



City of Hamilton
PLANNING COMMITTEE ADDENDUM

Meeting #: 18-005
Date: April 3, 2018
Time: 9:30 a.m.
Location: Council Chambers, Hamilton City Hall
71 Main Street West

Ida Bedioui, Legislative Coordinator (905) 546-2424 ext. 4605

	Pages
6. PUBLIC HEARINGS / DELEGATIONS	
6.1 Bill Johnston, First Unitarian Church of Hamilton, Affordable Housing Sub-Committee to support waiving the fees for applications for affordable housing projects and also to request that first priority be given to the processing of such applications.	
*6.1.a Added Attachment	2
6.6 Proposed Official Plan Amendment and Amendment to Hamilton Zoning By-law No. 05-200 to rezone Industrial Zones for the Port Lands, Certain Remnant Industrial Zoned Lands, and Institutional and Open Space Zones, and Amendment to Hamilton Zoning By-law No.	
*6.6.a Added written comments	7
7. STAFF PRESENTATIONS	
7.1 Bill 139, Building Better Communities and Conserving Watersheds Act, 2017 and the new Local Planning Appeal Tribunal (LS16027(d)) (City Wide) (**Referred to GIC by Council - removed from Planning Committee agenda)	
*7.1.a Added attachment	9
*7.1.b This Item was referred from Council on March 28, 2018 to the General Issues Committee - therefore this Item is removed from this agenda.	

THE FIRST UNITARIAN CHURCH OF HAMILTON

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Two proposals from the Affordable Housing Subcommittee of the First Unitarian Church of Hamilton

A brief supporting a delegation to the Planning Committee, April 3, 2018, by Bill Johnston

Our proposals in brief

1 We support waiving **all** city fees related to applications for approval of affordable housing projects submitted by non-profit organizations, including all building permit fees.

2 We ask the Planning Committee to approve a motion something like the following:

Whereas, Hamilton's Housing and Homelessness Action Plan, *Everyone has a home... Home is the foundation*, December 2013, in Strategy 1.3, proposes "The City's Planning and Economic Development Dept. implement a system of flagging development applications that meet criteria of affordable housing and expedite the processing of those applications;"

Whereas, Hamilton's Housing and Homelessness Action Plan, *Everyone has a home... Home is the foundation*, December 2013, identified that the city's Indigenous people experience disproportionate rates of poverty, homelessness and housing insecurity,

Whereas, for the purposes of this motion, affordable housing means any project by a non-profit organization for rental housing in which a significant proportion of the units are affordable to low-income households, and also means any project by an Indigenous non-profit organization for affordable rental housing.

Therefore be it resolved,

That staff report back on methods of creating a system to fast track all applications needed for approval of affordable housing projects submitted by non-profit organizations, including CityHousing Hamilton. Ideas to consider include processing such applications as soon as they are received and keeping them at the front of the queue as they are processed; assigning staff to facilitate processing of the applications; and having relatively short time limits for circulated departments and outside agencies to comment on the application—and if that time limit is not met, the department would be deemed to have no comment.

Who we are

The Unitarian Church has been part of the Hamilton community since 1889. As a member congregation of the Canadian Unitarian Council, we affirm and promote a set of principles, including affirming and promoting the inherent worth and dignity of all people. One of our charitable purposes is to "assist the poor and needy."

The Affordable Housing Subcommittee formed two years ago to look for ways in which to act on our principles and purposes by supporting and promoting creation of more affordable housing units and increasing housing options for low-income Hamiltonians. Since then, the subcommittee has talked with housing providers, attended housing events, researched housing issues and undertaken a number of activities including:

- supporting, primarily through fundraising, a local affordable housing project. In just over a year, our congregation has raised more than \$20,000 for Sacajawea Non-Profit Housing for the common room in its planned 23-unit affordable housing project on West Avenue South;
- organizing the public meeting at the church Nov. 27, 2017 “Housing in the Hammer: Affordable Opportunities and Challenges,” which attracted 85+ people.

Context

We are well aware that the city is engaged in a range of activities to combat homelessness and to support construction of more affordable units. We commend all of these efforts.

Yet the challenge of affordable housing remains and in fact appears to be increasing. The waiting list for subsidized housing has grown by 530 households in less than two years. The percentage of Hamilton renters paying more than 30 per cent of their income for housing has grown a couple of percentage points between the 2011 and 2016 Censuses, and is now 45.4 per cent. The city’s official plan target of 252 new rental housing units for low-income households every year is not being met.

Much of the limited construction of affordable housing for low-income Hamiltonians is being built or planned by the city’s non-profit housing providers such as Indwell, Good Shepherd, Sacajawea, the YWCA and CityHousing Hamilton. These organizations are thus the city’s allies in trying to meet the city’s affordable housing targets.

Behind our proposals

Our proposals are small steps to make it easier for the non-profit builders to create more low-income housing. They are specifically focused on non-profit housing providers because they are the major providers of housing for the lowest income earners, the people who are in greatest need, and because those non-profits providing that housing cannot recover extra costs, from fees or from delays, through higher rents.

Delays hurt all developers but larger ones can at least juggle multiple projects so that they are always moving forward on one project or another. Except for CityHousing Hamilton, most of the non-profits in Hamilton are relatively small and have limited capacity to handle multiple projects at the same time.

By focusing our proposals in this way, we are also limiting the impact on city procedures if our proposals are adopted. Under our proposals, there are relatively few projects at any time to be fast tracked and have all fees waived.

We struggled a bit in defining “affordable.” Our concern is for the provision of housing for those with lowest incomes who have the fewest housing choices. But the economics of construction and the absence of new federal-provincial funding for rent-gear-to-income

often requires housing providers to mix different levels of rent rather than have 100 per cent of units with rent aimed at the lowest incomes. Our intent is that as long as many of the units are aimed at the lowest income, the project would be included within our proposals.

Our two proposals stem from suggestions made by Graham Cubitt of Indwell at our Housing in the Hammer event last fall, and are supported by interviews with local non-profit organizations actively involved in building or planning new affordable units, plus other research.

1 Fees

We were pleased to see the Planning Committee's unanimous approval at its January 16, 2018 meeting "That staff report back on significant fees and securities related to development approvals that are typically incurred by affordable housing projects, the estimated cost to the City of waiving or reimbursing these fees, and the potential funding sources for offsetting any lost City revenues."

As that motion notes in its preamble, the city already forgives the largest fees it charges, including development charges and parkland dedication fees. But there are still numerous smaller fees, mostly in the building department, that, in the case of one current project, amount to some \$230,000. On a \$12 million project, that may not sound like a lot but it is just shy of 2 per cent of construction costs. And as one spokesperson for a non-profit told us, a reduction of fees would either be money they didn't have to fundraise for or the savings would go into the project, perhaps into even lower rents.

2 Fast tracking

Each of the non-profit housing providers we spoke with has experienced inexplicable delays as the city processes applications for rezonings, site plans or other approvals, usually when departments or agencies are asked to comment. Sometimes it takes a long time to get an answer. Sometimes files are lost. Or when plans change, the applicant sometimes has to go over the same issues all over again. When there are major delays, the housing providers are reluctant to go over the heads of city staffers or call on the help of their councillors, at least not often, because they don't want to irritate people they will have to work with in the future.

(There are of course other sources of delay. The housing providers certainly experience delays with provincial government departments—particularly the ministry of the environment in getting site condition certificates—as well as with private contractors, and sometimes they cause delays themselves.)

The city's Housing and Homelessness Action Plan, in its strategy 1.3 referred to above, notes that the city has existing processes, including business facilitators, to help applicants navigate the approvals process. This assistance is acknowledged by the non-profit affordable housing providers we talked to and three had used business facilitators. The results however were mixed.

What they would like is, as a news article put it, something like a fast lane for affordable housing projects.

There could be various ways to accomplish this. Here are some possibilities:

First priority: The city of Saskatoon, for instance, moves affordable housing projects that meet certain criteria to the front of the line when they are submitted and they stay at the front of the line as they circulate through various departments for comment. These applications go through the same review as normal projects—there is no lessening of standards—but by being given priority, these affordable housing projects are approved faster.

Dedicated staff member: The city of Toronto, through its Open Door program, says that qualifying affordable housing projects are “assigned a dedicated City Planning staff member to coordinate and facilitate the development review process within City Planning, Toronto Building, the AHO [the city’s Affordable Housing Office] and other City divisions commenting on the development application.” This sounds very similar to Hamilton’s business facilitators.

Deadlines for comment: Oxford County has a practice of setting time limits for comments when development applications are circulated to various departments. All circulations include a clause indicating the deadline for commenting and if comments are not received by that date, that it will be assumed no comments are coming from that department. Outside agencies such as school boards, Bell, hydro, cable companies etc. are also held to the same deadlines. County planners often follow up if an agency has not commented, especially with agencies that would be expected to comment. For Oxford County, this practice applies to all applications, not just those for affordable housing.

We offer these as good ideas, not as endorsements of the specific programs or their effectiveness in these cities.

A combination of these three approaches—assigned staff like Hamilton’s business facilitators, with their role strengthened by giving first priority to affordable housing applications and by having deadlines for comments—seems an ideal approach to genuinely fast tracking affordable housing projects by non-profit housing providers in Hamilton.

The city could also press the provincial government, particularly the ministry of the environment, to also give priority to processing applications for affordable housing projects and in the meantime, where possible, not hold up city processes to wait for provincial responses.

The costs of delays

The city has timelines for how long applications should take to process. When there are delays that extend those timelines, there are a number of impacts on the projects.

- Extra costs. Loans are taken out to buy land, for instance, or for bridge financing and extra weeks or months of borrowing costs will result from processing delays.
- Delays make it difficult to make the most efficient use of a non-profit organization’s staff.
- Delays make it difficult to coordinate work with outside consultants, who have other clients who also need their time.
- Delays slow the completion of each affordable housing project and thus reduce the number of projects that get built each year

One affordable housing provider told us they could hire more staff and use them to develop more housing, if there was greater certainty about the approvals timelines for projects so that additional staff could be used effectively.

In the most extreme cases, delays can mean a project doesn't proceed. Key funding, such as the federal-provincial Investment in Affordable Housing, comes with timelines for work to begin and the funding could be lost if the deadline isn't met. Sometimes the momentum behind a project can just slip away over time, one housing provider said, or potential partners back out—the longer it takes, the greater the chances of the project being killed.

But by far the biggest cost from unnecessary delays is borne by the people who need housing. People who are homeless or living in precarious situations remain at risk for extra weeks or months as new housing is delayed.

We respectfully request your support for our proposals.

(Submission of this brief was approved by the church's board on February 28, 2018.)

Resources:

Interviews: Graham Cubitt of Indwell, Alan Whittle of Good Shepherd, Mylène Vincent of the YWCA, Michael Elliott of Kiwanis Homes. A senior manager with CityHousing declined an interview because of the close relationship between CityHousing and the city Planning and Building departments.

General: Ministry of Municipal Affairs, Ministry of Housing, Municipal Guide for Facilitating Affordable Housing, <http://www.mah.gov.on.ca/Page16567.aspx>

Saskatoon: Housing Business Plan 2013-2022, City of Saskatoon, May 2013, page 16, <https://www.saskatoon.ca/sites/default/files/documents/community-services/planning-development/neighbourhood-planning/housing/City%20of%20Saskatoon%20Housing%20Business%20Plan%202013%20-2022.pdf>

BC Housing, *A Scan of Leading Practices in Affordable Housing in Small Communities*, October 16, 2017, page 12, http://www.whistlercentre.ca/sumiredesign/wp-content/uploads/2015/02/Leading-Practices-Scan_final-for-workshop.pdf

Toronto: Toronto: Open Door Affordable Housing Program Guidelines, February 2017, <https://www.toronto.ca/wp-content/uploads/2017/10/96ee-OpenDoorGuidelines-F.pdf>

Oxford County: Email from Andrea Zietsma-Hachler, Development Planner, Oxford County.



Jason Thorne
General Manager, Planning & Economic Development
City of Hamilton
71 Main St. West
Hamilton, ON L8P 4Y5

March 29, 2018

Re: April 3 Planning Committee Item 6.6 – Port Lands Zoning

Dear Jason:

The proposed new zoning for Hamilton's port lands is a positive development that modernizes the bylaw to anticipate and promote contemporary industrial uses, and helps to align the vision for the port lands into one that is shared by HPA and the City of Hamilton.

In particular, we are supportive of the elimination of the historic 'K' zoning, and its replacement with designations that are largely consistent with industrial zoning found elsewhere in the City.

As you know, for many months, HPA staff and City Planning staff have worked closely together to develop an approach to port lands zoning that both supports the City's aspirations, while allowing for the full functioning of the Port of Hamilton as a federal Port Authority, with a mandate to facilitate trade and economic development through transportation.

This past February, City Planning staff provided HPA with a complete package of updates to the zoning bylaw for the port lands. Our February 26 letter (Appendix E) reflects our endorsement of that document only. However, the bylaw included in the April 3 Planning Committee Agenda includes changes made subsequent to our initial endorsement. These included, for example, requirements related to the handling of bulk materials, which is a matter of shipping, navigation and marine cargo handling, and would benefit from further detailed review and discussion between our two staffs.



We have appreciated the opportunity to work with City staff throughout the development of this document. As a matter of good process, we would respectfully request the same opportunity to work with City Planning staff to understand and contribute meaningfully with respect to the newly-added items. We would appreciate your support of a deferral to allow this work to continue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ian Hamilton".

Ian Hamilton
President & CEO
Hamilton Port Authority

c.c.:

Councillor Aidan Johnson (Chair)
Mayor Fred Eisenberger
Chris Murray
Joanne Hickey-Evans
Ida Bedoui
Matt Moccio, Chair, HPA



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 3, 2018
SUBJECT/REPORT NO:	Bill 139, <i>Building Better Communities and Conserving Watersheds Act, 2017</i> and the new Local Planning Appeal Tribunal LS16027(d) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joanna Wice, Solicitor x4638
SUBMITTED BY:	Nicole Auty, City Solicitor
SIGNATURE:	

Council Direction:

Not applicable.

Information:

Further to Report LS16027(b), on April 3, 2018, the Ontario Municipal Board reform and *Planning Act* changes made by Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* were proclaimed to be in force. This Information Report provides a short summary update regarding the resulting changes that were made as well as procedural information that will affect the matters dealt with by Planning Committee.

The Ontario Municipal Board becomes the Local Planning Appeal Tribunal

Bill 139 repeals the *Ontario Municipal Board Act* and replaces it with the *Local Planning Appeal Tribunal Act*. While many of the provisions in this new Act are similar, there are a number of changes related to the powers of the Tribunal and the conduct of those proceedings. Any matters commenced before the Board will continue and be heard by the Tribunal, subject to transition provisions.

Matters no longer subject to appeal

Bill 139 resulted in the removal of a number of different appeal types. For example, where the Minister approves an Official Plan or Official Plan Amendment, that decision will no longer be subject to appeal and the decision of

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the Minister is final. Also, for Secondary Plan matters, there will be a restriction on applying to amend these Plans before their second anniversary. There are also new limitations on appealing the passage of Interim Control By-laws, although the ability to appeal the extension of time in those by-laws will still be available.

New test for Major Land Use Planning Appeals

Major Land Use Planning Appeals include decision or non-decision appeals of official plans/amendments, zoning by-laws/amendments, and non-decisions of subdivision applications. Appeals related to these matters will be subject to a new “threshold” test, intended to give more weight to Council decisions.

For municipally-initiated matters, the appellant will have to demonstrate that the decision of Council is inconsistent or non-conforming with a relevant provincial policy/plan or, in the case of zoning matters, that it fails to conform with one of our Official Plans.

For privately-initiated matters, the test is twofold: first, the appellant must demonstrate that the existing part of the Official Plan or zoning to be amended is inconsistent or non-conforming with a provincial policy/plan or applicable Official Plan, and secondly, that the requested amendment is consistent and conforming with those documents.

Second decision and second appeal

If the Tribunal finds that an appeal meets the new test, it must send the matter back to the City for a new decision to be made. In that case, Council will need to make a new decision within 90 days. This new decision, as well as a failure to make a new decision within 90 days, is appealable. The second appeal would be subject to the same new test, except where the appeal is filed for non-decision, in which case the new test does not apply.

Process changes

Under the new regime, there are significant changes to the way in which Major Land Use Planning Appeals will be heard. The proposed Rules for the Tribunal would require a significant portion of the City’s case to be filed shortly after the appeal itself is filed. These appeals will now require Case Management Conferences and there are limitations on the hearings themselves. For example,

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there is a restriction on the admission of evidence and witnesses cannot be called at a hearing or examined in advance. There are also time limits imposed on the submissions by the parties. The new short timeline requirements within which the Tribunal must make its decision will necessitate changes to when and how instructions are given to Legal Services to effectively respond to these appeals.

Matters not subject to the new test/process

This new test and some of these new procedures only apply to Major Land Use Planning Appeals, but other matters remain unchanged (such as minor variance and consent appeals, appeals of subdivision decisions, site plan appeals, etc.). However, all *Planning Act* appeals will be subject to the new time constraints for the issuance of decisions by the Tribunal, as well as the Tribunal's new ruleset.

Non-*Planning Act* appeals will continue to be heard by the Tribunal as they were by the Board, within the same jurisdictions and powers. These include *Expropriations Act* matters, development charge matters, certain *Ontario Heritage Act* appeals, and ward boundary appeals.

Greater consequences for failing to make a decision in time

To assist in allowing municipalities to make decisions in time, Bill 139 made changes to the *Planning Act* which result in an extension in the time periods for decisions to be made (now 210 days for Official Plan matters, 150 for a rezoning application appeal, and 210 days for a rezoning application appeal related to a concurrent Official Plan Amendment).

However, the changes made to the appeals system underscore the importance of Council decisions being made within the new extended time periods. At first instance, the new test applies whether Council has made a decision or not. However, due to the new Rules as well as the time and evidentiary limitations, the evidentiary record to rely on in an appeal will be significantly impacted. Where the City is asked to make a new decision and the City fails to make a decision, the new test intended to give more authority to Council's decision will not apply. The failure to make a decision on a planning matter at either stage will prejudice the City's position and the Council will forego the increased authority resulting from the Bill's changes.

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No changes necessary to Statutory Public Meeting procedures

No changes are recommended to the Planning Committee's procedures for holding statutory public meetings at this time. Although concerns were raised during the legislative process about procedural fairness at municipal council meetings, the government confirmed that the decisions made by municipalities are of a legislative nature and not a judicial one and that there is nothing in the Bill that detracts from that function.

Transition of appeals to the new Tribunal process and powers

The Province has created two transition regulations that govern the change to the new planning appeals regime. While detailed and technical in nature, the transition of appeals will generally mean that the appeals filed prior to April 3, 2018 will be heard under the Board-era process, subject to certain exceptions. One exception that applies to appeals of City-initiated matters, another are appeals where the application was made after December 12, 2017. Generally, appeals filed on or after April 3rd will be heard under the new appeals process and be subject to the new test where applicable. If there are any questions regarding which process to which any specific appeal will be subject, please contact Legal Services for further advice.

Next Steps

Further to this Information Report, Legal Services will be bringing a Report to Planning Committee to update existing practices and procedures for all Planning-related appeals and to obtain updated instructions for these matters.

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