



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 15, 2014
SUBJECT/REPORT NO:	Application for Amendment to Town of Flamborough Zoning By-law No. 90-145-Z for Lands Located at 24 McDonald Court (PED14060) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Daniel Barnett (905) 524-2424, Ext. 4445
SUBMITTED BY:	Neil Everson Acting General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to the amended **Zoning Application ZAR-12-055, by Isabel & Firmino Ferreira, Owner**, for a change in zoning from the “R1-6” (Urban Residential (Single Detached)) Zone to the “R1-65” (Urban Residential (Single Detached)) Zone, to facilitate the severance of a lot for the creation of one additional single detached residential lot, on lands located at 24 McDonald Court (Flamborough), as shown on Appendix “A” to Report PED14060, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED14060, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law attached as Appendix “B” to Report PED14060, be added to Map No. A-30, and that the amending By-law be added to Section 6 of Zoning By-law No 90-145-Z as “R1-65”.
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS), and conforms to Places to Grow and the Urban Hamilton Official Plan (UHOP).

EXECUTIVE SUMMARY

The purpose of this application is for a change of zoning to satisfy a condition of severance for application FL/B-10:63, which sought to subdivide the existing lot in order to create one additional lot for a new single detached residential dwelling.

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The applicant also requested several modifications to the By-law for the proposed dwelling on the proposed severed lot, including an increase in the maximum lot coverage, reduced interior side yard setbacks, and a reduced front yard setback. Staff do not support the reductions to the interior side yard setback and front yard setback requirements, and the proposal amended by staff would maintain most of the existing requirements of the “R1-6” Zone with the exception of lot area, lot frontage, and lot coverage.

The proposal as amended has merit and can be supported as it is consistent with the PPS, conforms to the Places to Grow Plan and the UHOP. The proposed rezoning is considered to be compatible with the existing development in the surrounding area.

In order to better protect the character of the neighbourhood, staff are proposing to establish a site-specific Residential “R1” Zone in order to maintain the existing setback requirements, building height requirement, and floor area requirement, as contained in the existing “R1-6” Zone. The existing dwelling and the proposed dwellings will both conform to the maximum lot coverage requirement of 25% for the standard “R1” Zone, in order to better protect the neighbourhood, staff are proposing a more restrictive maximum lot coverage provision, reducing it to 22%, which is more in line with the existing 15% maximum lot coverage contained in the “R1-6” Zone, both the existing dwelling and the proposed dwelling will comply with the maximum 22% lot coverage requirement. The proposed lots would conform to the lot frontage requirement of the standard “R1” Zone, and therefore no site-specific modification would be required. Finally it is noted that a modification to the lot area requirement below both the standard “R1” provision of 665 sq. m., and the existing modified “R1-6” Zone provision of 1,390 sq. m., would be required, to establish a lot area requirement of 622 sq. m., which both the retained and severed lots will comply with.

Alternatives for Consideration – See Page 19

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment. There is currently an appeal before the Ontario Municipal Board for the severance application FL/B-10:63, the appeal is currently on hold until the rezoning application has been finalized or an appeal to the rezoning application is brought forward to the Ontario Municipal Board so that both appeals can be heard together.

HISTORICAL BACKGROUND

Severance application FL/B-10:63:

On May 12, 2010, the applicant submitted an application for severance in order to divide the lands located at 24 McDonald Court, into two lots for single detached dwellings. Through the review of the severance application, it was noted that the proposed lots would not comply with the “R1-6” Urban Residential (Single Detached) Zone with respect to lot area and frontage for both the lands to be severed and lands to be retained. As a consequence, given the nature and scale of the required modifications to the existing standards, and as the proposal is to establish residential lots, staff required as a condition of consent approval, that the applicant apply for and receive approval of an application for rezoning (see Appendix “C” and Appendix “D” – Condition “3”).

On June 24, 2010, the Committee of Adjustment denied the severance application on the basis that the lots were undersized in terms of lot frontage and lot area, and was not in the interest of proper planning and development and not in keeping with the existing character of the neighbourhood (see Appendix “E”), the applicant appealed the decision of the Committee of Adjustment to the Ontario Municipal Board (OMB) on July 7, 2010. In order to avoid holding two separate OMB hearings for the same proposal, one for the severance and potentially one for the rezoning, the OMB put the severance hearing on hold until the applicant either received final approval of the required rezoning application, or an appeal was brought forward with respect to the rezoning application. The rezoning application was applied for on December 20, 2012.

Proposal

The subject property is zoned “R1-6” Urban Residential (Single Detached) Zone. The subject property is a corner lot at the bend of McDonald Court. The lands to be conveyed are located on the south side of the property fronting onto the portion of McDonald Court that travels north-south, the conveyed lands will have a lot area of 622 sq. m. and a lot frontage of 18.1 m., and the lands to be retained will have a lot area of 775 sq. m., and a lot frontage of 23.3 m. (see Appendix “F”). The lands to be retained do conform to the lot area and lot frontage requirements of the standard “R1” Urban Residential (Single Detached) Zone, and the lands to be conveyed do conform to the minimum lot frontage requirement, but do not conform to the minimum lot area requirement.

In addition to the changes to the lot area and lot frontage, the applicant proposed as part of the rezoning application, to establish a building envelope for the land to be conveyed with a minimum front yard setback of 6 m. instead of the existing requirement of 7.5 m., a side yard setback of 1.2 m. instead of the existing requirement of 3 m., and a lot coverage of 22% instead of the existing requirement of 15%. The proposed 6 m. front yard setback would not conform to the By-law requirements of the “R1” Urban

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Residential (Single Detached) Zone, however the proposed lot coverage and side yard setback requirements would conform to the “R1” Zone requirements. The proposed 1.2 m. side yard setback and 6 m. front yard setback would not be in keeping with the character of the area, which is comprised primarily of large lots with spacious setbacks. In order to better protect the character of the neighbourhood, staff are proposing that a site-specific “R1” zoning be established to allow for the smaller lot size of the lands to be conveyed, while maintaining compatible setbacks to that of the surrounding neighbourhood.

Chronology

<u>May 12, 2010:</u>	The applicant applied for a severance application (FL/B-10:63) to subdivide the property at 24 McDonald Court in order to create one additional single detached residential dwelling lot on the south side of the property.
<u>June 24, 2010:</u>	The severance application was denied by the Committee of Adjustment.
<u>July 7, 2010:</u>	The applicant appealed the decision of the Committee of Adjustment to the OMB.
<u>December 20, 2012:</u>	The applicant applied for a rezoning application to facilitate the condition of severance still pending before the OMB.
<u>January 11, 2013:</u>	The application for rezoning was deemed to be complete.
<u>February 1, 2013:</u>	The public notice sign was posted on the subject property.
<u>February 5, 2013:</u>	Notice of Complete Application and Pre-circulation was mailed to all residents within 120 m. of the subject property.

Details of Submitted Application

<u>Location:</u>	24 McDonald Court (Flamborough)						
<u>Owner:</u>	Isabel and Firmino Ferreira						
<u>Applicant:</u>	John Stirling						
<u>Property Description:</u>	<table><tr><td><u>Frontage:</u></td><td>34.4 m.</td></tr><tr><td><u>Lot Depth:</u></td><td>41.4 m.</td></tr><tr><td><u>Area:</u></td><td>1,398.4 sq. m.</td></tr></table>	<u>Frontage:</u>	34.4 m.	<u>Lot Depth:</u>	41.4 m.	<u>Area:</u>	1,398.4 sq. m.
<u>Frontage:</u>	34.4 m.						
<u>Lot Depth:</u>	41.4 m.						
<u>Area:</u>	1,398.4 sq. m.						

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single Detached Residential Dwelling	Urban Residential (Single Detached) “R1-6” Zone
<u>Surrounding Lands:</u>		
<u>North</u>	Single Detached Residential Dwelling	Urban Residential (Single Detached) “R1-6” Zone
<u>East</u>	Single Detached Residential Dwelling	Urban Residential (Single Detached) “R1-6” Zone
<u>South</u>	Single Detached Residential Dwelling	Urban Residential (Single Detached) “R1-6”
<u>West</u>	Single Detached Residential Dwelling	Urban Residential (Single Detached) “R1-6” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS) policies that contribute to the development of healthy, livable, and safe communities, as contained in Section 1.1.1. The subject lands are considered to be within a Settlement Area, as defined by the PPS. As such, the application is consistent with Policy 1.1.3.1, with respect to focusing growth and regeneration within existing Settlement Areas. As the proposal is to facilitate a severance for the creation of one additional single detached residential dwelling within the Urban Area, the proposal is consistent with the PPS.

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 application conforms with the policies that manage growth within the built up area, as per the policies contained in Section 2.2.2 of the Places to Grow Plan.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) which was approved for the most part on August 16, 2013, but was not in effect at the time of the application.

The subject property is designated as “Neighbourhoods” in the new UHOP.

- “E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.
- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:
- a) Residential dwellings, including second dwelling units and housing with supports.”

As the proposal is to facilitate the creation of one additional single detached residential lot, the proposal conforms to Policy E.3.2.3.

- “E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.”

The proposed lands to be severed, and lands to be retained, while smaller in size to other lots in the area, still maintain the large lot character of the area and are capable of supporting dwellings of a compatible scale, and with compatible setbacks to other dwellings in the area. It is the opinion of staff that the modifications proposed for reduced front yard and side yard setback are not compatible with the character of the area, and should therefore not be supported. Consequently staff are recommending that approval of an amended By-law that maintains the existing front yard and side yard setback requirements.

- “F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 - Urban Land Use Designation, shall be permitted provided the following conditions are met:
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;

- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.”

The proposed lots have frontage on a municipal road and have full municipal services, the lots will maintain the large lot sizes that are common in this area and can support a dwelling that is compatible in size and maintains the open development pattern that is created by the large setbacks that form part of the character of the area. The amended approval that maintains the existing front yard and side yard setback requirements will establish a built form that is compatible to the general scale and character of the established development pattern in the surrounding area. Therefore, the proposal conforms to Policy F.1.14.3.1 of the UHOP.

Hamilton-Wentworth Official Plan

The UHOP came into force and effect on August 16, 2013, and for the most part the Hamilton-Wentworth Official Plan is no longer in force and effect. However, the application was made prior to August 16, 2013, therefore the policies of the Hamilton-Wentworth Official Plan apply.

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, determined through Area Municipal Official Plans, and based on full municipal services, will be concentrated in the Urban Area. Policy C-3.1.1 encourages compact, mixed-use to ensure people are close to shopping and their workplace, and that growth can be accommodated within the existing Urban Area.

As the proposal is to facilitate a severance for the creation of one additional single detached residential dwelling within the Urban Area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The UHOP came into force and effect on August 16, 2013, and for the most part the Town of Flamborough Official Plan is no longer in force and effect. However, the application was made prior to August 16, 2013, therefore the policies of the Town of Flamborough Official Plan apply.

The subject property is designated “Urban Residential” in the Town of Flamborough Official Plan, which permits detached and semi-detached single dwellings, low to medium density linked multiple unit dwellings, apartment units, converted dwellings, quadruplex dwellings, shared accommodation, rooming and boarding houses, and other suitable forms of dwellings.

“A.2 Objectives:

- To ensure that new Urban Residential development or redevelopment is compatible with the existing and proposed development.”

This objective is to be achieved through satisfying, the following policies:

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

- ii) Infilling is the use of vacant land for new residential development either by adding a new unit to an individual site or on newly created lots or sites, predominately in built-up areas.”

As the proposal is to facilitate the creation of one additional residential lot within the built-up area, the proposal would be considered residential intensification in the form of infill development.

The following policy provides the context in which to assess the appropriateness of the proposed development:

“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 and applications in the Urban Area, compatibly 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 exiting neighbourhood.”

The proposal is to permit an additional dwelling unit that, subject to the recommended performance standards, would be mutually tolerant and exist in harmony with the character of the area in general, and the lot fabric and scale of units within the area in particular.

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

- a. Lot size, building setback, density, and the height and mass of buildings in the surrounding area; and,
- b. Impact on the existing streetscape and landscape, and opportunities to maintain and/or enhance the existing streetscape.”

It is the opinion of staff that the proposed lot sizes will be compatible with the lot sizes in the area and be capable of maintaining and establishing dwellings that are compatible in character with that of the other dwellings in the area. However, staff are of the opinion that the requested reduction in front yard setback from 7.5 m. to 6 m., and the reduction in side yard setback from 3 m. to 1.2 m., would not be in keeping with the character of the area, which is comprised primarily of large lots with generous setbacks for the dwellings. As such, staff do not support reductions to the front and side yard setbacks, and recommend that these modifications are denied, and that the 7.5 m. front yard setback and 3 m. side yard setback provisions be maintained. Therefore, the amended proposal will maintain compatible building setbacks, density, and height, and will maintain the existing streetscape character. As such, it is the opinion of staff that the proposal will conform to the policies of the Town of Flamborough Official Plan.

RELEVANT CONSULTATION

Agencies/Departments Having no Comment or Objections

- Taxation.
- Hamilton Municipal Parking System.
- Recreation Planning.

Forestry and Horticulture Section (Public Works Department):

There are six Municipal Tree Assets located on the road allowance and the proposed development site, as well as, several private trees that will be impacted by the construction. The location of any proposed driveway for the severed lands will need to be located, so as to avoid having to remove or jeopardize the health of any existing municipal trees. If any municipal tree assets need to be removed, the applicant will be required to pay any required replacement fee.

Traffic Engineering and Operations Section (Public Works Department)

Separate access is required for the retained and severed lands, and an Access Permit will be required for any new or change in access.

Operations and Waste Management Division

Operations and Waste Management staff note that Residential developments are eligible for weekly collection of garbage, organic recyclable material, and leaf and yard waste through the City of Hamilton, subject to compliance with specifications indicated by the Waste Management Division and subject to compliance with the City's Solid Waste Management By-law 09-067.

Public Consultation

In accordance with Council's Public Participation Policy, the application was pre-circulated as part of the Notice of Complete Application, to 42 residents within 120 m. of the subject lands, on February 5, 2013. Three local resident/property owners wrote to the Department raising issues with the proposed application. The issues raised were with respect to the over-intensification of the respecting lot area, coverage, setbacks, location of driveways, and lot grading and drainage (see Appendix "G"). These issues have been highlighted and addressed in the Analysis/Rationale for Recommendation section of this Report. Notice of the Public Meeting was given in accordance with the requirements of the Planning Act through circulation to property owners within 120 m. of the subject lands. In addition, a Public Notice Sign was posted on the property on February 1, 2013.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan, the Hamilton Wentworth Official Plan, the Town of Flamborough Official Plan, and the current Urban Hamilton Official Plan.
 - ii) It is compatible with the type and form of development in the surrounding neighbourhood.
2. The subject property is located at the bend of McDonald Court. There is an existing dwelling on the subject property (See Appendix "F").

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Requested By-law Modification (Lands to be Retained and Severed):

<u>Urban Residential (Single Detached) “R1-6”:</u>	<u>Standard “R1” Zone:</u>	<u>Proposed Site Specific Requirements:</u>
i) <u>Lot Area:</u> 1,390 sq. m. (minimum)	i) <u>Lot Area:</u> 665 sq. m. (minimum)	i) <u>Lot Area:</u> 622 sq. m. (minimum)
ii) <u>Lot Frontage:</u> 30 m. (minimum)	ii) <u>Lot Frontage:</u> 18 m. (minimum)	ii) <u>Lot Frontage:</u> 18 m. (minimum)
iii) <u>Lot Coverage:</u> 15% (maximum)	iii) <u>Lot Coverage:</u> 25% (maximum)	iii) <u>Lot Coverage:</u> 22% (maximum)
iv) <u>Side Yard Setback:</u> 3 m. (minimum)	iv) <u>Side Yard Setback:</u> 1.2 m. (minimum)	iv) <u>Side Yard Setback:</u> 1.2 m. (minimum)
v) <u>Front Yard Setback:</u> 7.5 m. (minimum)	v) <u>Front Yard Setback:</u> 7.5 m. (minimum)	v) <u>Front Yard Setback:</u> 6 m. (minimum)
vi) <u>Building Height:</u> 8.2 m. (maximum)	vi) <u>Building Height:</u> 11 m. (maximum)	vi) <u>Building Height:</u> 8.2 m. (maximum)
vii) <u>Floor Space:</u> 186 sq. m. (1 and 1½ storeys) and 372 sq. m. (2 storeys)	vii) <u>Floor Space:</u> No Floor Space restrictions	vii) <u>Floor Space:</u> 186 sq. m. (1 and 1½ storeys) and 372 sq. m. (2 storeys)

Lot Area:

Section 6.3.6 a) of the Town of Flamborough Zoning By-law 90-145-Z states that a minimum lot area of 1,390 sq. m. is required. The lot area requirement of 1,390 sq. m. was established when the area did not have full municipal services and required larger lot sizes to provide individual septic systems for each lot.

With the introduction of municipal services, large lot areas for the provision of individual septic systems is no longer required. It is however noted that the larger lot size and the open built form of the dwellings that it creates, forms part of the streetscape character of the area.

The proposed rezoning will establish a minimum lot area requirement of 622 sq. m. which would facilitate the severed lot with a lot area of 622 sq. m., and the retained lot with a lot area of 775 sq. m. The proposed lots, while smaller than the majority of the other lots in the area, still constitute large single detached dwelling lots that are capable of establishing dwelling units that are compatible in size and scale, and maintain the spacious setbacks, that forms part of the character of the area. The existing dwelling will be maintained on the lands to be retained, and will meet all the minimum setback requirements of the existing “R1-6” Zone.

With respect to the lands to be severed, the applicant is proposing a front yard setback of 6 m. and side yard setbacks of 1.2 m., however staff do not support these setback reductions as explained below. The dwelling unit size proposed by the applicant, 135 sq. m., can be accommodated on site in accordance with the setback requirements of the “R1-6” zone.

It is further noted that the property at 8 McDonald Court was severed and rezoned, establishing the lot at 10 McDonald Court, and the lot area of 10 McDonald Court is 646 sq. m., which the lands to be retained will exceed and the lands to be severed will be only 24 sq. m. smaller. Therefore, the proposed lot area for the lands to be severed and lands to be retained, will maintain the streetscape character of the area and the By-law modification, for a lot area of 622 sq. m., can be supported.

The “R1” Urban Residential (Single Detached) Zone has a minimum lot area requirement of 665 sq. m., which the lands to be severed will not conform with, and therefore a site-specific modification to the “R1” Zone is required.

Lot Frontage:

Section 6.3.6 b) of the Town of Flamborough Zoning By-law 90-145-Z states that a minimum lot frontage of 30 m. is required. Similar to the lot area requirements, the lot frontage requirement of 30 m. was established prior to full municipal services being established, and therefore a larger lot size was required for the provision of private services. It is, however, noted that the larger lot width and spacious lot fabric, it forms part of the streetscape character of the area. The proposed severance will establish a lot frontage of 23.5 m. for the lands to be retained, and a minimum lot frontage of 18 m. for lands to be severed. The proposed lot frontages, while smaller than the majority of the other lots in the

area, still constitute large single detached dwelling lots that are capable of establishing dwelling units, which are compatible in size and scale, and maintain the spacious setbacks that form part of the character of the area.

It is further noted that the property at 8 McDonald Court was severed and rezoned, establishing the lot at 10 McDonald Court and the lot width of 10 McDonald Court is approximately 19 m., which is similar to the 18 m. wide lot proposed for the lands to be severed. Therefore, the proposed lot frontage for the lands to be severed and lands to be retained, will maintain the streetscape character of the area, and the By-law modification for a lot frontage of 18 m., can be supported.

It is further noted that the “R1” Urban Residential (Single Detached) Zone has a minimum lot frontage of 18 m., which both the lands to be severed and lands to be retained, will conform with, and therefore no site-specific modification to the “R1” Zone is required.

Lot Coverage:

Section 6.3.6 d) of the Town of Flamborough Zoning By-law 90-145-Z establishes a maximum lot coverage of 15% for all buildings and structures on the lot. With the introduction of municipal services, a small lot coverage is no longer required for the provision of a private septic system. It is, however, noted that the small lot coverage establishes and maintains the spacious development pattern of the area.

The existing dwelling on the lands to be retained will maintain a lot coverage of 14%, which conforms to the existing 15% maximum lot coverage of the “R1-6” Zone, while the dwelling proposed by the applicant will maintain a lot coverage of 22%, which exceeds the 15% lot coverage of the “R1-6” zone. The 7% increase in lot coverage is considered a minor increase in lot coverage, and will maintain the spacious development pattern that is characteristic of the neighbourhood. It is further noted that as part of the rezoning approval for 10 McDonald Court, a lot coverage of 21% was established, the proposed dwelling on the lands to be severed will have a lot coverage of 22%. The 1% increase is not considered significant, and will be similar to the lot coverage previously permitted by Council for 10 McDonald Court. It is also noted that the rezoning application to facilitate the severance of 15 McDonald Court and 45 Scott Street established at lot coverage of 29% for the property at 45 Scott Street. Therefore, the proposed lot coverage of 22% will maintain the streetscape character of the area and the By-law modification for a lot coverage of 22%, can be supported.

The “R1” Urban Residential (Single Detached) Zone has a maximum lot coverage of 25% which both the severed and retained lands will conform with, no

site-specific modification to the “R1” Zone is required, however, in order to avoid establishing 25% as of right for the properties, staff are proposing a site-specific modification to reduce the maximum lot coverage to 22%, to better protect the character of the area.

Side Yard Setback:

Section 6.3.6 e) of the Town of Flamborough Zoning By-law 90-145-Z establishes a minimum side yard setback of 3 m. for a single detached dwelling. The 3 m. side yard setback requirement creates and maintains a spacious and open development pattern with large setbacks between dwellings. The applicant is proposing to establish a 1.2 m. side yard for both the northerly and southerly sides of the proposed dwelling.

The majority of dwellings in the area maintain a large open development pattern with side yards of 3 m. or greater, and it is the opinion of staff that a 1.2 m. side yard would not maintain the streetscape character of the area. It is further noted that while the applicant has requested a side yard setback of 1.2 m., it is not required to facilitate the proposed 135 sq. m. dwelling unit, which can be accommodated on the severed lot in accordance with the 3 m. side yard setback requirement. Therefore, staff are of the opinion that a 1.2 m. side yard setback is not appropriate, and should not be established for the property.

The “R1” Urban Residential (Single Detached) Zone has a minimum side yard setback of 1.2 m., which both the severed and retained lands would conform, therefore no site-specific modification to the “R1” Zone is required, however as previously noted, a 1.2 m. side yard setback is not in keeping with the character of the area, and therefore a site-specific modification is proposed for the “R1-65” zone, in order better protect the character of the area.

Front Yard Setback:

Section 6.2 e) of the Town of Flamborough Zoning By-law 90-145-Z establishes a minimum front yard setback of 7.5 m. for a single detached dwelling. The 7.5 m. front yard setback creates and maintains the streetscape character of the area. The applicant is proposing a front yard setback of 6 m. for the dwelling on the lands to be severed. It is noted that while the zoning By-law permits a 7.5 m. front yard setback, the majority of the dwellings in the area maintain front yard setbacks greater than 7.5 m. Therefore, a reduction to the front yard setback from 7.5 m. to 6 m., would not be in keeping with the streetscape character of the area. It is further noted that while the applicant has requested a front yard setback of 6 m., it is not required to facilitate the proposed 135 sq. m. dwelling unit, which can be accommodated on the severed lot in accordance with the 7.5

m. front yard setback. Therefore, staff are of the opinion that a 6 m. front yard setback is not appropriate and should not be established for the property.

The “R1” Urban Residential (Single Detached) Zone has a minimum front yard setback of 7.5 m., which the dwelling on the retained lands would comply with, but not the proposed 6 m. front yard setback proposed for the severed lands. As noted above staff do not support this site-specific modification, and are recommending that the existing 7.5 m. setback requirement be maintained, therefore no site-specific modification for front yard setback, to the “R1” Zoning is included in the amending Zoning By-law.

Building Height:

Section 6.3.6 c) of the Town of Flamborough Zoning By-law 90-145-Z establishes a maximum building height of 8.2 m. for a single detached dwelling. The 8.2 m. maximum building height establishes a low profile form of development that forms part of the character of the area. The applicant is proposing to maintain the existing dwelling on the lands to be retained, which is a one storey dwelling that appears to comply with the maximum 8.2 m. height restriction, however, no details were submitted to confirm whether the dwelling complies. For the severed lot, the applicant is proposing a one storey dwelling with a maximum height of 4.8 m. which complies with 8.2 m. maximum height requirement. Therefore, no request has been made to increase the maximum building height requirements of the By-law.

The “R1” Urban Residential (Single Detached) Zone has a maximum building height requirement of 11 m., which both the existing and proposed dwellings will comply with. As noted above, no request to increase the maximum building height has been made, and the 11 m. maximum building height of the “R1” Zone would not be in keeping with the low profile form of development that is characteristic of the area. Therefore staff are proposing that a site-specific modification be added to the “R1-65” zone in order to maintain the existing height restrictions of 8.2 m., which would better protect the character of the area.

Floor Space:

Section 6.3.6 f) of the Town of Flamborough Zoning By-law 90-145-Z establishes a maximum Floor Space of 186 sq. m. for a one storey and 1 ½ storey dwelling, and 372 sq. m. for a two storey dwelling. The restrictions in floor space was established when the area did not have full municipal services, and restricting the floor area was required to limit the size of dwelling, and thereby limit the amount of private services a dwelling would utilize. With the introduction of municipal service, restricting the floor area for a dwelling, is no longer required, however, the smaller dwellings that this requirement established and maintained, form part

of the character of the area. The existing dwelling on the lands to be retained has a floor space of 108.8 sq. m., and the dwelling proposed by the applicant on the lands to be severed will have a floor area of 135 sq. m., both of which comply with the 186 sq. m. requirement of a one storey and 1 ½ storey dwelling, and the 372 sq. m. requirement of a two storey dwelling.

The “R1” Urban Residential (Single Detached) Zone does not contain provisions with respect to maximum Floor Space, however as smaller dwellings are characteristic of the area, it is the opinion of staff that the floor space restriction should be maintained. Therefore, staff are proposing that a site-specific modification be added to the “R1-65” zone in order to maintain the existing floor space restrictions, which would better protect the character of the area.

3. There are existing municipal watermain and sanitary sewers within the McDonald Court right-of-way, that will provide adequate municipal services. As a condition of consent, the owner will be required to enter into and allow to be registered on title, a Consent Agreement with the City of Hamilton to accommodate the grading and drainage of the subject lands (see Appendix “D” - Condition 8). The applicant would also be required as a condition of consent, to make payment for future urbanization cost (see Appendix “D” - Condition 9).
4. The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport, for determining archaeological potential. As part of the severance approval process, staff required the inclusion of a note advising the applicant that should they find any archaeological resources or human remains during construction, they are required to contact the Ministry of Tourism, Culture, and Sport.
5. Following the notice of complete application, staff received three letters of objection. In the first letter of objection (see Appendix “G”), it was noted that the “R1-6” Zone was a unique zoning, recognizing the character of McDonald Court through establishing requirements that exceeded the “R1” zoning, with respect to lot area, lot frontage, interior side yard setback, rear yard setback, maximum height, and lot coverage. In the opinion of the interested party, the proposed reduction of lot area was a significant departure from the existing By-law, and did not even conform to the requirements of the “R1” Zoning. The interested party also raised concerns with respect to the increase in lot coverage and that the applicant was applying for a 60% lot coverage. With respect to rear yard setback, the interested party stated that a 10 m. rear yard setback is required, and that the retained lot would maintain only a 3 m. rear yard. The interested party also raised concerns with respect to the reduction in side yard setback and front yard setback. The interested party also had concerns with respect to lot grading and drainage impacts, as well as the location of a future driveway.

Overall, it is the opinion of the interested party that the proposal represents an over intensification of the property.

The “R1-6” Zone is not unique to McDonald Court, but can be found in many areas of Waterdown, and the large lot size requirement and lot coverage requirement were established primarily due to a lack of municipal services available in the area, when the Flamborough Zoning By-law was established.

With respect to the reduction in side yard setback and front yard setback, staff agree with the position of the interested party that the proposed 6 m. front yard setback and 1.2 m. side yard setbacks are not appropriate. The rear yard setback requirement of the “R1-6” is not 10 m. but is 7.5 m., and no modification to the rear yard setback requirement is being proposed for either the lands to be severed or lands to be retained.

As the lands to be retained is a corner lot and as the front lot line is determined by whichever road frontage is the shortest, the front line will shift from the northerly lot line to the easterly lot line, as a result of the severance. Consequently, the westerly lot line will become the rear yard of the dwelling, whereas the southerly yard will become a side yard. With respect to coverage, staff agree that a 60% lot coverage would not be in keeping with the character of the area, however, the applicant is not proposing to establish a 60% lot coverage. There appears to be confusion between the potential building envelope which is shown on the concept plan, which shows where on the property a dwelling may be located, and; the ultimate size of the dwelling that may be built.

The proposed coverage for the retained lands is 14% for the existing dwelling and 22% for the proposed dwelling. This is considered similar in size and scale to other dwellings in the area, and similar to previous other maximum lot coverage modifications approved by Council. With respect to grading and drainage, the applicant is required as a condition of severance approval to enter into a consent agreement which, among other issues, will require that the applicant adequately grade the property in order to ensure that the properties drain properly. With respect to the issue of over intensification, staff are of the opinion that the amended approval does not represent an over intensification of the property, on the basis that the severed and retained lands can establish a dwelling on-site that meets or exceeds the existing setback requirements, and maintains a lot coverage that is similar in scale to other properties in the area and to previous By-law approvals granted for the area.

The second letter of objection noted that the Committee of Adjustment denied the severance application for a number of reasons, primarily due to the fact that the lot was extremely undersized, and not in keeping with the existing character of the neighbourhood. The second interested party also noted that the “R1-6” Zone

requirements exceed that of the “R1” Zone requirements with respect to lot area, lot frontage, interior side yard setback, and rear yard setback. Concern was raised with respect to the fact that no details were provided concerning lot coverage for either the retained or severed lot, and no details were provided with respect to the size of the home being proposed. Finally, the second interested party raised concerns with respect to grading and drainage.

As mentioned above, the applicant will be required, as a condition of consent, to adequately address issues of grading and drainage as part of the consent agreement. While the applicant has only identified a proposed building envelope and not the exact location of the dwelling, the applicant has indicated in the application that the proposed dwelling has a ground floor area of 135 sq. m., and that the existing dwelling will have a ground floor area of 108.8 sq. m. which, in the opinion of staff, will be compatible with the character of the area.

With respect the “R1-6” Zone, it is noted that the “R1-6” Zone has a larger lot area, lot frontage, and interior side yard setbacks to that of the “R1” Zone the rear yard setback. Requirements are the same for both the “R1-6” Zone and “R1” Zone. Furthermore, as previously mentioned, the larger lot area and lot frontage requirements were established prior to municipal services being available, and larger lot sizes were required for private services. With respect to the concern of the side yard setback, staff agree that the proposed 1.2 m. side yard setback is not appropriate, and would not be in keeping with the character of the area, and that the 3 m. side yard setback can be maintained. With respect to the lot being extremely undersized and not in keeping with the character of the neighbourhood, staff disagree with this opinion. It is the opinion of staff that both the severed and retained lot can accommodate a compatible sized dwelling that meets or exceeds the minimum side yard setback requirements. Furthermore, it is noted that the retained lands would exceed the lot size of 10 McDonald Court, and the severed lands are only 24 sq. m. smaller than the lot size of 10 McDonald Court, which was previously approved by Council.

The third letter of objection noted that the lands are not vacant, and that there is a dwelling on the property. The interested party noted that the residential area is noted for its large lots and green space, and that allowing the severance would decrease the land value of other residents. The interested party raised a concern with respect to approval of the proposal without restrictions, and the impact that this would cause. The interested party also raised a concern regarding the creation of a precedent and which would lead to the creation of lots with very little frontage and would destroy the character of the neighbourhood.

With respect to the issue of vacant land, staff note that there is an existing dwelling on the subject lands that will be retained on the lands to be retained, the lands to the south of the existing dwelling currently constitute the rear yard of the

dwelling, but do not contain any buildings or structures and is being referred to as vacant land.

Staff note that the area is comprised of large lots with substantial green space, and it is the opinion of staff that the proposed reductions in lot frontage and side yard setback, would not maintain the nature of the area and would be incompatible with the established character. As such, staff do not support the proposed reductions in side yard setback and front yard setback and that a compatible dwelling can be established and maintained on the severed lands in accordance with the required setbacks, and would maintain the nature of the area.

In order to maintain the character and low profile built form that is consistent with the area, staff are not supporting reductions to the front and side yard setback and are requiring that the existing height and floor space requirements be carried forward into the new site-specific By-law, as opposed to allowing the “R1” Zoning provision from being applied. Each application is evaluated on its own merits and the proposed 18 m. (60 ft.) lot width and 622 sq. m. lot area will, in the opinion of staff, maintain the large lot character of the area, and is capable of maintaining a compatible sized dwelling that conforms to the existing setback requirements of the “R1-6” Zone. It is further noted that many of the lots in the area do not have sufficient frontage with which to create an 18 m. wide lot through a future severance.

ALTERNATIVES FOR CONSIDERATION

If the application is denied, the applicant will not be able to clear the conditions of severance which are currently before the OMB, however, the applicant will be able to continue to use the property as a single detached residential dwelling.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

2.3 Enhance customer service satisfaction.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.

3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.

3.3 Improve employee engagement.

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft By-law and Schedule A Map
- Appendix "C": Staff Comments for Severance Application FL/B-10:63
- Appendix "D": List of Conditions for Severance Application FL/B-10:63
- Appendix "E": Decision for Severance Application FL/B-10:63
- Appendix "F": Concept/Survey Plan
- Appendix "G": Letter of Objection