



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 19, 2015
SUBJECT/REPORT NO:	Application for an Amendment to the Town of Flamborough Zoning By-Law No. 90-145-Z, for the Lands Located at 12 McDonald Court, Flamborough (PED15062) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Delia McPhail Planner (905) 546-2424 Ext. 6663 Steve Robichaud Director of Planning and Chief Planner Planning Division
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development
SIGNATURE:	

RECOMMENDATION

That **Zoning Application ZAR-14-013 by Michael and Amanda Domenichetti, Owner**, for a modification to the Urban Residential (Single Detached) “R1-6” Zone, Modified, to facilitate a severance of the lands located at 12 McDonald Court, Flamborough, as shown on Appendix “A” to Report PED15062, **be DENIED** on the following basis:

- (a) That the proposal represents an over-intensification of development within an established residential neighbourhood that would detract from the residential character of the neighbourhood;
- (b) That the application does not comply with the Urban Hamilton Official Plan, in that it is not compatible with the existing character of the neighbourhood; and,
- (c) That approval of the application would encourage other similar applications, which, if approved, would undermine the intent of the Official Plan and Zoning By-law.

EXECUTIVE SUMMARY

The purpose of the application is to further modify the zoning of the subject lands in order to permit two lots for single detached dwellings, as shown on Appendix “B” to this Report, to facilitate a severance that would result in the retained lands having a lot frontage of 21.70 m and a lot area of 883.56 sq m, and the lands to be severed having a lot frontage of 19.0 m and a lot area of 773.41 sq m. The Committee of Adjustment has tabled Consent Application FL/B-13:03 to allow the subject rezoning application process to take due course.

The proposed change in zoning cannot be supported as it does not conform to the Urban Hamilton Official Plan, is not compatible with the existing character of development in the neighbourhood, and does not represent good planning.

Alternatives for Consideration – See Page 22

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

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.

HISTORICAL BACKGROUND

Consent Application (FL/B-13:03)

In January 2013, the applicant submitted Consent Application FL/B-13:03, which proposed the unequal division of the subject lands into two lots in order to allow driveway access to an existing garage that was erected in 2010 and located on the southwest portion of the lands. The proposal included the retention of land having a lot frontage of 21.70 m and a lot area of 883.56 sq m, and the severance of lands having a lot frontage of 19.0 m and a lot area of 773.41 sq m. It was the recommendation of staff to table the application until such time as the Zoning By-law Amendment Application process is completed in order for the principle of the land use and associated standards to be established through the zoning amendments review process. The Committee of Adjustment tabled the application on March 7, 2013. Planning staff note that the Consent Application was submitted when the Town of Flamborough Official Plan was in force and effect; whereas the Urban Hamilton Official Plan came into force and effect on August 16, 2013.

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Formal Consultation (FC-13-029)

Formal Consultation FC-13-029 was submitted on March 28, 2013. The Development Review Team considered the proposal on May 1, 2013 and, through the Formal Consultation Document, Planning staff suggested that the proposal be amended to divide the lands into two equal lots, instead of two unequal lots.

Proposed Zoning By-law Amendment Application (ZAR-14-013)

The owners have now applied to rezone the lands known as 12 McDonald Court in order to permit a severance that would create two lots for the construction of two new single detached dwellings (see Appendix “B”), maintaining the original proposal of two unequally sized lots that would implement Consent Application FL/B-13:03.

The following modifications to the existing Urban Residential (Single Detached) “R1-6” Zone, Modified, are proposed, in order to implement the proposed lot creation and future development:

For the Retained Lot (identified as 12 McDonald Court on Appendix “B”):

- Reduce Minimum Lot Area from 1,390 sq m to 883.56 sq m;
- Reduce Minimum Lot Frontage from 30 m to 21.70 m;
- Increase Maximum Lot Coverage from 15% to 27.9%; and,
- Reduce Minimum Northerly Interior Side Yard setback from 3 m to 2.99 m.

For the Severed Lot (identified as 12 ½ McDonald Court on Appendix “B”):

- Reduce Minimum Lot Area from 1,390 sq m to 773.41 sq m;
- Reduce Minimum Lot Frontage from 30 m to 19.0 m; and,
- Increase Maximum Lot Coverage from 15% to 25.94%.

The requested modifications are discussed in detail in the Policy Implications and Legislated Requirements and the Analysis and Rationale for Recommendation Sections of this Report.

In addition, it is noted that the owner was granted a building permit (10-202293) in November 2010 to construct a detached accessory structure (i.e. garage) in the rear yard of the existing single detached dwelling located at 12 McDonald Court. In May 2013, the owners were granted a building permit to relocate the single detached dwelling with attached garage, which had been located at 12 McDonald Court, to 10 McDonald Court, under the condition that construction of a new dwelling on the subject property (i.e. 12 McDonald Court) was to be substantially completed within two years of the date that building permit had been issued (i.e. by August 6, 2015). At the request of the owner, the building permit to construct a new single detached dwelling on the subject lands was cancelled on January 7, 2015, notwithstanding that the detached accessory structure remained on the lands. Therefore, until such time as a new

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dwelling is constructed on the property, the owner could be subject to Municipal Law Enforcement for being in contravention of the Town of Flamborough Zoning By-law, which prohibits the erection of an accessory structure (i.e. garage) prior to the erection of a principal use (i.e. dwelling).

Chronology:

- January 28, 2013: Consent Application FL/B-13:03 was received.
- March 7, 2013: Committee of Adjustment tabled the Consent Application FL/B-13:03 to allow the Zoning By-law Amendment Application to take due course, in order to inform the Committee's decision regarding the Consent Application.
- March 28, 2013: Request for Formal Consultation Application FC-13-029 was received.
- May 1, 2013: Request for Formal Consultation application was considered by the Development Review Committee.
- August 16, 2013: Urban Hamilton Official Plan approved by the Ontario Municipal Board.
- February 21, 2014: UHOP policies regarding the criteria for evaluating residential intensification and maintaining the established character within the Neighbourhoods designation came into force and effect.
- March 27, 2014: Zoning By-law Amendment Application received.
- April 25, 2014: Zoning By-law Amendment Application was deemed complete.
- May 10, 2014: Public Notice Sign was posted on the subject lands.
- May 16, 2014: Circulation of Notice of Complete Application ZAR-14-013 to all residents within 120 m of the subject lands.
- April 22, 2015: Public Notice Sign was updated to reflect Planning Committee Date.
- May 1, 2015: Notice of Public Meeting was circulated to residents within 120 m of the subject lands.

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Details of Submitted Application:

Owners: Michael and Amanda Domenichetti

Location: 12 McDonald Court, Flamborough

Description: Frontage: 40.86 m

Depth: 42.16 m

Lot Area: 1,618.7 sq m

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Accessory Garage	Urban Residential (Single Detached) "R1-6" Zone, Modified
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings	Urban Residential (Single Detached) "R1-15" Zone, Modified
South	Single Detached Dwellings	Urban Residential (Single Detached) "R1-6" Zone, Modified
East	Single Detached Dwellings	Urban Residential (Single Detached) "R1-6" Zone, Modified
West	Single Detached Dwellings	Urban Residential (Single Detached) "R1-6" Zone, Modified

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is generally consistent with those policies that promote efficient development and land use patterns, including Policy 1.1.1, which states that:

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"1.1.1 Healthy, liveable, and safe communities are sustained by:

- (a) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- (b) Accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), and other uses to meet long-term needs;
- (c) Avoiding development and land use patterns, which may cause environmental or public health and safety concerns; and,
- (e) Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs."

Within the Settlement Area policies of Section 1.1.3, planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment within the existing built-up stock or area, taking into account appropriate development standards and compact form, while maintaining public health and safety. Furthermore, the housing policies within Section 1.4 promote the provision of a range and mix of housing types and densities.

Policy 1.2.6.1 requires that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse impacts, such as noise. The subject lands are located approximately 93 m from Dundas Street East and it is the recommendation of staff that future landowners / tenants be informed of such through the inclusion of a noise warning in any future consent / development agreement and in all purchase and sale and / or lease / rental agreements, should Consent Application FL/B-13:03 be approved in the future.

Likewise, and in accordance with Policy 2.6.2, staff recommend the inclusion of a condition of any future consent approval that the owner carry out an archaeological assessment of the subject lands, in order to protect the provincial interest.

Based on the foregoing, the proposal is consistent with the policies of the PPS.

Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The subject lands are located in the built-up area, as defined. Staff consider the application to be consistent with the policies that manage growth and direct general intensification to the built-up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3.

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As a result, the proposal conforms to Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Urban Hamilton Official Plan (UHOP)

The proposal has been evaluated against the policies of the UHOP. The Ontario Municipal Board approved the UHOP, in part, on August 16, 2013. At this time, the majority of the policies in the UHOP are now in effect, including all the policies directly relevant and referenced below. The following UHOP policies, amongst others, are applicable to the subject application for a Zoning By-law Amendment.

The subject lands are identified and designated “Neighbourhoods” on Schedules “E” and “E-1”, respectively, and Policy E.3.2.3 identifies single detached dwellings as one of the uses permitted uses within that designation.

“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.”

The lands are also located within the West Waterdown Secondary Plan Land Use Plan and are designated “Low Density Residential 2e” on Map B.4.1-1, which permits single detached dwellings, duplex, semi-detached and link dwelling units to a maximum density of 26 units per net residential hectare. Further discussion of the policies within the West Waterdown Secondary Plan is included in the following subsection of this Report.

Intensification

Within Chapter “B”, residential intensification is identified as a key component of the City’s strategy to meet its growth targets, and one that requires careful consideration to design and compatibility with existing uses, in order to promote good planning and avoid unacceptable impacts. Within the Neighbourhoods Designation, the following residential intensification policies apply:

“B.2.4.1.1 *Residential intensification* shall be encouraged throughout the entire built-up area in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g) as follows;

- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

B.2.4.2.1 *Residential intensification* within lands designated Neighbourhoods identified on Schedule E-1 - Urban Land Use Designations shall comply with Section E.3.0 – Neighbourhoods Designation.

B.2.4.2.2 When considering an application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) *compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of *cultural heritage resources*; and,
- j) infrastructure and transportation capacity and impacts.”

In reviewing the above policies, staff finds that the proposal does not meet the following residential intensification policies: B.2.4.1.4 b), d), and g), B.2.4.2.2 b), c), e), and g).

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The above policies recognize that, while residential intensification is encouraged throughout the built-up area, there are specific criteria that must be considered when determining the compatibility with the surrounding neighbourhood. Staff note that the subject lands are within a residential neighbourhood, namely the McDonald Survey, which was developed in the late 1950's, when larger lots were necessary for the purposes of private well and septic requirements. Consequently, the character of the neighbourhood was established. Notwithstanding the fact that full services have since been provided and the proposed development can be accommodated by the existing infrastructure, the neighbourhood has remained stable with most lots and dwellings remaining intact, with only a few recent exceptions (to be discussed in detail in the Analysis and Rationale for Recommendation Section of this Report).

The Concept Plan, attached as Appendix "B", promotes the severance of the subject lands with the retained lot being 883.56 sq m with 21.7 m frontage and the severed lot being 773.41 sq m and 19.0 m of frontage. Staff note that the original lots on McDonald Court, in the vicinity of the subject lands, were created through the plan of subdivision with an average lot frontage of 32 m and an average lot area of 1,683 sq m. This lot pattern has been maintained, with the exception of three recent severances that have been made to 8 McDonald Court, 13 McDonald Court and 15 McDonald Court. All of these applications were approved prior to the UHOP coming into force and effect and were, therefore, subject to a different policy regime. As such, these previous approvals should not be considered as precedents, since the UHOP establishes similar, but different tests, for assessing intensification and redevelopment proposals.

In light of the surrounding neighbourhood, which is characterized by larger lots, the proposed residential intensification is not in keeping with the established lot pattern and lot configuration within the neighbourhood, since the proposal seeks to decrease setbacks to the front and side lot lines and to develop two dwellings within an area of land that is typically afforded to one dwelling. As a result, the proposal of increasing the maximum lot coverage from 15% to 27.9% for the retained lot and 25.94% for the severed lot, is not consistent in massing and scale of adjacent dwellings on McDonald Court, which would be incompatible with the surrounding neighbourhood that currently has an average lot coverage of 15%. A further discussion on built form and character will follow, below.

Although the property is located in an established residential neighbourhood, there has been some redevelopment and infilling that has taken place in recent years, thus, reaffirming that this neighbourhood, like all neighbourhoods, is stable, not static. Within Chapter "E", the Urban Structure Section recognizes that residential intensification within the Neighbourhoods designation can occur, provided it is compatible with and respects the built form and character of the surrounding neighbourhood.

"E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes

compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.

- 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.”

Once again, the above-noted policies indicate that proposals for intensification must be viewed with consideration to the local context and compatibility with the scale and character of the existing neighbourhood. As discussed, the reduced lot frontage and lot area are not consistent with the surrounding area. In light of the foregoing, the proposal to sever the existing lot is not compatible with the surrounding area and does not meet the residential intensification policies for the Neighbourhoods designation.

Built Form and Neighbourhood Character

Ensuring that new development is compatible with, and enhances, the character of the existing environment and locale is one of the urban design goals identified within Section B.3.3 of the UHOP. Another goal identified is the promotion of intensification that is appropriate and is compatible in form and function to the character of the existing neighbourhood. As Section B.3.3.3 points out, built form shapes the visual qualities of streets and each building contributes to its neighbourhood character. Therefore, it is important to consider the subject proposal in such terms.

- “B.3.3.3 Built form shapes the visual qualities of streets and open spaces but also affects how the public spaces around buildings are used, experienced, and perceived. Our city is built one building at a time and each building contributes to the overall design of the City, therefore attention to each building is an important step in the city building process. Built form plays a large role in defining the character of an area. New *development* shall serve to maintain and support existing character, or create and promote the evolution of the character in areas where transformations are appropriate and planned.

- B.3.3.3.2 New *development* shall be designed to minimize impact on neighbouring buildings and public spaces by:

- a) creating transitions in scale to neighbouring buildings;

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- b) ensuring adequate privacy and sunlight to neighbouring properties; and,
- c) minimizing the impacts of shadows and wind conditions.”

Staff note that the proposed setback reductions of 3.0 m to the side and 15 m to the rear lot lines, identified on the Concept Plan (Appendix “B”), when considered in the context of the existing neighbourhood in which dwellings are typically 8 m to the side lot line and 20 m to the rear lot line will create issues of privacy, as well as shadowing on neighbouring properties.

“B.3.3.3.3 New *development* shall be massed to respect existing and planned street proportions.

B.3.3.3.4 New *development* shall define the street through consistent setbacks and building elevations. Design directions for setbacks and heights are found in Chapter E – Urban Systems and Designations and in the Zoning By-law.”

The proposed development of two one and a half storey dwellings set closer to the front and side lot line does not respect the built form of the existing neighbourhood. Staff note that the majority of homes on McDonald Court are one storey with increased setbacks typically between 8 m to 12 m for the front yard, 5 m and 10 m for the side yard, and 20 m to 30 m for the rear yards. The concept plan submitted (see Appendix “B”) indicates the proposed dwellings to be one and a half storeys, and set back 6.5 m from the front lot line, 3 m from the side lot lines, and approximately 15 m from the rear lot line. Therefore, the proposed development does not maintain the existing neighbourhood character nor does it respect the existing massing and setbacks.

The following urban design policies also refer to the concept of built form and neighbourhood character, when considering proposals for new development and redevelopment.

“B.3.3.2.3 Urban design should foster a sense of community pride and identity by:

- a) respecting existing character, development patterns, built form, and landscape;
- b) promoting quality design consistent with the locale and surrounding environment; and,
- f) demonstrating sensitivity toward community identity through an understanding of the character of a place, context and setting in both the public and private realm.

B.3.3.2.6 Where it has been determined through the policies of this Plan that *compatibility* with the surrounding areas is desirable, new *development*

and *redevelopment* should enhance the character of the existing environment by:

- a) complementing and animating existing surroundings through building design and placement as well as through placement of pedestrian amenities;
- d) complementing the existing massing patterns, rhythm, character, colour, and surrounding context; and,
- e) encouraging a harmonious and *compatible* approach to infilling by minimizing the impacts of shadowing and maximizing light to adjacent properties and the public realm.”

Respecting the above policies, staff note that the proposal does not meet Policies B.3.3.2.3 a), b), and f), in that the proposal does not respect the character of the neighbourhood, nor the existing development patterns and built form. Staff note that the proposed narrower lots result in a housing form that is built ‘up’ rather than ‘out’, as opposed to the existing wider lots in the neighbourhood, which accommodate single storey bungalows. Likewise, the proposed concept plan, showing reduced setbacks, fails to promote the existing building placement, massing, rhythm and character of the McDonald Court neighbourhood, referenced in Policies B.3.3.2.6 a) and d). Similarly, the proposed reductions to the rear and side yard setbacks will cause shadowing into the amenity areas of the abutting lots, which is contrary to Policy B.3.3.2.6 e), above.

“E.3.2.7 The City shall require quality urban and architectural design. *Development* of lands within the Neighbourhoods designation shall be designed to be safe, efficient, pedestrian oriented, and attractive, and shall comply with the following criteria:

- b) Garages, parking areas, and driveways along the public street shall not be dominant. Surface parking between a building and a public street (excluding a public alley) shall be minimized.
- d) *Development* shall improve existing landscape features and overall landscape character of the surrounding area.
- e) *Development* shall comply with Section B.3.3 – Urban Design Policies and all other applicable policies.”

With respect to Policy E.3.2.7 b), above, staff note that the predominant form of housing on McDonald Court is one in which the parking of personal vehicles is either within the driveway located in the side yard, or within a garage that is either detached and in the rear yard, or is attached to the principal dwelling, which is set back 8 m to 12 m from the street edge. What results is a streetscape that showcases the homes and is not impeded by personal vehicles parked within the front yard, which is prohibited by the Zoning By-law.

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The submitted concept plan does not identify the location of the proposed parking spaces, nor does it include dimensions of the proposed garages. Furthermore, it has not been demonstrated that the retained lands would meet the Zoning By-law requirements of providing a minimum of 50% of the front yard to be landscaped open space.

Housing

Within Section B.3.2.4, the general policies for Urban Housing include the development of a full range of housing forms, types and densities through *residential intensification* and new *development* and that the existing housing stock shall be retained wherever possible. Staff recognize that the single detached dwelling that was located on the subject lands has been relocated to the adjacent property, known as 10 McDonald Court.

“B.3.2.4.1 The *development* of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through *residential intensification* and new *development*. A full range of housing forms, types, and densities means the full spectrum of physical housing types including single detached dwellings, semi-detached dwellings, duplexes, townhouses of various types (street, block, stacked), apartments and other forms of *multiple dwellings*, and lodging houses, built at a range of densities.”

Staff have previously identified the subject lands as an opportunity to provide a form of housing (single detached dwellings) that assists in providing a range of housing forms and types; however, the proposal does not comply with the residential intensification policies of the UHOP.

Cultural Heritage

The Cultural Heritage policies found within Chapter B, Section 3.4.2, seek to preserve archaeological resources within the City.

“B.3.4.2.1 The City of Hamilton shall, in partnership with others where appropriate:

- a) Protect and conserve the tangible cultural heritage resources of the City, including archaeological resources, built heritage resources, and cultural heritage landscapes for present and future generations;
- d) Avoid harmful disruption or disturbance of known archaeological sites or areas of archaeological potential; and,
- g) Ensure the conservation and protection of cultural heritage resources in planning and development matters subject to the Planning Act either through appropriate planning and design measures or as conditions of development approvals.”

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In accordance with the Policy B.3.4.2.1, above, should the Zoning By-law Amendment application be approved, staff recommend the inclusion of the requirement for the owner to undertake an archaeological assessment, as a condition of any future consent approval, because the subject property meets two of the ten criteria used by the City of Hamilton and the Ministry of Tourism, Culture and Sport for determining archaeological potential.

Noise

Should the Zoning By-law Amendment application be approved, the inclusion of a warning clause in all consent / development agreement and in all purchase and sale and / or lease / rental agreement will be required as a condition of any future consent approval, due to the proximity of the subject lands to Dundas Street East, in keeping with Policy B.3.6.3.1, below:

“B.3.6.3.1 Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines and standards.”

Lot Creation – Urban Area

The Division of Land policies are found within Chapter F of the UHOP and the following policy, concerning residential lot creation within the Neighbourhoods designation, is applicable to the proposed development.

“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:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- 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.”

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The aforementioned tests, which are similar to the residential intensification policies referenced earlier in this Report, will be the criteria upon which the Consent Application will be evaluated by the Committee of Adjustment, following Council's decision on the subject Rezoning Application.

West Waterdown Secondary Plan

Volume 2 of the UHOP includes the West Waterdown Secondary Plan, which establishes the land uses and development standards to develop and / or redevelop the lands within the Plan Area. As the subject lands are designated "Low Density Residential 2e" on Map B.4.1-1 West Waterdown – Land Use Plan, the following policies apply:

"B.4.1.3 Low Density Residential Designations

In addition to Section E.3.4 – Low Density Residential of Volume 1, the following policies shall apply to the lands designated Low Density Residential 2e and Low Density Residential 3c on Map B.4.1-1 – West Waterdown - Land Use Plan:

- a) Notwithstanding Policies E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the lands designated Low Density Residential 2e on Map B.4.1-1 – West Waterdown – Land Use Plan:
 - i) The permitted uses shall be single detached dwellings, duplex, semi-detached and link dwellings; and,
 - ii) The maximum density shall be 26 units per net residential hectare."

Staff note that the proposal will result in the development of single detached dwellings, having a density of 13.5 units per hectare, which is in keeping within the above policies. Therefore, the proposal complies with the West Waterdown Secondary Plan.

Based on the foregoing policy analysis concerning the matters of intensification, as well as built form and neighbourhood character, the proposal is not in keeping with the general intent of the UHOP.

Town of Flamborough Zoning By-law No. 90-145-Z

The subject lands are currently zoned Urban Residential (Single Detached) "R1-6" Zone, Modified, and further modifications to the Zone would be required to implement the proposed development, including, but not limited to, a reduction to the minimum lot area, minimum lot frontage and minimum interior side yard, as well as an increase to the maximum lot coverage.

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It is noted that the subject lands currently contain an accessory building (detached garage), but no principal dwelling, as the former dwelling was relocated to 10 McDonald Court. Therefore, contravention of Section 5.2.5 of the Town of Flamborough Zoning By-law No. 90-145-Z, which prohibits the erection of an accessory building prior to the erection of a permitted structure, occurred at the time of the removal of the principal dwelling.

RELEVANT CONSULTATION

Agencies / Departments Having no Comment or Objections:

- Hamilton Municipal Parking System;
- Operations and Waste Management (Public Works Department);
- Forestry and Horticulture Section (Public Works Department); and,
- Horizon Utilities.

Traffic Engineering and Operations Section (Public Works Department)

Staff advise that any works within the road allowance must be completed by a bonded contractor, who must meet with staff prior to the commencement of any work. All access driveways must have a minimum clearance of 1.2 m from any adjacent tree, fire hydrant or utility, which must be maintained and any relocation costs will be borne by the applicant / owner. Furthermore, any change in access requires the applicant / owner to obtain an Access Permit from Hamilton Municipal Parking System and any abandoned accesses shall be removed and the boulevard / ditch be restored to the satisfaction of the Director of Roads and Maintenance, Public Works.

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council-approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 52 property owners within 120 m of the subject lands on May 16, 2014. In addition, a Public Notice sign was placed on the property on May 10, 2014. In response to the preliminary notice of circulation, one letter and one petition with 34 signatures were received in opposition to the proposal (see Appendix “C”).

The letter was from the owners of 20 McDonald Court, who cited references to a similar consent application submitted for 24 McDonald Court (FL/B-10:63), which had been denied by the Committee of Adjustment on the basis that the proposal was not in the interest of proper planning and was not in keeping with the existing character of the neighbourhood. The writers made reference to the uniqueness of the neighbourhood for having larger lots, noting the lot frontage, area and coverage requirements of the Urban Residential (Single Detached) “R1-6” Zone, Modified. The letter also includes references to two successful rezoning applications in the neighbourhood, which they

would consider are “transitional” lands because they are located adjacent to a newer residential subdivision with higher densities. Finally, the letter acknowledges the City’s requirement to meet Provincial growth targets and cites the Growth Related Integrated Development Strategy (GRIDS), by indicating that this neighbourhood is a stable residential neighbourhood that should be protected to the extent possible, and concludes with the statement that the application should be denied.

The petition in opposition to the subject application was submitted by the landowner of 21 McDonald Court, on behalf of other property owners along McDonald Court. Concerns that were raised included the scepticism of how the subject lands would be developed, given the fact that: the applicant moved the former dwelling to 10 McDonald Court without consideration of siting and lack of space for a detached garage; and, the applicant did not include any concept drawings for the proposed dwellings on the subject lands. The petition also referenced the large lots and open space characteristic of the neighbourhood, due to the private servicing of the original subdivision, and the concern that further severances in the neighbourhood would result in development that detracts from the established patterns and built form.

As discussed in the Analysis and Rationale for Recommendation Section of the Report, staff maintain concerns that the subject application proposes lots that are significantly undersized and are not in keeping with the existing character of the neighbourhood.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. It is recommended that the application be denied for the following reasons:
 - (a) The proposal represents an over-intensification of development within an established residential neighbourhood that would detract from the residential character of the neighbourhood;
 - (b) The application does not comply with the Urban Hamilton Official Plan, in that it is not compatible with the existing character of the neighbourhood; and,
 - (c) The approval of the application would encourage other similar applications, which, if approved, would undermine the intent of the Official Plan and Zoning By-law.
2. The subject lands are located within the McDonald Survey, Registered Plan No. 1189, which was created at a time when the development was to be serviced by private septic and water system. The former Town of Flamborough recognized that this neighbourhood, as well as others throughout the Town, had an established character of smaller homes on large lots having wide frontages, so it was through Zoning By-law 90-145-Z that the Town approved a modification to the

Urban Residential (Single Detached) “R1” Zone. The resulting Urban Residential (Single Detached) “R1-6” Zone, Modified, requires a minimum lot area of 1,390 sq m and a lot frontage of 30 m, which is significantly greater than the standard requirement of the Urban Residential (Single Detached) “R1” Zone (665 sq m and 18 m, respectively). For comparison purposes, the applicant is proposing a lot area 883.56 sq m and lot frontage of 21.70 m for the retained lands and a lot area of 773.41 sq m and lot frontage of 19.0 m for the severed lands. While the subject lands are now municipally-serviced and, therefore, larger lots are not required for infrastructure purposes, staff argue that the character of McDonald Court is intrinsically linked with the historically large lots. As was noted above, and will be discussed further below, approval of the subject application is not considered compatible with the existing neighbourhood and would pose a threat to the established character of the neighbourhood.

3. Prior to the UHOP coming into effect on August 16, 2013, the Town of Flamborough Official Plan included housing policies, concerning intensification, infill and redevelopment in the Waterdown Urban Area (Official Plan Amendment No. 63), which were approved by the Region of Hamilton-Wentworth on May 7, 1998. Infilling was described in Policy E.3.2.1(ii) as the addition of new residential dwelling units on newly created lots and Policy E.3.2.4 provided direction related to the evaluation of proposals for infill development. Policy E.3.2.4(i) interpreted compatibility as being “mutually tolerant”, and identified the ultimate goal with infill applications as the allowance of proposals for intensification that do not cause an unacceptable impact on the existing neighbourhood. Furthermore, Policy 3.2.4(ii) identified criteria for determining compatibility of infill proposals within the existing neighbourhood, including, but not limited to, lot size, building setbacks, impacts on the existing streetscape and privacy areas, as well as servicing capacities. Staff note that the Urban Hamilton Official Plan, which was approved by the Ontario Municipal Board on August 16, 2013, contains similar, but more rigorous tests for residential intensification, which are included in the Policy Implications and Legislative Requirements Section, above.
4. Since the McDonald Survey was registered in 1961, there have been five other Consent Applications submitted to either the Regional Land Division Committee or the Committee of Adjustment. Staff note that in each of the these circumstances, the Town of Flamborough Official Plan was in force and effect; whereas the subject application was received after the UHOP came into force and effect.

13 McDonald Court - Consent Applications F-40-94 and F-15-98

In 1995, the Hamilton-Wentworth Regional Land Division Committee denied a proposal to sever 13 McDonald Court into three lots fronting Scott Street. The Ontario Municipal Board upheld the decision and denied Consent Application (File: F-40-94) and the related Rezoning Application (File: Unknown application),

primarily on the basis that the proposal did not maintain the character of existing development and, therefore, did not conform to other policies of the Official Plan.

On October 6, 1998, the Hamilton-Wentworth Regional Land Division Committee approved the owner's subsequent Consent Application (File: F-15-98) and, on November 2, 1998, the Town of Flamborough approved the related Rezoning Application (File: D14-KI). The result was the creation of two relatively equal-sized lots, including the retention of the existing dwelling on McDonald Court and the construction of a new single detached dwelling on Scott Street: the retained lands (13 McDonald Court) having a lot frontage of 34.6 m and lot area of 1,012 sq m and the severed lands (46 Scott Street) having a lot frontage of 27.5 m and a lot area of 890 sq m.

8 McDonald Court - Consent Application FL/B-06:176

Consent Application FL/B-06:176 for 8 McDonald Court was granted conditional approval by the Committee of Adjustment on December 13, 2006 and was subsequently appealed to the Ontario Municipal Board by the property owner of 48 McDonald Court. Although staff did not support the implementing Zoning By-law Amendment application (ZAR-07-035) because the proposal was not in keeping with the large lot character of the area, By-law No. 07-304 was passed by Council on October 27, 2007 and the Consent application was approved by the Ontario Municipal Board on April 28, 2008. The retained lot (8 McDonald Court) has a lot frontage of 28.5 m and lot area of 1,055 sq m and the severed lot (10 McDonald Court) has a lot frontage of 25.32 m, by definition, and a lot area of 646 sq m, which is the smallest lot in the neighbourhood.

15 McDonald Court - Consent Application FL/B-09:96

The owners of 15 McDonald Court were granted approval of Consent Application FL/B-09:96 on February 17, 2010 and, later that same year, received approval of Zoning By-law Amendment application ZAR-10-016 to permit the construction of a single-detached dwelling and apply site-specific zoning provisions on 45 Scott Street, and to modify the Urban Residential (Single Detached) "R1-6" Zone, Modified provisions for 15 McDonald Court. Staff note that in the Analysis / Rationale Section of the staff report on the matter (PED10188), comparisons were made to the lands to the south, namely 13 McDonald Court and 46 Scott Street, in that the proposed lots had similar sizes, would complement each other, while respecting both the Scott Street and McDonald Court streetscapes. The retained lands (15 McDonald Court) have a lot frontage of 21.3 m and a lot area 878 sq m, while the severed lands (45 Scott Street) have a lot frontage of 21.6 m and a lot area of 658.1 sq m.

24 McDonald Court - Consent Application FL/B-10:63

In 2010, the owner of 24 McDonald Court appealed the decision of the Committee of Adjustment to refuse Consent Application FL/B-10:63 to the Ontario Municipal Board. The proposal entailed the severance of 24 McDonald Court to create one additional lot, having a lot frontage of 18.1 m and a lot area of 622 sq m for a new single detached residential dwelling and, in 2012, the owner applied for Zoning By-law Amendment Application (ZAR-12-055). On April 15, 2014, the Planning Committee denied the application and the applicant appealed that decision, so that both the Consent and Zoning By-law Amendment Applications would be considered by the Ontario Municipal Board (PL100628). In the decision issued on April 1, 2015, the Board Member considering the appeals cited evidence that the proposal was not compatible with the surrounding neighbourhood on the basis of scale, massing, setbacks and lot configuration, nor was this location desirable for intensification. Finally, the Board Member concluded that the proposal did not conform to the Town of Flamborough Official Plan, nor the Urban Hamilton Official Plan, that the proposal did not represent good planning, and that it was not in the public interest. Therefore, the appeals were dismissed.

Staff note that each of the Consent Applications referenced above concern corner lots within the McDonald Survey, whereas the subject application is a lot that is internal to the block and is the first application of its kind within the neighbourhood. However, the opinion of staff concerning the subject application is further affirmed by the recent OMB Decision regarding 24 McDonald Court, which denied the severance and minor variance applications to sever that lot, notwithstanding the fact that it is a corner lot. Furthermore, the severances that were approved for 13 and 15 McDonald Court, in 1998 and 2009, respectively, create new lots with frontages on Scott Street, thereby having a lesser impact on the established residential character of McDonald Court.

5. In addition to the consent applications noted above, there has been one recent redevelopment on McDonald Court, which is referenced below:

17 McDonald Court - Minor Variance Application FL/A-12:106

On June 2012, the Committee of Adjustment granted Minor Variance Application FL/A-12:106 for 17 McDonald Court, which permitted an increase to the maximum lot coverage permitted from 15% to 29%, and an increase to the maximum floor area permitted from 186 sq m to 380 sq m. The purpose of the application was to facilitate the construction of a new single detached dwelling that is larger than the zoning originally contemplated. The new dwelling has a front yard setback of 8.12 m, with the exception of the porch encroachment, which is set back 7.62 m from the front lot line, which is in keeping with the range of increased front yard setbacks within the neighbourhood. Although less than what is typically found in

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the neighbourhood, the side yard setbacks of the new dwelling are approximately 3 m and 4 m, which are similar to the side yard setbacks of the adjacent properties, which includes 15 McDonald Court, referenced above.

6. The subject lands are located within a stable residential neighbourhood that was established in the late 1950s and has experienced limited development and redevelopment in the recent past. The proposed lot pattern is not in keeping with the configuration of McDonald Court, nor does it maintain or enhance the pattern and built form that is desired for the neighbourhood. Because the McDonald Survey represents some of the few remaining large lots north of Dundas Street East, it is the opinion of staff that the subject lands should be retained to provide an opportunity for redevelopment of a larger single storey dwelling, such as the experience of 17 McDonald Court. Through the placement of a larger dwelling that respects the front yard setbacks of existing dwellings and the retention of the existing detached garage, the character of the streetscape may be maintained. The proposal, being located on lands within the centre of the street that would result in two narrower dwellings, is not in keeping with the character McDonald Court and is, therefore, not desirable for the appropriate development of the land. Therefore, approval of the subject application would disrupt the stable character of McDonald Court and does not represent good planning.
7. As referenced in the Policy Implications and Legislated Requirements Section above, built form plays a large role in defining the character of an area and new development should maintain and support the existing character. Where transformation has been planned to take place, new development should be suitably designed.

With the exception of the properties referenced above, all the properties along McDonald Court are zoned Urban Residential (Single Detached) “R1-6” Zone, Modified, and are similar to each other in terms of lot frontage, lot area, lot coverage and setbacks.

In consideration of the built form and neighbourhood character, the applicant cites the design of the proposed single detached dwellings to be compatible in scale with the existing homes and the recently constructed homes at 17 McDonald Court and 45 Scott Street. However, given that the majority of homes along McDonald Court are single storey dwellings set back between 8.0 m to 14.0 m from the street, which exceeds the minimum requirement of the current zoning (7.5 m), it is the opinion of staff that the proposal is not in keeping with the character of the neighbourhood. Likewise, the proposed building placement, massing and rhythm does not reflect the existing streetscape. Furthermore, the parking of vehicles in front of the dwelling proposed on the lands to be severed is not in keeping with the character of McDonald Court, in which vehicles are generally parked in the side yard.

Staff note that the proposal to create two lots may also cause negative impacts on neighbouring properties by casting increased shadows and invading the privacy of rear yard amenity areas through the introduction of dwellings that are set a minimum of 3.0 m to the side and 15 m to the rear lot lines than the existing dwellings, which are typically 8 m to the side lot line and 20 m to the rear lot line.

8. The lands are serviced by an existing 150 mm watermain and 250 mm sanitary sewer within the McDonald Court road allowance, although McDonald Court remains a rural cross-section without storm sewers. Staff advise that the existing watermain and sanitary sewer are capable of servicing both the proposed severed and retained lands, and that grading and drainage approvals would be dealt with through the consent application, if approved. In addition, there are no road widening requirements along this portion of McDonald Court at this time.

ALTERNATIVES FOR CONSIDERATION

If the subject application is denied, the owner has the ability to use the property in accordance with the Urban Residential (Single Detached) “R1-6” Zone, Modified, which allows one single detached dwelling.

If Council approves the subject application, staff shall be directed to prepare a draft zoning by-law that implements the proposed Concept Plan, attached as Appendix “B” to this Report.

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

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

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.

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.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Concept Plan
- Appendix "C": Public Comments

DM/th