



City of Hamilton

CITY COUNCIL ADDENDUM

Wednesday, April 25, 2018, 5:00 P.M.
Council Chambers, Hamilton City Hall
71 Main Street West

5. COMMUNICATIONS

- *5.12 Correspondence from the Hamilton-Halton Home Builders' Association respecting the Draft Downtown Secondary Plan and Zoning By-law.

Recommendation: Be received and referred to Item 7 of the Planning Committee Report 18-006.

- *5.13 Correspondence from Turkstra Mazza objecting to the Downtown Hamilton Secondary Plan and Zoning By-law in their current form.

Recommendation: Be received and referred to Item 7 of the Planning Committee Report 18-006.

8. NOTICES OF MOTIONS

- *8.2 Capital Funding for the John Rebecca Park Project

- *8.3 One Time Funding for Residential Care Facilities

11. BY-LAWS AND CONFIRMING BY-LAW

*11.9 108

Respecting Removal of Part Lot Control, Blocks 8, 10 to 12, 21 to 25, Part of Block 9, Registered Plan of Subdivision No. 62M-1241, municipally known as 57 – 72 Foothills Lane, 1 – 15, 17, 19, 21, 23, 25, 27, 29, 29, 31 and 33 – 65 Pinot Crescent, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119 – 131 Sonoma Lane, 2, 4, 6, and 8 – 20 Zinfandel Drive, Stoney Creek

Ward: 11

PLC-18-018



Community Builders...Building Communities

Honorable Mayor and members of Council

April 24, 2018

c/o Ms. Rose Caterini
City Clerk

City of Hamilton
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

Dear Honorable Mayor and Members of Council,

Re: Draft Downtown Secondary Plan and Zoning By-law

Thank you for providing the Hamilton-Halton Home Builders' Association (HHHBA) with the opportunity to comment on the March, 2018 revised draft Downtown Secondary Plan and Zoning By-law. To date, the HHHBA has actively engaged with the City via previous written submissions and through our attendance at various stakeholder engagement meetings. Those Council members on Planning Committee will recall the delegation made by this Association at the April 17, 2018 statutory public meeting on this matter wherein the following comments were made:

- The HHHBA understands and appreciates the opportunity created by the use of bonusing via Section 37 of the *Planning Act* and we do not object to its utilization.
- The March version of the draft Secondary Plan and Zoning By-law contained a fundamental shift with regards to building height and density in relation to the utilization of benefits permitted through the use of Section 37 of the *Planning Act*;
- The current version of the Secondary Plan and Zoning By-law require proponents to enter into a Section 37 agreement in order to have Council approval the removal of a Holding Provision from the Zoning By-law, yet the City has not established a protocol for the agreement. Further, there is no indication as to how the value of the benefit is to be established nor estimates on what this value might be for any given development.
- Prior to the release of the March version of the draft, there was no consultation with the HHHBA on this fundamental shift with regards to the implementation of Section 37 agreements and the use of holding provisions in the Zoning By-law. The four weeks between the March release of the revised draft Secondary Plan and Zoning By-law and the April statutory public meeting did not afford the HHHBA the necessary opportunity to liaise with City staff to properly consider the fundamental change to the Section 37 approach.



- The proposed framework between maximum building heights on Map B.6.1-2 of the Secondary Plan and Schedule F – Figure 1 of the Zoning By-law may create a disconnect in ultimately determining the value of the Section 37 benefit therefor further frustrating the Section 37 Agreement process.

Ultimately, the HHHBA applauds staff on the process as a majority of the previous concerns raised by this Association have been incorporated into the final draft Secondary Plan and Zoning By-law. However, the HHHBA has significant concerns with lack of consultation and the proposed approach to utilize Section 37 of the *Planning Act*.

Until the Section 37 agreement process is established, it is premature to approve the Secondary Plan and Zoning By-law in their current form.

The HHHBA respectfully request the Secondary Plan and Zoning By-law be approved as drafted, with the exception of that the proposed Holding provisions for Section 37 be removed and/or held in abeyance until associated agreement protocol is established.

In accordance with the *Planning Act*, please provide the HHHBA with a written notice of any Council decision regarding this matter.

Thank you again for the opportunity to comment. Please feel free to contact the undersigned with any questions or comments.

Regards,

Matt Johnston
2018 President

cc: Messrs. Jason Thorne and Steve Robichaud, City of Hamilton
Mses. Alissa Mahood and Shannon McKie, City of Hamilton
Ms. Suzanne Mammel, Executive Officer/Policy Director, HHHBA



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EMAIL LETTER

To: Mayor and Members of Council

cc: Steve Robichaud, Chief Planner, Director of Planning
Anita Fabac, Manager, Development Planning, Heritage & Design Planning Division
Rose Caterini, City Clerk

Re: Downtown Hamilton Secondary Plan & Downtown Hamilton Zoning By-law
163 Jackson Street West "the Property"

From: Nancy Smith

Date: April 24, 2018

INTRODUCTION

We represent Television City Hamilton Inc. ("TV City"), owners of the Property. We object to the Downtown Hamilton Secondary Plan and Zoning By-law in their current form.

As you know, we appealed our site specific applications (mixed use – commercial and residential) to the Ontario Municipal Board (OMB, now LPAT). We await the scheduling of our appeal.

OUR CONCERNS

Enclosed please find correspondence dated April 16, 2018 from TV City's planning consultants, Bousfields Inc. We raise three (3) concerns that have not been satisfactorily addressed within the proposed planning instruments before you:

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1. No placeholder for the implementation of the LPAT decision in our appeal;
2. Inappropriate conflation of Niagara Escarpment Plan (the "Plan") policy with the proposed planning instruments notwithstanding the fact that the majority of the Downtown Hamilton Secondary Plan, including the Property, fall outside the Plan and the Niagara Escarpment Commission jurisdiction;
3. Inappropriate cap on building height (thereby limiting the proper implementation of provincial policy) without justification from a publically available and vetted study.

In their present form, the Downtown Hamilton Secondary Plan and Zoning By-law are:

- Inconsistent with Provincial Policy Statements – Section 3(1) of the *Planning Act*.
- Do not conform/conflict with Provincial Plans.

THE REMEDY

The following changes will remedy the inconsistency/non-conformity noted above:

1. To remedy the lack of future implementation of the LPAT decision in our appeal, add a site specific policy that applies to the Property.
2. To remedy the NEP/NEC jurisdiction problem, add policy that defers any viewshed impacts to NEP lands only.
3. To remedy the building height cap problem (with no publically vetted supporting study), defer decision-making until the Viewshed Analysis has been presented to the public, including key stakeholder groups and peer reviewed by a third party, such as your Design Review Panel.

The changes we request are reasonable and will ensure consistency with Provincial Policy Statements and conformity/no conflict with provincial plans. We respectfully request that you press pause on your decision-making in order to address our concerns.

Yours truly,



Nancy Smith
ns/l



BOUSFIELDS INC.

Project No.: 1748

April 16, 2018

Sent VIA EMAIL

Ida Bedioui, Legislative Coordinator
Planning Committee
City of Hamilton
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

**Re: *Item 13.1 of the April 17, 2018 Planning Committee
Downtown Hamilton Secondary Plan
163 Jackson Street West, Hamilton***

We are the planning consultants with respect to the above-noted property (herein referred to as the "subject site"). On behalf of the ownership group (Television City Hamilton Inc.), we request that the Planning & Development Committee consider the following comments on the proposed Official Plan Amendment and Zoning By-law for the Downtown Hamilton Secondary Plan.

Existing Applications:

As you are aware, applications to amend the Urban Hamilton Official Plan (File No. UHOPA-17-027) and Hamilton Zoning By-law 05-200 (File No. ZAC-17-063) have been filed with the city for a proposed mixed commercial and residential redevelopment of the subject site and have been appealed to the Ontario Municipal Board. Given that these applications are being reviewed on a site specific basis, we request that the subject site be identified as a site specific policy area that recognizes the resolution of the current development applications.

Niagara Escarpment:

The proposed Downtown Hamilton Secondary Plan (Appendix "B" to Report PED18074) recognizes the importance of the Niagara Escarpment and incorporates a policy framework that is intended on protecting views and connections to it. In this regard, it is important to understand that the Niagara Escarpment Commission (the "NEC") is a statutory provincial body who's mandate is to develop, interpret and apply policies, including the Niagara Escarpment Plan (the "NEP"), that maintain and

enhance the vitality of the Escarpment's unique environmental and landscape features. Furthermore, the NEP includes objectives, land use designations, development criteria, and parks and open space system policies. The NEP provides a planning policy framework to ensure, among other things, that development within and adjacent to the escarpment does not negatively impact it, including negative impacts to views of the escarpment. It is important to acknowledge that the majority of Downtown Hamilton Secondary Plan area, including the subject site, fall outside of the NEP and NEC's authority.

Building Height Cap:

The proposed Downtown Hamilton Secondary Plan (see Policy B.6.1.4.14) establishes a maximum building height, where no building is to be taller than the height of the escarpment. The proposed Zoning By-law Amendment (Appendix "D" to Report PED18074) establishes a maximum building height of 77 metres for the subject site.

Provincial policy provides policy direction that supports intensification and the optimization of land on sites that are well served by municipal infrastructure, particularly higher order public transit. In this regard, the Downtown Secondary Plan Area is identified as the City's *Urban Growth Centre* and includes a number of *Major Transit Station Areas* that cover the entire Downtown Secondary Plan Area, including the subject site. In our opinion, the optimization of density on the subject site and throughout the Downtown Secondary Plan Area is consistent with both good planning practice and overarching Provincial and City policy direction. Optimization of land use in the Downtown Secondary Plan Area would support transit ridership; support regionally-significant employment, institutional, recreational, retail and entertainment uses; and, support walking and cycling as viable alternative modes of transportation. Furthermore, optimizing residential and commercial intensification on the subject site and throughout the downtown will result in population and job growth that will contribute to the achievement of forecasts in the Growth Plan and the UHOP.

In our opinion, the maximum building heights proposed in the Draft Secondary Plan and Draft Zoning By-law Amendment does not give full effect to the Growth Plan and UHOP and an increase to the proposed heights contemplated for the subject site and throughout the Downtown Secondary Plan area is appropriate. In this regard, the proposed secondary plan does not rationalize the proposed maximum building heights, however, the Staff Report (PED18074) and Summary Report (Appendix "A" to PED18074) note the following:

"Downtown Hamilton Viewshed Analysis

Part of the review and update of the Downtown Hamilton Secondary Plan included carrying out a viewshed analysis in order to identify locations within the Downtown where additional detailed visual impact assessments should be provided in order to understand and limit the loss of views to the Niagara Escarpment to ensure that the contribution the Escarpment makes to the character of the Downtown is not impaired. The viewshed analysis was based on a 35 year build out scenario for the Plan area to determine if there were existing views to the Niagara Escarpment and Hamilton Harbour. The current views were compared to the view in the 35 year build out model to determine what views would be impacted by future development. Recommendations from the viewshed study have been implemented in the Secondary Plan."

It appears the Downtown Hamilton Viewshed Analysis (the "Viewshed Analysis") was used to rationalize and generate the maximum building heights (including the cap of the top of the escarpment) and Appendix C (Draft Viewshed Analysis), which includes *Locations where there may be impacts to views*, *Locations where there are impacts to views*, and *View corridor to Niagara Escarpment*. However, based on our review and understanding, the Viewshed Analysis was never presented at any public consultation event, made available to the public and/or stakeholder groups, and/or circulated for comment by any interested parties or third party peer reviewers.

The resulting building height cap has far reaching implications related to optimizing land in the downtown and matters of urban design related to a uniform versus a varied skyline. Given the importance of this issue, it is our opinion that the proposed secondary plan should not be approved until the Viewshed Analysis has been presented to the public, including key stakeholder groups, and peer reviewed by a third party such as the City's Design Review

In summary, thank you for the opportunity to comment on the proposed secondary plan and draft zoning by-law amendment. We respectfully request that the Planning & Development Committee consider the proposed modifications for the subject site and table the item until the Viewshed Analysis has been properly analyzed.

Also, we request to be notified of the City's decision and all future meetings related to the proposed Downtown Hamilton Secondary Plan and Zoning By-law Amendment.

Should you require any additional information, please do not hesitate to contact the undersigned.

Respectfully Submitted,
Bousfields Inc.



David Falletta, MCIP, RPP

/DF:jobs

cc. Television City Hamilton Inc. (via e-mail)

N. Smith, Turkstra Mazza Associates (via e-mail)

CITY OF HAMILTON NOTICE OF MOTION

Council: April 25, 2018

MOVED BY COUNCILLOR J. FARR.....

Capital Funding for the John Rebecca Park Project

WHEREAS, the John Rebecca Park has approved design funding as part of the 2018 Capital budget;

WHEREAS, Information Report PW16096 was received by General Issues Committee on November 2, 2016, and outlined the history of the park design;

WHEREAS, the Beasley Neighbourhood currently has a deficit of parkland of 3.9 hectares and the citizens have long advocated for the advancement of the park design and construction through delegations to committee;

WHEREAS, the capital construction costs are estimated at \$2.5 million, and are shown in project id 4401856615 in 2021 and 2022 capital budget forecast;

WHEREAS, the new Downtown Secondary Plan places an emphasis on enhancing parks and open spaces in our Downtown Growth Centre and the John Rebecca Park plan aligns with the sustainable themes the plan endorses;

WHEREAS, through thorough consultation and engagement over time, the well-established and regarded Patrick J. McNally Charitable Foundation graciously committed one million dollars toward the capital funding of the John Rebecca Park project; and

WHEREAS, the city owns a majority of the future park and can proceed with development of the park once an approved capital funding source for construction is identified;

THEREFORE BE IT RESOLVED:

That the \$2.5 Million construction cost for the John Rebecca Park be funded as follows:

- (a) \$1,000,000 external revenues (private donation – agreement to be signed)
- (b) \$750,000 from the Capital Account Property Purchases and Sales (3560150200)
- (c) \$750,000 from the Parking Capital Reserve #108021

CITY OF HAMILTON

NOTICE OF MOTION

Council: April 25, 2018

MOVED BY COUNCILLOR T. WHITEHEAD.....

One Time Funding for Residential Care Facilities

WHEREAS, a delegation from the Residential Care Facilities presented at the January 22, 2018 Emergency & Community Services Committee;

WHEREAS, the Residential Care Facilities are currently funded at \$50 per diem, and there has been no per diem or cost of living increase in funding to the Residential Care Facilities since April 1, 2015;

WHEREAS, the average cost per diem for other Residential Care Facilities in Ontario is \$52 per diem;

WHEREAS, in March 2017, through the Long Term Affordable Housing Strategy (LTAHS) the Province released its Supportive Housing Policy Framework with guidelines on a review of the Residential Care Facilities to ensure alignment with Housing First legislation;

WHEREAS, staff will be using the LTAHS Supportive Housing Policy Framework and Best Practices to conduct a review of the Residential Care Facilities in 2018 with a focus on outcomes and funding models; and

WHEREAS, Council received the information report requested on February 14, 2018, regarding the One Time Funding for Residential Care Facilities.

THEREFORE BE IT RESOLVED:

That the appropriate staff from Emergency & Community Services be authorized to provide an additional \$200,000 to the Residential Care Facilities Program on a one time basis within existing 2017/2018 CHPI budget to mitigate some of their financial pressures, pending the 2018 review of the Residential Care Facilities.

Authority: Item 12, Committee of the Whole
Report 01-033 (PD01184)
CM: October 16, 2001
Ward: 11

Bill No. 108

CITY OF HAMILTON

BY-LAW NO. 18-

Respecting Removal of Part Lot Control, Blocks 8, 10 to 12, 21 to 25, Part of Block 9, Registered Plan of Subdivision No. 62M-1241, municipally known as 57 – 72 Foothills Lane, 1 – 15, 17, 19, 21, 23, 25, 27, 29, 29, 31 and 33 – 65 Pinot Crescent, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119 – 131 Sonoma Lane, 2, 4, 6, and 8 – 20 Zinfandel Drive, Stoney Creek

WHEREAS the sub-section 50(5) of the *Planning Act*, R.S.O. 1990, Chapter P.13, as amended, establishes part-lot control on land within registered plans of subdivision;

AND WHEREAS sub-section 50(7) of the *Planning Act*, provides as follows:

“Designation of lands not subject to part lot control. -- Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or parts of them as are designated in the by-law.”

AND WHEREAS the Council of the City of Hamilton is desirous of enacting such a by-law with respect to the lands hereinafter described;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Subsection 5 of Section 50 of the *Planning Act*, for the purpose of creating one hundred and ten (110) lots for townhouses (Parts 1 to 196 inclusive), access and maintenance easements (Parts 111 to 187 inclusive), as shown on Deposited Reference Plan 62R-20844, shall not apply to the portion of the Registered Plan of Subdivision that is designated as follows, namely:

Blocks 8, 10 to 12, 21 to 25, Part of Block 9, Registered Plan of Subdivision No. 62M-1241 in the City of Hamilton.

2. This By-law shall be registered on title to the said designated land and shall come into force and effect on the date of such registration.

Respecting Removal of Part Lot Control, Blocks 8, 10 to 12, 21 to 25, Part of Block 9,
Registered Plan of Subdivision No. 62M-1241, municipally known as 57 – 72 Foothills Lane, 1 – 15, 17, 19, 21,
23, 25, 27, 29, 29, 31 and 33 – 65 Pinot Crescent, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119 – 131
Sonoma Lane, 2, 4, 6, and 8 – 20 Zinfandel Drive, Stoney Creek

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3. This By-law shall expire and cease to be of any force or effect on the 25th day of April, 2020.

PASSED this 25th day of November, 2018.

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk

PLC-18-018