



PLANNING COMMITTEE

REPORT 11-021

Tuesday, November 22, 2011

9:30 am

Council Chambers

City Hall

71 Main Street West

Hamilton, Ontario

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

**Absent with
Regrets:** Councillor R. Pasuta (Chair), personal
Councillor L. Ferguson, vacation
Councillor B. Johnson, vacation

Also Present: Councillor T. Jackson
T. McCabe, General Manager, Planning & Economic Development
M. Hazell, Senior Director, Parking & By-Law Services
T. Sergi, Senior Director, Growth Management
P. Mallard, Director, Planning
B. Janssen, Director, Strategic Services
S. Robichaud, Manager, Development Planning
M. Sergi, Manager, Community Planning and Design
L. Pasternak, Senior Solicitor
V. Ormond, Manager, Licensing and Permits
V. Robicheau, Legislative Assistant

THE PLANNING COMMITTEE PRESENTS REPORT 11-021 AND RESPECTFULLY RECOMMENDS:

1. Hamilton Municipal Heritage Committee Report 11-004 (Item 5.2)

- (a) That Art French, Ann Charlton, and Sylvia Wray be nominated for the Heritage Community Recognition Program;
- (b) That Spencer McKee be nominated for the Young Heritage Leaders Program.

2. Upgraded Parking Enforcement Management System and Handheld Computerized Issuance Equipment (PED11200) (City Wide) (Item 5.4)

That Information Report PED11200, respecting Upgraded Parking Enforcement Management System and Handheld Computerized Issuance Equipment, be received.

3. Application for an Amendment to Hamilton Zoning By-law No. 05-200 for the Property Located at 260 Nebo Road (Hamilton) (PED11205) (Ward 6) (Item 6.2)

That approval be given to Zoning Application ZAR-11-041, by 1794698 Ontario Inc., Owner, for a further modification to the "H/S-1409a" (Community Shopping and Commercial, etc.) District, Modified, to additionally permit a restaurant use in the existing commercial building, on the lands located at 649 Upper James Street (Hamilton), as shown on Appendix "A" to Report PED11185, on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED11205, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposal is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan;
- (c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the Urban Hamilton Official Plan.

4. Application for Amendment to the City of Hamilton Zoning By-law 05-200 for Lands Located at 70 Innovation Drive (Flamborough) (PED11195) (Ward 15) (Item 6.3)

That approval be given to Zoning Application ZAC-11-045, by Collin Pepper, Owner, for a change in zoning from the Prestige Business Park (M3) Zone to the Prestige Business Park (M3, 44) Zone, with a Special Exception, to permit an Indoor Sports Facility with accessory uses, having a maximum Gross Floor Area of 1,785 square metres within the existing building, on lands located at 70 Innovation Drive (Flamborough), as shown on Appendix "A" to Report PED11195, on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED11195, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

- (b) That the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement, conforms with the Places to Grow Plan, and conforms with the Hamilton-Wentworth and the Town of Flamborough Official Plans.

5. Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 118 St. Joseph's Drive (Hamilton) (PED11189) (Ward 2) (Item 6.5)

That approval be given to **Condominium Conversion Application CDM-CONV-10-03, by Centurion Property Associates Inc., Owner**, to establish a Draft Plan of Condominium for 30 apartment units, located at 118 St. Joseph's Drive (Hamilton), as shown on the attached map marked as Appendix "A" to Report PED11189, subject to the following:

- (a) That this approval apply to the plan, prepared by Schaeffer Dzaldov Bennett Limited, and certified by Ophir Dzaldov, O.L.S., dated October 7, 2010, showing a total of 30 residential apartment dwellings and 16 vehicular parking spaces, attached as Appendix "B" to Report PED11189;
- (b) That the following conditions shall apply to the Draft Plan of Condominium approval:
 - (i) That the Final Plan of Condominium shall comply with all of the applicable provisions of the applicable Zoning By-law, to the satisfaction of the Manager of Development Planning;
 - (ii) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton;
 - (iii) That the owner shall submit a report in accordance with 9(4) of the Condominium Act, 1998, prepared and certified by a qualified Registered Professional Engineer or Licensed Architect, to the satisfaction of the Chief Building Official of the City of Hamilton, to confirm the structural and mechanical integrity of the building and any owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration;
 - (iv) That the owner shall include the following warning clause in all Development Agreements and Offers of Purchase and Sale or Lease/Rental Agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some

activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

- (v) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunications service provider, approved by the Canadian Radio and Telecommunications Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller's name and location information.

6. Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (Hamilton) (PED11147) (Ward 1) (Item 8.1)

That approval be given to **Zoning Application ZAR-11-003, by Cynthia Bernstein, Owner**, for a change in zoning from the Community Shopping and Commercial "H" District and the Urban Protected Residential - 1 and 2 Family Dwelling "D" District to the Community Shopping and Commercial "H/S-1644" District, Modified, with a Special Exception, to permit the establishment of a 42 seat commercial outdoor licensed patio in the rear yard and north-east side yard, accessory to the existing 30 seat restaurant, on lands located at 252-254 Locke Street South (Hamilton), as shown on Appendix "A" to Report PED11147, on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED11147, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the amending By-law be added to Section 19B of Zoning By-law No 6593 as "S-1644";
- (c) That the proposed changes in zoning conform to the Places to Grow Plan, is consistent with the Provincial Policy Statement, and is in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan;
- (d) That upon finalization of the implementing By-law, the subject lands be re-designated from "Single & Double" Residential and "Commercial" to Commercial in the Kirkendall North Neighbourhood Plan.

7. Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (Hamilton) (PED11147(a)) (Ward 1) (Item 8.2)

That approval be given to Amended Zoning Application ZAR-11-003, by Cynthia Bernstein, Owner, for a change in zoning, from the Community Shopping and Commercial “H” District and the Urban Protected Residential - 1 and 2 Family Dwelling “D” District to the Community Shopping and Commercial “H/S-1644” District, Modified, with a Special Exception, and to permit a temporary use for a period of three years, for the establishment of a 36 seat, commercial outdoor licensed patio in the rear yard, to be accessory to the existing 30 seat restaurant, on lands located at 252-254 Locke Street South (Hamilton), as shown on Appendix “A” to Report PED11147(a), on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED11147(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the amending By-law be added to Section 19B of Zoning By-law No 6593 as “S-1644”;
- (c) That the proposed changes in zoning are consistent with the Provincial Policy Statement, and conform to the Places to Grow Plan, the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan.

8. Correspondence from Robert Tyrrell respecting, Report PED11147(a), Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (Hamilton)

That the correspondence from Robert Tyrrell, respecting Report PED11147(a), Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (Hamilton), attached hereto as Appendix “A”, be received.

9. Repealing and Replacing the City of Hamilton’s Noise By-law (PED10115(a)) (City Wide) (Item 8.4)

That By-law 03-020 being a by-law to Regulate Noise be repealed and replaced with the by-law, as amended, attached as Revised Appendix “A” to Report PED10115(a) which has been prepared in a form satisfactory to the City Solicitor.

10. Sharing The Names Of Owners Whose Dogs Are Involved In Attacks And Banning Dog Ownership (PED11053(a)) (City Wide) (Item 8.5)

- (a) That the City Solicitor be directed to submit Report PED11053(a) and the Disclosure Policy, attached hereto as Appendix "B", to the Information and Privacy Commissioner for comment on its privacy protection implications, in accordance with subsection 46(a) of the *Municipal Freedom of Information and Protection of Privacy Act*;
- (b) That the City Solicitor report back to the Planning Committee when the Information and Privacy Commissioner has responded to the submission of the attached Disclosure Policy;
- (c) That the information contained in Report PED11053(a) with respect to banning dog ownership for life for those owners whose dogs have been involved in repeat attacks, be received.

11. Verbal Report - Hamilton Rural Official Plan Severance Policies OMB Hearing (Item 12.2)

- (a) That the City Solicitor advance the following position before the Ontario Municipal Board, at the hearing of the appeal of the severance policies in the Rural Hamilton Official Plan: That the modifications to the severance policies provided to the Planning Committee on November 22, 2011 be approved by the Ontario Municipal Board;
- (b) That the verbal report, as presented in closed session, be received, and the document, Proposed Modifications – Select Severance Policies, remain confidential and restricted from public disclosure.

12. Verbal Report - Hamilton Rural Official Plan Modification 33b OMB Hearing (Item 12.3)

- (a) That the City of Hamilton consents to the settlement with the Minister of Municipal Affairs, respecting the City's appeal of the Minister's modification 33b of the approval of the Rural Hamilton Official Plan, as set out in the Minutes of Settlement provided to the Planning Committee by the City Solicitor on November 22, 2011;
- (b) That the Minutes of Settlement be in the form as provided to the Planning Committee by the City Solicitor on November 22, 2011 with such minor revisions thereto as the City Solicitor deems appropriate, and become public subject to Council approval;

- (c) That the City Solicitor or his delegate be authorized to execute the aforesaid Minutes of Settlement;
- (d) That the verbal report, as presented in closed session, be received, and the maps remain confidential and restricted from public disclosure.

13. Correspondence from Robert Campbell respecting, Report PED09127(e), Liquor Licence Application Review Update (City Wide)

That the correspondence from Robert Campbell, respecting Report PED09127(e), Liquor Licence Application Review Update, attached hereto as Appendix "C", be received.

14. Correspondence from Jim Warren respecting, Report PED09127(e), Liquor Licence Application Review Update (City Wide)

That the correspondence from Jim Warren respecting Report PED09127(e), Liquor Licence Application Review Update, attached hereto as Appendix "D", be received.

15. Correspondence from Stephanie Vegh respecting, Report PED09127(e), Liquor Licence Application Review Update (City Wide)

That the correspondence from Stephanie Vegh, respecting Report PED09127(e), Liquor Licence Application Review Update, attached hereto as Appendix "E", be received.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA

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

DELEGATION REQUEST

- 4.1 Delegation Request from Jim Warren, respecting Report PED09127, Liquor Licence Application Review Update. (on the agenda for today)

DISCUSSION ITEMS

- 8.3 Liquor Licence Application Review Update (PED09127(e))
(City Wide)
- (i) Correspondence from Robert Campbell
 - (ii) Correspondence from Jim Warren
 - (iii) Correspondence from Stephanie Vegh

PRIVATE AND CONFIDENTIAL

- 12.1 Setting Sail - Ontario Municipal Board Hearing
- 12.2 Verbal Report - Hamilton Rural Official Plan Severance Policies OMB Hearing
- 12.3 Verbal Report - Hamilton Rural Official Plan Modification 33b OMB Hearing
- 12.4 Verbal Report - Hamilton Rural Official Plan OMB Appeals Update

Item 7.1, Upgraded Parking Enforcement Management System and Handheld Computerized Issuance Equipment (PED11200) (City Wide), was placed under the Consent section as item 5.4.

The Agenda for the November 22, 2011 meeting of the Planning Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST

None

(c) APPROVAL OF MINUTES

The Minutes of the November 8, 2011 Planning Committee meeting were approved.

(d) DELEGATION REQUESTS

- (i) Delegation Request from Jim Warren, respecting report PED09127, Liquor Licence Application Review Update (Item 4.1)**

The delegation request, submitted by Jim Warren, Report PED09127, Liquor Licence Application Review Update, was approved.

(e) CONSENT ITEMS

- (i) Amendments to the Licensing By-law 07-170 respecting Salvage and Second Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses (PED10063(e)) (City Wide) (Item 5.1)**

Report PED10063(e), respecting, Amendments to the Licensing By-law 07-170 respecting Salvage and Second Hand Goods, Pawnbroker and Jewellery and Precious Metals Businesses, was referred back to staff for consideration of a photo identification requirement for those individuals pawning/selling items.

- (ii) Agriculture & Rural Affairs Advisory Committee Minutes 11-002 (Item 5.3)**

The Agriculture & Rural Affairs Advisory Committee Minutes 11-002, were received.

(f) PUBLIC HEARINGS AND DELEGATIONS

- (i) Delegation by Dean Collett, respecting the Hess Village Paid Duty Program (Item 6.1)**

The delegation by Dean Collett, respecting the Hess Village Paid Duty Program, was referred to the December 6, 2011 Planning Committee Meeting.

- (ii) Application for an Amendment to Hamilton Zoning By-law No. 05-200 for the Property Located at 260 Nebo Road (Hamilton) (PED11205) (Ward 6) (Item 6.2)**

In accordance with the provision of the Planning Act, Vice Chair Clark 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 approves 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.

No public speakers came forward.

The public meeting respecting, Report PED11205, Application for an Amendment to Hamilton Zoning By-law No. 05-200 for the Property Located at 260 Nebo Road (Hamilton), was closed.

Councillor Jackson addressed Committee and expressed his support for this new professional office and services in the community.

The staff presentation respecting, Report PED11205, Application for an Amendment to Hamilton Zoning By-law No. 05-200 for the Property Located at 260 Nebo Road (Hamilton), was waived.

For disposition on this Item, refer to item 3.

(iii) Application for Amendment to the City of Hamilton Zoning By-law 05-200 for Lands Located at 70 Innovation Drive (Flamborough) (PED11195) (Ward 15) (Item 6.3)

In accordance with the provision of the Planning Act, Vice Chair Clark 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 approves 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.

No public speakers came forward.

The public meeting respecting, Report PED11195, Application for Amendment to the City of Hamilton Zoning By-law 05-200 for Lands Located at 70 Innovation Drive (Flamborough), was closed.

- (1) Kate Mihalijevic, Planner, addressed the Committee and provided an overview of the report.

The staff presentation respecting, Report PED11195, Application for Amendment to the City of Hamilton Zoning By-law 05-200 for Lands Located at 70 Innovation Drive (Flamborough), was received.

For disposition on this Item, refer to item 4.

(iv) Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster) (PED11202) (Ward 12) (Item 6.4)

In accordance with the provision of the Planning Act, Vice Chair Clark 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 approves 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.

No public speakers came forward.

The public meeting respecting, Report PED11202, Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster), was closed.

The staff presentation respecting, Report PED11202, Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster), was waived.

Report PED11202, respecting, Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster), was amended, due to typographical errors, by replacing Appendix B with a Revised Appendix B.

- (1) James Webb, the agent, addressed the Committee and expressed his support for deferring the report to the Ward Councillor for further discussion.

Report PED11202, respecting, Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster), was referred to the Ward Councillor for meetings with the applicant and staff to manage outstanding issues.

(v) Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 118 St. Joseph's Drive (Hamilton) (PED11189) (Ward 2) (Item 6.5)

In accordance with the provision of the Planning Act, Vice Chair Clark 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 approves the draft plan 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.

No public speakers came forward.

The public meeting respecting, Report PED11189, Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 118 St. Joseph's Drive (Hamilton), was closed.

The staff presentation respecting, Report PED11189, Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 118 St. Joseph's Drive (Hamilton), was waived.

For disposition on this Item, refer to item 5.

(g) DISCUSSION ITEMS

(i) Liquor Licence Application Review Update (PED09127(e)) (City Wide) (Item 8.3)

(aa) Correspondence from Robert Campbell

(bb) Correspondence from Jim Warren

(cc) Correspondence from Stephanie Vegh

Staff addressed the Committee with the aid of a PowerPoint presentation. A copy of this presentation has been included in the official record.

The Committee asked questions of staff. The discussion included but was not limited to the following:

- Councillor Clark expressed concern over the communication during the process of approving liquor licenses. Often the AGCO receives mixed messages from the City, one comment should be provided to the AGCO;
- Councillor Clark expressed concern over exemptions for non-profit organizations but supports exemptions for agricultural societies;
- Councillor Whitehead expressed concern over the recommendation in the report for approving a new FTE as he feels that the cost may not be recovered should there not be enough liquor licence applications and since the City Clerk's Office currently fulfills the duties of this proposed FTE;
- Councillor Pearson asked that staff forward the legislation from the province that came into place in June 2011 respecting liquor licences as an appendix to the next report in the first quarter of 2012;
- The Committee also expressed concern that the previous direction given was before the current economic challenges.

Staff was directed to review the impact/affect that liquor licence fee increases would have on not-for-profit organizations and agricultural societies in the City of Hamilton.

The correspondence from Robert Campbell, Jim Warren and Stephanie Vagh, respecting report PED09127(e), Liquor Licence Application Review Update, was received.

Report PED09127(e), respecting Liquor Licence Application Review Update, was referred back to staff for a report on the discussed concerns and report back to the Planning Committee in the first quarter of 2012.

(ii) Repealing and Replacing the City of Hamilton's Noise By-law (PED10115(a)) (City Wide) (Item 8.4)

The Committee asked questions of staff. The discussion included but was not limited to the following:

- Councillor Clark expressed concern over section 3(f), the use of all-terrain vehicles and other vehicle uses in backyards in areas like Stoney Creek;

- Councillor Collins expressed concern over response time during after-hours and if the revised wording will include sufficient staff to have better response times during these hours;
- Councillor Pearson expressed interest in options to work more cooperatively with the police to manage noise complains;
- Councillor Partridge clarified with staff that the noise monitoring would be on a time and/or cumulative time basis, not on the decibel level. Councillor Partridge also clarified with staff that the bylaw applies to the person making the noise and it can also apply to a person allowing the noise.

Report PED10115(a), respecting, Repealing and Replacing the City of Hamilton's Noise By-law, was amended, due to typographical errors, by replacing Appendix A with a Revised Appendix A.

2nd Vice Chair Farr assumed the Chair to allow Councillor Clark to put forward the following motion:

Staff was requested to review and report back on the health and safety protocols for the City of Hamilton By-law Officers with respect to flak jackets.

For disposition on this Item, refer to item 9.

(h) NOTICES OF MOTION

Councillor Collins introduced the following Notice of Motion:

(i) Hamilton Habitat for Humanity

WHEREAS the Municipal Act requires municipalities to enact a by-law pursuant to and in accordance with the requirements of the Act, to establish procedures for the sale of real property owned by the municipality;

AND WHEREAS before selling any land, the Council of the City of Hamilton shall, by by-law or resolution, declare the lands to be surplus;

AND WHEREAS before selling any land, the Council of the City of Hamilton shall obtain at least one appraisal of the fair market value of the land;

AND WHEREAS before selling any land, the Council of the City of Hamilton shall give notice to the public of the intended sale of the real property.

AND WHEREAS City Council on March 6, 2002 in adopting Item 21 of Report 02-008 of the Committee of the Whole, declared Part of Lot 62, on Registered Plan 487, in the City of Hamilton, subject to an Easement over Part 2, on Plan (RC-H-748) together with an Easement over Part 3, on Plan (RC-H-748) on an as is, where is basis, being all of PIN 17569-0049(LT) surplus to the needs of the City of Hamilton;

AND WHEREAS Hamilton Habitat for Humanity, a non-profit organization, has requested the acquisition of Part of Lot 62, on Registered Plan 487, in the City of Hamilton, subject to an Easement over Part 2, on Plan (RC-H-748) together with an Easement over Part 3, on Plan (RC-H-748) on an as is, where is basis, being all of PIN 17569-0049(LT), municipally known as 2 Comet Avenue for a nominal fee of \$2;

AND WHEREAS the deemed offer price of \$2 for the subject property is below the range of the fair market value as determined through an in-house appraisal of the subject's fair market value estimated at \$55,000;

AND WHEREAS the proceeds that were to be realized for the sale of Part of Lot 62, on Registered Plan 487, in the City of Hamilton, subject to an Easement over Part 2, on Plan (RC-H-748) together with an Easement over Part 3, on Plan (RC-H-748) on an as is, where is basis, being all of PIN 17569-0049(LT) were to be credited to the City's Reserve-Hamilton Beach account and that the monetary loss from the sale be reflected within the City's Reserve-Hamilton Beach account.

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

- a) That the Real Estate Section be directed to dispose of Part of Lot 62, on Registered Plan 487, in the City of Hamilton, subject to an Easement over Part 2, on Plan (RC-H-748) together with an Easement over Part 3, on Plan (RC-H-748) on an as is, where is basis, being all of PIN 17569-0049(LT), municipally known as 2 Comet Avenue for a nominal fee of \$2;
- b) That the Real Estate Section be directed to prepare an Offer to Purchase for the sale of Part of Lot 62, on Registered Plan 487, in the City of Hamilton, subject to an Easement over Part 2, on Plan (RC-H-748) together with an Easement over Part 3, on Plan (RC-H-748) on an as is, where is basis, being all of PIN 17569-0049(LT), municipally known as 2 Comet Avenue for a nominal fee of \$2;

- c) That the City Solicitor be directed to complete this real estate transaction on the terms and conditions set out herein.

(i) GENERAL INFORMATION AND OTHER BUSINESS

(i) Outstanding Business List Amendments

The due date of the following outstanding business list item was amended, as outlined below:

- (a) Item L: Sidewalk Policy
Current Due Date: November 22, 2011
Proposed New Due Date: March 2012

(j) PRIVATE AND CONFIDENTIAL

The Planning Committee moved into Closed Session at 12:05 p.m.

At 12:05 p.m., Committee moved into Closed Session to consider several confidential matters pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law and Section 239, Sub-sections (e) and (f) 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 Planning Committee reconvened in Open Session at 12:53 p.m.

(i) Setting Sail – Ontario Municipal Board Hearing (Item 12.1)

The verbal update, respecting Setting Sail – Ontario Municipal Board Hearing, as presented in Closed Session, the Confidential Memorandum, Ontario Municipal Board Pre-hearing and Hearing for Appeals to Official Plan Amendment (H) 198 and Zoning By-law 05-073 (Setting Sail: Secondary Plan for the West Harbour) - PL050408, dated November 22, 2011, including Appendix A and Appendix B, and recommendations (a) and (b), were received and are to remain confidential and restricted from public disclosure, in accordance with exemptions provided in the *Municipal Freedom of Information and Protection of Privacy Act*.

(ii) Verbal Report - Hamilton Rural Official Plan OMB Appeals Update (Item 12.4)

The verbal report, as presented in closed session, was received and is to remain confidential and restricted from public disclosure, in accordance with exemptions provided in the *Municipal Freedom of Information and Protection of Privacy Act*.

(k) ADJOURNMENT

There being no further business, the Planning Committee adjourned at 12:57 p.m.

Respectfully submitted,

Councillor B. Clark
Vice Chair, Planning Committee

Vanessa Robicheau
Legislative Assistant
Office of the City Clerk
November 22, 2011

269 Herkimer Street
Hamilton
September 19, 2011

City Clerk
Corporate Services Department
71 Main Street West
Hamilton
re: file ZAR – 11 – 003
subject property 252 – 254 Locke Street South

Dear Sirs:

As my wife and I were unable to attend the public meeting for the hearing on this proposal, I would like to submit the following now:

We were originally attracted to the Locke Street area because of the neighbourhood qualities. We had a small book store, quaint shops and a little church. Not too long ago there was also a bank, a hardware store and a drug store. For whatever reason, there have been a number of changes over the years. To get to the services these small businesses provided we now have to travel some distance, to be dealt with by strangers. Walking becomes time consuming and onerous in inclement weather, so we now drive when we used to walk. Still we lived in a small community where "everybody knew our names," or at least, our faces.

There is now a proliferation of businesses that attract transient customers who have little or no connection or concern for the neighbourhood. We seem to be reduced to bars, restaurants and hairdressers.

I feel that the character and rules of law are being slowly eroded. The property in question is under residential planning, I believe. I think the residents in the area would have our quality of life permanently degraded by having an outdoor patio, with or without a liquor licence on this property. We oppose the granting of an extended patio and/or a liquor licence to the property at 252 – 254 Locke Street because we do not want outdoor drinking in our residential neighbourhood, nor do we want drinkers coming to retrieve their vehicles honking their horns and calling a cheery good night to each other at all hours.

Customers for these businesses, mostly seem to arrive by automobile. They used to park on Locke St. But since the installation of parking meters, the drivers prefer saving money by parking on the side streets. Putting more pressure on the residential streets for parking.

I feel that if more seats are made available, with no parking facilities provided, the benefits will accrue to the business owners at the expense of the neighbourhood and the people who live there.

Thank you,

Robert G. Tyrrell



OFFICE OF THE CITY CLERK	
SEP 21 2011	
REC'D BY _____	DATE _____
REF'D TO _____	DATE _____
REF'D TO _____	DATE _____
REF'D TO <i>(initials)</i>	DATE _____
<i>for Council Agenda</i>	
ACTION: _____	

SUBJECT: Dog Attacks (City Wide) - Page 7 of 12

APPENDIX A

DISCLOSURE POLICY

OWNER WHOSE DOG HAS ATTACKED A PERSON OR A PERSON'S ANIMAL

1. Policy Statement

This Policy sets out when the Manager of Animal Services, Parking and By-law Enforcement, Planning Department ("Animal Services Manager") may disclose the name of, charge against and last known address of an owner whose dog has attacked a person or a person's animal.

2. Definitions

For the purposes of this Policy:

"**animal**" means any member of the animal kingdom, other than a human;

"**charge**" means a charge under a City of Hamilton by-law or the *Dog Owners' Liability Act*;

"**owner**" means an adult who has care, control or possession of an animal; and

"**victim**" means:

- (a) a person who has been attacked by a dog and includes:
 - (i) when the person is a child, the child's parent or guardian;
 - (ii) when the person is incompetent or incapacitated, the person's legal representative; or
- (b) an owner of an animal that has been attacked by a dog.

3. Scope

This policy applies to dog attacks on a person or a person's animal in the City of Hamilton that are investigated by Animal Services.

4. Before a Charge is Laid / No Charge is Laid

- (1) The Animal Services Manager may not disclose the name and/or last known address of an owner whose dog has attacked a person or a person's animal before a charge in respect of the attack is laid.

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Disclosure is not provided before a charge is laid because this may be detrimental to proceeding with enforcement. (Section 8(1)(b) *Municipal Freedom of Information and Protection of Privacy Act*) In addition, the information is not yet publicly available through the courts.

- (2) The Manager of Animal Services may not disclose the name and/or last known address of an owner whose dog has attacked a person or a person's animal when no charge in respect of the attack is laid.

Disclosure is not provided when no charge is laid because, in most circumstances, this occurs when a reasonable belief that an offence took place is lacking. In addition, the information is not publicly available through the courts.

5. After a Charge is Laid

- (1) The Manager of Animal Services may disclose to the public the name of, the charge against and the last known address of an owner whose dog has attacked a person or a person's animal after a charge with respect to the attack is laid upon request, in the form of a press release or by other means.

Disclosure to the public of the name and the charge is provided after a charge is laid because it notifies the public of the City's law enforcement activities and deters others from committing similar offences. In addition, the name and the charge are publicly available through the courts.

Disclosure of the name, the charge and the last known address is provided after a charge is laid when the dog has not been impounded to protect the health and safety of residents of the City by making them aware of where the dog is kept and allowing them to take precautions to protect themselves and their animals against subsequent attacks. Notice of this disclosure will be provided to the dog owner in accordance with s. 14(1)(b) of *Municipal Freedom of Information and Protection of Privacy Act* which states that:

Personal privacy

14.(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

...

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(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;

In addition, the name, the charge and the last known address are publicly available, but difficult to access, through the courts. Improved access to this information, which is also known to the City, would be provided by the City.

- (2) The Animal Services Manager may disclose to a victim the name of, the charge against and the last known address of an owner whose animal has attacked a person or a person's animal after a charge which respect to the attack is laid upon request.

Disclosure of the name, the charge and the last known address is provided after a charge is laid to a victim to enable them to seek redress.

In addition, the name, the charge and the last known address are publicly available, but difficult to access, through the courts. Improved access to this information, which is also known to the City, would be provided by the City.

6. Access Request under the Municipal Freedom of Information and Protection of Privacy Act

It is open to the public to make a formal access request to the City of Hamilton for the name and/or last known address of a dog owner under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Access requests will be considered in accordance with MFIPPA and may be granted, granted in part or denied. Such access requests should be directed to:

Manager, Records and Freedom of Information
City Clerk's Division
City Hall
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

(905) 546-2424 ext 2743
(905) 546-2095 (fax)
clerk@hamilton.ca (email)

7. Review and Updating of Policy

This Policy will be reviewed and updated as required.

Robicheau, Vanessa

From: rockton worlds fair
Sent: November 17, 2011 2:21 PM
To: Robicheau, Vanessa; Vince.Ormond@hamilton.ca; Pasuta, Robert
Subject: Special Occasion Permits User Review Fee & Charges By-Law
Follow Up Flag: Follow up
Flag Status: Yellow

We have recently read of "another" potential user fee by-law that will greatly affect Non-Profit Charitable Agricultural Societies. The requirement to have groups renting our premises pay another \$150 or \$250 as the case may be to the City for a User Review Fee on top of the Alcohol & Gaming Fee is absurd and will greatly cut down on our rentals and their opportunity to make some money on their fundraisers or for Weddings if they are serving alcohol.

It too will affect directly the Rockton Agricultural Society, Home of the Rockton World's Fair and the Rockton Dinner Theatre every time we wish to have a fund raiser. At the present time we run our Annual Dinner theatre for 6 nights in the Spring, we now must pay \$75 per night times 6 nights for our Special Occasion Permit, now you will be asking for another \$250 times 6 as we have more than 250 in attendance.

These new charges are going to greatly affect our ability to rent out our premises and hamper our opportunity to fund raise with our Dinner Theatre etc. We are a Non-Profit Charitable organization and we do already receive a Health Inspection and a yearly Fire Inspection.

I have heard indirectly from Councillor Ferguson that he understood that this was meant only for City owned Properties.

Our Board of Directors, discussed this on Monday at their Board Meeting and have made a motion that I am requesting you to take into account in your final by-law requirements: **"The Board of Directors of the Rockton Agricultural Society request that in regards to the Special Occasion Permits By-Law for facilities owned or operated by Agricultural Societies, in the City of Hamilton, be exempted from the provisions of this By-Law."**

Please ensure these comments form part of your report.

Sincerely

Robert Campbell
General Manager

From: Jim Warren [mailto:vintner@shaw.ca]
Sent: November 21, 2011 9:40 AM
To: Robicheau, Vanessa
Subject: Planning Committee Meeting Nov. 22, 2011

Dear Vanessa: I will be at the meeting on Tuesday but in case I cannot stay would you please bring forward my concerns about the changes to Municipal Consent Process with AGCO and SOPs. Thank you.

I am concerned, first of all, by the wording of the 'principal' that any new liquor licence applications in Hamilton as well as Special Occasion Permits be considered "NOT in the public's interest". I do not understand the possible rationale behind such language which reminds me of the Temperance movement of over 100 years ago and the ensuing period of Prohibition. I am a member of the public and I fail to see how granting a liquor licence or special occasion permit could possibly impact on my best interests. On the surface it seems to be creating an excuse for which the application of fees is then justified. The fee for the Liquor Licence application 'review' is also excessive. People wanting to start a restaurant in this city, a difficult undertaking at best, do not need another financial burden levied on them. Such a fee is not in the best interests of the applicant or the city of Hamilton. I also fail to understand why anyone in our municipal government would want to be concerned about a SOP. This matter is quite capably handled by the AGCO and has been for many years. Even if someone (and who would that be?) in our city wanted to review this application, it would take perhaps 5 or 10 minutes at most and the fees being considered are, again, simply excessive, if not extortionate. Normally a fee is charged for a significant service and in this case the merit of the service contemplated is highly questionable. Are these fees charged by other municipalities? Are any such fees in place now or are they all 'brand new'? Who determined the nature of the fees? Who will do the reviews? And while the City may gain additional revenue out of what is essentially a duplication of effort already performed primarily by the AGCO, what will be the real cost to everybody else? I think we all should be very wary of the implications of everything associated with the this particular issue and I hope some common sense will be applied in changing virtually everything about this so-called 'process'.

Jim Warren, President, Ontario Vinicultural Association, Executive Director, Fruit Wines of Ontario, President, Warren Wine Consulting. Cell: 905 308-1598.



Hamilton Arts Council
279 King Street East
International Village
Hamilton, ON L8N 1B9
905. 481.3218

21 November, 2011

Vanessa Robicheau
Legislative Assistant, Planning Committee
City Clerk's Office
71 Main Street West
Hamilton, ON L8P 4Y5

Re: Changes to the Municipal Consent Process for Alcohol and Gaming Commission of Ontario Liquor License Applications and Special Occasion Permits and Proposed New Fees and Charges To Be Added To The User Fee And Charges By-Law

On behalf of the Hamilton Arts Council, I am writing to express a growing concern in our arts community regarding the Notice of the Planning Committee brought forth from the City of Hamilton's Municipal Law Enforcement section. The Notice includes changes to the User Fee and Charges By-law that, if adopted, would strike a prohibitive blow to arts and cultural organizations, especially not-for-profits and registered charities that support their operations through special events that include the sale of alcohol.

While alcohol consumption is widely perceived as a synonymous feature of any cultural event from live performances to exhibition openings, the reality in Hamilton is one in which the current fee for review of a Special Occasion Permit already presents a barrier to many smaller organizations and not-for-profits that would otherwise choose to serve alcohol at their events. At best, the present fees for review allow a select few of these organizations to sell alcohol as a revenue-neutral part of their events, while many more are unable to recoup the SOP fee in addition to alcohol purchases from their bar revenues. As many arts organizations operate on minimal budgets with little allowance for overhead costs, cultural organizers in our community are faced with a difficult choice to either not serve alcohol and suffer lowered attendance at their event, or even more problematically to risk serving without a permit to the detriment of both arts organizations and Municipal Law Enforcement.

The challenges faced by our underfunded arts community, one that in turn has made significant and much publicized contributions to Hamilton's urban renewal, would only be exacerbated by this By-law's proposed increases in fees for review of Special Occasion Permits. Such increases would have the profoundest effect upon those most dependent on special events as a source of revenue – small galleries and burgeoning festivals with the potential to further advance this city's ongoing economic development. When issued to cultural events and the fundraising efforts of registered charities and not-for-profits, a Special Occasion Permit is, in fact, in the public's interest and an important means of supporting the good works of Hamilton's cultural community.

I ask the Planning Committee to keep the needs of Hamilton's vital cultural sector in mind when assessing these proposed fee increases, and to consider in turn whether organizations that achieve such significant public good should face the same prohibitive fee structure as those deemed by Council not to be in the public interest.

Kindest Regards,
Stephanie Vegh
Executive Director