



PLANNING COMMITTEE

REPORT 15-013

9:30 am

Tuesday, September 1, 2015

Council Chambers

Hamilton City Hall

71 Main Street West

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

Absent with regrets: Councillor B. Johnson, (1st Vice Chair), City Business

THE PLANNING COMMITTEE PRESENTS REPORT 15-013 AND RESPECTFULLY RECOMMENDS:

1. 3210 Homestead Drive, Mount Hope (PED15131) (Ward 11) (Outstanding Business List). (Item 5.1)

That Report PED15131 respecting 3210 Homestead Drive, Mount Hope be received.

2. Committee of Adjustment Minor Variance Application- HM/A-15:151,219 Bowman Street - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED15116) (Ward 1) (Item 5.2)

(a) That Legal Services staff be directed to attend the Ontario Municipal Board (OMB) to defend the Committee of Adjustment's decision to deny the Minor Variance application at 219 Bowman Street which was subsequently appealed to the OMB by the applicant;

(b) That the City Solicitor be authorized to retain such External Consultants as may be necessary to provide expert advice and evidence to the Ontario Municipal Board respecting the applicant/owner's appeal and the amount required to retain any such external consultants be funded through the Tax Stabilization Reserve, account 110046.

3. Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 224 John Street North, Hamilton (PED15099) (Ward 2) (Item 6.1)

That approval be given to Amended Zoning Application ZAC-12-044 by Kyle C. Nelson, Owner, for a change of Zoning from the “L-MR-2” (Planned Development) District, to the “D/S-1722” (Urban Protected Residential – One and Two Family Dwelling, etc.) District Modified, to permit the development of a second dwelling unit within an existing semi-detached dwelling, for lands located at 224 John Street (Hamilton), as shown on Appendix “A” to Report PED15099, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED15099, 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 “D/S-1722”;
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe.
- (d) That the proposed change in Zoning is in conformity with the City of Hamilton Official Plan and West Harbour Secondary Plan.

4. Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 492 Southcote Road (Ancaster) (PED15103) (Ward 12) (Item 6.2)

That approval be given to Amended Zoning Application ZAC-15-009, by Movengo Corp (c/o Mario Nesci), Owner, for a change in zoning from the Agricultural “A-216” Zone, Modified, to the Residential “R4-663” Zone, Modified, to permit the future creation of five residential lots for five single-detached dwellings on lands located at 492 Southcote Road (Ancaster), as shown on Appendix “A” to Report PED15103, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED15103, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (b) That the amending By-law be added to Section 34.2 of Zoning By-law No. 87-57 as “R4-663”.

5. Delegation from Caroline Baker on behalf of New Horizon Development respecting request to transfer Development Charges Deferral Agreement for City Square Phase 2 to City Square Phase 3 (Item 4.2)

That the request from Caroline Baker, on behalf of her client New Horizon Development, for an amendment to the Development Charges Deferral Agreement for the City Square Phase 2 development be referred to Finance and Legal Staff for review and report to the next Audit, Finance and Administration Committee meeting with a recommendation.

6. Waive the Requirement for a Road Widening for 1685 Main Street West (9.1)

That staff be directed to waive the requirement for a road widening for 1685 Main Street West (Site Plan Application SPA-15-007) in order to facilitate redevelopment of the site for two restaurants to replace the restaurant that was destroyed by fire.

7. Waive the Fees for required Minor Variance and/or Consent Applications for lands located at 439 and 447 King Street West and 212 George Street (9.2)

That staff be directed to waive the fee for the required Minor Variance application to allow two principal uses on one property, or waive the fees for a Consent Application to sever the single detached dwelling on 212 George Street from 439 and 447 King Street West plus a required Minor Variance application to recognize zoning deficiencies for the lands located at 439 and 447 King Street West and 212 George Street

8. Parkland Dedication (Added 9.3(a))

(a) That pursuant to Section 12 of By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land,

(i) the following rates shall apply to a maximum of six (6) apartment dwellings above a commercial use and street townhouses fronting on a public street where such developments are not part of a registered plan of subdivision;

(1) That notwithstanding Section 3.(1)b.ii., iii and iv. of By-law No. 09-124, a maximum land dedication of five percent (5%) of the Net land area, or cash-in-lieu thereof, will apply.

- (ii) That notwithstanding Section 3.(1)b., where a second dwelling unit is added in an existing single detached dwelling, a cash-in-lieu flat fee of \$500 applies;
 - (iii) That notwithstanding Section 3.(1)b. and Sections 5. and 6., where additional dwelling units are created within a building “designated” under the *Ontario Heritage Act*, a cash-in-lieu flat fee of \$500 per unit applies; and,
 - (iv) That items (i), (ii) and (iii) be in effect for a maximum time period of up to 18 months.
- (b) That staff be directed to submit a 2016 Capital budget for the broad review of the Parkland Dedication By-law.

9. Schedule A to Parkland Dedication By-law (Added 9.3(b))

That Schedule “A” to By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land, be deleted and replaced with the Downtown Community Improvement Plan boundary approved by Council on February 13, 2013.

10. Amendment to Zoning By-law No. 05-200 to allow a Place of Worship at 11 Parkside Drive

That staff be directed to:

- (a) amend Zoning By-law No. 05-200 by modifying the Rural (A2) Zone for the lands located at 11 Parkside Drive to apply an additional special exception to permit a Place of Worship with a maximum size and apply a holding provision to identify required studies to be completed;
- (b) include the amendment outlined in subsection (a) as part of the report being brought forward to the October 6, 2015 Planning Committee meeting; and,
- (c) provide adequate public notice pertaining to subsection (a) above, in accordance with the *Planning Act*.

FOR THE INFORMATION OF COMMITTEE:

(a) CHANGES TO THE AGENDA (Item 1)

FOR INFORMATION ONLY:

- 4.2 Report FCS12089 respecting Development Charges – City Square Condominiums (former Thistle Club) Approved by Council on November 14, 2012 – This is provided as background information to delegation request 4.2 – copies were distributed.

AMENDMENT TO ITEM 9.3

- 9.3 The motion respecting Parkland Dedication is amended and has been split into two separate motions replacing the one in the agenda:

- 9.3(a) Parkland Dedication
- 9.3(b) Schedule “A” to Parkland Dedication By-law

ADDED NOTICE OF MOTION:

- 10.1 Amendment to Zoning By-law No. 05-200 to allow a Place of Worship at 11 Parkside Drive

The Agenda for the September 1, 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) August 11, 2015 Meeting (Item 3.1)

The Minutes of the August 11, 2015 meeting were approved.

(d) DELEGATION REQUESTS (Item 4)

The following delegation request was approved to come to a future meeting:

- (i) Jim Perdikoulis, Corktown Pub, 175 Young Street, respecting appeal of Planning staff to the OMB respecting a recent patio granted to the Corktown Pub. (Item 4.1)

The rules of order were waived to allow the following delegation to address Committee at today's meeting:

- (ii) Caroline Baker on behalf of New Horizon Development respecting request to transfer Development Charge Deferral Agreement for City Square Phase 2 to City Square Phase 3. (Item 4.2)

The following delegation request to address Committee at today's meeting respecting Item 9.3 was approved:

- (iii) Caroline Baker on behalf of New Horizon Development respecting Parkland Dedication Fees. (Item 4.3)

(e) CONSENT ITEMS (Item 5)

- (i) **Committee of Adjustment Minor Variance Application- HM/A-15:151,219 Bowman Street - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED15116)(Ward 1) (Item 5.2)**

Committee approved the following staff recommendation:

That Report PED15116 respecting Committee of Adjustment Minor Variance Application- HM/A-15:151,219 Bowman Street - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment, be received for information.

Item 5.2 respecting Committee of Adjustment Minor Variance Application- HM/A-15:151,219 Bowman Street - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment, was reconsidered.

The reconsideration **CARRIED** on a 2/3's vote.

Councillor Pearson abstained from voting on the reconsideration.

Councillor Aidan Johnson moved approval of Alternative Option 1 of the Report.

For disposition of this matter refer to Item 2.

Councillor Pearson abstained from voting on this Item.

(f) **DELEGATIONS/PUBLIC HEARINGS (Item 6)**

(i) **Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 224 John Street North, Hamilton (PED15099) (Ward 2) (Item 6.1)**

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 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 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 members of the public came forward.

The staff presentation was waived.

Kyle Nelson, the applicant, was in attendance in the event that Committee had questions.

The public meeting was closed.

For disposition of this matter refer to Item 3.

(ii) **Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 492 Southcote Road (Ancaster) (PED15103) (Ward 12) (Item 6.2)**

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 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 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 members of the public came forward.

The staff presentation was received.

The public meeting was closed.

CARRIED

For disposition of this matter refer to Item 4.

(iii) Caroline Baker on behalf of New Horizon Development respecting request to transfer Development Charges Deferral Agreement for City Square Phase 2 to City Square Phase 3. (Wishes to address Committee at this meeting.) (Item 4.2)

Caroline Baker addressed Committee on behalf of New Horizon Development. Her comments included but were not limited to the following:

- She is requesting, on behalf of her client, an amendment to the Development Charges Deferral Agreement previously approved by Council in 2012;
- The developer is ready to register and sell the units;
- The clause in Section 9(2) of the Agreement specifies that the development charges are due when the units are sold;
- The deferral was granted until 2017 and it is now only 2015;
- The request is to allow for the condominiums to be sold and registered and the 5 year deferral of the development charges be maintained until 2017;
- This is not really a request for a deferral but an amendment to the previously approved deferral.

The delegation was received.

This matter was referred to staff for a report to the next Audit, Finance and Administration Committee.

For disposition of this matter refer to Item 5.

(iv) Caroline Baker on behalf of New Horizon Development respecting Parkland Dedication Fees (Item 4.3)

Caroline Baker addressed Committee on behalf of New Horizon Development. Her comments included but were not limited to the following:

- The City Square Development Phase 3 has received zoning and conditional site plan approval;
- With respect to Parkland Dedication fees a number of municipalities are facing concerns with the amount of the fees in relation to higher levels of intensification;

- The Parkland Dedication fee for the City Square Development Phase 3 is \$12,000 per unit which is higher than the cost of the land itself;
- The Parkland Dedication fees have increased from \$900 per unit to \$1,200 per unit.
- An additional \$12,000 fee to the \$240,000 purchase price of the condominiums impacts affordability and the price point;
- In reference to the motion in Item 9.3, the proposed decrease in the rates would only apply to buildings with six units or less;
- She is asking for additional modifications to the by-law, for a fixed period of time for higher density projects having more than 6 units;
- The Parkland Dedication fees have increased from \$900 per unit to \$1,200 per unit.

Caroline responded to questions from Committee.

The delegation was received.

Staff were directed to meet with the Parkland Dedication Sub-committee to discuss a strategy to address the issue of affordability with respect to Parkland Dedication fees charged to higher density projects having more than 6 units, to obtain input from the Hamilton Halton Home Builders Association regarding this matter and report back to Committee with a verbal update at the September 15, 2015 meeting.

(g) MOTIONS (Item 9)

Councillor A. Johnson presented the following motion:

(i) Waive the Requirement for a Road Widening for 1685 Main Street West

Whereas, the previous restaurant use located at 1685 Main Street West was destroyed as a result of a fire; and

Whereas, the Planning Act and the Urban Hamilton Official Plan states that the City shall reserve or obtain road widenings for rights-of-way as described in Schedule C-2 – Future Road Widenings through Site Plan Approval; and

Whereas, a Site Plan Application (SPA-15-007) has been submitted for 1685 Main Street West for the approval of two new restaurants to replace the restaurant that was destroyed as a result of a fire;

Whereas a road widening has been identified for Main Street West through SPA-15-007 which if taken will undermine the ability to replace the restaurant destroyed by fire with the new restaurants;

Therefore be it resolved:

That staff be directed to waive the requirement for a road widening for 1685 Main Street West (Site Plan Application SPA-15-007) in order to facilitate redevelopment of the site for two restaurants to replace the restaurant that was destroyed by fire.

For disposition of this matter refer to Item 6.

Councillor A. Johnson presented the following motion:

(ii) Waive the Fees for required Minor Variance and/or Consent Applications for lands located at 439 and 447 King Street West and 212 George Street

Whereas, the lands located at 439 and 447 King Street West and 212 George Street have merged in title and the existing single detached dwelling is in contravention of Section 4(3) of Hamilton Zoning By-law No. 6593 as it is on the same property as another principal use (Gilbert's Big and Tall retail store); and

Whereas, the property owner applied to the Commercial Façade Property Improvement Grant Program in October 2013 and approved in June 2014 however the funds cannot be released as the uses on the property are in contravention of Zoning By-law No. 6593 and a building permit cannot be issued; and

Whereas,, the property owner has met with City staff in order to determine the required variances to Zoning By-law No. 6593;

Therefore be it resolved:

That staff be directed to waive the fee for the required Minor Variance application to allow two principal uses on one property, or waive the fees for a Consent Application to sever the single detached dwelling on 212 George Street from 439 and 447 King Street West plus a required Minor Variance application to recognize zoning deficiencies for the lands located at 439 and 447 King Street West and 212 George Street.

For disposition of this matter refer to Item 7.

Councillor Farr presented the following Motions which replaced the one printed in the agenda as indicated under changes to the agenda:

(iii) Parkland Dedication (Item 9.3(a))

Whereas, By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land, was approved on June 10, 2009; and

Whereas, Section 12 of By-law No. 09-124 states that Council may, by resolution, vary any of the requirements for parkland dedication or payment in lieu thereof set out in the By-law provided that such variance is:

- (1) less onerous or stringent than the requirement set out herein;
- (2) applicable for a temporary, specified period of time;
- (3) applicable to a specified type or class of development or redevelopment; and,
- (4) applicable to the whole of the City or a specified geographical area thereof.

The period of time specified pursuant to (2) above may be extended once by resolution of Council for an additional period of time not to exceed the period of time specified for the original variance; and

Whereas, the City is in the process of undertaking a review of By-law No. 09-124 and associated parkland dedication policies and procedures which process will take approximately 18 months as it relates to small scale redevelopment; and

Whereas, the City will undertake a broader review of Parkland Dedication By-law as part of a future study, as a result of potential changes to Bill 73,

Therefore be it resolved:

- (a) That pursuant to Section 12 of By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land,
 - (i) the following rates shall apply to a maximum of six (6) apartment dwellings above a commercial use and street townhouses fronting on a public street where such developments are not part of a registered plan of subdivision;

- (1) That notwithstanding Section 3.(1)b.ii., iii and iv. of By-law No. 09-124, a maximum land dedication of five percent (5%) of the Net land area, or cash-in-lieu thereof, will apply.
 - (ii) That notwithstanding Section 3.(1)b., where a second dwelling unit is added in an existing single detached dwelling, a cash-in-lieu flat fee of \$500 applies;
 - (iii) That notwithstanding Section 3.(1)b. and Sections 5. and 6., where additional dwelling units are created within a building “designated” under the *Ontario Heritage Act*, a cash-in-lieu flat fee of \$500 per unit applies; and,
 - (iv) That items (i), (ii) and (iii) be in effect for a maximum time period of up to 18 months.
- (b) That staff be directed to submit a 2016 Capital budget for the broad review of the Parkland Dedication By-law.

For disposition of this matter refer to Item 8.

(iv) Schedule A to Parkland Dedication By-law (9.3(b))

Whereas, By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land, was approved on June 10, 2009; and

Whereas, Section 12 of By-law No. 09-124 states that Council may, by resolution, vary any of the requirements for parkland dedication or payment in lieu thereof set out in the By-law provided that such variance is:

- (1) less onerous or stringent than the requirement set out herein;
- (2) applicable for a temporary, specified period of time;
- (3) applicable to a specified type or class of development or redevelopment; and,
- (4) applicable to the whole of the City or a specified geographical area thereof.

The period of time specified pursuant to (2) above may be extended once by resolution of Council for an additional period of time not to exceed the period of time specified for the original variance; and

Whereas, Section 5 of By-law No. 09-124 limits the parkland dedication for all forms of residential development regardless of density, to 5 percent (5%) of Net land area, for properties located within the Hamilton Downtown Community Improvement Project Area as shown on Schedule A; and

Whereas, the Downtown Community Improvement Plan boundary was expanded in 2013 and this new boundary is not reflected on Schedule A in By-law No. 09-124; and,

Whereas, to implement the Downtown Community Improvement Plan, it is necessary to have a consistent boundary amongst the by-laws;

Therefore be it resolved:

That Schedule "A" to By-law No. 09-124, being a By-law to require the conveyance of land for park or other public recreational purposes as a condition of development or redevelopment or the subdivision of land, be deleted and replaced with the Downtown Community Improvement Plan boundary approved by Council on February 13, 2013.

For disposition of this matter refer to Item 9.

(h) NOTICES OF MOTIONS (Item 10)

Chair Partridge relinquished the Chair to Second Vice-Chair Maria Pearson to introduce the following Notice of Motion:

(i) Amendment to Zoning By-law No. 05-200 to allow a Place of Worship at 11 Parkside Drive (Added 10.1)

Whereas, the Greenbelt Plan allows for small scale institutional uses; and

Whereas, the Rural Hamilton Official Plan allows for small scale institutional uses subject to certain tests; and

Whereas, the proposed place of worship meets these tests; and

Whereas, a public meeting is planned for October 6, 2015 to consider changes to the Rural Zoning By-law;

Therefore be it resolved:

That Staff be directed to:

- (a) amend Zoning By-law No. 05-200 by modifying the Rural (A2) Zone for the lands located at 11 Parkside Drive to apply an additional special exception to permit a Place of Worship with a maximum size and apply a holding provision to identify required studies to be completed;
- (b) include the amendment outlined in subsection (a) as part of the report being brought forward to the October 6, 2015 Planning Committee meeting; and
- (c) provide adequate public notice pertaining to subsection (a) above, in accordance with the Planning Act.

The rules of order were waived in order to introduce a motion respecting Amendment to Zoning By-law No. 05-200 to allow a Place of Worship at 11 Parkside Drive

For disposition of this matter refer to Item 10.

Chair Partridge assumed the Chair

Councillor Green introduced the following Notice of Motion:

(ii) Safer Communities and Neighbourhoods Legislation

Whereas, on July 10th 2008 Hamilton City Council approved staff recommendations to support the Ottawa City Council resolution as outlined in Appendix A to Report PED08152; and

Whereas, a number of Provinces have passed Safer Communities and Neighbourhoods Acts; and

Whereas, these Acts provide for the investigation by a Provincial body of public complaints about properties where criminal activities take place which adversely affects the neighbourhood; and

Whereas, the Provincial body may, on the basis of its investigation, apply to a Court for an order enjoining the activities and/or closing a property for a period of time; and

Whereas, the Safer Communities and Neighbourhoods Bill 106 was introduced by the 1st session of the 39th parliament, and carried over by prorogation in 2010 into the 2nd session of the 39th parliament as a private members bill put forward by MPP Yasir Naqvi;

Therefore be it resolved:

- (a) That Council reaffirm its support for the *Safer Communities and Neighbourhoods Act* and send correspondence to the Premier Kathleen Wynne and the Minister of Community Safety and Correctional Services the Honourable Yasir Naqvi requesting that the *Safer Communities and Neighbourhoods Act* be reintroduced as legislation;
- (b) That correspondence be sent to all municipalities in Ontario, the Association of Municipalities of Ontario (AMO), and the Federation of Canadian Municipalities (FCM) notifying these parties of Council's position on the *Safer Communities and Neighbourhoods Act*.

(i) GENERAL INFORMATION/OTHER BUSINESS

(i) Outstanding Business List (Item 11.1)

- (a) The following new due dates were approved:

Item "EE" The Feasibility of Establishing a City Animal Adoption Service in Partnership with the HBSPCA

Due Date: September 1, 2015

Proposed New Due Date: January, 2016

Item "FF" Staff to report back on Feasibility of Licensing Cats in Urban area

Due Date: September 1, 2015

Proposed New Due Date: January, 2016

Item "GG" Staff to report back on enforcement options with respect to ensuring elevators in multi-storey residential buildings are operational

Due Date: September 1, 2015

Proposed New Due Date: January, 2016

- (b) The following Item was removed:

Item "R" - Correspondence from Bill Grahlman CD, President, 447 Wing Royal Canadian Air Force Association, respecting possible property acquisition of the 447 Wing Royal Canadian Air Force Association property (Item 5.1 this agenda)

(j) PRIVATE AND CONFIDENTIAL (Item 12)

(i) Closed Session Minutes – August 11, 2015 (Item 12.1)

This matter is proposed for consideration in Closed Session pursuant to Sub-sections 8.1 (e) and 8.1(f) of the City's Procedural By-law and Section 239.2 of the Municipal Act as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege.

Committee approved the Closed Session Minutes of the August 11, 2015 meeting and directed that they remain private and confidential and restricted from public disclosure.

(k) ADJOURNMENT (Item 12)

There being no further business, the Planning Committee adjourned at 10:53 a.m.

Respectfully submitted,

Councillor J. Partridge
Chair, Planning Committee

Ida Bedioui
Legislative Co-ordinator
Office of the City Clerk