

June 24th, 2010

FL/B-10:63 (24 McDonald Court, Flamborough)

**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT**

**Development Planning – West:**

The applicant is proposing to sever the existing property in order to create 1 additional lot for the construction of a new single detached residential dwelling.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note, that the subject lands are intended to be developed for residential purposes and are located within approximately 262 m from **Highway No. 5 East**. As such, should the Committee approve the subject application, staff require, the fulfilment of condition # 1 stated below.

Hamilton-Wentworth Official Plan

The subject property is designated as "**Urban Area**" within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The subject property meets 2 of the 10 criteria used by the City of Hamilton and Ministry of Culture for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 2) In areas of pioneer EuroCanadian settlement.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. If this severance is granted, the City does not require an archaeological assessment, but the proponent must be advised of note # 1 stated below.

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Town of Flamborough Official Plan

The subject property is designated "Urban Residential" in the Town of Flamborough Official Plan. Policy A.2.1 states "The uses permitted in areas designated Urban Residential on Schedule "A", shall be: detached and semi-detached single dwellings; low to medium density linked multiple unit dwellings; apartment units; converted dwellings; quadruplex dwellings; shared accommodation; rooming and boarding house; and other suitable forms of dwellings." As the proposal is to create 1 additional lot for the construction of a new single detached residential dwelling the proposal conforms to the policies of the Town of Flamborough Official Plan.

West Waterdown Secondary Plan

The subject property is designated "Low Density Residential" in the West Waterdown Secondary Plan. Policy A.2.3(i) "Low Density – up to 26 units per Net Residential Hectare. This density range permits single detached, semi-detached and duplex dwellings, converted dwellings, shared accommodation, rooming and boarding houses and other similar forms of housing. Development at this density level shall be by plan of subdivision except when consent to sever is granted by the Land Division Committee. Development proposed on the basis of a plan of subdivision shall be subject to the Town's Design Criteria for subdivision development." As the proposal is to create 1 additional lot with a density of 16 units per hectare the proposal conforms to the policies of the West Waterdown Secondary Plan.

Town of Flamborough Zoning By-law

The subject property is zoned Urban Residential (Single Detached) "R1-6" Zone in the Town of Flamborough Zoning By-law, to which the proposed use complies.

The proposed lands to be severed and lands to be retained will not comply with the minimum lot area requirement of 1,390 sq. m. and the minimum lot frontage requirement of 30m. Therefore rezoning approval will be required as a condition of consent approval.

Recommendation:

Staff recommends that the proposed severance be **Approved**, subject to the following conditions:

Conditions:

- 1) That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

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"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

- 2) That the owner/applicant receive Rezoning Approval to the satisfaction of the Manager of Development Planning.

**NOTE (TO BE INCLUDED IN DECISION IF APPROVED):**

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

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

- 2) Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 22 McDonald Court, and that the lands to be retained will remain as 24 McDonald Court

**Building Services Division:**

The applicant should obtain an appropriate municipal address for the proposed parcel to be conveyed from the Legislative Approvals Section of the Planning and Economic Development Department prior to the issuance of a building permit.

The dimensions shown on the site plan submitted are illegible; therefore, this Division cannot confirm zoning compliance for the parcel to be retained.

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Variations for lot frontage and lot area are required for both the lands to be conveyed and the lands to be retained.

A variance is required to permit accessory structures to remain on the severed lands when no main use/building has been established. While the site plan submitted does not show accessory structures, a review of GIS air photos appears to show an accessory building at the south-west corner of the lot. The applicant shall confirm if there are accessory structures/buildings on the lot.

Conditional Upon:

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

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

The owner shall demolish any accessory building located on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Building Services Division) or shall obtain a variance to permit an accessory building on a lot where no principal use has been established or provide proof that there are no accessory structures located on the lands to be conveyed. May be subject to a demolition permit issued in the normal manner.

The applicant shall ensure compliance with Ontario Building Code requirements regarding separation distances to the satisfaction of the Planning and Economic Development Department (Building Services Division).

**Development Engineering – West:**

**Recommendations**

1. That the applicant enter into and have registered on the title, a Consent Agreement with the City of Hamilton to deal with grading and drainage on the severed parcel. The applicant shall demonstrate that all drainage from the site shall be taken to a suitable outlet.
2. That the applicant make a cash payment based on the current flat rate fee of \$372.62 per metre frontage of the severed parcel, to the City of Hamilton for the future road urbanization.

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**Hamilton Municipal Parking System (Parking Services):**

No concerns.

**PUBLIC WORKS DEPARTMENT**

**Traffic, Engineering and Operations Division:**

For the information of the owner/applicant, a separate access is required for each of the severed lands and the retained lands. Details on the permit and construction of the access can be obtained through the offices of the Municipal Parking Systems at Extension 4578.

**CORPORATE SERVICES:**

**Budgets, Taxation & Policy (outstanding taxes):**

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