



PLANNING COMMITTEE REPORT

AS APPROVED BY COUNCIL JULY 12, 2019

19-011

July 9, 2019

9:30 a.m.

**Council Chambers, Hamilton City Hall
71 Main Street West**

Present: Councillors M. Pearson (Chair), J. Farr (1st Vice Chair),
C. Collins, B. Johnson (2nd Vice Chair), B. Clark, M. Wilson,
J.P. Danko, J. Partridge, T. Whitehead

THE PLANNING COMMITTEE PRESENTS REPORT 19-011 AND RESPECTFULLY RECOMMENDS:

- 1. Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) (Item 7.1)**
 - (a) That the amending By-law attached as Appendix "A" to Report PED17179(c), being a By-law to amend By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas be enacted by Council;
 - (b) That the Administrative Penalty System (APS) By-law 17-225 be amended to include By-law 18-199 as Table 19 to Schedule A as shown in Appendix "B" to Report PED17179(c) be enacted by Council.
- 2. Hearing Officer Appointment By-law for Administrative Penalty System (PED19122) (City Wide) (Item 7.2)**

That the Hearing Officer By-law, being a by-law to appoint Hearing Officers in accordance with the Administrative Penalty By-law No. 17-225, attached as Appendix "A" to Report PED19122, which has been prepared in a form satisfactory to the City Solicitor, be approved.

3. Amendments to Yard Maintenance By-law 10-118 to Include Inoperative Vehicles (PED19144) (City Wide) (Item 7.3)

- (a) That the housekeeping changes to the City of Hamilton Yard Maintenance By-law 10-118 regarding the definitions for inoperative motor vehicles and urban boundary as described in Report PED19144, detailed in the proposed amending by-law attached as Appendix “A” be approved;
- (b) That the amending by-law attached as Appendix “A” to Report PED19144 which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

4. Hamilton Municipal Heritage Committee Report 19-004 (Item 7.4)

That the following recommendations be approved:

(a) Appointment of Chair and Vice Chair (Item 1)

- (i) That A. Denham-Robinson be appointed Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term; and,
- (ii) That C. Dmitry be appointed Vice-Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term.

(b) Bill 108 - Proposed Changes to the Ontario Heritage Act (PED19140) (City Wide) (Item 10.2)

That Report PED19140 respecting Bill 108 - Proposed Changes to the Ontario Heritage Act, be received.

5. Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) (Item 8.2)

That Draft Plan of Condominium Application 25CDM-201816, by Wellings Planning Consultants Inc., on Behalf of Sonoma Homes Inc. (Michael Chiaravalle), owner to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units on lands located at 121 Fiddler's Green Road (Ancaster), as shown on Appendix “A”, attached to Report PED19131, be APPROVED subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Vacant Land) application 25CDM-201816 applies to the plan prepared by A.T. McLaren Limited, certified by S.D. McLaren, and dated April 10, 2019, consisting of a private road, landscaped areas, and five units for a total of five single detached dwellings, attached as Appendix “A” to Planning Committee Report 19-011;

(b) That the conditions of Draft Plan of Condominium Approval 25CDM-201816, attached as Appendix “B” to Planning Committee Report 19-011, be received and endorsed by City Council; and,

(c) That the public submissions received did not affect the decision.

6. Lorraine Appleyard respecting an Order to Remove Ducks and Changes to the By-law (Item 6.1)

That the Order to Remove the ducks, issued to Lorraine Appleyard, be enforced.

7. Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) (Item 8.3)

(a) That Zoning By-law Amendment Application ZAR-19-013, by Sisters of St. Joseph, (Owner), to establish a Temporary Use By-law to permit a dormitory for 96 students with an additional 42 students subject to servicing upgrades for a total of 138 students as a temporary use within Building ‘B’, for a maximum period of three years, for the lands located at 574 Northcliffe Avenue, Dundas, as shown on Appendix “A” to Report PED19132, be APPROVED on the following basis:

(i) That the draft Temporary Use By-law, attached as Appendix “B” to Report PED19132, be approved by City Council;

(ii) That a Holding Symbol (H) pursuant to Section 36 of The Planning Act, R.S.O. 1990, c.P. 13 and Subsection 4.9 of By-Law No. 3581-86 is hereby applied to the PPS Zone category as it applies to 574 Northcliffe Avenue (Building ‘B’). For such time as the Holding Symbol (H) applies to the subject lands, temporary dormitory shall be limited to a maximum capacity of 96 students. Council shall remove the Holding Symbol (H) by by-law amendment upon all of the following requirements having been addressed to its satisfaction:

(1) The applicant / proponent shall demonstrate and have attained all of the necessary approvals to provide adequate services to increase the capacity beyond 96 students to accommodate a dormitory having a maximum capacity of 138 occupants to the satisfaction of the Niagara Escarpment Commission, Director, Development Planning and Ministry of Environment, Conservation and Parks.

(2) That upon such time as the Holding Symbol (H) is lifted, the temporary dormitory shall have a maximum occupancy of 138 persons.

- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Niagara Escarpment Plan, Greenbelt Plan, and Parkway Belt West Plan and complies with the Region of Hamilton-Wentworth Official Plan and Town of Dundas Official Plan; and,
 - (b) That the public submissions received did not affect the decision.
- 8. Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) (Item 10.1)**
 - (a) That Report PED19008(a) respecting amending the Business Licensing By-law No. 07-170 to include Tree Cutting Services as a schedule be received;
 - (b) That the draft By-law, attached as Appendix “A” to Report PED19008(a) which amends Business Licensing By-law No. 07-170 to include Tree Cutting Services as a schedule be enacted by Council;
 - (c) That a new licensing fee of \$270 for Tree Cutting Services be approved, and that the User Fees and Charges By-law be amended accordingly.
- 9. Authorization for 100 Hamilton Street GP Inc. to apply for Variances to a By-law for Lands Located at 100 Hamilton Street North (Flamborough) (Item 11.1)**

WHEREAS, Bill 73, *Smart Growth for our Communities Act*, 2015 placed a moratorium for minor variance applications within 2 years of passing a site specific zoning by-law amendment;

WHEREAS, the application as presented in Report PED17157 for 100 Hamilton Street North was approved on October 18, 2017 and is within the 2 year moratorium;

WHEREAS, Council may waive this moratorium on a site specific basis, to allow the applicant to make an application to the Committee of Adjustment;

WHEREAS, it would then be within the authority of the Committee of Adjustment to assess the merits of the application and to make a decision; and,

WHEREAS, the applicant is interested in seeking a minor variance to address matters related to loading spaces and the definition of retirement home;

THEREFORE BE IT RESOLVED:

That 100 Hamilton Street GP Inc. be authorized to apply for variances to a by-law for lands located at 100 Hamilton Street North.

10. 9 Main Street North, Waterdown - Municipal Register of Property of Cultural Value or Interest (Item 12.1)

WHEREAS, the owner of the lands located at 9 Main Street North, Waterdown, recently sold the property and closed the Village Fish & Chips restaurant;

WHEREAS, 9 Main Street North, Waterdown, is listed on the City's Heritage Inventory, but is not currently recognized through registration or protected through designation under the *Ontario Heritage Act*;

WHEREAS, a preliminary evaluation of Cultural Heritage Value or Interest conducted as part of the Waterdown Village Built Heritage Inventory found that 9 Main Street North, Waterdown meets the criteria specified in *Ontario Regulation 9/06* including, but not limited to:

- (i) Historical Associations – The property is directly associated with potentially significant organizations, institutions and local businesses. Historically, the building was publically-owned and tied to the early village post office and an early Bell telephone office. In the mid-20th century the building housed the East Flamborough Police Department. The recently closed Village Fish & Chips restaurant, owned and operated by the Bos Family since 1969, served the community for almost 50 years.
- (ii) Physical and Architectural Design - The wood-framed building, clad in rough-cast stucco, with a low hip roof and projecting eaves, is a representative example of a local vernacular architectural style. Overall, the design of the building does not appear to have changed significantly since its construction circa the turn of the 20th century. The central doors, with flanking windows on the front façade, and the low hip roof date to at least the 1950s when the East Flamborough Police Department occupied building.
- (iii) Contextual Value – The property is important in defining the historic character of the area. It is physically, functionally and historically linked to its surroundings. This former public building is located on the historic transportation corridor of Main Street North just north of Dundas Street.

THEREFORE BE IT RESOLVED:

- (a) That 9 Main Street North, Waterdown, be added to the City's Municipal Heritage *Register of Property of Cultural Heritage Value or Interest* as a non-designated property; and,

- (b) That Council direct staff to add 9 Main Street North, Waterdown, to staff's designation work plan and be assigned high priority for Heritage Designation.

11. Liquor Licence Act - Auxiliary Zone Changes (Item 12.2)

WHEREAS, the *Making Ontario Open for Business Act, 2018* is a series of bills through the Government of Ontario's Open for Business Action Plan to stimulate business investment and make Ontario more competitive;

WHEREAS, the City of Hamilton Open for Business Subcommittee has a common goal to create consistent, predictable, and customer-focused services that encourage enterprises and entrepreneurs in the City of Hamilton;

WHEREAS, the City of Hamilton's Open for Business initiatives include a number of initiatives designed to support local restaurant, bar and cafe owners through programs such as the On-Street Patio Program and music on patios program and streamlined patio approvals program;

WHEREAS, the Province of Ontario's Auxiliary Zone requirements prohibit patrons with liquor from moving across the unlicensed sidewalk separating a licensed outdoor patio and licensed establishment; and,

WHEREAS, licensed establishments would benefit from the modernization of the Liquor License Act to allow for a more liberal use of auxiliary zones;

THEREFORE BE IT RESOLVED:

That the Mayor request the Alcohol and Gaming Commission of Ontario to review and update the regulations under the Liquor License Act allowing patrons to move across auxiliary zones within a licensed premise to include any thresholds between licensed outdoor patios and the licensed establishment.

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

The Committee Clerk advised of the following changes to the agenda:

1. PUBLIC HEARINGS / DELEGATIONS (Item 8)

- 8.3 Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13)

8.3(a) Written Submission from Janet Nancekivell

2. NOTICES OF MOTION (Item 12)

12.1 9 Main Street North – Municipal Register of Property of Cultural Value or Interest

12.2 Liquor Licence Act – Auxiliary Zone Changes

The agenda for the July 9, 2019 meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

None declared.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) June 18, 2019 (Item 4.1)

The Minutes of the June 18, 2019 meeting were approved, as presented.

(d) DELEGATION REQUESTS (Item 6)

(i) Delegation Requests Items 6.1, 6.2 and 6.3

The following Delegation Requests were approved for today's meeting, to be heard before the Public Meetings:

6.1 Lorraine Appleyard respecting an Order to Remove Ducks and Changes to the By-law

6.2 Jennifer Smith respecting Backyard Ducks

6.3 Barbara Davis respecting Backyard Ducks

(ii) Delegation Requests Items 6.1, 6.2 and 6.3

Delegation Requests 6.1, 6.2 and 6.3 were moved to be heard after 10:00 a.m. to ensure Councillor Danko was present.

(iii) Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward12) (Item 8.2)

Item 8.2 respecting Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) was moved up in the agenda to be heard after the approval of the Delegation Requests.

For disposition of this matter, refer to Item 5.

(iv) Amber Lindsay, UrbanSolutions, respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough (Item 6.4)

The Delegation Request from Amber Lindsay respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough, was approved for today's meeting.

(e) PUBLIC HEARINGS/DELEGATIONS (Item 8)

(i) Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) (Item 8.2)

In accordance with the provisions of the Planning Act, Chair Pearson advised 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 Draft Plan of Condominium the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Local Planning Appeal Tribunal, and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

Melanie Schneider, Planner II, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available online at www.hamilton.ca or through the Office of the City Clerk.

That the staff presentation was received.

Glenn Wellings, Wellings Planning Consultant, agent, and Michael Chiaravalle, Sonoma Homes, owner, were in attendance and indicated support for the staff report and addressed the Committee.

The presentation from Glen Wellings and Michael Chiaravalle, was received.

Delegations:

1. Tom and Teresa St. Michael, 25 Douglas Road, addressed the Committee and expressed concerns with the proposal.

The Delegation was received.

Written Submissions:

1. Rosemarie Morris

The written submission was received.

The public meeting was closed.

The recommendations in Report PED19131 were amended by adding the following sub-section (c):

(c) That the public submissions received did not affect this matter.

For disposition of this matter, refer to Item 5.

(ii) Lorraine Appleyard respecting an Order to Remove Ducks and Changes to the By-law (Item 6.1)

Lorraine Appleyard addressed the Committee respecting an Order to Remove Ducks and Changes to the By-law.

The Delegation from Lorraine Appleyard respecting an Order to Remove Ducks and Changes to the By-law, was received.

(iii) Jennifer Smith respecting Backyard Ducks (Item 6.2)

Jennifer Smith addressed the Committee respecting Backyard Ducks.

The delegation from Jennifer Smith respecting Backyard Ducks, was received.

(iv) Barbara Davis respecting Backyard Ducks (Item 6.3)

Barbara Davis addressed the Committee respecting Backyard Ducks.

The delegation from Barbara Davis respecting Backyard Ducks, was received.

For disposition of this matter, refer to Item 6.

(v) James Lafferty respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping (Approved at the June 18th meeting) (Item 8.1)

James Lafferty addressed the Committee respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping.

The delegation from James Lafferty respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping, was received.

(vi) Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) (Item 8.3)

In accordance with the provisions of the Planning Act, Chair Pearson advised 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 Local Planning Appeal Tribunal, and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

Ryan Ferrari, Planning Technician I, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available online at www.hamilton.ca or through the Office of the City Clerk.

The staff presentation was received.

John Ariens, IBI Group, was in attendance and indicated support for the staff report and addressed the Committee.

The presentation from John Ariens, was received.

Delegations:

1. Yoanne Speers, 41 Atkinson Boulevard, addressed the Committee and expressed concerns with the proposal.
2. Nancy McKeil, 37 Northcliffe Avenue, addressed the Committee and expressed concerns with the proposal.

3. Janet Nancekivell, 10 Zellens Road, addressed the Committee and expressed concerns with the proposal.

The Delegations were received.

Written Submissions:

1. Janet Nancekivell

The written submission was received.

The public meeting was closed.

The recommendations in Report PED19132 were amended by adding the following sub-section (b):

(b) That the public submissions received did not affect the decision.

For disposition of this matter, refer to Item 7.

(vii) Amber Lindsay, UrbanSolutions, respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough (Item 6.4)

Amber Lindsay, UrbanSolutions, addressed the Committee respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough, with the aid of a PowerPoint presentation.

A copy of the presentation is available online at www.hamilton.ca or through the Office of the City Clerk.

The delegation from Amber Lindsay, UrbanSolutions, respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough, was received.

For disposition of this matter, refer to Item 9.

(f) NOTICES OF MOTION (Item 12)

(i) 9 Main Street North, Waterdown - Municipal Register of Property of Cultural Value or Interest (Item 12.1)

The Rules of Order were waived to allow for the introduction of a Motion respecting 9 Main Street North, Waterdown - Municipal Register of Property of Cultural Value or Interest.

For disposition of this matter, refer to Item 10.

(ii) Liquor Licence Act - Auxiliary Zone Changes (Item 12.2)

The Rules of Order were waived to allow for the introduction of a Motion respecting Liquor Licence Act - Auxiliary Zone Changes.

For disposition of this matter, refer to Item 11.

(g) GENERAL INFORMATION / OTHER BUSINESS (Item 13)

(i) General Manager's Update (Added Item 13.1)

The General Manager's Update was received.

(h) PRIVATE AND CONFIDENTIAL (Item 14)

(i) Closed Session Minutes - June 18, 2019 (Item 14.1)

The Closed Session Minutes of June 18, 2019 were approved, as presented, and are to remain confidential.

(i) ADJOURNMENT (Item 15)

There being no further business, the Planning Committee was adjourned at 12:36 p.m.

Councillor Maria Pearson
Chair, Planning Committee

Lisa Chamberlain
Legislative Coordinator
Office of the City Clerk