



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 22, 2016
<b>SUBJECT/REPORT NO:</b>	Application for Amendments to Flamborough Zoning By-law No. 90-145-Z and Hamilton Zoning By-law No. 05-200 for Lands Located at 100 Sunnycroft Court, Flamborough (ZAR-11-076) (PED16071) (Ward 15)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Delia McPhail (905) 546-2424 Ext. 6663  Steve Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to **Amended Zoning Application ZAR-11-076 by Alvin Thomas, Owner**, for a change in zoning from the Parkway Belt Open Space “O1” Zone, the Parkway Belt Open Space “O1-1” Zone, Modified, and the Conservation / Hazard Land (P6) Zone, to the Urban Residential (Single Detached) “R1-71” Zone, Modified (Blocks 1 and 2), and the Urban Residential (Single Detached) “R1-72” Zone, Modified (Blocks 3 and 4), to facilitate the severance of the lands located at 100 Sunnycroft Court, Flamborough, as shown on Appendix “A” to Report PED16071, on the following basis:

- (a) That the Draft By-law, attached as Appendix “B” to Report PED16071, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the lands referred to in the Draft By-law, attached as Appendix “B” to Report PED16071, be added to Schedule A-30 of By-law No. 90-145-Z;
- (c) That the Draft By-law, attached as Appendix “C” to Report PED16071, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

**SUBJECT: Application for Amendments to Flamborough Zoning By-law No. 90-145-Z and Hamilton Zoning By-law No. 05-200 for Lands Located at 100 Sunnycroft Court, Flamborough (ZAR-11-076) (PED16071) (Ward 15) - Page 2 of 24**

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- (d) That the Draft By-law, attached as Appendix “C” to Report PED16071, be removed from Map No. 74 of Zoning By-law No. 05-200;
- (e) That the proposal is consistent with the Provincial Policy Statement, it conforms to the Growth Plan for the Greater Golden Horseshoe, and it complies with the Urban Hamilton Official Plan.

### **EXECUTIVE SUMMARY**

The purpose of the application is to change the zoning of the subject lands, in order to permit two lots for single detached dwellings, as shown on Appendix “D” to Report PED16071. The proposed zone change would facilitate a severance that would result in the creation of two lots, one having a lot frontage of 29.7 m and a lot area of 1,268 sq m, and the second having a lot frontage of 18.0 m and a lot area of 1,260 sq m. The Committee of Adjustment has tabled Consent Applications FL/B-11:122 and FL/B-11:123 to allow the subject Zoning By-law Amendment application process to take due course.

The proposed change in Zoning can be supported as it complies with the Urban Hamilton Official Plan, is compatible with the existing character of development in the neighbourhood, and represents good planning.

### ***Alternatives for Consideration – See Page 23***

### **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**

In 2009, the owner of the subject lands requested Formal Consultation (FC-09-214) for a proposal to create three lots along Rockcliffe Road for single detached dwellings. Through staff review, it was identified that an Environmental Impact Statement (EIS) and a Tree Protection Plan (TPP) would need to accompany a future application to sever and rezone the lands. City and Conservation Halton staff followed up with an on-site meeting in April 2010 to inspect the natural features on-site.

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Following the above-noted consultation with staff, the owner submitted the subject application to facilitate the severance of the subject lands for the creation of two residential lots fronting Rockcliffe Road, having proposed building setbacks that take into consideration the adjacent natural features (Clappison Escarpment Woods ESA #11). At the same time, the applicant submitted severance applications to the Committee of Adjustment (FL/B-11:122 and FL/B-11:123). However the applicant had requested a deferral of the said applications to allow sufficient time for Conservation Halton staff to review the submitted EIS and to allow the subject Zoning By-law Amendment application review process to take place. At the time of writing, the Committee of Adjustment has not made a decision concerning the severance applications.

**Proposal**

The application is for a change in zoning of the subject lands to the Urban Residential (Single Detached) "R1-71" Zone, Modified and Urban Residential (Single Detached) "R1-72" Zone, Modified, in order to permit two lots for single detached dwellings, as shown on Appendix "D" to Report PED16071. Following the authorized removal of a Butternut tree located in the vicinity of the subject lands, the applicant amended the subject application to incorporate additional lands to be rezoned, to prohibit the erection of any buildings, accessory structures, pools, etc. within the 10 m of the ESA boundary, and to reduce the number of requested modifications to the Urban Residential (Single Detached) "R1" Zone.

**Chronology:**

- December 12, 2011: Zoning By-law Amendment Application (ZAR-11-076) received for the creation of two lots.
- December 23, 2011: Consent Applications FL/B-11:122 and FL/B-11:123 received.
- January 9, 2012: Zoning By-law Amendment Application deemed complete.
- January 23, 2012: Notice of Complete Application and Preliminary Circulation sent to 51 property owners within 120 m of the subject lands.
- January 24, 2012: Public Notice Sign posted on the property.
- February 12, 2012: Consent Applications FL/B-11:122 and FL/B-11:123 deferred until further notice.

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July, 2012: Application placed on hold, due to applicant's uncertainty on how to proceed, given the presence of a Butternut Tree (Species at Risk).

August 16, 2013: Urban Hamilton Official Plan (UHOP) in force and effect.

December 21, 2015: Applicant formally amended the application to change the extent and boundaries of the proposed lots and confirmed that the evaluation of the proposal should include the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

February 24, 2015: Public Notice sign was updated to reflect Planning Committee date.

March 4, 2015: Notice of Public Meeting given in accordance with the *Planning Act*.

**Details of Submitted Application**

**Owner/Applicant:** Alvin Thomas

**Agent:** Metropolitan Consulting (c/o Kevin Gonnens)

**Location:** 100 Sunnycroft Court (Flamborough)

**Description:**

Frontage: 48.66 m

Depth: +/- 31.28 m

Lot Area: 2,083 sq m

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Vacant	Parkway Belt Open Space "O1" Zone and Parkway Belt Open Space "O1-1" Zone, Modified (By-law No. 90-145-Z).  Conservation/Hazard Land (P6) Zone (By-law No. 05-200).

**Surrounding Lands:**

<b>North</b>	Vacant	Parkway Belt Open Space "O1" Zone. Conservation/Hazard Land (P6) Zone.
<b>South</b>	Single Detached Dwelling	Parkway Belt Open Space "O1" Zone and Parkway Belt Open Space "O1-2" Zone, Modified. Conservation/Hazard Land (P6) Zone.
<b>West</b>	Single Detached Dwellings	Parkway Belt Open Space "O1-1" Zone, Modified and Urban Residential (Single Detached) "R1" Zone.
<b>East</b>	Vacant	Parkway Belt Open Space "O1" Zone. Conservation/Hazard Land (P6) Zone.

**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:

- "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. Staff consider the proposed creation of two single detached dwelling lots consistent with the form and character of this portion of Rockcliffe Road, which will result an efficient use of land and resources within the urban area, in keeping with Section 1.1.3.

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 235 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 Applications FL/B-11:122 and FL/B-11:123 be approved in the future.

- “2.1.1 Natural features and areas shall be protected for the long term.
- 2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.
- 2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.”

As a portion of the subject lands are partially within Clappison Woods Environmentally Significant Area (ESA #11), which is also identified as a Life Science Area of Natural and Scientific Interest (ANSI) and a Significant Woodland, the applicant submitted a scoped EIS completed by Renovo Watershed Sciences Inc., which has been reviewed by both staff and ESAIEG in Spring 2012. The work components of the EIS included the delineation of the ESA limit, Ecological Land Classification (ELC) of the ESA, Spring Breeding Bird Survey, Spring Amphibian Monitoring, and Butternut Assessment. The Butternut tree, identified as a Species at Risk by the Ministry of Natural Resources and Forestry (MNR), was located along the ESA boundary in the vicinity of the proposed

lots and in sufficiently good condition to recommend its retention. ESAIEG provided the following recommendations: that a buffer be provided with an average width of 10 m and at no point less than 8 m from the staked ESA to adequately protect the ESA / ANSI / Significant Woodland; that ESAIEG be provided with the preliminary concepts for naturalization within the buffer and for storm water management using low impact development techniques; and that the tractor trail used by the applicant to access other portions of the property be clearly shown and labelled on all maps.

In October 2015, the MNRF staff issued a letter to City of Hamilton staff indicating that since the time of the initial site visit to the subject property in 2011, the Butternut tree had declined in health, so as to classify it as a candidate for removal with the proviso that compensation planting and monitoring be followed, in compliance with Ontario Regulation 242/08. The applicant has removed the Butternut tree and has installed at least 20 Butternut saplings in another area of the property, outside the vicinity of the subject lands.

Staff are satisfied that the proposal, which includes a consistent setback of 10 m from the staked ESA / ANSI / Significant Woodland boundary within which no buildings or structures should be constructed, to serve as a buffer, will adequately protect the adjacent natural features. Furthermore, re-naturalization of the buffer area, including a possible bioswale or other low impact stormwater techniques within the buffer, will be considered through future Site Plan Control applications for the proposed development of the lots.

Finally, the subject property has been identified as having archaeological potential, and as such, Policy 2.6.2 applies:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

In accordance with Policy 2.6.2, above, 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 said provincial interest.

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

### **Niagara Escarpment Plan**

The subject lands are entirely above the Escarpment brow, within the designated “Urban Area” of the Niagara Escarpment Plan (NEP), and do not encroach into the “Escarpment Natural Area” designation. Therefore, the proposed development is outside of the Development Control area of the Niagara Escarpment Commission.

The NEP permits lot creation within the Urban Area, provided new development does not encroach or fragment natural features, and that the visual impact on the escarpment landscape is minimized. Part 2 of the NEP also requires that development be designed and located in a manner that preserves the natural, visual, and cultural characteristics of the area, including the location, size, and configuration of proposed lots in keeping with the requirements of the Official Plan and Zoning By-law.

Subsection 2.81 a) of the NEP seeks to protect the habitat of plant and animal species and to minimize the impact of new development on wildlife habitat through on-site evaluation. The policies within Subsection 2.14 similarly encourage appropriate setbacks from ANSIs, in consultation with the MNR.

Therefore, the proposal conforms to the Niagara Escarpment Plan.

### **Ontario Planning and Development Act**

On the date that the Greenbelt Plan came into effect, being February 24, 2005, the Parkway Belt Plan no longer applied to the subject land, as per the following:

- “22.1 (1) On the day Section 27 of the *Greenbelt Act, 2005* comes into force,
- a) The Parkway Belt Plan, also known as the Parkway Belt West Plan, referred to in Section 22, shall cease to apply to the lands that are part of the Niagara Escarpment Planning Area and described in Paragraphs 26, 30, 31 and 33 of the Schedule to Regulation 684 of the Revised Regulations of Ontario, 1980 (as the Schedule read on December 31, 1990); and,
  - b) The provisions of the Parkway Belt Plan, also known as the Parkway Belt West Plan, that describe the lands to which the Plan applies, shall be deemed not to refer to the lands referred to in Clause (a). 2005, c. 1, s. 27.”

Staff note that the subject lands fall within the urban boundary, in accordance with the UHOP. Therefore, the proposal is not subject to the policies of the Greenbelt Plan.

### **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 in conformity 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.



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

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

The application was submitted in 2012, which is prior to the UHOP coming into force and effect in 2013, and the assessment of the proposal is based on the Clergy Principle. Therefore, the proposal is governed by the Hamilton-Wentworth Official Plan.

The subject property is designated “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses will be supported by full municipal services and concentrated within the Urban Areas, as defined through Area Municipal Official Plans. The Policy also indicates that the Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. The application seeks to permit the development of two single detached dwellings on two separate lots with full municipal services, in keeping with Policy C-3.1.

- “C-1.2.2 a) Land use changes in or adjacent to Environmentally Significant Areas will only be permitted where, in addition to meeting other policies in this plan, such development:
- i) will not adversely affect, degrade or destroy any of the qualities which are the basis for the area’s designation;
  - ii) will not cause any significant impacts upon water quality and quantity; and,
  - iii) will not adversely affect the implementation of any resource protection policies or plans.”

As noted earlier, the proposed residential lots are located adjacent to Clappison Escarpment Woods ESA #11 and a scoped EIS has been prepared in support of the subject application. Both staff and ESAIEG reviewed the submitted study and recommended that a 10 m wide buffer be provided along the length of the ESA, within which naturalization can occur through the installation of native species and low impact development techniques for storm water management, satisfying the requirements of Policy C.1.2.2, above.

Therefore, subject to the proposed Zoning By-law provisions, the application complies with the Hamilton-Wentworth Official Plan.

### **Town of Flamborough Official Plan**

The application was submitted in 2012, which is prior to the UHOP coming into force and effect in 2013, and the assessment of the proposal is based on the Clergy Principle. Therefore, the proposal is governed by the Town of Flamborough Official Plan.

The subject lands are designated "Urban Residential" on Schedule "A" – Waterdown Urban Area Land Use Plan, in the Town of Flamborough Official Plan and Policy A.2.1 permits the proposed development of single detached dwellings, as provided below:

“A.2.1 The uses permitted in areas designated URBAN RESIDENTIAL on Schedule ‘A’, shall be: detached and semi detached single dwellings; low to medium density linked multiple unit dwellings; apartment units; converted dwellings; quadruplex dwellings; shared accommodation; rooming and boarding house; and other suitable forms of dwellings.”

With respect to the provision of housing, Policy E.3.1.1 (v) affirms that:

“E.3.1.1 (v) Council supports the creation of new housing units through intensification and innovative design in appropriate areas.”

The policies within Section E.3.2 concern residential intensification or the creation of additional housing units, and the proposal is considered to be infilling, as defined below:

“E.3.2.2 (ii) Infilling is the use of vacant land for new residential development either by adding new units to an individual site or on newly created lots or sites, predominantly in built-up areas.”

Policy E.3.2.4 states that infilling may be permitted on lands within the Urban Area, subject to the following considerations:

“E.3.2.4 (i) As a concept and guideline for the consideration of infilling applications in the Urban Area, compatibility means mutually tolerant and capable of existing together in harmony in the same area. Compatibility should not be narrowly interpreted to mean “the same as” or even 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 existing neighbourhood.

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

- (a) lot size, building setbacks, density and the height and mass of buildings in the surrounding area;
- (b) impact on the existing streetscape and landscape and opportunities to maintain and/or enhance the existing streetscape;
- (c) provision for adequate off-street parking;
- (d) proposed building separations and possible buffering provisions and impacts on existing and proposed privacy areas;
- (e) impacts on historical and heritage features and amenities;
- (f) the contribution of the proposed use to the provision of affordable housing;
- (g) the proposal can be adequately serviced with water, sewage disposal, roads, garbage collection and utilities so as not to compromise the Town's financial ability to provide such services; and,
- (h) other actions which may be deemed necessary through the Zoning By-law or Site Plan approval process."

Although the details of the proposed dwellings have not been provided, the draft By-law, attached as Appendix "B" to PED16071, provides the regulations for the proposed development. The properties to the west of the subject lands are zoned Urban Residential "R1" Zone, and applying the same Zone to the subject lands would result in development that is consistent with the surrounding neighbourhood, in terms of lot size, building height, lot coverage and parking provisions. Staff are satisfied that the proposed modifications to the Urban Residential "R1" Zone, which include a 1.0 m reduction to the minimum front yard, a 0.8 m increase to the required interior side yard and the prohibition of any buildings or structures within the vegetation protection zone of the ESA will result in a form of development that is in keeping with the criteria referenced in Policies E.3.2.4 (i), E.3.2.4 (ii) (a) to (d), above.

Staff have confirmed that the existing municipal services, including, water, sanitary and storm water services, have capacity to service the proposed development, in accordance with Policy E.3.2.4 (g), above.

Staff note that there are no policies concerning environmentally significant areas within the Official Plan, and that the Regional Official Plan provides the policy framework for conservation, protection, and enhancement of the natural environment.

Policy E.2.6 concerns the identification and conservation of sites that possess archaeological potential. As indicated above, staff recommend the inclusion of a condition of any future consent approval that the owner carry out an archaeological assessment of the subject lands.

Based on the foregoing analysis, the application complies with the Town of Flamborough Official Plan.

### **Urban Hamilton Official Plan**

The proposal has been evaluated against the policies of the UHOP since all municipal By-laws, including Zoning By-laws, shall comply with the UHOP. 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.”

### **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.”

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 have considered the relationship of the proposed development to the surrounding neighbourhood and, since the draft By-law attached as Appendix “B” to PED16071 only slightly modifies the regulations that are applicable to other lands within the

neighbourhood, staff are satisfied that the future dwellings and accessory buildings will result in residential intensification that be compatible with the scale, form and character of the neighbourhood, as per the criteria contained in Policy B.2.4.1.4. Furthermore, the proposed development will not result in nuisance effects, such as shadowing, overlook and noise, as per Policy B.2.4.2.2.

In terms of residential intensification within the Neighbourhoods designation, staff note that the subject lands are located within a residential neighbourhood that is characterized by lots of varying sizes, including larger lots that were necessary for the purposes of private well and septic requirements for single detached dwellings, as well as smaller lots that accommodate semi-detached dwellings. The lots within the immediate vicinity of the subject lands have a lot frontage of 20 m and an area of 700 sq m, approximately. The Concept Plan attached as Appendix “C” of this Report, depicting the proposal of lots having a minimum lot frontage of 15 m and lot areas of 1,099 sq m and 1,592 sq m, will provide a similar streetscape along this portion of Rockcliffe Road, in keeping with the matters listed in Policy B.2.4.2.2. This aspect of the proposal will be discussed in detail in the Analysis and Rationale for Recommendation Section of this Report.

Staff note that the provisions of the draft By-law, attached as Appendix “B” to Report PED16071, are generally consistent with the regulations of the Single Detached Residential “R1” Zone, which is found to the south and west of the subject lands. Therefore, staff are satisfied that the future residential development will be consistent in massing and scale with the adjacent dwellings on Rockcliffe Road. A further discussion on built form and character will follow, below.

Policies B.2.4.1.4 f) and B.2.4.2.2 j), above, raise transportation impacts and infrastructure capacity when considering proposals for intensification. Staff recognize that the subject proposal is for the development of two single detached dwellings, accessory buildings and structures, and transportation impacts are not expected. The applicant provided additional information with respect to the Required Fire Flow (RFF) calculation, and staff are satisfied that there is sufficient capacity within the public watermains, municipal storm, and sanitary sewers available along Rockcliffe Road to service the proposed development. Through the Site Plan Control process, stormwater management will be reviewed in greater detail.

#### 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.3.3.3.3 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.”

Given the provisions contained within the draft By-law, attached as Appendix “B” to Report PED16071, are consistent with the regulations currently applied to the adjacent lands, staff are satisfied that the proposed development will respect the built form of the existing neighbourhood, in terms of 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; and,
- d) complementing the existing massing patterns, rhythm, character, colour, and surrounding context.”

As identified on the proposed concept plan, showing the proposed building envelopes, the future development will respect the existing building placement, massing, rhythm and character of the Rockcliffe Road neighbourhood, in keeping with the policies referenced above.

#### Natural Heritage

Policies concerning the protection and enhancement of natural areas and features within the Urban Area are found within Section C.2.0 of the UHOP.

“C.2.2.2 The boundaries of *Core Areas* and Linkages, shown on Schedule B - Natural Heritage System, are general in nature. Minor refinements to such boundaries may occur through Environmental Impact Statements, *watershed* studies or other appropriate studies accepted by the City without an amendment to this Plan. Major changes to boundaries, the removal or addition of *Core Areas* and Linkages identified on Schedule B - Natural Heritage System and Schedules B-1-8 – Detailed Natural Heritage Features require an amendment to this Plan.”

In keeping with Policy C.2.2.2, above, the boundary of the Clappison Woods Escarpment Regionally Significant Life Science Area of Natural and Scientific Interest (ANSI) was refined through the submission of a Scoped Environmental Impact Statement (EIS), prepared by Renovo Watershed Sciences Inc., dated August 2011.

“C.2.3.3 The natural features and ecological functions of *Core Areas* shall be protected and where possible and deemed feasible to the satisfaction of the City enhanced. To accomplish this protection and enhancement, vegetation removal and encroachment into *Core Areas* shall generally not be permitted, and appropriate *vegetation protection zones* shall be applied to all *Core Areas*.

C.2.5.2 New *development* and *site alteration* shall not be permitted within provincially significant *wetlands*, *significant coastal wetlands* or *significant habitat of threatened and endangered species*.



C.2.5.4 *New development and site alteration* shall not be permitted within significant woodlands, significant valleylands, significant wildlife habitat and significant areas of natural and scientific interest unless it has been demonstrated that there shall be no *negative impacts* on the natural features or on their *ecological functions*.

C.2.5.5 *New development and site alteration* shall not be permitted on *adjacent lands* to the natural heritage features and areas identified in Section C.2.5.2 to C.2.5.4 unless the *ecological function* of the *adjacent lands* has been evaluated and it has been demonstrated that there shall be no *negative impacts* on the natural features or on their *ecological functions*.”

Although Policy C.2.5.2.5.10 f) recommends a minimum 15 m wide vegetation protection zone from the dripline of a Significant Woodland, Policy C.2.5.11 allows for detailed analysis of the ecological features, in order to determine whether a greater or lesser width is more appropriate. The scoped EIS submitted in support of the subject application recommended that a vegetative protection zone width of 10 m would be sufficient to protect the ecological features and functions of the Core Area. Given the small scale development proposed (two single detached dwellings), both ESAIEG and staff concurred with this recommendation and accepted the proposed 10 m buffer, with the proviso that ESAIEG would be provided with preliminary concepts for naturalization within the buffer, such as species selection and placement. As the proposed development will be subject to Site Plan Control, ESAIEG will have an opportunity to provide comments on the submitted plans and the future approval of the Site Plan Control applications would include the requirement of a Landscape Plan and Grading Plan with plantings suitable for the vegetative protection zone and stormwater management techniques, in keeping with Policies C.2.5.12 and C.2.5.13. With the recent removal of the Butternut tree, which as a Species at Risk had previously been a barrier to development of the subject lands, staff notes that there will be greater protection for the Core Area, as it is intended that the lots will be fenced, thereby reducing likelihood of encroachment.

Based on the foregoing, the proposal complies with the UHOP.

## **RELEVANT CONSULTATION**

### **No Concerns / Comments**

- Budgets, Taxation and Policy Services, Corporate Services Department;
- Recreation Division, Community Services Department;
- Waste Management Division, Public Works Department;
- Parking Services, Hamilton Municipal Parking System, Planning and Economic Development Department;

**SUBJECT: Application for Amendments to Flamborough Zoning By-law No. 90-145-Z and Hamilton Zoning By-law No. 05-200 for Lands Located at 100 Sunnycroft Court, Flamborough (ZAR-11-076) (PED16071) (Ward 15) - Page 18 of 24**

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- Environment and Sustainable Infrastructure, Public Works Department; and,
- Horizon Utilities.

**Ministry of Natural Resources and Forestry (MNRF)**

In response to the initial Butternut Assessment completed in 2010, MNRF staff acknowledged that the historic tractor lane may continue to be used for access to the larger farm property, and required the applicant to install a protective fence no closer than 11 m from the trunk of the Butternut tree prior to any development activities, in order to prevent the encroachment of machinery and building excavation for the proposed development.

MNRF clarified in a letter to Planning staff on October 9, 2015 that MNRF staff had previously informed the applicant that a Butternut Health Assessment (BHA) would be required prior to the removal of the Butternut tree adjacent to the subject lands. In response to a recent BHA Report completed by JLReader Environmental, MNRF staff conducted a site visit on October 1, 2015, as part of an audit, to verify the recommendation of a Category 2 removal of the Butternut tree. The correspondence provided additional information on Ontario Regulation 242/08, which applies to all species on the Species at Risk in Ontario List, including Butternut, and affirmed that it was the understanding of MNRF staff that the consultant had registered the removal, compensation planting, and monitoring scheme, in accordance with the said Regulation.

**Niagara Escarpment Commission (NEC)**

NEC staff recommended that the scoped Environmental Impact Statement (EIS) be amended to identify the Clappison Woods Escarpment Regionally Significant Life Science Area of Natural and Scientific Interest (ANSI) within the site context section of the report. Furthermore, it was the recommendation of NEC staff that mitigation measures be implemented to prevent any invasion or degradation of the adjacent ESA and ANSI “by educating homeowners to use locally appropriate, native plant material and to refrain from planting aggressive, invasive exotic species”. They also advised that future homeowners should also be educated concerning the encroachment of non-native species be provided through a Homeowner Educational Package. Finally, NEC staff advised that all development should be of urban design compatible with the visual and natural environment of the Escarpment through the provision of adequate setbacks and screenings, where appropriate.

**Conservation Halton (CH)**

CH staff recommended that the EIS be updated to include discussion on the Clappison Escarpment Woods Regional Life Science ANSI and did not agree with the consultant’s recommendation to reduce the width of the vegetative protection zone to 10 m.

Furthermore, staff considered the subject application as an opportunity for the tractor access to be relocated, thereby avoiding further impacts to the ESA, as well as the potential for restoration of the ESA and the establishment of a vegetative protection zone along the length of the ESA.

In response to the above comments from Conservation Halton, Planning staff note that the scoped EIS was reviewed and received approval from ESAIEG with the provision of a vegetative protection zone having an average width of 10 m and at no point less than 8 m from the staked ESA. Planning staff concur with this recommendation of ESAIEG and note that the proposed Concept Plan, attached as Appendix “D” to PED16071, exceeds this requirement by applying a minimum 10 m buffer from the staked ESA boundary along the length of the subject lands. Furthermore, staff accept the remaining recommendations of ESAIEG that will provide additional protection to the ESA / ANSI / Significant Woodland, including the requirement to provide ESAIEG with preliminary concepts that provide naturalization of native species within the buffer, incorporates low impact development techniques for stormwater management purposes, and ensures the tractor trail is clearly delineated on all maps.

#### **Traffic Engineering Section, Public Works Department**

Traffic Engineering staff noted that, although they do not have concerns with the proposed Rezoning, the applicant has been advised that the proposed driveways must not overlap through the projected lot lines within the road allowance. Engineering drawings of the driveway locations shall be provided and will be reviewed through Site Plan Control, in order to ensure that they do not conflict with each other.

#### **Forestry and Horticulture Section, Public Works Department**

Although there are no municipal tree assets located along the road allowance of Rockcliffe Road, Forestry and Horticulture staff recommend straight line tree protection hoarding be erected along the proposed ESA limit prior to any construction, as per the Tree Preservation and Protective Measures for Trees Affected by Construction Policy.

Due to the site’s proximity to the Environmentally Sensitive Area, Forestry and Horticulture staff also requested that a Tree Management Study and a Landscape Planting Plan, showing new calliper trees to be planted on the existing road allowance, be required through Site Plan Control. At that time, the applicant and / or future landowner(s) will be required to install native plant material on the lands within Blocks 2 and 4 of Schedule “A” in the draft By-law, attached as Appendix “B” to PED16071.

## **Public Consultation**

In accordance with the provisions of the *Planning Act*, and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 51 property owners within 120 m of the subject lands on January 23, 2012, and a Public Notice sign was placed on the property on January 24, 2012. No correspondence was received as a result of the Notice of Complete Application and Preliminary Circulation.

Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act*.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - i) It is consistent with the PPS, conforms to the Growth Plan for the Greater Golden Horseshoe, and complies with the Hamilton-Wentworth Official Plan, the Town of Flamborough Official Plan and the Urban Hamilton Official Plan;
  - ii) It provides protection for the adjacent environmentally sensitive features; and,
  - iii) It is compatible with the type and form of development in the surrounding neighbourhood.
2. The existing residential lots along Rockcliffe Road to the west of the subject lands were developed through Registered Plan 62M-920 "Highland Hill Estates", which was registered in 2000. The subject lands were not subdivided at that time, rather a 0.3 m reserve, identified as Block 12, was placed along the frontage, because it was envisioned that the road may be extended northerly to allow for potential development of the lands to the north. The lands to the north have since been developed as Goldenview Court and the subject lands have remained vacant since the registration of Registered Plan 62M-994 "Goldenview Terrace" in 2003.

In 2008, the lands to the south (55 Rockcliffe Road) were subject to a Zoning By-law Amendment to modify the Parkway Belt Open Space "O1" Zone, in order to permit the development of a single detached dwelling. Unlike the subject lands, these lands to the south were included in the development of the "Highland Hill Estates" Subdivision (Registered Plan 62M-920) as Block 13 for storm water detention purposes. Report PED08048 cited 55 Rockcliffe Road as being a dumping ground for yard waste, tires, and other waste, and staff recognized that

the development of the lot for residential purposes would prevent the disposal of waste and would encourage better maintenance of the land. The previous Zoning Approval and subsequent development of 55 Rockcliffe Road, which abuts the subject lands to the south is considered to be a precedent for development adjacent to the ESA. However, the subject application provides greater protection for the ESA through the proposed modifications in the draft By-law, attached as Appendix “B” to PED16071, as described below.

3. As previously mentioned, a Butternut tree was located in the vicinity of the subject lands. The tree was inspected by staff from the Ministry of Natural Resources in 2010 and had been monitored by both the owner and arborists since that time. More recently, a certified Butternut Specialist recommended the Class 2 removal of the tree and, following an on-site inspection by Ministry of Natural Resources and Forestry (MNRF) staff in October 2015, the Ministry staff accepted the proposed removal of the tree, with the condition that replacement plantings be installed in appropriate locations elsewhere on the property. The owner has since planted 24 Butternut saplings elsewhere on the large property. Based on the foregoing, the provincial interest in this matter has been satisfied.
4. In accordance with Section 9.1 of Site Plan Control By-law No. 15-176, the future development of single detached dwellings, accessory buildings and structures on the subject lands will be subject to Site Plan Control, due to the fact that the subject lands contain a Core Area. Site Plan Control will ensure that all development is set back from all natural features and that appropriate native plant material is installed within the required 10 m rear yard, as per the recommendation of ESAIEG. In addition, an acknowledgement will be added to the Undertaking of the Site Plan because the subject lands meet two of the ten criteria used for determining archaeological potential. Other matters including grading, erosion and sedimentation control, stormwater management, and servicing will be reviewed as part of the Site Plan process.
5. In order to facilitate the development of single detached dwellings on the subject lands, and to ensure the adjacent ESA is adequately protected from encroachment, the following regulations shall be incorporated into the amending By-law:
  - Minimum Front Yard: 6.0 m for the southerly lot (Lot 1 on Appendix “D” to Report PED16071); whereas 7.5 m is required;
  - Minimum Rear Yard: 10.0 m from the staked boundary of the ESA for all buildings, accessory structures, including pools and sheds; and,

- Minimum Interior Side Yard: 2.0 m, whereas 1.2 m is required.

Staff note that the proposed lot lines have been configured in order to allow the continued use of the existing tractor trail located at the rear of the proposed lots and used by the Applicant to access other portions of the larger farm property. Therefore, the proposed lots are irregular in shape and, furthermore, the lot lines do not consistently align with the boundary of the ESA (see Concept Plan attached as Appendix “D” to PED16071). However, at all times, the required 10 m vegetative protection zone from the ESA has been provided. The proposed modifications to the yard requirements are referenced for each easterly lot line within the draft By-law, attached as Appendix “B” to PED16071.

As the surrounding properties are subject to the Urban Residential (Single Detached) “R1” Zone, with the exception of the adjacent lot to the south, it is appropriate to incorporate the above modifications to the said Zone. Reducing the minimum front yard requirement from 7.5 m to 6.0 m for the southerly lot (Lot 1 on Appendix “D” to Report PED16071) will not alter the streetscape, given the reduction is only 1.5 m and this lot would be an interior property, located at the bend in Rockcliffe Road.

Increasing the minimum rear yard requirement from 7.5 m to 10.0 m and prohibiting development of all buildings and structures to the rear yard outside the vegetative protection zone of Clappison Escarpment Woods ESA #11 is acceptable, since sufficient lands remain developable on both lots for a single detached dwelling, accessory buildings and structures, including a pool. Staff also note that restricting the location of all buildings and accessory structures, including pools and sheds so as to respect the vegetative protection zone provides greater protection to the ESA than what is in place for the adjacent lands to the south (55 Rockcliffe Road).

The applicant has requested an increase to the minimum interior side yard requirement by requiring 2.0 m instead of 1.2 m, which staff agrees would provide a building envelope that would be generally in keeping with the widths of the existing dwellings on the street.

By modifying only the regulations referenced above, staff are satisfied that the proposed development will provide for residential intensification that is in keeping with the neighbourhood character.

Staff note that the Rural Zoning By-law No. 15-173 inadvertently rezoned the subject lands and the lands to the south from the Parkway Belt Open Space “O1” Zone, Parkway Belt Open Space “O1-1” Zone, Modified, Parkway Belt Open Space “O1-2” Zone, Modified to the Conservation/Hazard Land (P6) Zone.

However these lands are within the urban boundary and are intended to be included with the comprehensive rezoning for the future Residential Zones in Hamilton Zoning By-law No. 05-200. As such, the draft By-law attached as Appendix “C” to PED16071 removes these lands from the Conservation/Hazard Land (P6) Zone.

6. There is an existing 150 mm watermain available within the Rockcliffe Road right-of-way. The applicant provided the Required Fire Flow (RFF) calculation per “Water Supply for Public Fire Protection, 1999, Fire Underwriters Survey” (FUS), and supplemented where appropriate by NFPA 13, which included details to support the RFF calculation (e.g. floor area, type of construction, fire wall location and fire resistance rating, sprinkler system credit and exposure charges, as applicable, etc.). This has been completed to the satisfaction of staff. There are municipal storm and sanitary sewer services within the Rockcliffe Road right-of-way to service the proposed development. As a condition of the future Site Plan Control application, the applicant shall confirm that there is adequate capacity within the existing sewers on Rockcliffe Road, as the engineering drawings for the “Highland Hill Estates” Subdivision appear to have contemplated development on only a portion of the subject lands. The applicant shall submit a report that compliments the Stormwater Management Report for “Highland Hill Estates” (File No.: 25T-90013), by providing specifics on the effect that the proposed development of the subject lands will have on the existing system and what low-impact-techniques (LID) may be used to mitigate the proposed increase to impervious coverage. As indicated within the Analysis and Rationale for Recommendation Section, above, there is an existing 0.3 m reserve along the frontage of the subject lands. Therefore, the applicant will be required to pay a “Best Efforts” recovery cost for the installation of services that were provided through the “Highland Hill Estates” Subdivision. Finally, staff note that there are no road widening requirements along this portion of Rockcliffe Road at this time.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the use of the lands would need to conform to the requirements of the Parkway Belt Open Space “O1” Zone, Parkway Belt Open Space “O1-1” Zone, Modified, and the Conservation/Hazard Land (P6) Zone, which would not permit the development of a single detached dwelling, but would only permit Agriculture, Conservation, and Park uses.

## **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.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Location Plan

Appendix "B": Draft Zoning By-law Amendment (By-law No. 90-145-Z)

Appendix "C": Draft Zoning By-law Amendment (By-law No. 05-200)

Appendix "D": Concept Plan

DM/th