Present: Mayor F. Eisenberger, Councillors J. Partridge (Chair), B. Johnson, (1st Vice Chair) M. Pearson (2nd Vice-Chair) C. Collins D. Conley, J. Farr, M. Green, A. Johnson and R. Pasuta

Also present: Councillor L. Ferguson, T. Whitehead, S. Merulla, T. Jackson

THE PLANNING COMMITTEE PRESENTS REPORT 15-005 AND RESPECTFULLY RECOMMENDS:

1. Capital Projects' Status as of December 31, 2014 (PED15035) (City Wide) (Item 5.1)

That Report PED15035 respecting Capital Projects' Status as of December 31, 2014, be received.

2. Appointment By-law under the Building Code Act, 1992 (PED15037) (City Wide) (Item 5.2)

That the By-law attached to Report PED15037 to repeal and replace City of Hamilton By-law 12-179, being a By-law to appoint a Chief Building Official, Deputies, and Inspectors, be enacted.
3. Hamilton Municipal Heritage Committee Report 15-003 (Item 8.2)

(a) Heritage Permit Application HP2015-006, under Part IV of the Ontario Heritage Act, for the Disassembly, Storage and Reconstruction of the Hermitage Ruins at 739 Sulphur Springs Road, Ancaster (PED15041) (Ward 12) (Item 8.1)

That Heritage Permit Application HP2015-006 be approved for the disassembly, storage and reconstruction of the Hermitage Ruins at 739 Sulphur Springs Road, Ancaster, in accordance with the submitted application, subject to the following conditions:

(i) That the detailed methodology, plans and elevations for the proposed documentation and dismantling of the walls shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to the removal of any portion of the existing walls, including:

1. Method for mapping and labelling the face stones for reconstruction, including measurements of the existing vertical and horizontal joint widths to be reconstructed;

2. Method for loosening the stones, raking of the joints and dislodging and removing the stones for storage;

3. Stabilization of the structures during removals; and,

4. Storage of the salvaged materials on site during construction, including site protection and monitoring;

(ii) That the mortar used to reconstruct the mansion walls shall be compatible with the type of stone and match the original colour and appearance of the historic mortar;

(iii) That the detailed methodology and materials specifications for the masonry repairs and installation of wall capping for the outbuilding walls shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to the commencement of any repairs;

(iv) That a detailed plan for the installation of the new paths, landscaping, hardscaping and interpretive signage, including surface treatments, grading and tree protection, shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to any soil disturbance activities;
(v) That the design of the decorative stone fence shall be submitted for review by the Heritage Permit Review Subcommittee prior to installation;

(vi) That a licensed archaeologist shall be retained to undertake an archaeological assessment of the areas to be impacted by grading, excavation, staging of machinery and stockpiling of materials, and any further archaeological assessment, protection, mitigation and/or monitoring that is recommended by the archaeologist, shall be undertaken, to the satisfaction of the Director of Planning and Chief Planner, prior to any soil disturbance activities;

(vii) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and/or the commencement of any alterations;

(viii) That implementation of the alterations, in accordance with this approval, shall be completed no later than April 30, 2017. If the alterations are not completed by April 30, 2017, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton;

(ix) That a protocol for advising the public of the scope of the work and timing of the project shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, at least one month prior to the commencement of any construction activity on the site and that any actions in the plan shall be implemented as per the approved plan.

The following Item was amended by deleting and replacing the recommendation:

4. Appeal by 1125814 Ontario Ltd. (Paul Silvestri) for Lands Located at 893, 897 and 903 West 5th (Hamilton) Regarding City of Hamilton’s Refusal or Neglect to Adopt Amendments to the Hamilton Zoning By-law No. 6593 (ZAC-13-050) (LS15008/PED15038)(Ward 8) (Item 12.3)

That the staff recommendations in Report LS15008/PED15038 remain confidential until Council approval.

That in regards to an appeal to the Ontario Municipal Board by 1125814 Ontario Ltd. (Paul Silvestri) regarding Zoning By-law Amendment application ZAC-13-050, staff be instructed to:
(a) Support the proposed rezoning application consistent with the draft Zoning By-law attached as Appendix “B” to Report LS15008/PED15038;

(b) In the event the appellant requests settlement discussions, to proceed with such discussions and if any or all issues are resolved to the satisfaction of the Director of Planning consistent with the principles of the staff recommended draft zoning by-law, that staff be authorized to present such resolution to the Ontario Municipal Board, which includes preparing and/or executing any necessary or ancillary documents; and

(c) That Report LS15008/PED15038 remain confidential, except in the event Council adopts recommendations (a) and (b) in which case those portions contained within the planning analysis and rationale for recommendations section of Report LS15008/PED15038 as well as the appendices may be made public.

The following Item was amended by deleting and replacing the recommendation:

5. Urban Hamilton Official Plan: Proposed Settlement of the Appeals of St. Joseph’s Villa (St. Joseph’s Health System) of the Urban Hamilton Official Plan and Legal Direction (LS15010/ PED15048) (City Wide) (Item 12.4)

That the staff recommendations in Report LS15010/PED15048 remain confidential until Council approval.

(a) That City of Hamilton staff be directed to settle the appeal of St. Joseph’s Villa (St. Joseph’s Health System) respecting their property located at 56 Governors Road in accordance with the amendments and modifications to the Urban Hamilton Official Plan(UHOP) contained in Appendices “A”& “B” to Report LS15010/PED15048;

(b) That staff be directed to present and/or provide evidence in support of the settlement of the UHOP appeals of St. Joseph’s Villa (St. Joseph’s Health System) contained in Appendices “A” and “B” to Report LS15010/PED15048 to the Ontario Municipal Board (OMB), as may be necessary; and,

(c) That Report LS15010/PED15048 remain confidential but that Appendices “A” and “B” be made public in the event a settlement is reached with St. Joseph’s Villa (St. Joseph’s Health System).
FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes to the agenda:

3.1 Minutes of the March 3, 2015 Meeting to replace the February 17, 2015 Minutes printed in the agenda. (Copies distributed.)

6.1 Copy of delegation from the Beasley Neighbourhood Association respecting Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2)

Added written comments:

6.1(iii) Gillian Hunt  
6.1(iv) William Mehlenbacher  
6.1(v) Dave Kuruc  
6.1(vi) Craig Williams  
6.1(vii) Dane Pedersen  
6.1(viii) Nicole Beume, Beume Real Estate Agency  
6.1(ix) Juliana Lyons  
6.1(x) Anita Finnerty  
6.1(xi) Baya Vertes, B. Architecture  
6.1(xii) Eduardo Cordero  
6.1(xiii) Brian Morton, Former Chair, Tivoli Theatre Foundation  
6.1(xiv) Rachael Finnerty, Fletcher & Associates  
6.1(xv) Martin La Fata  
6.1(xvi) Esperanza Perez-Vela  
6.1(xvii) Elizabeth Ward  
6.1(xviii) Rich DiPietro

8.1(i) Written comments from the Lakewood Beach Community respecting Revised Environmental Impact Statement Guidelines and New Linkage Assessment Guidelines (PED15033)


There is a correction to the reasons printed on the agenda for moving into Closed Session. It is not a matter in respect of which Council or a Committee may hold a closed meeting under an Act other than the
The Municipal Act, 2011, so that reference is removed. The other references to sections 8.1(e) and 8.1(f) of the Procedural By-law and the corresponding sections in the Municipal Act are correct.

The Agenda for the March 31, 2015 meeting of the Planning Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None.

(c) APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING (Item 3)

(i) March 3, 2015

The Minutes of the March 3, 2015 meeting were approved.

(d) DELEGATION REQUESTS (Item 4)

The following delegation requests were approved to come before Committee when the staff report respecting the proposed partnership between the City and the Hamilton Burlington SPCA and the issue of cat licensing is on the agenda:

(i) Margie Goold, wishing to support Councillor Sam Merulla who wants the City of Hamilton to partner with the Hamilton and Burlington SPCA. (Item 4.1)

(ii) Kim Buswell, regarding the matter of stray cats at one home in her neighbourhood and the issue of owners’ responsibility. (Item 4.2)

(e) DELEGATIONS/PUBLIC HEARINGS (Item 6)

(i) Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2) (This report deletes and replaces Report PED15029 which was deferred from the March 3, 2015 meeting.) (Item 6.1)

The Report PED15029 respecting Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) which was deferred from the March 3, 2015 meeting was deleted and
replaced with Report PED15029(a) which is an updated report respecting the same matter.

In accordance with the provisions of the Planning Act, Chair Partridge advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council makes a decision regarding the zoning by-law amendment the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Ontario Municipal Board and the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

Chair Partridge also noted for the public record, that the property in question is a heritage designated property.

6.1 Submitted Written Comments

The written comments submitted by the following persons regarding Item 6.1 the Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2) were received.

6.1(i) Dan DiRocco
6.1(ii) Matt Jelly
6.1(iii) Gillian Hunt
6.1(iv) William Mehenbacher
6.1(v) Dave Kuruc
6.1(vi) Craig Williams
6.1(vii) Dane Pedersen
6.1(viii) Nicole Beume, Beume Real Estate Agency
6.1(ix) Juliana Lyons
6.1(x) Anita Finnerty
6.1(xi) Baya Vertes, B. Architecture
6.1(xii) Eduardo Cordero
6.1(xiii) Brian Morton, Former Chair, Tivoli Theatre Foundation
6.1(xiv) Rachael Finnerty, Fletcher & Associates
6.1(xv) Martin La Fata
6.1(xvi) Esperanza Perez-Vela
6.1(xvii) Elizabeth Ward
6.1(xviii) Rich DiPietro

Councillor Farr noted that he had additional written comments received through his office.
Edward John, Planner/Senior Project Manager, addressed Committee with the aid of a PowerPoint presentation and provided an overview of the report. A copy of the presentation has been uploaded onto the City’s website.

The staff presentation respecting Report PED15029(a) was received.

Representatives of the applicant:

1. Janis Barlow, Janis Barlow and Associates

Janis Barlow, of Janis Barlow and Associates, addressed Committee with the aid of a PowerPoint presentation. She indicated that she is a theatre consultant retained by the applicant.

Her comments included but were not limited to the following:

- The applicant has an invested interest in the Tivoli;
- History of the Tivoli;
- The building collapsed and the marquee was destroyed;
- James Street North and the Tivoli;
- Historic Theatres - advantages and disadvantages;
- Business before restoration;
- Challenges of Public, not for profit theatre funding;
- Basic Elements function of the theatre;
- Challenges with the Tivoli;
- Tivoli in 2007 and today;
- Tivoli footprint compared to optimum;
- Architectural observations;
- Theatrical function;
- Operational implications;
- Adapting the Tivoli auditorium;
- Minimum Tivoli rehabilitation;
- Proposed Condo development, 2007;
- Precedent – New York Marriott Marquis;
- Theatre and small scale precedent – Ottawa example;
- Tivoli programming theatre model;
- Tivoli minimum scheme A;
- Tivoli minimum scheme B;
- 2007 and 2010 study findings;
- Response to study findings;
- Pluses of Diamante design;
- Examples of Theatres in Port Dalhousie, Toronto, etc.;
- Carolina Theatre in NC;
- Summary.
2. Brenda Khes from GSP Group and Drew Hauser from McCallum Sather Architects.

Brenda Khes from GSP Group and Drew Hauser from McCallum Sather Architects representing the applicant addressed Committee with the aid of a PowerPoint presentation. Copies of a hand-out entitled *Tivoli Condo’s Development Application Height and Density Bonusing Considerations* were distributed. Copies of the presentation and hand-out are available for viewing on the City’s website.

Their presentation included but was not limited to the following:

- Development constraints – access easements;
- Contaminated soils in the front;
- Purchase of additional lands;
- Heritage property;
- No front of house amenities;
- Developers commitment to keep the theatre;
- Mixed use development;
- Podium elements;
- Residential Point Tower – 106 condos-19 storeys;
- Height/Massing shadowing;
- Downtown urban growth area;
- Downtown Secondary Plan;
- Existing/Approved Height;
- The proposed development in comparison to other buildings;
- Where should growth go;
- Major proposed transit system and two Go stations – ideal place for Tivoli development;
- 22 storeys needed to finance the project;

The presentations from Brenda Khes of GSP, Drew Hauser from McCallum Sather Architects and Janis Barlow of Janis Barlow and Associates respecting the applicant’s proposal were received.

Registered Speakers


Allison Chewter addressed committee and read from a prepared statement copies of which were distributed. A copy is available for viewing on the City’s website. She indicated that the position of the
Beasley Neighbourhood Association is in support of the recommendations in the staff report.

Allison Chewter responded to questions from Committee and agreed that with the amendments proposed by Councillor Farr, the Beasley Neighbourhood Association may be more supportive of the project.

The delegation from Allison Chewter, representing the Beasley Neighbourhood Association was received.

2. **Linda Lukasik, Environment Hamilton**

Linda Lukasik came forward to address Committee and indicated that she is speaking on behalf of Environment Hamilton which is opposed to this development. Environment Hamilton is very supportive of density but sensitive to the fact that context is important. There is a balance to be struck and this proposal would result in too much density for this area. They are also in support of protecting the Tivoli but are concerned with the trade offs. Environment Hamilton is based in the Beasley area and supports the position of Planning staff that this is not a good fit for the area and it could set a precedence.

Linda Lukasik responded to questions from Committee.

The delegation from Linda Lukasik from Environment Hamilton was received.

The public meeting was closed.

The following motion was approved by Committee and by the Special Council Meeting on March 31, 2015:

6.1 **Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2)**

That in respect of **Zoning Application ZAR-15-001, by Diamante Investments Ltd., Owner**, for changes in zoning to Hamilton Zoning By-law No. 05-200 from the Downtown Prime Retail Streets (D2) Zone, the Downtown Mixed Use (D3) Zone and the Downtown Multiple Residential (D6) Zone to a modified Downtown Prime Retail Streets (D2) Zone for lands located at 108 James Street North and 111 and 115 Hughson Street North (“Tivoli Theatre Lands”), in order to permit the redevelopment and
restoration of the Tivoli Theatre lands comprised of a performing arts theatre with accessory front of house commercial uses, general commercial uses and residential uses in a new 22-storey mixed-use building addition, accommodating a maximum of 106 units with associated parking through combination of surface and stacked parking, and the restoration and adaptive reuse of the existing single detached dwelling at 115 Hughson Street North, for the lands shown on Appendix “A” to Report PED15029(a):

(a) That Planning and Economic Development Department Report PED15029(a) be received;

(b) That the rezoning of the Tivoli Theatre Lands be approved in order to permit the redevelopment of the Tivoli Theatre such that the Tivoli Theatre is restored and that the following accessory uses be permitted: accessory front of house commercial uses and general commercial uses and residential uses in a new 22-storey mixed-use building addition accommodating a maximum of 106 units with associated parking through combination of surface and stacked parking, the restoration and adaptive reuse of the existing single detached dwelling at 115 Hughson Street North for residential and commercial uses relating to the Tivoli Theatre;

(c) That Planning staff be directed to report back to Planning Committee on the Planning Act tools, including a recommended zoning by-law amendment, that implements the approval in recommendation (b) and subject to the following:

(i) the design is revised to provide for a revised podium with a maximum height of 5 storeys along James Street North;

(ii) an increased building setback from James Street North for the portion of the building above the podium;

(iii) enhanced north and south building facades;

(iv) parking be provided at a targeted ratio of not less than 0.50 spaces per residential unit;

(v) the transfer of residential use permissions (including density) from the Tivoli Theatre portion of the subject lands to the portion of the lands on which the accessory condominium use will be permitted;

(vi) that the accessory front of house commercial uses, the general commercial uses and number of residential units shall be in general conformity with the concept plans attached as Appendix “B” to PED15029a; and,
(vii) to ensure that the revised proposal is reviewed by the Development Review Panel and that the final site plan is in conformity with the revised building elevations; and,

(d) Planning staff and the City Solicitor be directed and authorized to meet and negotiate a framework for an agreement, pursuant to the Planning Act, the Ontario Heritage Act and any other applicable legislation for the implementation of the development proposal to provide for the restoration of the Tivoli Theatre and timing of occupancy of the non-theatre uses, in particular that the Tivoli Theatre Auditorium and associated front-of-house component is completed prior to occupancy of any residential units.

As a result of the discussions respecting the aforementioned Item, Councillor Green presented the following motion:

Re Study of the Feasibility of Inclusionary Zoning

Whereas Hamilton is experiencing phenomenal growth and development and,

Whereas the cost of living, and in particular housing, is currently rising beyond the means of many Hamiltonians;

Therefore be it resolved:

That staff be directed to study the feasibility of inclusionary zoning generally and specifically in instances where developers are requesting variances above and beyond where the Urban Official and Secondary Plans permit as it pertains to Section 37 or “bonusing up” and report back in September 2015 on options for a possible percentage of units to be deemed inclusionary as affordable, or cash-in-lieu given in consideration to Hamilton CityHousing.

(f) DISCUSSION ITEMS

(i) Revised Environmental Impact Statement Guidelines and New Linkage Assessment Guidelines (PED15033) (City Wide) (Item 8.1)

8.1(i) Written comments from the Lakewood Beach Community respecting Revised Environmental Impact Statement Guidelines and New Linkage Assessment Guidelines (PED15033)
Items 8.1 and 8.1(i) were deferred to the April 14, 2015 meeting due to time constraints.

(ii) Hamilton Municipal Heritage Committee Report 15-003 (Item 8.2)

Subsection (j) of the recommendations were deleted.

This amendment carried on the following standing recorded vote:

Yea: Conley, Pearson, Johnson, Pasuta, Collins, Partridge
Total: 6
Nay: Green, Farr, A. Johnson
Total: 3

For disposition of this matter refer to Item 3.

(g) NOTICES OF MOTIONS

Councillor Farr presented the following Notice of Motion:

Re: Waive Minor Variance Fee for 27 Vanderlip, Ancaster:

Whereas the Town of Ancaster Zoning By-law regulates the use of land at 27 Vanderlip Road

And whereas an accessory building has been constructed on the subject lands with a side yard setback which does not conform to the Zoning By-law

And whereas the property owner is required to apply to the Committee of Adjustment for approval of a Minor Variance to address this reduced setback

And whereas the fee for a Minor Variance application in this situation is $1,780,

Therefore be it resolved:

That staff be directed to waive the fee required for the required Minor Variance to address the reduced side yard setback for the existing accessory building for the lands located at 27 Vanderlip Road.
(h) GENERAL INFORMATION/OTHER BUSINESS

(i) Outstanding Business List (Item 11.1)

Item 11.1 was deferred to the April 14, 2015 meeting due to time constraints.

(i) PRIVATE AND CONFIDENTIAL (Item 13)

(i) Closed Session Minutes – March 3, 2015 (Distributed under separate cover) (Item 12.1)

This matter is proposed for consideration in Closed Session pursuant to Sub-sections 8.1 (e) and 8.1(f) of the City’s Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege.

(a) The Closed Session Minutes of the March 3, 2015 meeting were approved;

(b) The Closed Session Minutes of the March 3, 2015 meeting remain private and confidential and restricted from public disclosure.

Committee moved into Closed Session at 12:40 p.m. to consider matters pursuant to Sub-sections 8.1 (e) and (f) of the City’s Procedural By-law and Section 239.2 of the Ontario Municipal Act, 2001, as amended, as the subject matters pertain to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board and the receiving of advice that is subject to solicitor client privilege including communications necessary for that purpose.

The Committee reconvened in Open Session at 1:00 p.m.

(ii) 172 & 178 Rymal Rd. W. and 1204 West 5th Street OMB Appeals RE: ZBA (ZAC-13-023) and Plan of Subdivision (25T-201305) Owner: 2190557 Ontario Inc. and 2197925 Ontario Inc. (Sheldon’s Gate) OMB Hearing Update (LS14032(a)/PED14173(a)) (Ward 8) (Item 12.2)

This matter is proposed for consideration in Closed Session pursuant to Sub-sections 8.1 (e) and 8.1(f) of the City’s Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege.
This Item was approved by Committee and the confidential recommendations were presented to the March 31, 2015 Special Council meeting and were approved.

(iii) Appeal by 1125814 Ontario Ltd. (Paul Silvestri) for Lands Located at 893, 897 and 903 West 5th (Hamilton) Regarding City of Hamilton’s Refusal or Neglect to Adopt Amendments to the Hamilton Zoning By-law No. 6593 (ZAC-13-050) (LS15008/PED15038)(Ward 8)(Item 12.3)

This matter is proposed for consideration in Closed Session pursuant to Sub-sections 8.1 (e) and 8.1(f) of the City’s Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege.

For disposition of this Item refer to Item 4.

(iv) Urban Hamilton Official Plan: Proposed Settlement of the Appeals of St. Joseph’s Villa (St. Joseph’s Health System) of the Urban Hamilton Official Plan and Legal Direction (LS15010/ PED15048) (City Wide) (Item 12.4)

This matter is proposed for consideration in Closed Session pursuant to Sub-sections 8.1 (e) and 8.1(f) of the City’s Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege.

For disposition of this Item refer to Item 5.

(j) ADJOURNMENT (Item 14)

There being no further business, the Planning Committee adjourned at 1:00 p.m.

Respectfully submitted,

Councillor J. Partridge
Chair, Planning Committee

Ida Bedioui
Legislative Co-ordinator
Office of the City Clerk

Council – April 8, 2015