



PLANNING COMMITTEE

REPORT 15-002

9:30 am

Tuesday, February 3, 2015

Council Chambers

Hamilton City Hall

71 Main Street West

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

Absent with regrets: Councillor A. Johnson, personal

THE PLANNING COMMITTEE PRESENTS REPORT 15-002 AND RESPECTFULLY RECOMMENDS:

- 1. Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, Denied by the Director, Planning Division, and Appealed by the Applicant (PED14227)(Ward 5) (TABLED December 9 2014) (Item 5.1)**

That Report PED14227 respecting Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, be received.

- 2. Application for Approval of a Draft Plan of Condominium (Common Elements), by 2268329 Ontario Inc. (c/o Albion Developments), for Lands Known as 201, 207, 209, 211, 213, 215, 217, 219, 221, 225, 227, 229, 231, 233 and 235 Westbank Trail, (Stoney Creek) (PED15008) (Ward 9) (Item 6.3)**

- (a) That approval be given to Draft Plan of Condominium Application 25CDM-201403, by 2268329 Ontario Inc. (c/o Albion Developments), Owner, to establish a Draft Plan of Condominium (Common Elements) to create a condominium road, visitor parking areas consisting of 38 parking spaces, landscaped and passive open space areas including a pathway and sidewalks for 18 townhouse dwelling units and 56 maisonette dwelling units, on lands located at 201, 207, 209, 211, 213, 215, 217, 219, 221,**

225, 227, 229, 231, 233 and 235 Westbank Trail, (Stoney Creek), as shown on Appendix "A" to Report PED15008, subject to the following conditions:

- (i) That this approval shall apply to the plan, prepared by A.T. McLaren Limited, and certified by S. D. McLaren, dated July 28, 2014, showing a common element road, visitor parking areas, landscaped and passive open space areas including a pathway and sidewalks, attached as Appendix "B" to Report PED15008;
- (ii) That the final plan of condominium shall comply with all of the applicable provisions of Zoning By-law No. 3692-92, as amended by By-law No. 12-161 and by By-law No. 05-200, or in the event the City of Hamilton has repealed and replaced By-law No. 3692-92 with By-law No. 05-200, the final plan of condominium shall apply with all the applicable provisions of the Zoning By-law in force and effect at the time of registration of the draft plan of condominium;
- (iii) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-12-154), to the satisfaction of the Director of Planning and Chief Planner;
- (iv) That the owner shall receive final approval of Part Lot Control Application PLC-14-023, including the enactment and registration on title of the Part Lot Control Exemption By-law, to the satisfaction of the Director of Planning and Chief Planner;
- (v) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed freehold townhouse dwellings having frontage on the condominium road has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor;
- (vi) That the owner shall include the following in all offers of purchase and sale and rental leases and in the Development Agreement, and any rental or lease agreements required for occupancy, to the satisfaction of the Senior Director of Growth Management:
 - (1) Purchasers/tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road;
 - (2) Purchasers/tenants are advised that garages are provided for the purpose of parking a vehicle. It is the responsibility of the owner/tenant to ensure that their parking needs

(including those of visitors) can be accommodated on-site. On-street, overflow parking may not be available and cannot be guaranteed in perpetuity;

- (3) Purchasers/tenants are advised that this property is eligible for weekly collection of garbage, recycling, organics, and leaf and yard waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067;
 - (4) Purchasers/tenants are advised that home/business mail delivery will be from a designated centralized mailbox.
- (vii) That the owner agree in writing as part of the Development Agreement to notify purchasers of the exact centralized mailbox locations, prior to the closing of any home sales;
 - (viii) That the owner agree to work with Canada Post to determine and provide temporary suitable centralized mail box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision;
 - (ix) That the owner install a concrete pad in accordance with the requirements of, and in locations to be approved by the Senior Director of Growth Management and Canada Post, to facilitate the placement of community mailboxes;
 - (x) That the owner identifies the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase;
 - (xi) That the owner determine the location of all centralized mail receiving facilities to the satisfaction of the Senior Director of Growth Management and Canada Post, and to indicate the location of centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s), showing specific centralized mail facility locations;
 - (xii) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication 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, to the satisfaction of Senior Director of Growth Management;

- (xiii) That, prior to the registration of the final plan, the owner shall provide the Senior Director of Growth Management with a copy of the condominium declaration document to ensure that the owner is committed to establish a drainage easement, in favour of the Condominium Corporation, over the front and rear yards of the units within the plan of condominium; and,
- (xiv) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

- (b) That the owner be advised of the following:

NOTES TO DRAFT PLAN APPROVAL

Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received before the draft approval lapses.

3. **Application for an Amendment to the Town of Flamborough Zoning By-Law 90-145-Z, for the lands located at 548 Millgrove Side Road (PED15010) (Ward 15) (Item 6.4)**

That approval be given to **Amended Zoning Application ZAR-13-057, by Francois and Nicole Risdon, Owners**, for a modification to the Agricultural "A" Zone, to permit the establishment of a kennel for the boarding of up to 120 cats, on a portion of the lands located at 548 Millgrove Side Road (Flamborough), as shown on Appendix "A" to Report PED15010, on the following basis, **as amended:**

- (a) That the draft By-law, attached as Appendix "B" to Report PED15010, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed modification in zoning is consistent with the Provincial Policy Statement, conforms to the Greenbelt Plan and complies with the Rural Hamilton Official Plan;

- (c) *That staff be directed to consider a minimum 2 metre fence height for the kennel enclosure at the Site Plan Approval stage of the application, in consultation with the Ward Councillor.*
4. **Applications to Amend the Urban Hamilton Official Plan and Glanbrook Zoning By-law No. 464 and for Approval of a Draft Plan of Subdivision, "Part of Lot 5, Block 4, Concession 4", for Lands Located at 3105 Fletcher Road (Glanbrook) (PED15012) (Ward 11)(Item 6.5)**
- (a) That **Urban Hamilton Official Plan Amendment Application UHOPA-14-014, by Patrick McNally, (Owner)**, to amend the Binbrook Village Secondary Plan to provide for a redistribution of densities, a realignment of blocks and roads, the establishment of a storm water management facility designation and to permit additional housing forms, for lands located at 3105 Fletcher Road (Glanbrook), as shown on Appendix "A" to Report PED15012, be **denied**, on the following basis:
- (i) That the application is not consistent with the Provincial Policy Statement, and the Planning Act;
 - (ii) That the application does not comply with the vision of the Urban Hamilton Official Plan and the Binbrook Village Secondary Plan, as the application does not ensure appropriate and orderly development, and does not conform to the Staging of Development Plan as the subject lands have not been identified within the Plan for processing between 2014-2016;
 - (iii) That the application is premature as adequate services are not available to service the proposed development; and,
 - (iv) That the application is premature as the impact on traffic volumes and level of service at the temporary signalized intersection of Fall Fair Way at Regional Road 56/Maggie Johnson Drive, as a result of this development, has not been assessed.
- (b) That **Zoning By-law Amendment Application ZAC-14-028 by Patrick McNally, (Owner)**, for changes in zoning from the Restricted Agricultural "A2" Zone to the Residential "R4" Zone, Modified, Residential Multiple "RM2" Zone, Modified, Residential Multiple "RM3" Zone, Modified, General Commercial "C3" Zone, Modified, Institutional "I" Zone, Modified, and Public Open Space "OS2" Zone, Modified, in order to permit the development of the proposed Draft Plan of Subdivision, "Part of Lot 5, Block 4, Concession 4" (25T-201405), for lands located at 3105 Fletcher

Road (Glanbrook), as shown on Appendix "A" to Report PED15012, be **denied**, on the following basis:

- (i) That the application is not consistent with the Provincial Policy Statement, and the Planning Act;
 - (ii) That the application does not comply with the vision of the Urban Hamilton Official Plan and the Binbrook Village Secondary Plan, as the application does not ensure appropriate and orderly development, and does not conform to the Staging of Development Plan as the subject lands have not been identified within the Plan for processing between 2014-2016;
 - (iii) That the application is premature as adequate services are not available to service the proposed development; and,
 - (iv) That the application is premature as the impact on traffic volumes and level of service at the temporary signalized intersection of Fall Fair Way at Regional Road 56/Maggie Johnson Drive, as a result of this development, has not been assessed.
- (c) That **Draft Plan of Subdivision Application 25T-201405 by Patrick McNally, (Owner)**, to establish a Draft Plan of Subdivision known as "Part of Lot 5, Block 4, Concession 4", on lands known as 3105 Fletcher Road (Glanbrook), as shown on Appendix "A" to Report PED15012, be **denied**, on the following basis:
- (i) That the application does not conform to the requirements of Sub-section 51(24) of the Planning Act. The development has not demonstrated how it would be compatible with existing and proposed land uses in the immediate area and does not represent good planning by, among other things, providing for adequate services and the development of a complete community, while making efficient use of a vacant parcel of land and existing infrastructure within the urban boundary;
 - (ii) That the application is not consistent with the Provincial Policy Statement;
 - (iii) That the application does not comply with the vision of the Urban Hamilton Official Plan and the Binbrook Village Secondary Plan, as the application does not ensure appropriate and orderly development, and does not conform to the Staging of Development Plan as the subject lands have not been identified within the Plan for processing between 2014-2016;

- (iv) That the application is premature as adequate services are not available to service the proposed development; and,
- (v) That the application is premature as the impact on traffic volumes and level of service at the temporary signalized intersection of Fall Fair Way at Regional Road 56/Maggie Johnson Drive, as a result of this development, has not been assessed.

5. Revised Lottery Licensing By-law (PED15013) (City Wide) (Item 7.1)

That By-law 04-134, being a by-law to license Lotteries, be repealed and replaced with the by-law attached hereto as Appendix "A" to Report PED15013, which has been prepared in a form satisfactory to the City Solicitor.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

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

- (i) Item 5.1 - Ken Neufeld has advised that he has withdrawn his sign variance application;
- (i) Item 6.5 – the agent for the applicant has requested that this Item be moved up in the agenda as she needs to leave by 1:00 p.m.;
- (ii) Staff have provided the due date of November 17, 2015 for Item "K" on the outstanding business list referenced in Item 12.1 (b) on the agenda.

The Agenda for the February 3, 2015 meeting of the Planning Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None.

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

(i) January 13, 2015

The Minutes of the January 13, 2015 meeting were approved.

(d) CONSENT ITEMS (Item 5)

(i) Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, Denied by the Director, Planning Division, and Appealed by the Applicant (PED14227)(Ward 5) (TABLED December 9 2014) (Item 5.1)

Report PED14227, respecting Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, Denied by the Director, Planning Division, and Appealed by the Applicant was LIFTED from the table.

As indicated in the changes to the agenda, Ken Neufeld of Neufeld Signs Limited has advised that he has withdrawn his sign variance application.

For disposition of this matter refer to Item 1.

(e) PUBLIC HEARINGS AND DELEGATIONS (Item 6)

(i) Steven Knight, 163 Locke Street South, Hamilton respecting motorcycle parking. (Approved January 13, 2015) (Item 6.1)

Steven Knight addressed Committee. A copy of his prepared statement is printed in the agenda. He said he is asking for fairness and equal rights for all commuters. He requested that motorcycles be allowed to park for free if a ticket is required to be placed on the windshield as it can blow away and also, he requested that up to three motorcycles be allowed to park in one parking spot.

The delegation and prepared statement from Steven Knight respecting motorcycle parking were received.

Staff responded to questions from Committee.

- (ii) **Mark Kikot representing his father respecting a wedge of land which has been land locking his father's property at 879 West 5th Street since 2006 and remains unresolved due to on-going OMB appeals by the developer. (Approved January 13, 2015) (Item 6.2)**

Chair Partridge advised Committee that as this matter is before the OMB any questions or discussion will need to take place in Closed Session.

Mark Kikot addressed Committee on behalf of his father and read from a prepared statement. A copy of his prepared statement has been included in the agenda and copies of the survey of the subject lands were submitted by Mr. Kikot and were distributed.

The delegation and prepared statement from Mark Kikot representing his father respecting a wedge of land which has been land locking his father's property at 879 West 5th Street since 2006 and remains unresolved due to on-going OMB appeals by the developer, were received.

- (iii) **Application for Approval of a Draft Plan of Condominium (Common Elements), by 2268329 Ontario Inc. (c/o Albion Developments), for Lands Known as 201, 207, 209, 211, 213, 215, 217, 219, 221, 225, 227, 229, 231, 233 and 235 Westbank Trail, (Stoney Creek) (PED15008) (Ward 9)(Item 6.3)**

In accordance with the provisions of the Planning Act, Chair Partridge advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves 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 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 regarding Report PED15008 respecting an Application for Approval of a Draft Plan of Condominium (Common Elements), by 2268329 Ontario Inc. (c/o Albion Developments), for Lands Known as 201, 207, 209, 211, 213, 215, 217, 219, 221, 225, 227, 229, 231, 233 and 235 Westbank Trail, (Stoney Creek), was closed.

The staff presentation respecting Report PED15008 was waived.

For disposition on this Item, refer to Item 2.

(iv) Application for an Amendment to the Town of Flamborough Zoning By-Law 90-145-Z, for the lands located at 548 Millgrove Side Road (PED15010) (Ward 15) (Item 6.4)

Chair Partridge relinquished the chair to Vice-Chair B. Johnson.

In accordance with the provisions of the Planning Act, Vice-Chair B. Johnson 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 PED15010 respecting an Application for an Amendment to the Town of Flamborough Zoning By-Law 90-145-Z, for the lands located at 548 Millgrove Side Road, was closed.

The staff presentation respecting Report PED15010 was waived.

Benjamin Clare from AJ Clarke and Associates, representing the applicant addressed Committee and indicated that he is requesting that a provision be added to allow for the construction of a fence that is 2.5 metres in height. The City's fence by-law provides for a maximum fence height of 2 metres. Staff explained that this request can be addressed at the Site Plan approval stage.

The presentation by Benjamin Clare from AJ Clarke and Associates, the applicant's agent, was received.

The staff recommendations were amended by adding the following subsection:

- (c) That staff be directed to consider a minimum 2 metre fence height at the Site Plan Approval stage of the application in consultation with the Ward Councillor.

For disposition on this Item, refer to Item 3.
Councillor Partridge assumed the Chair.

- (v) **Applications to Amend the Urban Hamilton Official Plan and Glanbrook Zoning By-law No. 464 and for Approval of a Draft Plan of Subdivision, "Part of Lot 5, Block 4, Concession 4", for Lands Located at 3105 Fletcher Road (Glanbrook) (PED15012) (Ward 11) (Item 6.5)**

In accordance with the provisions of the Planning Act, Chair Partridge advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the Official Plan and zoning by-law amendments, and the draft plan of subdivision 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.

- (i) **Written comments from William and Barbara Lewis (Item 6.5(i))**

The written comments from William and Barbara Lewis respecting Report PED15012 were received.

No public speakers came forward.

The public meeting regarding Report PED15012 respecting applications to Amend the Urban Hamilton Official Plan and Glanbrook Zoning By-law No. 464 and for Approval of a Draft Plan of Subdivision, "Part of Lot 5, Block 4, Concession 4", for Lands Located at 3105 Fletcher Road (Glanbrook), was closed.

The staff presentation respecting Report PED15012 was waived.

Andrea Bourrie from MMM Group Limited, the agent for the applicant, addressed Committee. She provided some background information

respecting the on-going consultation that her client has had with the City to-date.

She asked that Committee receive the report and refer it back to staff so that the applicant can address the comments.

She highlighted the following key points related to process:

- Staff indicate in their report that the application does not ensure an orderly and appropriate development – the applicant has had pre-consultation with the City and has provided formal written comments – the application is not considered to be on the staging plan - to get on the staging plan an application must be submitted but it is considered premature because it is not on the staging plan;
- Staff indicate the application is premature because services are not available – the applicant and his agent have not had a chance to discuss the servicing options that are viable because they received the staff's comments before the Christmas break and have not had a chance to have a discussion with staff;
- Staff indicate that the traffic volumes and level of service at the temporary signalized intersection are premature –the traffic impact study has been completed by the applicant but it was delayed because the City's counts were delayed so staff have not reviewed it yet.

The agent indicated that they would like to have a chance to have a meaningful discussion with staff regarding their comments.

The presentation by the agent was received.

Staff responded to questions from Committee.

For disposition of this matter see Item 4.

(f) PUBLIC NOTICES (Item 7)

(i) Revised Lottery Licensing By-law (PED15013) (City Wide) (Item 7.1)

The Clerk advised that no one had registered to speak to this item.

For disposition of this matter see Item 5.

(g) GENERAL INFORMATION AND OTHER BUSINESS (Item 11)

(i) Outstanding Business List Amendments (Item 11.1)

The following Items were identified as being completed and removed from the Outstanding Business List:

Item AA – Construction Information Ground Signs – staff to investigate and report back on possible alternatives to address the challenges in locating “Construction Information Ground Signs” associated with Downtown developments.

Item “MM” - Sign Variance Application SV-14-002 for the Hamilton Port Authority Lands, Hamilton, Denied by the Director, Planning Division, and Appealed by the Applicant (PED14227)(Ward 5)

The following new due date was approved:

Item “K” – OMB Decision in respect of the appeal by Lynwood Charlton Centre from Council’s refusal to enact a proposed Zoning By-law Amendment to Rezone Lands at 121 Augusta Street, Hamilton – staff to undertake a comprehensive review of residential care facilities in the context of the Provincial Policy, as it relates to special needs and the Human Rights Code and report back.

Due date: January 13, 2015

Proposed New Due Date: November 17, 2015

(h) ADJOURNMENT (Item 13)

There being no further business, the Planning Committee adjourned at 10:45 a.m.

Respectfully submitted,

Councillor J. Partridge
Chair, Planning Committee

Ida Bedioui
Legislative Co-ordinator
Office of the City Clerk