



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 6, 2016
<b>SUBJECT/REPORT NO:</b>	Improving Planning Application Review (CI-15-E) (PED16040(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Kirsten McCauley Planner (905) 546-2424 Ext. 1287  Steve Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- a) That approval be given to Official Plan Amendments:
  - i) No. XX to the Urban Hamilton Official Plan (Appendix “A” to Report PED16040(a)) to:
    - 1) Clarify the circumstances where the City may waive or accept less than the maximum road widening and / or the daylighting triangle requirement established in the Urban Hamilton Official Plan in Section C.4.5.2 or Schedule C-2 – Future Road Widening;
    - 2) Amend Section F.1.19 (Complete Application Requirements and Formal Consultation) to add “Public Consultation Strategy” and “Right of Way Impact Assessment”;
    - 3) Amend Section F.3.2 (Council Adopted Guidelines and Technical Studies) to add implementation requirements for Public Consultation Strategies and Right of Way Impact Assessments;

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- 4) Make administrative changes to correct errors to policy references and policy numbering;
- ii) No. XX to the Rural Hamilton Official Plan (Appendix “B” to Report PED16040(a)), to:
    - 1) Clarify the circumstances where the City may waive or accept less than the maximum road widening and / or the daylighting triangle requirement established in the Urban Hamilton Official Plan in Section C.4.5.2 or Schedule C-1 – Future Road Widening (Rural);
    - 2) Amend Section F.1.9 (Complete Application Requirements and Formal Consultation) to add “Public Consultation Strategy” and “Right of Way Impact Assessment”;
    - 3) Amend Section F.3.2 (Council Adopted Guidelines and Technical Studies) to add implementation requirements for Public Consultation Strategies and Right of Way Impact Assessments;
    - 4) Make administrative changes to correct errors to policy references and numbering;
- b) That Council approve the following Guidelines and authorize the Chief Planner to make minor changes as required:
    - i) “Guidelines for the Preparation of a Planning Justification Report” as set out in Appendix “C” to Report PED16040(a);
    - ii) “Guidelines for Public Consultation” as set out in Appendix “D” to Report PED16040(a);
    - iii) “Guidelines for Minor Developments Exempt from Road Widening” as set out in Appendix “E” to Report PED16040(a).

## **EXECUTIVE SUMMARY**

Staff is dedicated to continuously reviewing our current practices, processes and policies to identify improvements and ensure that the delivery of planning services responds to the needs of the Division’s customers and stakeholders. As a result of this review, Staff brought forward Report PED16040 on February 16, 2016 to recommend the following:

- That the policies regarding exemptions or reductions in road widenings be amended to provide additional clarity and a consistent standard of review for applicants and staff;

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- That certain types of minor development be exempted from providing road widenings;
- That the City be permitted to request three additional types of materials with the submission of a complete application to ensure a comprehensive review: proof of Community Consultation, advice from the Design Review Panel; and, a Right of Way Impact Assessment; and,
- That Council endorse guidelines for Planning Justification Reports, Community Consultation Meetings and Minor Developments Exempt from Road Widenings, to assist applicants in understanding the City's requirements and expectations.

The changes to the "Road Widening" policies and the guidelines for minor developments exempt from road widenings will provide clearer direction for City staff and proponents regarding situation where a reduction in road widening requirements from the stated width in the Official Plan can be considered. There were no concerns noted with regards to the road widening aspect of the report.

Planning Committee referred Report PED16040 back to staff for further investigation and consultation with major stakeholders regarding the proposed requirements for Community Consultation and Design Review Panel Advice for the submission of a complete application. In particular, staff were directed to consult with the Development Industry Liaison Group (DILG) and the Open for Business (O4B) Sub-Committee regarding the timing and consultation measures proposed.

Staff met with the DILG on February 22, 2016 and March 21, 2016 to gather input. The members of DILG cited delays, unnecessary conflict, ambiguity and lack of flexibility as major concerns for requiring public consultation and Design Review Panel advice prior to submission of application by. Staff presented to the Open for Business Sub-Committee on May 5, 2016. Concerns raised at the Sub-Committee meeting were similar to the DILG consultation.

Concurrent with the additional consultation, the Environmental Registry posted proposed amendments to matters included in the regulations under the Planning Act on February 29, 2016 through Bill 73 – Smart Growth for Our Communities Act, 2015. Among other changes, the amendments require that applications for Official Plan Amendment, Zoning By-law Amendment, or Plan of Subdivision include a public consultation strategy be submitted as part of a complete application. These amendments and associated regulations were approved took effect on July 1, 2016. As such, applications for an Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision must now include a community consultation strategy.

***Alternatives for Consideration – See Page 23***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** Road Widenings - Where road widening requirements are reduced or waived for a development application, there is a potential cost involved if the City needs to obtain this widening at a later date. In greenfield situations with vacant land, the cost of purchasing a piece of land is generally limited to the market value of the land, but in areas which are fully urbanized, compensation must be provided for moving features such as fences, landscaping, lighting, etc., in addition to paying the market value of the lands. It is estimated that the average cost for a road widening purchase by the City is approximately \$35,000. However, City costs can range from approximately \$15,000 to over \$100,000 depending on the site, the size of the widening and if any mitigation measures are required (e.g. relocation of landscape features, fencing, etc.).

**Community Consultation –** Staff may be required to attend public consultation meetings outside of work hours resulting in accrued overtime. While taking time in lieu is encouraged, staff may choose to be paid out for overtime which may have a financial implication. However at this time, quantifying the implication is difficult.

**Staffing:** There are no staffing implications for additional staff; however, there may be implications on staff time to prepare for and attend additional public meetings as part of the Public Consultation piece of this Report.

**Legal:** As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an Official Plan Amendment. The proposed changes with regards to Public Consultation implement the new Provincial requirements.

## **HISTORICAL BACKGROUND**

### Formal Consultation and Complete Application Requirements

Amendments to the *Planning Act* in 2007, via Bill 51 – *The Planning and Conservation Land Statute Law Amendment Act*, enabled the City to require applicants to consult with the City prior to submission of development applications for Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan. Additionally, prior to deeming applications complete, municipalities became able to request additional information or material that Council considers it may need to assess an application, but only if the Official Plan contains provisions describing the information and material.

In 2008, Council adopted Official Plan Amendments, a Formal Consultation By-law and Amendments to the Site Plan Control By-law, which established policies requiring formal consultation and established submission requirements for complete applications.

The requirement for formal consultation prior to the submission of a planning application benefits both applicant and the City, as it ensures that an applicant is aware of the required supporting information before an application is submitted, and ensures that the City has the necessary information to make informed decisions on an application.

The requirement for formal consultation prior to the submission of a planning application provides the City with an opportunity to review potential development proposals, identify key issues and determine the information and materials required to assess an application and to deem such applications complete. A Planning Justification Report is one of the key documents frequently requested as part of a planning application. The purpose of this Report is to summarize why the proposal is considered 'good planning', is appropriate in the community, and how it meets the intent of Provincial and local planning policy.

The approved amendments to the Official Plan also directed that guidelines should be prepared to provide direction on the content and scope of information and materials required for a complete application. This direction is important because the quality of submissions can vary greatly. The policies of the Official Plans permit an application to be deemed incomplete if it does not meet the standard of an adopted guideline.

Through Report PED16040, staff recommended guidelines for the submission of a Planning Justification Report. These guidelines will ensure that all Planning Justification Reports will contain consistent information required by City staff to properly review an application. This Report continues to recommend the guidelines presented in Report PED16040.

### Design Review Panel

In August 2013, Planning Committee approved a recommendation to establish a two year pilot Design Review Panel (DRP) starting January 1, 2014. The DRP's general mandate is to review complex applications in key areas of the City, such as the Downtown and the West Harbour (Setting Sail) Secondary Plan area. The DRP provides professional, objective advice to planning staff on matters of design that affect the design of proposed buildings and the public realm, including streets, parks, and open spaces, in order to help achieve and uphold standards of design excellence. This input is integrated into the development approvals process to provide objective advice to City staff and Council.

The Design Review Panel was extended until the end of 2016 through Report PED13137a) and remains a pilot project. In PED16040, staff recommended that the Design Review Panel advice be required prior to the submission of a complete application. This requirement met with some concern as the DRP remains a pilot project to determine if the mandate should be expanded beyond the Downtown, West Harbour and LRT. Based on the additional input, staff has removed this item as a

recommended requirement going forward and it will be revisited as part of the review of DRP in Q4 2016.

#### Public Participation and Mediation in the Planning Approval Process

In 2003, Council adopted a set of procedures for communication and involvement with the public relative to applications for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. These procedures provide opportunity for enhanced public participation, and identification, collaboration and resolution of issues, prior to the Department preparing the staff report for Committee and Council. This meeting / consultation is optional for applicants and not a requirement. Updates were made to the procedures in 2007. These updates included improvements in the manner in which correspondence and comments regarding an application are provided to Ward Councillors, and included allowing an optional neighbourhood meeting to be held prior to a formal public meeting where the Manager of Development Planning, Heritage and Design and the Ward Councillor determine it would be beneficial to address public issues raised in response to the preliminary circulation letter prior to consideration of the matter by Planning Committee.

The adopted set of procedures also permit applicants to hold a community meeting prior to an application submission, as an alternative to the City sending out a letter to the surrounding area about an application after submission requesting written comments (preliminary circulation letter). This meeting / consultation is optional for applicants.

In Report PED16040, the proposed Official Plan Amendment to add “Community Consultation” to the list of materials that can be required for a complete application would permit the City to require a Community Consultation meeting before a complete application is submitted. Concerns were raised over the timing of this consultation and the lack of flexibility in the requirements and were key reasons why the Report was referred back to staff. Staff was requested to undertake additional consultation with the development industry (DILG) and the Open for Business Sub-Committee for input on the proposed changes and if/how this type of requirement could be implemented.

As of July 1, 2016, the *Planning Act* and Ontario Regulations have been amended to include the ability for a municipality to require the submission of “a proposed strategy for consulting with the public with respect to the application” as part of a complete application for a Zoning By-law Amendment, Official Plan Amendment and a Plan of Subdivision. The scope and form of the required strategy has not been defined by the Province. As such, and to avoid confusion, staff is recommending that the proposed Guideline be used to assist applicants in preparing a Strategy.

### Road Widening

On October 1, 2013, a motion was passed at Planning Committee as follows:

#### **“Road Widening (Item 9.3)**

That Planning and Public Works staff prepare a report to Planning Committee respecting concerns and issues related to excessive setback and road widening requirements in all the City’s downtowns.” (Report 13-015).

This Report reviews a number of the concerns and issues with road widenings on a City wide basis, and would apply to all of the City’s former downtowns as well. Some of the major concerns regarding road widenings in the former downtowns, such as widening requirements that would impact historical streetscapes, existing buildings or cultural heritage resources, will be addressed through the proposed changes in this Report.

Based on this direction, staff investigated opportunities for review of road widenings and right-of-way assessments. It was determined that there may be certain instances that reducing or eliminating the road widening requirements would be beneficial to the City and the applicant. The requirement for item remains the same as presented in Report PED16040.

### Update

Report PED16040 was referred back to staff for additional consultation with the Development Industry Liaison Group (DILG) and the Open for Business Subcommittee (O4B). The major issue was the requirement for public consultation and Design Review Panel Advice prior to the submission of a complete application. In Report PED16040, the draft Official Plan Amendment proposed to add “Community Consultation” to the list of materials that can be required for a complete application and would permit the City to require a Community Consultation meeting before an application is submitted. Several concerns were raised over the timing of this consultation and the lack of flexibility in the requirements. For this reason the Report was referred back to staff for additional consultation. This will be discussed further in the analysis section of this Report.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Road Widenings**

Planning staff continue to recommend the amendment implementing the road widening procedures outlined in the previous Report PED16040. There were no objections raised to the revised policies as proposed at the previous Planning and Economic Development Committee meeting on February 16, 2016 and no concerns or objections received at the additional DILG consultations or the Open for Business Subcommittee Meeting on May 5, 2016. Therefore no further changes to the Rural Hamilton Official Plan or the Urban Hamilton Official Plan are proposed. In addition, subsequent to the

February 2016 meeting, staff has encouraged applicants to utilize the proposed policy and criteria when requesting reduced road widenings. This testing of the proposed policies and criteria have not identified any need for further revisions to the proposed policies.

The proposed policies meet the objectives of the Official Plan to continue to obtain appropriate road widths through development application approvals, while allowing some flexibility to recognize that sometimes it is not feasible to obtain the maximum road width, or that sometimes it is appropriate to permit a lesser width to meet other objectives of the Plans, such as the protection of our natural heritage or cultural heritage resources. This need for some flexibility has already been recognized in the policies of several approved secondary plans, including the Downtown Secondary Plan and the Strathcona Secondary Plan. Therefore, the proposed policies are in keeping with the general intent of the Urban Hamilton Official Plan and Rural Hamilton Official Plan.

Proposed full policy for UHOP and RHOP:

“C.4.5.6.4 Notwithstanding Policies C.4.5.6, C.4.5.6.1, C.4.5.6.3 and C.4.5.7:

- a) Where site plan approval is required primarily for the purposes of natural heritage protection and site plan approval is the only *Planning Act* application, a conveyance of lands for a future road widening or daylight triangle shall not be taken.
- b) Where site plan approval is required for a minor development and the site plan approval is the only *Planning Act* application, a conveyance of lands for a future road widening or daylight triangle may not be taken at the discretion of the City.

C.4.5.6.5 Notwithstanding Policies C.4.5.6, C.4.5.6.1, C.4.5.6.3 and C.4.5.7, and in addition to Policy C.4.5.3, the City may waive or accept less lands to be dedicated than the maximum road widening and/or daylighting triangle requirements where, in the opinion of the City:

- a) It is determined through a development planning approval process that due to significant adverse impacts on:
  - i) existing built form,
  - ii) natural heritage features,
  - iii) an existing streetscape; or
  - iv) a known *cultural heritage resource*;

it is not feasible or desirable to widen an existing road allowance to the maximum road widening or provide the full daylight triangle as set out in Section C.4.5.2, Schedule C-2 – Future Road Widenings or



Section C.4.5.7, and that the City's objectives for sustainable *infrastructure*, complete streets and mobility can be achieved, or,

- b) An alternative road width or daylight triangle size has been deemed appropriate through a City initiated environmental assessment, streetscape master plan, area master plan, secondary planning study, or other transportation or planning study approved by Council, and provided it does not affect the safe and planned operation of the roadway.

C.4.5.6.6 Where a right-of-way width less than the maximum road allowance or a reduced daylight triangle is established in accordance with Policy C.4.5.6.5, the City may require the establishment of an easement for the installation and maintenance of municipal *infrastructure*.”

### **Complete Application Requirements**

The *Planning Act* permits a municipality to require any information or materials that it needs for applications for Official Plan Amendments, Zoning By-laws and Plans of Subdivision provided the Official Plan contains policies relating to these materials. Complete application requirements are determined through the “Formal Consultation” process. The *Planning Act* permits the City to require formal consultations for Official Plan Amendments, Zoning By-laws, Plans of Subdivision and Site Plans (Subsections 22(3.1), 34(10.0.1), 51(16.1) and 41(3.1)).

The Urban and Rural Official Plans currently set out studies and requirements that the City can request as part of a complete application. They also describe and provide guidance on a number of the studies or materials that may be required to be submitted with applications.

The proposed Official Plan Amendments are consistent with the *Planning Act*. The attached draft Official Plan Amendment will add two items “Public Consultation Strategy” and “Road Widening Assessment”, to the list of materials that the City can request as part of a complete development application, to ensure that the City has all the materials that it needs to appropriately consider an application. This amendment conforms with the recent amendments made to the *Planning Act* and Regulations that require “a proposed strategy for consulting with the public with respect to the application” for Zoning By-law Amendments, Official Plan Amendments and Plans of Subdivision. The draft amendment also proposes to include the ability for the City to request a Public Consultation Strategy as part of other planning applications where it is deemed beneficial.

The purpose of allowing the City to request additional supporting materials is to ensure that staff is able to complete a comprehensive review of an application. The proposed Official Plan amendments will add several policies to this section which provide direction

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for Right of Way Impact Assessments and for applying the Public Consultation Strategy Guidelines. These policies provide guidance which will assist in the implementation of the City's Complete Application Requirements.

**Guidelines**

As part of the complete application requirements, policies in the Urban and Rural Hamilton Official Plans direct that the City establish guidelines to provide direction regarding the intended content and scope of such other information and materials. More detailed guidelines that outline specific requirements and technical standards are more appropriate to be developed as separate documents. Guidelines help to ensure that consistent, detailed information is received.

The guidelines proposed (attached as Appendix "C" to Report PED16040(a)) for Planning Justification Reports and Public Consultation Strategy implement the direction to establish guidelines for materials requested with the submission of development applications. The proposed guidelines are in conformity with the policies of the Urban Hamilton and Rural Hamilton Official Plans, as they fulfil the direction of the Official Plans.

There has been no change to the Planning Justification Report guidelines that were proposed as part of Report PED16040.

**Summary**

The proposed Official Plan Amendments in recommendation a) (Appendices "A" and "B" to Report PED16040(a)) are consistent with the general intent and purpose of the Urban Hamilton and Rural Hamilton Official Plans to allow exceptions to providing the maximum road widening when there are appropriate circumstances, and to ensure that necessary information and materials can be requested with the submission of an application.

The proposed guidelines in recommendation b) (Appendices "C", "D" and "E" to Report PED16040(a)) are also in conformity with the policies of the Urban Hamilton and Rural Hamilton Official Plans, as they fulfil the direction of the Official Plans.

**RELEVANT CONSULTATION**

**Prior to Report PED16040 (up to and including February 16, 2016):**

Notice of the proposed Official Plan Amendments in Recommendation (a) was given by newspaper notice on Friday, January 29 in accordance with the requirements of the *Planning Act* and the City's Official Plan.

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The proposed Official Plan Amendments were circulated internally to staff in the Planning Division of the Planning and Economic Development Department, to the Public Works Department, and to Legal Services.

The Hamilton Halton Home Builders' Association (HHHBA) was consulted and the Development Industry Liaison Group (DILG) was also notified that amendments to the Official Plan regarding road widenings and complete application requirements were being considered.

The draft Guidelines for Planning Justification Reports were circulated internally to staff in the Planning Division, and were also circulated to 15 external Planning Consultant firms which frequently prepare these types of reports for applications with the City. In addition to the Guidelines, the circulation included a brief description of the proposed Official Plan Amendments regarding road widenings and complete application requirements. The full letters are attached to the original Report PED16040 as Appendix "D" and the main comments / concerns expressed are summarized below.

The comments in general are supportive of the proposed Guidelines for Planning Justification Reports. A request was made by the Canadian Association of Certified Planning Technicians to also allow Certified Planning Technicians to be eligible to prepare Planning Justification Reports. These professionals receive a significant education in the field of planning and have been recognized previously by the Ontario Municipal Board (OMB) as being qualified to give evidence on planning matters. This is consistent with the City's practice of having Planning Technicians give planning evidence at the OMB on planning matters. As such the guidelines for Planning Justification Reports have been amended to permit both Registered Professional Planners (RPP) and / or Certified Planning Technicians (CPT) to prepare reports.

Another comment provided an opinion that the City's Formal Consultation process should identify the relevant and appropriate policies to be considered in a Planning Justification Report if the Guidelines are to be adopted. This would assist applicants in ensuring they have addressed all necessary policies in their reports. Staff note that as part of the Formal Consultation process, applicable policy documents are identified, as well as applicable land use designations within those documents (e.g., within the Official Plan, Secondary Plans, and Neighbourhood Plans). The Community Planning Section of the Planning Division typically also provides detailed comments regarding applicable Secondary Plan policies and Neighbourhood Plan policies as part of a Formal Consultation. However, based on the preliminary nature of Formal Consultations, it is not possible for staff to do a comprehensive review identifying all applicable policies from the City's Official Plan prior to a full application being submitted. Therefore, staff are of the opinion that the current level of information provided to applicants through Formal Consultation is sufficient. Furthermore, it is not uncommon for staff to meet with proponents to review and discuss Official Plan policies and designations for the purpose of providing clarification and determining applicability of Official Plan policies. A policy and planning analysis is somewhat subjective in nature, and there may be different

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professional opinions on whether or not a proposal complies with or complements Official Plan policy. A report would not be deemed unsatisfactory on the basis of a professional opinion that may differ from a staff member's professional opinion.

It was noted that some appendices such as draft Official Plan Amendments and Zoning By-laws potentially may not be needed as part of a Planning Justification Report as these are often not used by the City. However, based on staff experience, this is not felt to be accurate. Although staff prepare a new Official Plan Amendment or Zoning By-law Amendment document for final reports, staff do use the drafts provided by applicants as part of their initial review of an application, and for circulation to other staff departments and agencies for comment.

Another comment was expressed that applications for site plan or plans of subdivision which do not involve Official Plan or Zoning By-law changes should not require a Planning Justification Report or Brief. Staff notes that for subdivision applications, a report or brief is usually required, to demonstrate how the application is meeting the criteria for subdivisions outlined in Section 51(24) of the *Planning Act*. A report or brief is not usually requested for site plans, but may be needed for more complex proposals or to determine conformity related to a site plan.

Two letters commented on the other items discussed in the report, namely the proposed official plan amendments regarding road widening policies and complete application policies. More information was requested as detailed policies were not included in the circulation. Both respondents were provided a full copy of PED16040 and were notified of the Public Meeting on February 16, 2016. There was general support for making changes to Road Widening policies which would have the effect of clarifying requirements, providing a more consistent standard of review, and exempting minor developments.

With regards to the additional complete application requirements, it was suggested that "Advice from the Design Review Panel" be revised to state "Comments from the Design Review Panel". However, based on the DRP mandate, the purpose of the DRP is "to give advice and make recommendations to staff" regarding urban design. Based on this wording, the term "Advice" is the most accurate description and has been maintained.

The public meeting for Report PED16040 was held on February 16, 2016. The Committee heard concerns voiced in regard to the new complete application requirements for review by the Development Review Panel (DRP) or Community Consultation to take place before submission of a complete application. It was felt that there were too many unknowns; in particular about what qualifies as a major application requiring Community Consultation and who decides, ensuring that DRP requirement is only applied to projects which fall under the DRP mandate, lack of flexibility, and the timing of the new requirements in the development application process. For this reason, Report PED16040 was referred back to staff over concern regarding the new

requirement for public consultation and Design Review Panel advice prior to submission of a complete application.

**Consultation following PED16040 (from February 17, 2016 to date):**

Report PED16040 was referred back to staff for further consultation with the Development Industry Liaison Group (DILG) and the Open for Business (O4B) Sub-Committee.

Staff met with the DILG on February 22, 2016 and March 21, 2016 to listen to their concerns and gather input on how to improve the process. Similar to the comments received at Planning Committee, the DILG cited submission delays, unnecessary conflict, ambiguity and lack of flexibility as the group's major concerns. The group noted that a community meeting prior to submission would be detrimental to the process as the application may change as a result of comments from the various City departments. In addition, the DILG had concerns about a DRP review requirement being applied to projects outside of current DRP mandate as there was a lack of detail on what would be reviewed.

Staff presented to the Open for Business Sub-Committee on May 5, 2016. Concerns raised at the Sub-Committee meeting were similar to the DILG consultation. A Planning Consultant from UrbanSolutions Planning & Land Development Consultants Inc., addressed the Committee respecting improving Planning Application Review and the Official Plan Amendment. His comments noted concern with the efficiency of the methods for consulting with the public and the DRP. In summary, his comments requested a more fulsome review of the proposed tools to make the planning review process smoother.

The following Open for Business Sub-Committee recommendation was carried by the General Issues Committee at its meeting of July 4, 2016 and passed by City Council on July 8, 2016:

**(c) Improving Planning Application Review (CI-15-E) (PED16040) (City Wide) (Item 8.2)**

- (i) That the requirements listed under the Complete Application Requirements and Formal Consultation, be amended to include the following:
  - (aa) That the "Community Consultation" requirement not be considered mandatory prior to the submission of an application;
  - (bb) That the "Community Consultation" requirement be considered mandatory after the submission of an application; and,

- (cc) That the “Community Consultation” after the submission of an application include options such as “Neighbourhood Meetings”;
- (ii) That staff be directed to review the requirements of the pilot-project for the Design Review Panel, and that definite criteria be included to encompass exact implications for the development community; and,
- (iii) That Report CI-15-E/PED16040, Improving Planning Application Review, be referred back to the Planning Committee.

As a result of the additional stakeholder consultation and the changes made to the *Planning Act* and regulations regarding complete applications, it was determined that the submission of a Public Consultation Strategy would be a more appropriate requirement for a complete application. The Public Consultation Strategy would set out the timing and requirements of consultation for an Official Plan Amendment, Zoning By-law, Plan of Subdivision or other transformational/major application. These changes are consistent with the intent and purpose of the City’s Complete Application Requirements in the UHOP and the RHOP, as well as the recent changes to the *Planning Act* regulations. It is also recommended to include the ability to allow the City to request a public consultation strategy as part of other planning applications if it is determined that it would be beneficial to have that additional input.

Planning staff have made revisions to the draft Official Plan Amendment and guidelines originally presented at the February 16, 2016 Planning Committee meeting via Report PED16040.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The purpose of this Report is to recommend the following:

- That the policies regarding exemptions or reductions in road widenings be amended to provide additional clarity and a consistent standard of review for applicants and staff;
- That certain types of minor applications be automatically exempted from providing road widenings;
- That the City be permitted to request two additional types of materials with the submission of a complete application to ensure a comprehensive review; Community Consultation and a Right of Way Impact Assessment; and,
- That Council endorse guidelines for Planning Justification Reports, a Community Consultation Plan / Strategy and Minor Developments Exempt from Road Widenings, to assist applicants in understanding the City’s requirements and expectations.

These improvements will provide clarity for the Division's customers and stakeholders, and will assist staff in reviewing and processing applications. This aligns with the City of Hamilton's Open for Business mandate to create consistent, predictable, and customer-focused services that encourage investment.

### ***Road Widening Policy Amendments***

The Official Plan sets out maximum widths for road rights-of-way for each type of road throughout the City to achieve complete streets and allow for the efficient operation of the road network. In order to maintain a level of consistency, Staff propose that a reduction or waiving of a requirement only be permitted where there is a demonstrated significant adverse impact relating to the four criteria listed below, or where Council has approved a City initiated study, such as an environmental assessment or streetscape master plan, which has studied a specific area in greater detail and indicates that a different standard than what is in the Official Plan can / should be applied. Staff recommends that the demonstration of significant adverse impacts be limited to four criteria:

1) Impacts on existing built form.

Impacts may include circumstances where an existing building is located within a required road widening. Providing the widening through the existing building would be considered a significant adverse impact.

2) Impacts on an existing streetscape.

An example of this is if most buildings on an existing street have a similar setback and provide a continuous streetscape, and a new development on the same street is required to have a much greater setback from the actual street, due to a large road widening. The widening would create a significant adverse impact on the streetscape character.

3) Impacts on the natural heritage system.

Impacts may include circumstances where a site design that is created to accommodate a full road widening would result in adverse impacts on a feature of the natural heritage system, such as a watercourse, wetland, or woodlot.

4) Impacts on a cultural heritage resource.

Impacts may include circumstances where providing a road widening on a heritage property or an adjacent property, might impact some of the features that are protected by the heritage designation, such as fencing, gates, or a specific landscape.

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The amendments will allow the City additional flexibility to take into consideration both feasibility and desirability when determining appropriate road widenings, as well as ensuring that the required road widening will continue to be applied, where appropriate.

In addition to the proposed criteria, the existing policies in the RHOP list two types of applications where a road widening requirement would not normally be applied. These include site plan applications that deal only with natural heritage protection and site plan applications for minor developments. The policy permits the City to exempt minor developments from the road widening requirement, but still maintains the right of the City to take these widenings if necessary, whereas applications that deal with only natural heritage protection are always exempt. The draft Official Plan Amendment also proposes a policy be added to both Official Plans that allows for the City to request an easement instead of a road widening.

As part of staff's review of the policies regarding road widenings, three technical errors in the RHOP and two in the UHOP were identified and will be corrected through the proposed amendment (Recommendations a)i)4) and a)ii)4)). Errors in the RHOP include a numbering error (Policy number C.4.5.6.4 is missing from the list of policies in Section C.4.5.6, and subsequent policy numbering is incorrect as a result), and a correction to the policy references in Policies C.4.5.6.3c) and C.4.5.6.5 which reference incorrect policy numbers. In the UHOP, Policy C.4.5.6.1 is worded to contain two policies, and therefore needs to be separated to be given two policy numbers. Policy C.4.5.6.3c) also references incorrect policy numbers.

To ensure that requests to reduce or waive a road widening requirement are appropriately reviewed and address the criteria for allowing reductions outlined in the proposed Official Plan amendments, staff recommend that a "Right of Way Impact Assessment" be added to the Complete Application Policies to provide a framework for assessing requests for reduced road widenings. Appendix "E" to Report PED16040(a) outlines the requirements of the right-of-way impact assessment. This document remains the same as what was recommended in Report PED16040.

### ***Complete Application Policy Amendments***

The City established requirements for Formal Consultation and Complete Applications in 2008 which are now included in the City's Urban Hamilton Official Plan (UHOP) and Rural Hamilton Official Plan (RHOP). Each of these sections include a table listing all types of plans, studies and reports that can be requested from an applicant with the submission of an application. Report PED16040 recommended three additional items to be added to this list: Community Consultation, Advice from the Design Review Panel and a Right of Way Impact Assessment. However, as a result of the additional consultation undertaken with DILG and O4B as well as the new *Planning Act* requirements for Public Consultation Strategies as part of a complete application, Staff is now recommending that a Public Consultation Strategy and Right of Way Impact Assessment only be added to the list. Policies are also proposed for Section F.3.2 –



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Council Adopted Guidelines and Technical Studies to provide guidance which will assist in the implementation of the new requirements.

a) Public Consultation Strategy

The current Council approved Public Participation Policy allows, but does not require, a proponent to initiate a community information meeting before an application for Official Plan Amendment, Zoning By-law Amendment or Plan of Subdivision is submitted. Concerns were raised through the additional consultation indicating objection to the requirement of having a public open house prior to submission of a formal application. Comments received indicated that the submission of a Public Consultation Strategy outlining how and when the public would be consulted would be more appropriate. This position is further strengthened by the recent amendments to the *Planning Act* and Regulations.

Staff recommends that a “Public Consultation Strategy” be added to the list of studies/report that could be requested for other planning applications. As noted, this strategy would be required for Zoning By-law Amendments, Official Plan Amendments and/or Plans of Subdivision. The purpose of this requirement would be to ensure appropriate, up-front consultation for transformational projects. It will also permit staff to more effectively implement Council’s policy regarding consultation with the community whenever it is deemed to be beneficial, instead of permitting it at the discretion of an applicant.

The attached guideline titled “Public Consultation Strategy Guidelines” Appendix “D” sets out the requirements of the Public Consultation Strategy.

b) Advice from Design Review Panel (DRP)

The purpose of Design Review Panel is to provide expert impartial design advice and guidance to planning authorities on significant development proposals and other design related matters, based on established Council-approved policies and guidelines. Currently, staff can request that an applicant have their proposal reviewed by the DRP. Normally this review is done prior to submitting a formal application so that input from DRP can be integrated into the proposal. However, there is no requirement in the City’s Official Plan that this must be done in order for an application to be deemed complete.

Planning Committee and the Development Industry Liaison Group both raised concerns that the application of a DRP review requirement is premature due to DRP being a pilot project and there was a desire to defer this requirement until a final report on this project is available later this year. In particular, there was also a lack of information regarding which applications the DRP should evaluate, as well as the level of detail and information required for DRP to review was too onerous for projects at a preliminary stage. If this requirement was to proceed, the DILG

requested separate submission requirements for pre-application submissions versus full application submissions.

The DRP was extended via Report PED13137(a) to the end of 2016. It is anticipated that the recommendation report on this project will come forward at the end of 2016. Based on the above concerns and due to the uncertainty of the continuance of DRP, staff is recommending that this requirement be put on hold until the decision on the DRP is made by Council. As part of the review of the continuance of the Design Review Panel, it is suggested that staff review the inclusion of DRP advice in the list of materials that can be requested as part of a complete application as well as submission requirements as noted by DILG. The draft Official Plan Amendment has been modified from Report PED16040 to remove the requirement for Design Review Panel advice from the list of material for a complete application at this time.

c) Right of Way Impact Assessment

A “Right of Way Impact Assessment” is recommended to be added to the materials that can be requested as part of a complete application, to assist staff in reviewing requests to reduce or waive a required road widening. Where the impacts of providing a reduced road widening are not clear, this amendment would permit staff to request that an applicant do a review of the various impacts of providing a road widening before a decision is made. This information will assist staff in making an informed decision on whether an alternate requirement is justified on a planning basis. There has been no change from what was presented in Report PED16040.

***Guidelines for Studies and Reports***

Staff is also recommending that Council formally endorse a set of Guidelines for the preparation of Planning Justification Reports, Public Consultation Strategies and for Minor Developments Exempt from Road Widening (Appendices “C”, “D” and “E” to Report PED16040(a), respectively).

The Official Plan identifies a list of information and / or materials which can be requested with an application. Policies F.1.19.7c) (UHOP) and F.1.9.8c) (RHOP) note that the “City may refuse other information and materials submitted as part of a complete application(s) if it considers the quality of the submission unsatisfactory. Further to this policy, Policies F.1.19.9 (UHOP) and F.1.9.10 (RHOP) state that “the City shall establish guidelines for the other information and materials, to provide direction regarding the intended content and scope of such other information and materials.” The City’s Official Plans have a number of existing policies regarding Council adopted Guidelines and Technical Studies in Section F.3.2 of the UHOP and RHOP that provide general direction for the content of some studies. Informal documents providing guidance on some of the materials listed (e.g., Urban Design Report Terms of

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Reference, Cultural Heritage Impact Assessment Info sheet) have also been created to assist applicants with understanding the City's information needs, if a formal guideline has not been approved yet. For some items, such as the preparation of an Environmental Impact Statement, a proponent will consult with staff to obtain pre-approval of a Terms of Reference before completing a study to allow the study contents to be scoped to address the specific characteristics of an area. However, the majority of items do not have formal guidelines for preparation of these materials, resulting in a wide variety of submissions with varying quality. Formal guidelines are necessary in order to provide more clarity for applicants on the City's expectations, and to ensure that reports contain the information that is needed to properly review and evaluate an application.

*Planning Justification Reports*

To develop the Guidelines for Planning Justification Reports, staff reviewed a large number of existing reports that had been submitted with various applications. Development Planning, Heritage and Design staff was also consulted to determine their information needs and the areas where reports were most often deficient in information. In addition, a variety of industry consultants were also given the opportunity to review the draft guidelines and provide comments (See Relevant Consultation Section of this Report). The guidelines were developed based on this research and are intended to be flexible. Specific information needs can be discussed with an applicant through the formal consultation process. No changes were made to this guideline as result of the additional consultation efforts. The guideline reflects what was presented in Report PED16040.

*Public Consultation*

The Public Consultation Strategy reflects the requirement for Community Consultation Meetings that are outlined in the policies of "Report PD03105 - Public Participation and Mediation in the Planning Approval Process". In accordance with these policies, normally, part of the procedure for notifying the public of an application includes a requirement for a letter to be circulated to all property owners within 120 m of the applicant's property, explaining the nature and effect of the application and the proposed development, with a request to advise staff of any concerns or comments within three weeks (preliminary circulation letter). Applicants are permitted, as an alternative to the preliminary circulation letter, to hold a community consultation meeting prior to the submission of their application. A number of requirements for this meeting are stipulated, including who must be invited, that comment forms must be provided at the meeting, and that minutes of the meeting must be taken. The list of invitees, completed comment forms and meeting minutes must be submitted with the application.

The intent is to adopt a similar set of submission requirements as a Guideline, to apply if the applicant is holding a Public Consultation meeting to fulfill a requirement for a complete application. As previously stated, the changes to the Planning Act and

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regulations now require certain applications to submit a Public Consultation Strategy as part of a complete application. For Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications the following information would be required to be submitted to the City in the form of a Public Consultation Strategy:

	<b>Explanation</b>
Target audience of the consultation	<i>Who will be informed of the consultation and how. Demonstrate an understanding of the demographics in the neighbourhood.</i>
Consultation efforts made before the application was submitted	<i>Evidence of the consultation efforts made prior to application, including recorded outcomes.</i>
List the stakeholders and how they are impacted	<i>List the public, businesses BIAs, agencies, neighbourhood associations, and any other parties that would be impacted as a result of the application and how.</i>
Tools to be used to consult/engage the public	<p><i>Given the rapidly changing technology and social media environment, in addition to considering traditional consultation methods such as a meeting, the applicant may present alternative options for connecting with the community/different demographics and stakeholder groups. These alternative methods shall be detailed in the strategy.</i></p> <p><i>The strategy shall include how the consultation is advertised (i.e. how residents/stakeholders are directed to social media or events/public meetings). The public must be notified on the engagement a minimum of 10 days prior.</i></p> <p><i>Consideration must be given to access and equity (AODA requirements).</i></p>
Timing of consultation	<p><i>Consultation efforts must commence: 30 days from date of application for routine ZBA. This timeframe shall apply to consents and site plans, if required.</i></p> <p><i>60 days from date of application for complex ZBA, OPA and/or Plan of Subdivision.</i></p> <p><i>If a meeting/event is proposed the consultation strategy must include a date, time and location.</i></p>

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	<i>If other consultation methods are proposed (other than a meeting/event), the strategy must specify the date of commencement and duration of the consultation effort.</i>
Method to receive and document comments	<i>Public input must be documented. A record of public comments and recorded views of named persons referenced shall be submitted.</i>  <i>If in person consultation occurs, comment cards/forms shall be made available for those in attendance at the meeting as well as online commenting options.</i>
Proposed participants in consultation and their role	<i>Applicant/Agent, consultants, City Staff (at the request of the applicant), agencies, Councillors, etc.</i>
Requested City resources	<i>Are any City resources required for this consultation to occur?</i>
Expected/Potential Issues	<i>Identify potential issues for the community relating to the application and potential responses/solutions.</i>

Additional Submission Requirements if a public meeting/event is proposed:

- A. Individual invitations to attend the meeting must be provided to the City’s Manager of Development Planning, Heritage and Design, the Ward Councillor, and all property owners, Neighbourhood Associations and Business Improvement Area Associations, identified stakeholders, within 120 m of the subject property unless an alternative radius is agreed to by the City and applicant. Input may be solicited from the Ward Councillor. These invitations must be sent a minimum of 10 days prior to the meeting.
- B. The following items shall be required to be submitted to the City as part of community consultation for an application within 14 days of a consultation meeting:
  - 1. An address list of people/organizations invited to the meeting;
  - 2. A copy of the materials presented at the meeting;
  - 3. Sign in sheet of meeting participants;
  - 4. Minutes of the meeting;
  - 5. A copy of all written comments received;
  - 6. A written summary of all of the comments received verbally and in writing; and,

7. A description of any modifications made to the proposal as a result of the meeting.

As noted, the Public Consultation Strategy would be required for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. Given the benefit of public consultation in addressing issues, Staff is also recommending an option where Public Consultation Strategies could be requested, when identified as a beneficial tool, for other applications such as Site Plans and Consents.

This guideline has changed substantially since Report PED16040.

#### *Road Widening Assessment*

The guideline for what is considered a “minor development” provides further clarification on the Official Plan policy in the RHOP, which is proposed to be added to the UHOP as well, which allows the City to exempt “minor developments” from providing road widenings where a Site Plan approval is the only *Planning Act* approval required. Developments which would be considered minor would include applications processed with the Minor Site Plan application form and fee, and applications for additions to existing buildings where the gross floor area of the addition is not more than 30% of the gross floor area of the existing building. Applications processed with the minor application form and fee normally include detached or semi-detached dwellings, additions less than 100m<sup>2</sup>, parking areas of five or less spaces, outdoor patios, or minor structures such as ramps and fire escapes. The 30% cut off for gross floor area increases is a guideline that was applied to developments along Regional Roads in 1995 (see Appendix “F” to Report PED16040(a)), as part of the Region’s Policy No. P-1: Road Allowance Widening on Regional Roads. This percentage is recognized as a previously approved policy and is recommended to be reconfirmed as a current City guideline.

There is no change to this guideline from what was recommended in Report PED16040.

#### Summary:

Many of the original recommendations made to Planning Committee on February 16, 2016 still stand. The additional consultation helped to flesh out the Public Consultation Strategy and make the requirements more realistic and appropriate for the applicants while still allowing the City to receive appropriate information to undertake proper review of an application. Through the additional discussions, it was clear that the requirement for the Design Review Panel was premature until such time as the DRP is reviewed and its status permanent at the City.

## **ALTERNATIVES FOR CONSIDERATION**

### Recommendation (a)

- 1) Council may make changes to the proposed Official Plan Amendments related to the dedication of road widenings and daylight triangles, to make the policies more permissive or less permissive, or to alter the proposed requirements of the policies.

The disadvantage of making the policies more permissive is that more applicants may be able to avoid providing the maximum road widenings, which may impact the ability of the City to provide for future improvements to the streetscape or the road network, or may necessitate other means of obtaining road widenings for necessary infrastructure improvements (such as purchasing or expropriation).

Other methods of obtaining lands for road widenings would have significant cost implications. If a City project requires a road widening to be purchased / expropriated, rather than obtaining the widening through dedication as a result of a development application process, costs to the City would include the fair market value of the lands to be obtained, compensation for loss of improvements (fencing, landscaping, etc.), compensation for business loss if applicable (for commercial properties), the owner's legal fees (normally \$1,500) and the City's legal fees (normally 6.5% of the value of the transaction). Staff from the Planning and Economic Development Department's Real Estate Section estimate that the average cost for a road widening is \$35,000. However, this amount can vary widely depending on the site, and some widenings cost in excess of \$100,000.

If the policies were less permissive, it would result in a greater number of road widenings being provided, and a lower overall cost to the City for obtaining needed road widths over the long-term. For example, if road widenings were to be required for minor site plan developments and site plans that only deal with natural heritage matters in addition to other applications. However, this approach would create a much more complex process for these applicants, and a significant increased cost to obtain approvals for minor applications, which can be cost-prohibitive.

- 2) Council may approve only a portion of the proposed Official Plan Amendments, such as just making amendments related to the road widening policies, or related to complete application requirements.

### *Design Review Panel Requirement*

Council may choose to include the requirement for Design Review Panel advice prior a decision being made on the future continuance of the Panel. "Design Review Panel Advice" would be added to the list of potential items that can be

requested as part of a complete application. Staff recommends that it is prudent to postpone this requirement for now to ensure that the assessment of the project is done objectively. Planning staff may still have the opportunity to request DRP review and advice for important projects which fall within their current mandate through the review of the DRP later this year.

#### *Community Consultation Requirement*

Council may choose to remove the option for Planning Staff to request a Public Consultation Strategy as part of a complete application outside of those applications that are legislated (i.e. Site Plan, Consent, etc.). The City has the ability to require a Public Consultation Strategy under the new legislation for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. Planning staff believe that having the ability to request these strategies for other applications may be beneficial for certain applications which may be controversial in the community. The additional consultation may result in a better understanding of the proposal and create community acceptance rather than situations that would otherwise derail an application.

#### *Right of Way Impact Assessment Requirement*

Council may choose not to permit staff to require a “Right of Way Impact Assessment” as a specific item submitted with an application. As an alternative, staff could determine the requirement for a right of way just based on internal discussions between staff Departments / Sections regarding an applicant’s proposal. This method is similar to the City’s current practice. Staff do not recommend this option because this is not a consistent approach and staff may not have all the information that could be used to make a more informed decision, such as an analysis of the range of impacts and possible alternatives. This method may also encourage more negotiation whereas the requirement for an assessment ensures that an applicant has considered a request carefully based on a specific set of criteria before making it.

Another option is that instead of a separate report, a discussion on impacts and alternatives could be requested as part of a Planning Justification Report or an Urban Design Report. Although this discussion could be included within another planning report, staff recommends that it be kept separate, because it is a very specific assessment with a specific set of criteria to address that is different from a general policy review or urban design review for a proposal.

#### Recommendation (b)

Staff can provide informal terms of reference and guidance to applicants on what is expected as part of a Planning Justification Report, instead of relying on a Council approved guideline document. The disadvantage of continuing this practice is that it is



not a consistent approach and may result in a more onerous review process for staff and applicants. Also, if there is no approved guideline, staff cannot deem an application incomplete if an unsatisfactory report is submitted.

Public Consultation Strategy is a new proposed complete application requirement. Staff can discuss informally at the formal consultation stage the timing and consultation methods for a neighbourhood consultation meeting. However, to provide greater consistency and clarity for applicants, it is recommended that a formal guideline be endorsed.

Staff could make a determination on a case-by-case basis on what is a minor development that qualifies for an exemption from a road widening requirement. However, to provide greater consistency and clarity for both staff and applicants, it is recommended that a formal guideline be endorsed.

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

#### **Strategic Objective**

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.
- 2.2 Improve the City's approach to engaging and informing citizens and Stakeholders.
- 2.3 Enhance customer service satisfaction.

### **Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

#### **Strategic Objective**

- 3.4 Enhance opportunities for administrative and operational efficiencies.

**ALIGNMENT WITH 2016-2025 STRATEGIC PLAN**

**Community Engagement & Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Official Plan Amendment to the Urban Hamilton Official Plan
- Appendix "B": Official Plan Amendment to the Rural Hamilton Official Plan
- Appendix "C": Guidelines for the Preparation of Planning Justification Reports
- Appendix "D": Public Consultation Strategy Guidelines
- Appendix "E": Guidelines for Minor Developments Exempt from Road Widening
- Appendix "F": Road Widening Policy Amendment (RDS 95-156)