback. Therefore, the proposed modification will maintain the intent and purpose of the By-law.

4. The subject properties will be adequately serviced through the municipal water and sewage system. However, the applicant will have to extend the sewer services down Braehheid Avenue in order to service the property to be known as 110 Braehheid Avenue (Block 2). It should be noted that as a condition of severance approval, the applicant is required to dedicate a 12 metre by 12 metre daylight triangle to the City at the corner of Braehheid Avenue and Parkside Drive (see Appendix “D” - Condition # 7).

ALTERNATIVES FOR CONSIDERATION:

If the application is denied, the proposed Severance FL/B-08:104 cannot be finalized. However, the applicant may continue to use the subject property in accordance with the provisions of the Urban Residential (Single Detached) “R1-6” Zone.
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 Zoning By-law Amendment.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement:

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

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

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

As the proposal is to create an additional residential lot within the Urban Area, the proposal conforms to the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. The following policy of the Hamilton-Wentworth Official Plan, among others, is applicable to the subject lands:

“C-3.1 A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region by the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:

• Compact urban form, including mixed use areas;

E-9.2 Consider protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review
of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection.”

As the proposal is to create an additional residential lot within the urban area, the proposal conforms to the Hamilton-Wentworth Official Plan.

**The Town of Flamborough Official Plan**

The subject lands are designated “Urban Residential” in the Town of Flamborough Official Plan. The following policies, among others, are applicable to the subject lands:

“A.2.1” The uses permitted in areas designated Urban Residential on Schedule “A” shall be: detached and semi-detached single dwellings; low to medium density linked multiple unit dwellings; apartment units.

“A.2.2” The physical arrangement of permitted residential development on the basis of density range(s) shall be further detailed in the Secondary Plans. Regulations for the permitted residential land uses shall be provided in the Zoning By-law.

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

v) Council supports the creation of new housing units through intensification and innovative design in appropriate areas;

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 uses areas and provide physical separation between vehicular and pedestrian traffic;
• That consideration is given to how the proposal will contribute to the provision of affordable housing; and,

• Other actions as may be deemed necessary;

E.3.2 Residential intensification involves the creation of additional housing units generally in existing areas. Intensification may include conversions and the creation of additional units, infilling, redevelopment, and temporary mobile dwellings which are defined as follows:

ii) Infilling is the use of vacant lands 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 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 “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.

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;

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

e) Impacts on historical and heritage features and amenities;

f) The contribution of the proposed use to the provision of affordable housing;
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; and,

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

Single detached dwellings are permitted under the Town of Flamborough Official Plan. As stated in Policy E.3.2.4 i), compatibility should not be narrowly interpreted to mean the same as or even similar so long as intensification does not cause an unacceptable impact upon the existing neighbourhood. As stated in the Analysis/Rational section of this report, the proposal will maintain the existing streetscape pattern along the respective streets and will, therefore, not have a negative impact on the streetscape character of the neighbourhood. The proposed lands to be severed and lands to be retained will maintain adequate setbacks, separation, and buffering from abutting residential properties. As such, the proposal conforms to Policy E.3.1.1 xii) of the Official Plan. The proposal will also maintain compatible building setbacks, density, height, and massing to that of the surrounding neighbourhood. As such, the proposal conforms to Policy E.3.2.4 ii) a) of the Official Plan. Therefore, the proposal conforms to the policies of the Town of Flamborough Official Plan.

**West Waterdown Secondary Plan**

The subject property is designated “Low Density Residential” in the West Waterdown Secondary plan. The following polices, among others, are applicable to the subject lands:

“A.2.3(i) Low Density - up to 26 units per Net Residential Hectare. This density range permits single detached, semi-detached, and duplex dwellings, converted dwellings, shared accommodation, rooming and boarding houses and other similar forms of housing. Development at this density level shall be by plan of subdivision except when consent to sever is granted by the land division committee.

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

- Compatibility of the proposed use to surrounding development; and,
- Proposed development shall be contiguous to existing development in order to achieve logical and sequential extension to roads and Municipal water and sewerage systems.”
The proposed lots have a lot area of 618 and 690 square metres, which if applied to the surrounding neighbourhood, would create an average density of between 14.5 and 16.2 units per gross hectare. As such, the proposed lots conform to Policy A.2.3(i) of the Official Plan. Therefore, as the proposed rezoning is to create one new lot for the creation of a new single detached dwelling, the proposed rezoning conforms to the policies of the West Waterdown Secondary Plan.

**RELEVANT CONSULTATION:**

**The following Departments and Agencies had no comments or objections:**

- Forestry and Horticulture Section, Public Works Department.
- Hamilton Parking Authority.
- Community Services, Recreation Division.
- Corporate Services, Tax Administration.
- Open Space Development and Park Planning.
- Water and Wastewater Division, Infrastructure and Source Water Protection Section.
- Environmental Planning Section, Strategic Planning Section, Capital Planning and Implementation Division.
- Traffic Engineering and Operations Section, Public Works Department.

**Public Consultation:**

In concordance with the Public Participation Policy approved by Council, preliminary circulation shall not be required if the application is part 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. In this regard, preliminary circulation is not required. The consent application to sever the property at 182 Parkside Drive was approved by the Committee of Adjustment on October 2, 2008. There were no written responses in respect to the proposed severance and no interested parties attended the Public Meeting.

Notice of the Public Meeting for this rezoning application will be circulated to property owners within 120 metres of the subject lands, and through a sign posted on the property, in accordance with the requirements of the Planning Act.
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
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Air quality and water quality and quantity are protected in that the proposed rezoning is an in-fill development and will not negatively impact on the environment.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported, as the proposal will make better use of the existing infrastructure and will generate more revenue in property taxes.

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

DB:
Attachs. (4)
Appendix "A" to Report PED09073 (Page 1 of 1)

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-08-056
Date: November 3rd, 2008

Appendix "A"

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

Subject Property
182 Parkside Drive

Block 1 - Change in Zoning from the Urban Residential (Single Detached) "R1-6" Zone Modified to the Urban Residential (Single Detached) "R1-43" Zone, Modified.

Block 2 - Change in Zoning from the Urban Residential (Single Detached) "R1-6" Zone Modified to the Urban Residential (Single Detached) "R1-44" Zone, Modified.

Ward 15 Key Map N.T.S. [Diagram of the location map with annotations for the subject property and changes in zoning]
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended,

Respecting Lands located at 182 Parkside Drive, (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 Item of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2009, 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 No. A-30, attached to and forming part of Zoning By-law 90-145-Z (Flamborough), as amended, is hereby amended by changing the zoning from the Urban Residential (Single Detached) “R1-6” Zone modified to the following:

   (a) the Urban Residential (Single Detached) “R1-43” Zone, for the lands comprised in Block “1”; and,

   (b) the Urban Residential (Single Detached) “R1-44” Zone, for the lands comprised in Block “2”;

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 subsections:

   “6.3.43  "R1-43" (see Schedule A-30)

   Permitted Uses

   (a) Single Detached Dwelling

   Zoning Provisions

   (a) Lot Area (minimum) 618 square metres

   (b) Lot Frontage (minimum) 10.8 metres

   (c) Lot Coverage (maximum) 25%

   (d) Rear Yard (minimum) 7.5 metres, except 3 metres for the dwelling existing on the date of the passing of this By-law, being the day of , 2009.

   (e) All other zone provisions of Subsection 6.3.6 shall apply.”
"6.3.44  "R1-44" (see Schedule A-30)

Permitted Uses

(a) Single Detached Dwelling

Zoning Provisions

(a) Lot Area (minimum) 690 square metres
(b) Lot Frontage (minimum) 22.8 metres
(c) Lot Coverage (maximum) 25%
(d) All other zone provisions of Subsection 6.3.6 shall apply."

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

PASSED and ENACTED this day of , 2009.

_________________________________________  ___________________________________________
Fred Eisenberger                               Kevin C. Christensen
Mayor                                          Clerk

ZAR-08-056
This is Schedule "A" to By-Law No. 09-
Passed the ........ day of ....................., 2009

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Clerk

Mayor

**Schedule "A"**

Map Forming Part of
By-Law No. 09-______
to Amend By-law No.90-145-Z

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**Subject Property**

182 Parkside Drive

- **Block 1** - Change in Zoning from the Urban Residential (Single Detached) "R1-6" Zone Modified to the Urban Residential (Single Detached) "R1-43" Zone, Modified.

- **Block 2** - Change in Zoning from the Urban Residential (Single Detached) "R1-6" Zone Modified to the Urban Residential (Single Detached) "R1-44" Zone, Modified.
APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. FI/B-08:104
SUBMISSION NO. B-104/08

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 182 Parkside Drive, formerly in the Town of Flamborough, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Mike Bottos on behalf of the owners Mike Bottos, Paul Bottos and Jeff Allen (under an agreement of purchase and sale), 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 30.48m² (100') x 22.86m² (75') containing an existing single family dwelling (to remain) and a portion of an existing garage (to be demolished) for residential purposes, and to retain a parcel of land measuring 22.86m² (75') x 30.48m² (100') containing a portion of an existing garage (to be demolished) for single family residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application 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 considers the proposal to be in keeping with development in the area.
3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

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

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.
3. That the existing garage be either demolished or that it be moved off the property line and conform to the By-law, to the satisfaction of the Planning and Economic Development Department (Building Services Division). The removal or relocation of this accessory structure will be subject to the issuance of a building permit in the normal manner.
4. The owner/applicant shall ensure compliance with the Ontario Building Code requirements (re: separation distance) to the satisfaction of the Planning and Economic Development Department (Building Services Division).
5. That the owner shall carry out an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.
Should deeply buried archaeological remains 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 applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8392). (MH/FT 2008 09 24).

6. 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 severed lot and the agreement will include the Owner’s share of the cost of the sanitary sewer extension on Braeheld Avenue.

7. That the Owner be required to dedicate by deed to the City, a 12 x 12 metre daylight triangle at the intersection of Braeheld Avenue and Parkside Drive.

8. That the Owner be required to pay the City of Hamilton for the future urbanization of Braeheld Avenue based on the New Road Servicing Rate for the year that final approval is obtained.

9. There is no sanitary sewer on Braeheld Avenue. The applicant is required to enter into a subdivision agreement to extend the sanitary sewer from Parkside Drive.

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

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

12. 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 new tax account for the newly created lot.

DATED AT HAMILTON this 2nd day of October, 2008.

M. Dudicic, Chairman

V. Abraham

L. Frew

D. Serwatuk

D. Smith

L. Gaddie

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS October 9th, 2008.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (October 9th, 2009) 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 October 29th, 2008.

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

NOTE (TO BE INCLUDED IN DECISION):

1) Base on this application being approved and all other conditions being met, the owner/applicant should be made aware that the lands to be conveyed will remain as 182 Parkside Drive, and the lands to be retained will be assigned the municipal address of 110 Braeheld Avenue.