



**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 14
<b>COMMITTEE DATE:</b> June 19, 2012	
<b>SUBJECT/REPORT NO:</b> Application for an Amendment to Flamborough Zoning By-law No. 90-145-Z for Lands Known as 592 Westover Road (Flamborough) (PED12112) (Ward 14)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Delia McPhail (905) 546-2424, Ext. 6663
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

That approval be given to **Amended Zoning Application ZAR-11-044 by 1814380 Ontario Inc., Owner**, for a change in zoning from the Recreational Open Space “O3-6” Zone to the Recreational Open Space “O3-12”, Modified, Zone, with a Special Exception, and Conservation Management “CM” Zone, to permit an accessory dwelling for maintenance and/or security purposes, in conjunction with the existing golf course (Century Pines), on lands located at 592 Westover Road (Flamborough), as shown on Appendix “A” to Report PED12112, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12112, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the proposal is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan, the Town of Flamborough Official Plan, and the Rural Hamilton Official Plan.

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- (c) That the proposal respects and seeks to enhance the ecological function of the key hydrologic features on site.
- (d) That the proposal is accessory to an existing golf course (Century Pines).

**EXECUTIVE SUMMARY**

The purpose of the application is to amend Town of Flamborough Zoning By-law No. 90-145-Z to permit an accessory dwelling for maintenance and/or security purposes, in association with the existing golf course (Century Pines), on lands municipally known as 592 Westover Road (Flamborough) (see Appendix “A”).

It has been recommended, through staff review and analysis, that the limits of the Conservation Management “CM” Zone currently affecting the subject property be revised to incorporate the vegetative protection zone associated with the watercourses that traverse the property. The applicant has accepted staff’s proposal and has agreed to include the 30 metre setback from the top-of-bank.

The proposal has merit and can be supported since the application is consistent with the Provincial Policy Statement, and conforms to the Greenbelt Plan, the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan, and the Rural Hamilton Official Plan.

*Alternatives for Consideration - See Page 17.*

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

**Financial:** N/A.

**Staffing:** N/A.

**Legal:** As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of a change in Zoning.

**HISTORICAL BACKGROUND**

The subject property is approximately 70 hectares in size, with the western half of the property comprised of a golf course, including club house, a 1-storey maintenance building, and asphalt parking areas; and the eastern portion containing a portion of a Provincially Significant Wetland Complex, known as the Donald Farm Complex Environmentally Significant Area (ESA #29), which is associated with both the Westover and Spencer Creek Watersheds. The main branch of the Westover Creek commences to the west of the subject property, traverses across the golf course, and then

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converges with Spencer Creek in the centre of the property, before draining to the south, beyond the site.

The Recreational Open Space “O3” Zone permits a golf course, one accessory dwelling unit for maintenance and/or security purposes only, a park, and a recreational camping establishment. In 1999, the subject property was rezoned (By-law 99-113-Z) to modify the “O3” Zone in order to facilitate the severance of an existing dwelling from the golf course, and to prohibit the construction of an accessory dwelling on the retained portion of the golf course property.

The applicant has advised that the property, severed in 1999 (1302 4<sup>th</sup> Concession Road West), which has been used for maintenance and/or security purposes since that time, is no longer effective in providing adequate security for the golf course operation. The distance from the clubhouse and maintenance buildings, which are centrally located on the golf course and have access from Westover Road, has been cited as being accountable for poor response timing to unauthorized intruders, break-ins, and vandalism. Following the submission of the subject application, the applicant had listed the property located at 1302 4<sup>th</sup> Concession Road West for sale and, although it is not currently listed, the applicant ultimately intends to sell the said property.

The applicant has submitted a Site Plan Amendment application, which has been reviewed concurrently with this rezoning application, but is being held in abeyance pending Council’s decision on this application. The proposed dwelling has been located in response to comments provided by Hamilton Conservation Authority staff through the Formal Consultation Process (FC-11-124), which identified the following development constraints affecting the property: flood and erosion hazard lands; and the establishment of a 30 metre vegetative protection zone to protect fish habitat.

**Chronology:**

- |                            |  |
|----------------------------|--|
| <u>August 2, 2011:</u>     | Zoning By-law Amendment Application received.  |
| <u>August 26, 2011:</u>    | Application deemed complete.   |
| <u>August 30, 2011:</u>    | Application circulated.  |
| <u>September 6, 2011:</u>  | Circulation of Notice of Complete Application ZAR-11-034 to all residents within 120 metres of subject lands.  |
| <u>September 12, 2011:</u> | Sign Posted.   |
| <u>October 14, 2011:</u>   | Applicant’s response to Neighbour’s concerns and request for Addendum to Planning Justification Report to address the recent sale of the property severed in 1999. |

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- November 16, 2011: Site Visit conducted with Applicant and Hamilton Conservation Authority (HCA) staff.
- January 17, 2012: Natural Heritage Evaluation Report submitted in response to HCA request to provide a 30 metre undisturbed vegetative protection zone.
- February 8, 2012: HCA staff accepts the submitted Natural Heritage Evaluation and recommends the expansion to the existing Conservation Management "CM" Zone to include lands within the 30 metre vegetative protection zone of Westover Creek.
- March 9, 2012: Applicant provided a copy of a draft Zoning By-law schedule, depicting the 30-metre setback from the northern-most and southern-most extents of Westover Creek, which would effectively remove lands currently regulated by the HCA from the Conservation Management "CM" Zone.
- March 23, 2012: Applicant consents to staff recommendation to keep the lands currently regulated by the HCA, and to include additional lands within the 30-metre setback of Westover Creek, within the Conservation Management "CM" Zone.
- June 1, 2012: Notice of Public Meeting circulated to residents within 120m of the subject lands.
- May 29, 2012: Sign updated to reflect Planning Committee Meeting Date.

**Details of Submitted Application**

- Owner/Applicant:** Century Pines Golf Course Limited  
(Kaneff Group of Companies - c/o Ignat Kaneff)
- Agent:** Glen Schnarr & Associates Incorporated (Glen Broll)
- Location:** 592 Westover Road (Flamborough)
- Description:**
- Frontage: +/- 240 metres
- Depth: +/- 1,050 metres
- Lot Area: 71.55 hectares

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**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Golf Course and Club House	Recreation Open Space "O3-6" Zone, Modified, Agriculture "A" Zone, and Conservation Management "CM" Zone
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Agriculture	Agriculture "A" Zone, Agriculture "A-1" Zone, and Conservation Management "CM" Zone
<b>South</b>	Single Detached Residential Agriculture	Agriculture "A" Zone, and Conservation Management "CM" Zone
<b>East</b>	Single Detached Residential Agriculture Greenhouses	Agriculture "A" Zone, and Conservation Management "CM" Zone
<b>West</b>	Agriculture Institutional	Agriculture "A" Zone, Conservation Management "CM" Zone, and Neighbourhood Institutional (I1) Zone

**POLICY IMPLICATIONS**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application to accommodate a caretaker's residence at an existing recreational facility (golf course) is consistent with those policies that provide for development that encourages the effective management and promotion of resource-based recreational activities in the rural area.

"1.1.4.1 In rural areas located in municipalities:

- a) Permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development, and other rural land uses;
- d) Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;
- g) Recreational, tourism, and other economic opportunities should be promoted.

1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, and where site conditions are suitable for the long-term provision of such services..."

The proposal is consistent with Policies 1.1.4.1 and 1.6.4.4 because it includes connection of the proposed caretaker's residence to the existing on-site private water and sewage service provided for the golf course.

The Natural Heritage policies contained in 2.1 of the PPS concern the long term protection of natural features and areas. As the subject property is affected by natural heritage features, including significant wetlands, fish habitat, and significant woodlands, the following Natural Heritage policies apply to the subject application.

"2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features, and ground water features.

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- 2.1.3 Development and site alteration shall not be permitted in:
- a) Significant habitat of endangered species and threatened species;
- 2.1.4 Development and site alteration shall not be permitted in:
- d) Significant wildlife habitat; and,
  - e) Significant areas of natural and scientific interest,
- unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.
- 2.1.5 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.
- 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in Policies 2.1.3, 2.1.4, and 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.”

The submitted Natural Heritage Evaluation, which has been accepted by staff, concluded that the application is consistent with Natural Heritage policies of the PPS, as there are no wetlands, woodlands, ANSIs, or wildlife habitat in the vicinity of the proposed dwelling location, and the proposed dwelling has been situated a minimum of 44 metres from the nearest watercourse (Westover Creek). Furthermore, the application has been amended to change the limits of the Conservation Management “CM” Zone affecting the subject property to incorporate lands within the vegetative protection zone associated with the Westover Creek.

In accordance with Policy 2.6.2, a Stage 1-2 Archaeological Assessment was completed for the entire area that would be impacted by the proposed construction of a caretaker’s residence, and concluded that the proposed development will not impact any archaeological resources.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

**Greenbelt Plan**

The application has been reviewed with respect to the Greenbelt Plan. The subject property is designated “Protected Countryside” and the easterly half of the property is also designated “Natural Heritage System.

Policy 3.1.4.1 of the Greenbelt Plan states that rural areas support and provide the primary locations for a range of recreational, tourism, institutional, and other resource-based uses. Staff notes that the rural areas of the Protected Countryside are intended to continue to accommodate a range of commercial, industrial, and institutional uses to serve the rural resource and agricultural sectors. They are also intended to support a range of recreation and tourism uses, including golf courses, trails, and parks, among others. Furthermore, Policy 4.1.2.1, which concerns recreational uses, permits residential dwelling units for employees only. As the proposed caretaker's residence is to be used for maintenance and/or security purposes, the occupant would be an employee, which is permitted. However, as discussed in further detail in the Analysis/Rationale section of this Report, Zoning By-law provisions controlling the location and size of the caretaker's residence have been incorporated to ensure the intent of the policy is satisfied, which is that it is to be used for maintenance and/or security purposes only.

“4.1.1.2 Proposals for non-agricultural uses must demonstrate that:

- a) The use is appropriate for location in a rural area;
- b) The type of water and sewer servicing proposed is appropriate for the type of use;
- c) There are no negative impacts on key natural heritage features and/or key hydrologic features or their functions; and,
- d) There are no negative impacts on the biodiversity or connectivity of the Natural Heritage System.”

As discussed in the Analysis/Rationale section of this Report, the proposed caretaker's residence is to be constructed within the existing golf course on the subject property, located outside the Natural Heritage System and its required buffers, and will connect to the existing on-site services.

Based on the foregoing, the proposal conforms to the Greenbelt Plan.

### **Hamilton-Wentworth Official Plan**

The application was submitted prior to the Rural Hamilton Official Plan coming into force and effect and, therefore, it is governed by the Hamilton-Wentworth Official Plan.



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The subject property is designated “Rural Area” within the Hamilton-Wentworth Official Plan. The Plan describes the “Rural Area” as being comprised of a complex mix of land uses related to rural activities and those unrelated to the rural environment. The land use strategy for the Rural Area seeks to promote rural settlements as service centres for the community, restrict non-agricultural uses, and strengthen the rural economy. Since agriculture will continue to be the dominant land use within the “Rural Area”, Policy 3.2.2.2 requires that Area Municipal Official Plans limit non-agricultural uses within the “Rural Area”, in accordance with the intent of the Regional Official Plan and Provincial Guidelines.

The application seeks to permit an accessory dwelling within the existing golf course, which is considered a recreational use and permitted within the “Rural Area”. Therefore, subject to the proposed Zoning By-law provisions, the application conforms to the Hamilton-Wentworth Official Plan.

**Town of Flamborough Official Plan**

The subject lands are designated "Open Space and Recreation" on Schedule "B" - Rural Land Use Plan, in the Town of Flamborough Official Plan. Although the predominant land use within the Rural Area shall be Agriculture, the Official Plan recognizes that there are some areas that contain environmental resources, as well as other areas that may be capable of limited development. The intent of the "Open Space and Recreation" designation is to permit both active and passive activities that contribute to a high quality rural environment and provide sufficient outdoor recreation space to meet the needs of the Town's residents, whether through public or privately owned lands.

- “B.9.1 The uses permitted in areas designated OPEN SPACE AND RECREATION, as shown on Schedule ‘B’ are: public or private recreation area or facility, trailer park (but does not include a mobile home park), golf course, passive and active areas, forestry, fish and wildlife management, cemeteries, conservation areas, agriculture and a maximum of one accessory residential dwelling unit for a caretaker or security person.
  
- B.9.3 Council recognizes the importance of lands under the jurisdiction of the local Conservation Authorities, the Ministry of Natural Resources and other public agencies, and shall support the conservation activities of these agencies.
  
- B.9.4 Council shall ensure that recreational development in areas designated OPEN SPACE AND RECREATION will be designed and operated to complement the natural environment.”

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In addition to the pertinent policies of the "Open Space and Recreation" designation, Westover Creek and the Environmentally Sensitive Area located in the eastern portion of the subject property have been identified on Schedule "E" - Hazard Lands as being under the jurisdiction of the Hamilton Conservation Authority.

“B.1.10 There are, in the Town, apart from the many streams, creeks, and tributaries, many wetlands. Council recognizes the ecological and environmental importance of wetlands as contributory to the natural resource base of the Town. When considering development proposals for lands which may include or are adjacent to:

- wetlands, bogs, fens, or swamps; and,
- cold and warm water fish spawning grounds and habitat critical to the maintenance of healthy fish populations;

Council shall consult with the Ministry of Natural Resources and the presiding Conservation Authority with regard to the following:

- (i) The potential effect of the development proposal on the wetlands; and,
- (ii) The measures to be taken or which may be taken to mitigate effects on the wetland.”

Concerning the natural heritage attributes of the subject property, the existing golf course has been developed in a manner that complements the adjacent environmentally significant areas, as provided in Policy C.3.1. With respect to the subject application, the location of the proposed caretaker’s residence was determined in consultation with the Hamilton Conservation Authority, and the proposed Zoning By-law will more accurately delineate the hazard lands, in accordance with Policy C.4.4.

“C.4.4 The boundaries of lands delineated as HAZARD LANDS on Schedule ‘A’, Schedules ‘B-1’ to ‘B-16’, and Schedule ‘E’ shall be used as guidelines to zone HAZARD LANDS in the implementing Zoning By-law, which shall define the boundaries more precisely. The Zoning By-law will limit the permitted uses in areas zoned HAZARD LAND to those identified in Sub-section C.4.1 of this Plan. Council will consult with appropriate Provincial agencies and Conservation Authorities in regard to regulations contained in the Zoning By-law..”

One of the objectives of the Official Plan is that development within the Rural Area be served by a potable water supply and a safe septic system, approved by the presiding authority. As the proposed caretaker's residence is to connect to the existing servicing infrastructure on the subject property, the applicant has been advised by staff to ensure that sufficient capacity exists, and that the owner's current Permit to Take Water, which has been issued by the Ministry of the Environment, be reviewed to accommodate the proposed development.

Therefore, the application conforms to the Town of Flamborough Official Plan.

### **Rural Hamilton Official Plan**

The application had been deemed complete on August 26, 2011, and the Rural Hamilton Official Plan came into force and effect on March 7, 2012. An analysis of the Rural Hamilton Official Plan policies has been conducted for the subject application in order to confirm whether an amendment to the Rural Hamilton Official Plan would be required, if the application is approved.

The Rural Hamilton Official Plan designates the subject lands "Open Space", with pockets of "Core Areas" in the vicinity of the proposed development, as well as the western portion of the property being identified as Greenbelt Natural Heritage System. The existing golf course and provincially significant area on the subject property contribute to the City's Open Space and Parks System, as identified in Section B.3.5.1.5.

Section C.3.3 of the Official Plan concerns lands within the Open Space designation, and Policy C.3.3.2 (b) permits one ancillary dwelling unit to be used in conjunction with a resource-based recreational use, provided that the open space features are not impacted. It is reaffirmed in Policies C.5.1.2 and C.5.1.3 that the owner is responsible to ensure that sustainable private services, such as a sewage disposal system and well water, are maintained in compliance with applicable legislation and must demonstrate the proposed development can be accommodated. The applicant has provided an estimate that the daily water consumption of the proposed caretaker's residence will represent approximately 3,350 Litres/day or 0.7% of the total daily water taking approved under the existing Permit to Take Water (491,000 Litres/day - 8161-7PLQHU). In November 2011, the Ministry of the Environment amended the Certificate of Approval for the existing septic system to recognize the increased effluent flow anticipated by the proposed caretaker's residence.

Section C.2.1 identifies the goals of the Natural Heritage System, including, but not limited to:

"C.2.1.1 To protect and enhance biodiversity and ecological functions.

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- C.2.1.4 To maintain and enhance the contribution made by the Natural Heritage System to the quality of life of Hamilton's residents.
- C.2.1.5 To restore and enhance connections, quality, and amount of natural habitat.
- C.2.1.6 To provide opportunities for recreational and tourism uses where they do not impact natural heritage features."

As identified in Section C.2.3, Core Areas are recognized as integral to the natural heritage system, and it is the intent of the Rural Hamilton Official plan to preserve and enhance their environmental features and ecological function. The immediate "Core Area" affecting the proposal is Westover Creek, which is recognized as a key hydrologic feature in the Official Plan.

Throughout the Official Plan, policies seek to ensure that proposed development or site alteration does not negatively impact the environmental features or ecological function of Core Areas, as in Policy C.2.3.3.

"C.2.4.8 Beyond the Greenbelt Natural Heritage System within the Protected Countryside, new development and site alteration shall not be permitted within or adjacent to key natural heritage features in the Greenbelt Protected Countryside unless it has been evaluated through an Environmental Impact Statement and has been demonstrated that there shall be no negative impacts on the natural features or their ecological functions."

Policy C.2.4.9 also requires that any such development or site alteration proposed be subject to a Planning Act application, which will also require the completion of an Environmental Impact Statement, in accordance with Policy C.2.4.6 of the Plan. The application will be subject to site plan control, at which time siltation and erosion control, tree preservation, construction monitoring, as well as other measures, will be required to ensure that there are no direct or indirect impacts on Westover Creek as a result of the proposed dwelling construction and location.

The policies in Policy C.2.4.11 relate to the establishment of minimum vegetation protection zone widths for natural heritage features through Environmental Impact Statements, where they are not otherwise identified through local policy (i.e. watershed, sub-watershed plans, secondary plans, etc.). What is recommended in the draft policies, as well as the Natural Heritage Evaluation prepared in support of the proposal, for both fish habitat and permanent and intermittent streams is a 30-metre minimum vegetative protection zone measured from either side of the top-of-bank or meanderbelt allowance. Not only is the proposed dwelling beyond the limits of the recommended 30 metre vegetative protection zone of Westover Creek, the application also seeks to include additional lands within the Conservation Management "CM" Zone.

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Based on the foregoing, the application conforms to the Rural Hamilton Official Plan.

**RELEVANT CONSULTATION**

**Agencies/Departments Having No Comments/Objections**

- Taxation and Policy Services, Corporate Services Department.
- Forestry and Horticulture Section, Public Works Department.
- Traffic Engineering Section, Public Works Department.
- Hamilton Municipal Parking System.
- Bell Canada.
- Horizon Utilities.
- Hydro One
- Enbridge Pipelines.

**Recreation Division (Community Services Department):**

The Recreation Division provided no recreational related concerns with the application to construct a caretaker's residence. Staff from that Division recommended that the applicant be advised that cash-in-lieu will be collected at the Building Permit stage, should the residence be permitted and constructed, as it is deemed to be an increase in density to the property.

**Environment and Sustainable Infrastructure Division (Public Works Department):**

Staff advises that the applicant shall ensure that the existing certificate of approval for the sewage disposal infrastructure will be sufficient to accommodate the additional effluent generated from the proposed dwelling. The owner's Permit to Take Water for the operation of the golf course should also be reviewed, in light of the subject proposal, to ensure that the water takings by the dwelling are accommodated.

**Operations and Waste Management Division (Public Works Department):**

Operations Support staff has advised that waste collection (garbage, recycling, organics, leaf and yard waste) for the subject property will remain status quo.

**Development Engineering Section:**

As a condition of site plan approval, road widenings will be required along Sodom Road, as well as the transfer of the required daylight triangle at the southeast corner of the intersection of Westover Road and 4<sup>th</sup> Concession Road West, in accordance with the Town of Flamborough Official Plan. Had the rezoning and/or site plan application been

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submitted after the Rural Hamilton Official Plan came into force and effect, a road widening would also have been required for 4<sup>th</sup> Concession Road West.

**Hamilton Conservation Authority:**

The subject property is located within both the Westover Creek subwatershed and Mid-Spencer Creek subwatershed of Spencer Creek. Hamilton Conservation Authority staff recommended that the “CM” - Conservation Management Zone already affecting the lands encompass the recommended 30 metre undisturbed vegetative protection zone in order to protect critical fish habitat found within the watercourses traversing the subject property. It is the opinion of staff that the said action will reflect the policies of the Greenbelt Plan, as well as those of the HCA. As such, the HCA recommends the approval of the subject application, with the condition of the adjustment to the Conservation Management “CM” Zone, as proposed above.

**Public Consultation**

In accordance with the new provisions of the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was circulated to 50 property owners and occupants within 120 metres of the subject property on September 6, 2011. A Public Notice sign was also posted on the property on September 12, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

One letter (see Appendix “D”) was received in response to the pre-circulation letter, which raised concerns with the proposal of a dwelling on the subject property. It cited the previous granting of a severance on the condition that the retained lands be rezoned to prohibit the future erection of a caretaker’s residence elsewhere on the property, as well as the recent sale of that particular property. A second item of concern centred around use of the proposed dwelling and the possibility for condominium ownership. Finally, the writer requested that any proposed dwelling be located outside the Conservation Management “CM” Zone, as well as any area regulated by the Hamilton Conservation Authority.

Staff is satisfied that the proposed location of the caretaker’s residence at the interior of the golf course limits the probability of a future severance application. Furthermore, as discussed in the Analysis/Rationale section of the Report, further By-law provisions limiting the size and scale of the dwelling have been recommended to ensure the dwelling serves the intended purpose and is not readily severed as a stand-alone residential dwelling. The supplementary letter submitted by the applicant on October 14, 2011, indicated that while the existing dwelling has served as the caretaker’s residence since the Recreational Open Space “O3-6” Zone was put in place, due to its distance from the principal golf course assets, it is no longer adequate in providing appropriate security for the golf course. As recommended by staff, the proposed

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dwelling is located outside the Conservation Management “CM” Zone, as well as the area regulated by the Hamilton Conservation Authority.

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 and through the posting of a sign on the property.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (a) That the proposal is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan, the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan, and the Rural Hamilton Official Plan.
  - (b) That the proposal respects and seeks to enhance the ecological function of the key hydrologic features on site.
  - (c) That the proposal is accessory to an existing golf course (Century Pines).
2. The subject property is currently being used as an 18-hole golf course, encompassing 71.55 hectares of land east of Westover Road between 4<sup>th</sup> Concession Road West and Sodom Road, in Flamborough. The golf course complex consists of the course, a 1-storey club house, 1-storey maintenance building, and asphalt parking areas.
3. Existing residential dwellings abut the subject property along Sodom Road and 4<sup>th</sup> Concession Road West, three of which being the result of previous consent applications, including the subject property. The subject application can be supported because the location and servicing of the proposed dwelling is such that a future consent application to sever the proposed dwelling would not be practical and, as such, would ensure compliance with applicable Provincial policies. As the rationale for the proposed dwelling is for maintenance and/or security reasons, it has been determined appropriate by staff to permit a maximum setback from the clubhouse and to restrict the size of the proposed dwelling, in order to minimize the burden on the existing servicing infrastructure and to ensure the dwelling serves the intended purpose as a dwelling for maintenance and/or security purposes. The proposed modifications to the Open Space “OS-3” included in the draft By-law (see Appendix “B”) have been included for the aforementioned purposes.

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4. A Stage 1-2 Archaeological Report has been completed for the proposed building envelope and submitted to the Ministry of Tourism for review. The provincial interest has yet to be signed off by the Ministry, however, City staff advises that the said Report meets the City's requirements with respect to the scope of the proposed development. Therefore, the scope of the rezoning should limit the building envelope to be located as identified on the concept plan (see Appendix "C"). Based on the foregoing, the proposed Site Specific By-law, attached as Appendix "B", provides setbacks that address the location of the proposed dwelling to be within the area that was the subject of the Archaeological Report.
  
5. The Hamilton Conservation Authority recommended approval of the subject application with the condition that the Conservation Management "CM" Zone, which currently affects the property, be enlarged to encompass the vegetative protection zone associated with the watercourses that traverse the property. Ultimately, the affect of this change would increase the coverage of the said zone to include 30 metres on either side of the full bankwidth of the watercourse. The zone would continue to recognize and allow the existing uses, building, or structures; however, the erection or altering of any structures within the "CM" Zone requires the written permission of the Hamilton Conservation Authority. In response to the above-noted recommendation, the applicant submitted a Natural Heritage Evaluation, prepared by Savanta Inc., in order to identify the potential direct and indirect impacts of the proposed caretaker's dwelling on the adjacent natural heritage features. The Report concluded that there are no wetlands, significant woodlands, ANSI's, or significant wildlife habitat, as defined under the PPS, within the vicinity of the proposed dwelling location, and that while Westover Creek is considered a Key Hydrologic Feature under the Greenbelt Plan, the caretaker's residence will have no direct or in-direct impacts on the said feature and will not require the establishment of a vegetation protection zone. Finally, it was concluded that there is no requirement for restoration or enhancement of the Westover Creek in the vicinity of the proposed caretaker's residence because of the lack of impacts resulting from the proposed dwelling and the continued presence of a golf course and associated turf grass. The Report based the preceding conclusions on the implementation of a number of recommendations concerning building construction, such as tree preservation, sediment and erosion controls (as per the HCA specifications) be installed at the limits of development prior to the completion of any works, and weekly construction monitoring (including inspection of all sediment and control measures prior to rain events and weekends).

Planning and Hamilton Conservation Authority staff accepted the Natural Heritage Evaluation findings and, with support of the applicant, proposed that the application be amended to change the zoning of lands within the 30-metre setback of Westover Creek, within the vicinity of the proposed caretaker's residence, to the Conservation Management "CM" Zone.



**SUBJECT: Application for an Amendment to Flamborough Zoning By-law No. 90-145-Z for Lands Known as 592 Westover Road (Flamborough) (PED12112) (Ward 14) - Page 17 of 17**

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6. The proposal is subject to Site Plan Control, which will require siltation and erosion control, tree preservation, construction monitoring, as well as other measures, to ensure that there are no direct or indirect impacts on Westover Creek as a result of the proposed caretaker's residence construction and location. Road widenings, including the daylight triangle at the southeast corner of 4<sup>th</sup> Concession Road West and Westover Road, will also be required at the Site Plan stage of development.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the applicant may continue to use the property in accordance with "OS-6" (Recreation Open Space), Modified, Zone.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

**Environmental Stewardship**

- ◆ Natural resources are protected and enhanced.
- ◆ Reduce the impact of Hamilton's industrial, commercial Private and Public operations on the environment.
- ◆ Aspiring to the highest environmental standards.

**Healthy Community**

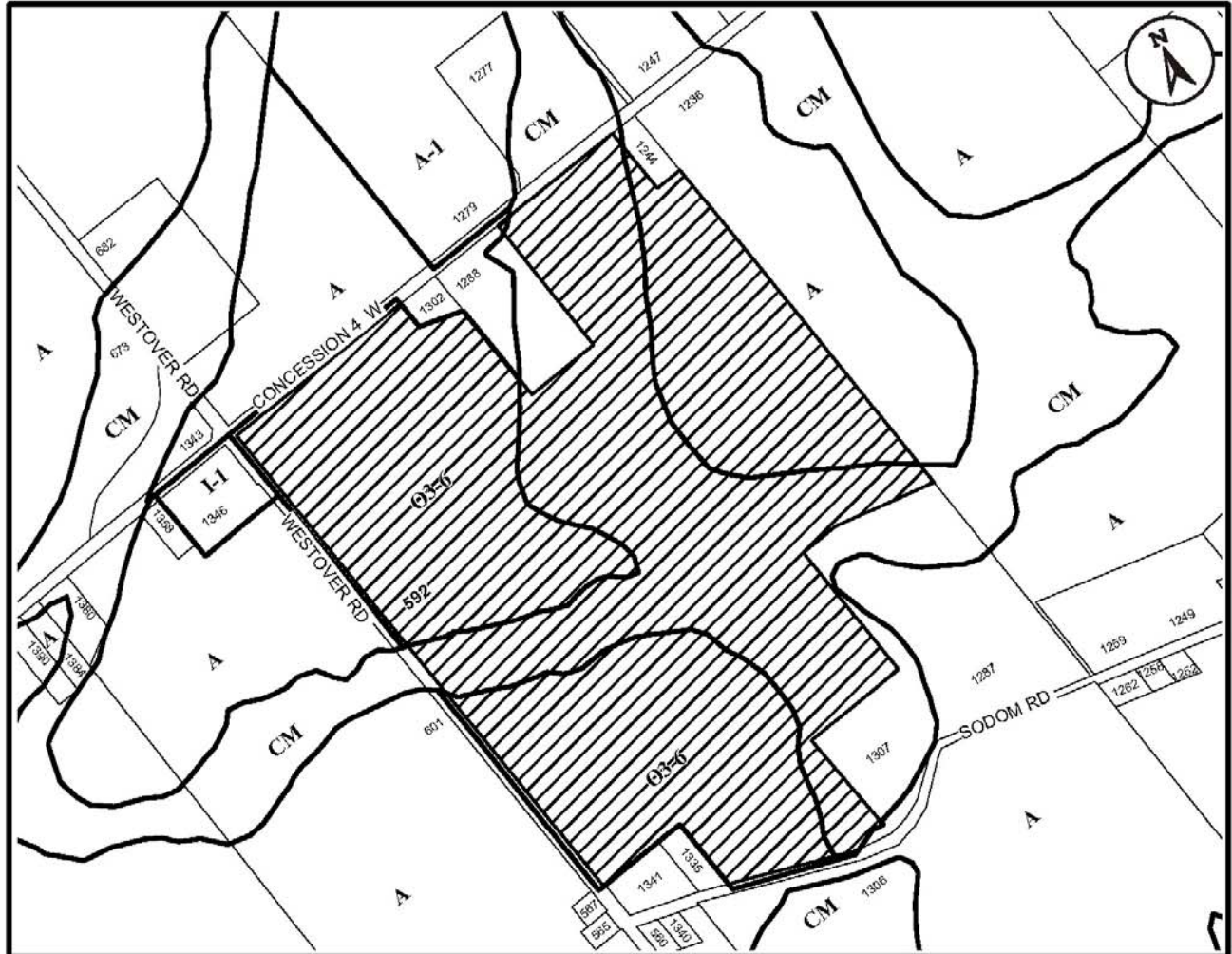
- ◆ Plan and manage the built environment.
- ◆ An engaged Citizenry.

**APPENDICES**

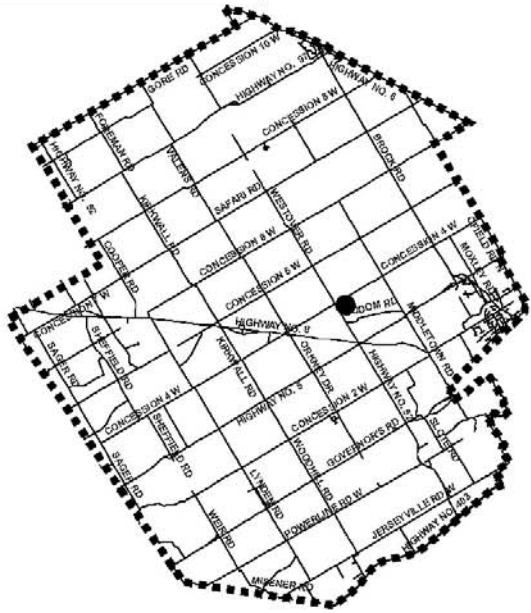
- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment (By-law 90-145-Z)
- Appendix "C": Concept Plan
- Appendix "D": Public Comments

:DM


Attachs. (4)



● Site of the Application



Ward 14 Key Map

N.T.S. 

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-11-044

Date:  
August 26, 2011

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
DM/AL

### Subject Property

 592 Westover Road

**Authority:** Item [REDACTED]  
Planning Committee  
Report: 12-[REDACTED] (PED12112)  
CM: [REDACTED]

**Bill No.** [REDACTED]

## **CITY OF HAMILTON**

### **BY-LAW NO. [REDACTED]**

#### **To Amend Zoning By-law No. 90-145-Z (Flamborough), as Amended, Respecting Lands located at 592 Westover Road (Flamborough)**

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

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

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

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

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereinafter provided;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Schedule No. A-22, attached to and forming part of Zoning By-law 90-145-Z (Flamborough), as amended, is hereby amended;
  - a) by changing the zoning from the Recreational Open Space "O3-6" Zone, Modified, to the Recreational Open Space "O3-12" Zone, Modified, for lands shown as Block "1";
  - b) by changing the zoning from the Recreational Open Space "O3-6" Zone, Modified, to the Conservation Management "CM" Zone, for lands shown as Block "2";

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the Recreational Open Space "O3" District regulations, as contained in Section 26 of Zoning By-law No. 90-145-Z, be modified to include the following special requirements:

"O3-12" (See Schedule A-22)

Permitted Uses:

- (a) Sub-section 26.1 shall apply.

Zoning Provisions for one accessory dwelling unit for maintenance and/or security purposes

- |  |                   |
|--|-------------------|
| (a) Front Yard (minimum)                                       | 375 metres        |
| (b) Interior Side Yard (minimum)                               | 335 metres        |
| (c) Exterior Side Yard (minimum)                               | 200 metres        |
| (d) Rear Yard (minimum)  | 465 metres        |
| (e) Maximum Distance from Clubhouse                            | 130 metres        |
| (f) Maximum Gross Floor Area                                   | 120 square metres |
| (g) All other zone provisions of Sub-section 26.2 shall apply. |                   |

3. That the amending By-law be added to Schedule "A-22" of Flamborough Zoning By-law No. 90-145-Z.
4. 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 [REDACTED] day of [REDACTED], 2012.

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R. Bratina  
Mayor

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Rose Caterini  
Clerk

ZAR-11-044







This is Schedule "A" to By-Law No. 12-  
 Passed the ..... day of ....., 2012

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 Mayor  
 -----  
 Clerk

**Schedule "A"**

Map Forming Part of  
 By-Law No. 12-\_\_\_\_\_

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

- Subject Property**  
 592 Westover Road
-  **Block 1** - Change in zoning from the Recreation Open Space "O3-6" to the Recreation Open Space "O3-12" Zone
  -  **Block 2** - Change in zoning from the Recreational Open Space "O3-6" to the Conservation Management "CM" Zone
  -  **Block 3** - Lands to remain Conservation Management "CM" Zone
  -  **Block 4** - Lands to remain Agricultural "A" Zone

<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> ZAR-11-044
<b>Date:</b> May 31, 2012	<b>Planner/Technician:</b> DM/NB
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	







Appendix "D" to Report PED12112 (Page 1 of 2)

**From:** Rosemary Reilly [REDACTED]  
**Sent:** September 27, 2011 3:36 PM  
**To:** McPhail, Delia  
**Cc:** RJ Reilly; Foster Gordon  
**Subject:** File No. ZAR-11-044 Zoning By-law Amendment - Century Pines Golf Inc., 592 Westover Road, Flamborough  
**Attention:** Delia McPhail  
**Attention:** Jason Thompson

RE:  
Zoning By-law Amendment – Century Pines Golf Inc., 592 Westover Road, Flamborough  
Application for Zoning By-law Amendment Application (File No. ZAR-11-044).  
Other Application for a Site Plan Amendment (File No. SPA-11-119).

Hello,

Thank you for your letter of September 6, 2011 about the Notice for a Zoning By-law Amendment submitted by the Century Pines golf course. We live next door to the golf course and would like to provide input for your report for Council.

We are concerned about the number of dwellings located on the golf course that might be subject to severance applications and by-law amendments. City staff tells us that in 1999 a severance was granted to the Century Pines golf course. When that severance was granted, wasn't a special by-law imposed so that the entitlement to have a dwelling on the golf course is revoked? It might be helpful to understand what has changed to make a reversal of that stipulation acceptable now.

The owner of the golf course at the time the severance was granted, and any new owners, would be aware of the special by-law stipulation. It appears that it was the current owner who was granted the severance, based on the information in the Application for an Official Plan Amendment (question 7.2, the owner states the subject lands have been in the owner's possession for 17 years, which would include the time of the severance in 1999). We noticed that for question 24.1 (Has the subject land ever been the subject of ... rezoning application?) and question 24.2 (Has a severance/consent application ever been made?) the owner states "unknown". Maybe further investigation would clarify these questions.

There is currently [as of 26-September-2011] a property listed for sale on MLS.ca that has the same address as Century Pines Golf. This property might be the severance that was granted in 1999. So, it seems there already is a dwelling available to the golf course for the purposes they are proposing (maintenance and security caretaker dwelling).

Here's a link to the listing:

<http://www.realtor.ca/PropertyDetails.aspx?&PropertyId=10991497&PidKey=1358670125>

Building Type: House

Bedrooms: 4

Bathrooms (Total): 4

Storeys: 2

Land Size: 229.66 x 229.66 FT

Community Name: Rural Flamborough

Location: 592 WESTOVER RD Hamilton, ON L0R 2B0

TONY HUBENOV, Salesperson -- Telephone: [REDACTED]

The Concept Plan that was attached to your letter shows a "Proposed Building". To help alleviate some concerns about additional severances, we would suggest that you ensure that the proposed dwelling be located where it is identified on the plan, through the provision of setbacks in a site specific by-law (for example, 200 m front yard setback from Westover Road, 375 m side yard from Sodom Road). We have to say, though, that unless there is good reason, we find it worrisome that if the by-law that was imposed in 1999 regarding a dwelling on the golf course can be reversed in 2011, any stipulation made in 2011 can also be overturned in the future.



Appendix "D" to Report PED12112 (Page 2 of 2)

We also notice that the Application for Site Plan Approval is incomplete. In Part Eleven (Is this residential development intended to become a condominium) no checkbox is selected. This leads to some concerns about the possibility of a larger community of golf course residences. We don't know what the impact of a larger community might be and some clarification, and completion of the application, would be helpful.

We are also concerned about construction on Conservation Lands. We notice that in the Application for Site Plan Approval, Part Eight, the zoning is listed as only 03-6. We have been told that the property is zoned Recreational Open Space "03-6" and Conservation Management "CM". We would suggest that you ensure that any proposed dwelling be located outside of the CM zone and the area regulated by the Hamilton Conservation Authority.

Thank you.

Rosemary Reilly  
Foster Gordon  
1341 Sodom Road, Flamborough, Ontario, L9H 5E2  
[REDACTED]

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