



CITY OF HAMILTON

**City Manager's Office
Legal Services Division**

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 15, 2015
SUBJECT/REPORT NO:	Funding of External Planning Consultant for an Ontario Municipal Board Appeal Regarding 201 Robert Street and 166 Ferguson Avenue North (Hamilton) (Ward 2) – LS15026
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Janice Atwood-Petkovski, City Solicitor Legal Services (Ext. 4636)
SUBMITTED BY:	Janice Atwood-Petkovski City Solicitor City Manager's Office
SIGNATURE:	

RECOMMENDATION

- (a) That the City Solicitor be authorized to retain such external consultant(s) as may be necessary to provide expert advice and evidence to the Ontario Municipal Board ("OMB") respecting the applicant/owner's appeal to the OMB of Council's denial to pass an Official Plan Amendment and a Zoning By-Law Amendment permitting a parking lot for Hamilton Health Sciences Corporation ("HHSC") at 201 Robert Street and 166 Ferguson Avenue North (Hamilton); and
- (b) That the amount required to retain any such external consultant(s) be funded through the Tax Stabilization Reserve, account 110046.

EXECUTIVE SUMMARY

Legal Services has notice of an appeal to the OMB, where staff is required to retain an external planning consultant to defend Council's position, because Council adopted a position contrary to the staff recommendation. This report seeks approval of the recommended funding source for such retainer.

Alternatives for Consideration – none

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Approval of the staff recommendation will provide authority to fund the required retainer from the identified reserve.

Staffing: N/A

Legal: Approval of the staff recommendation would afford Legal staff the ability to retain and fund the external planning consultant required to defend Council's position on the identified appeal.

HISTORICAL BACKGROUND

A staff report (PED15044), in support of the official plan and zoning applications, was brought forward to Planning Committee on May 5, 2015. The owner/applicant brought forward an appeal for non-decision on May 7, 2015. Council's decision, which was contrary to the staff recommendation, was issued on May 13, 2015. Council's decision on this matter has been appealed to the OMB. Legal staff has identified a need to retain external consultant on this matter in order to defend Council's decision. The funding of retainers for external consultants on appeal is not a budgeted line item in either the Legal Services or Planning and Economic Development Department's budget. Historically, Council authorization has been sought to fund these retainers from the Tax Stabilization Reserve, or other reserve account, as identified by Finance.

RELEVANT CONSULTATION

The Finance, and Planning and Economic Development Departments have been consulted in the preparation of this report.

ANALYSIS AND RATIONAL FOR RECOMMENDATION

Staff supported an official plan amendment application and a zoning by-law amendment application to permit the expansion of the existing hospital parking lot onto 201 Robert Street and 166 Ferguson Avenue North (Hamilton). Council denied both applications. The owner/applicant appealed to the OMB. An external planning consultant is required as Council's decision was contrary to the staff recommendation.

A hearing date has not been scheduled. A prehearing date has been scheduled for September 23, 2015. The owner/applicant has estimated the need for a four-day

SUBJECT: Funding of External Planning Consultant for an Ontario Municipal Board Appeal Regarding 201 Robert Street and 166 Ferguson Avenue North (Hamilton) (Ward 2) - LS15026 - Page 3 of 3

hearing. Legal staff is in the process of retaining a planning consultant in this matter. The consultant's budgeted estimate is in the order of \$60,000.00.

In consultation with Finance, staff recommends the retainer be funded through the Tax Stabilization Reserve 110046.