



PLANNING COMMITTEE

REPORT 18-008

9:30 a.m.

Tuesday, May 15, 2018

Council Chambers

Hamilton City Hall

71 Main Street West

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

Absent with

Regrets: Councillor R. Pasuta, personal
Councillors J. Partridge and D. Skelly, leave of absence

THE PLANNING COMMITTEE PRESENTS REPORT 18-008 AND RESPECTFULLY RECOMMENDS:

1. Review of Problems Associated with Increased Visitors to Waterfalls (PED18011(a)) (Wards 6, 9, 13, 14 and 15) (Item 5.1)

That Report PED18011(a) respecting Review of Problems Associated with Increased Visitors to Waterfalls, be received.

2. Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18098) (Item 5.2)

That Report PED18098 respecting Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications, be received.

3. Appointment of Municipal Law Enforcement Officers, Property Standards Officers and Area Weed Inspectors (PED18107) (City Wide) (Item 5.3)

That the By-law, attached as Appendix 'A' to Report PED18107, to appoint Municipal Law Enforcement Officers, Property Standards Officers and Area Weed Inspectors and to repeal City of Hamilton By-law 15-131, being a By-law to Appoint Municipal Law Enforcement Officers, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

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4. Municipalities call on the Province for the “Right to Approve” Landfill Developments (Item 6.1)

WHEREAS municipal governments in Ontario do not have the right to approve landfill projects in their communities, but have authority for making decisions on all other types of development;

WHEREAS, this out-dated policy allows private landfill operators to consult with local residents and municipal Councils, but essentially ignore them;

WHEREAS, proposed Ontario legislation (Bill 139) will grant municipalities additional authority and autonomy to make decisions for their communities;

WHEREAS, municipalities already have exclusive rights for approving casinos and nuclear waste facilities within their communities, and the Province has recognized the value of municipal approval for the siting of power generation facilities;

WHEREAS, the recent report from Ontario’s Environmental Commissioner has found that Ontario has a garbage problem, particularly from Industrial, Commercial and Institutional (ICI) waste generated within the City of Toronto, where diversion rates are as low as 15% and, unless significant efforts are made to increase recycling and diversion rates, a new home for this Toronto garbage will need to be found, as landfill space is filling up quickly;

WHEREAS, municipalities across Ontario are quietly being identified and targeted as potential landfill sites for future Toronto garbage by private landfill operators;

WHEREAS, other communities should not be forced to take Toronto waste, as landfills can contaminate local watersheds, air quality, dramatically increase heavy truck traffic on community roads, and reduce the quality of life for local residents;

WHEREAS, municipalities should be considered experts in waste management, as they are responsible for this within their own communities, and often have decades’ worth of in-house expertise in managing waste, recycling, and diversion programs; and

WHEREAS, municipalities should have the exclusive right to approve or reject these projects, and assess whether the potential economic benefits are of sufficient value to offset any negative impacts and environmental concerns;

THEREFORE, BE IT RESOLVED:

- (a) That the City of Hamilton calls upon the Government of Ontario, and all political parties, to formally grant municipalities the authority

to approve landfill projects in, or adjacent to their communities, prior to June 2018;

- (b) That in the case of a two-tier municipality, the approval be required at both the upper-tier and affected lower-tier municipalities;
- (c) That the City of Hamilton encourages all other municipalities in Ontario to consider this motion calling for immediate Provincial action.
- (d) That copies of this resolution be forwarded to the Association of Municipalities of Ontario (AMO), the Ontario Good Roads Association and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA).

5. Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 157 Gibson Avenue, Hamilton (Ward 3) (PED18101) (Item 6.2)

- (a) That Amended Zoning By-law Amendment Application ZAR-17-034 by Andrew Stephen Hibrant and Cassandra Raiven Rizzi, Owners, for a modification to the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to permit two residential buildings, one containing a duplex and one containing a single detached dwelling on one lot, for lands located at 157 Gibson Avenue, Hamilton, as shown on Appendix “A” to Report PED18101, be APPROVED on the following basis:
 - (i) That the draft By-law, attached as Appendix “B” to Report PED18101, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law attached as Appendix “B” to Report PED18101, be added to District Map No. E21 of Zoning By-law No. 6593;
 - (iii) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning;

The Holding Provision “D/S-1760-‘H’” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Holding, Modified, be removed conditional upon:

- (1) That the Owner shall apply for a Building Permit to permit internal renovations to legally establish a duplex and single

detached dwelling, to the satisfaction of the City's Chief Building Official;

- (2) That the Owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner / applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner;
 - (3) That the Owner submits and receives approval of a wastewater generation assessment, to the satisfaction of the Senior Director, Growth Management; and,
 - (4) That the Owner enter into an encroachment agreement with the City of Hamilton to permit the existing building at the rear of the property to encroach into the existing alleyway at the rear of the subject property, to the satisfaction of the Director or Engineering Services, Public Works Department.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan;
- (b) That there were no public submissions received regarding this matter.

6. Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 389 Garner Road East (Ancaster) (Ward 12) (PED18112) (Item 6.3)

- (a) That Draft Plan of Condominium Application 25CDM-201713, by WEBB Planning Consultants Inc., on behalf of 1541079 Ontario Inc. (Losani Homes Limited), owner, to establish a Draft Plan of Condominium (Common Element) to create a condominium road network, sidewalks, landscaped areas, 62 visitor parking spaces, and centralized mailboxes, on lands located at 389 Garner Road East (Ancaster), as shown on Appendix "A", attached to Report PED18112, be APPROVED subject to the following conditions:

- (i) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-201713 applies to the plan prepared by A.T. McLaren Limited, certified by S. D. McLaren, and dated October 30, 2017, consisting of a condominium road network, sidewalks, landscaped areas, 62 visitor parking spaces, and centralized mailboxes, in favour of 90 maisonette and 45 townhouse dwelling units, attached as Appendix “B” to Report PED18112;
 - (ii) That the conditions of Draft Plan of Condominium Approval 25CDM-201713, attached as Appendix “C” to Report PED18112, be received and endorsed by City Council.
 - (b) That the public submissions received regarding this matter did not affect the decision.
- 7. Parkland Dedication By-law Review – Large Scale Intensification, Multi-storey Residential Developments (PED18105) (City Wide) (Item 8.1)**
- (a) That the Parkland Dedication By-law attached as Appendix “A” to Report PED18105 be passed;
 - (b) That the Parkland Dedication and Cash-in-Lieu of Parkland Procedure, attached as Appendix “B” to Report PED18105 be adopted and replace Parkland Dedication and Cash-in-Lieu of Parkland Policy.
- 8. 141 Park Street North, Hamilton, Development Application for Building Expansion (Added Item 10.1)**

WHEREAS, the City of Hamilton currently considers the Fire Underwriters Survey (FUS) as a standard formula to assess adequate fire flow for new developments;

WHEREAS, 141 Park Street North is identified as a site for expansion of the building floor area from 560 m² to 955.5 m² which increases the calculated FUS fire flow rate beyond that which is available at that location;

WHEREAS, the City of Hamilton currently has a programmed watermain replacement project to increase the watermain size from 150 mm to 300 mm scheduled for 2019 and this will improve fire flow availability in this area of Park Street North;

WHEREAS, adequate fire flow has been shown to be available at a location 150 metres away on the opposite south side of Cannon Street;

WHEREAS, the proposed building expansion will be required to meet the fire flow volumes calculated under the Ontario Building Code for Part 3 buildings (appendix A-3.2.5.7) Water Supply, at the time of Building Permit review; and

WHEREAS, the proposed development will be an improved hub for the community and provide positive music and cultural benefits to the Central Neighbourhood;

THEREFORE, BE IT RESOLVED:

That the development as currently proposed for 141 Park Street North be accepted, recognizing that fire flow protection may not meet the existing Fire Underwriters Survey (FUS) standard for fire flow evaluation, however, with the currently programmed 2019 watermain replacement, the likelihood of building completion at 141 Park St. North beforehand is slim.

9. An 18-Month Pilot on Patio Encroachment Agreement Amendment to Allow a BBQ and Taps on the Black Forest Inn Seasonal Patio. (Added Item 10.2)

WHEREAS, the International Village BIA has fully endorsed the permitting of a BBQ and a set of taps for seasonal patio use at the historic Black Forest Restaurant;

WHEREAS, the current by-law, established long ago, does not permit BBQ or taps on patios as part of the standard City encroachment agreement;

WHEREAS, the International Village BIA has had concerns respecting nefarious activities and serious vandalism in the immediate area and strongly feels that the patio and BBQ and tap enhancements would greatly assist in addressing these issues by bringing many more "eyes on the area;" an area that is central to the BIA at Ferguson Avenue and King Street;

WHEREAS, pilots are an effective way to measure ideas that seek to modify or amend dated by-laws;

WHEREAS, the City's newly adopted Downtown Secondary Plan encourages more vibrant streets and places; and

WHEREAS, the City of Hamilton is Open for Business;

THEREFORE, BE IT RESOLVED:

- (a) That the current by-law be amended so as to permit an 18-month seasonal pilot for a BBQ and taps (in conjunction with the approval of the Alcohol and Gaming Commission of Ontario (AGCO)) at the Black Forest Inn Restaurant;

- (b) That any City of Hamilton department stakeholders including Fire, Health, Risk Management, Planning, Municipal Law Enforcement, Public Works, and Legal be requested to monitor the 18-month seasonal pilot for a BBQ and taps on the patio at the historic Black Forest Inn Restaurant.

10. Update on LPAT Appeals (LPAT File Nos. PL170698, PL170699, PL170700 and PL170743) by Harbour West Neighbours Inc. et al, regarding Temporary Use By-law Nos. 17-082, 17-083, 17-084 and 17-096 (Entertainment on Outdoor Commercial Patios) (LS18018) (City Wide) (Distributed under separate cover.) (Item 12.2)

That Report LS18018 respecting Update on LPAT Appeals (LPAT File Nos. PL170698, PL170699, PL170700 and PL170743) by Harbour West Neighbours Inc. et al, regarding Temporary Use By-law Nos. 17-082, 17-083, 17-084 and 17-096 (Entertainment on Outdoor Commercial Patios) be approved and remain private and confidential until approved by Council upon which the recommendations will be released.

FOR INFORMATION:

(a) APPROVAL OF THE AGENDA (Item 1)

The Committee Clerk advised of the following changes:

1. ADDED DELEGATION REQUESTS

- 4.1 Suzanne Mammel, Hamilton-Halton Home Builders' Association respecting the Parkland Dedication By-law Review (Item 8.1 on this agenda.) (For this meeting.)

2. ADDED SAMPLE RESOLUTION

- 6.1 Sample resolution for Committee's consideration regarding Mayor Ted Chomiskey's presentation on the Demand the Right Campaign.

3. ADDED NOTICE OF MOTION

- 10.1 141 Park Street North, Hamilton, Development Application for Building Expansion

The agenda for the May 15, 2018 meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

There were none declared.

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

(i) May 1, 2018 (Item 3.1)

The Minutes of the May 1, 2018 meeting were approved.

(d) DELEGATION REQUESTS (Item 4)

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

- (i) Suzanne Mammel, Hamilton-Halton Home Builders' Association respecting the Parkland Dedication By-law Review (Item 8.1 on this agenda.) (For this meeting.) (Added Item 4.1)

(e) DELEGATIONS/PUBLIC HEARING (Item 6)

- (i) **Mayor Ted Comiskey, Town of Ingersoll, to speak concerning the Demand the Right Campaign which is to promote municipalities gaining the right to say yes or no to proposed landfill projects within their boundaries. (Approved April 17, 2018) (Item 6.1)**

Mayor Ted Comiskey addressed Committee with the aid of a PowerPoint presentation. A copy was printed in the agenda and is available for viewing on the City's website.

The five-minute time limit for delegations was extended.

The delegation was received.

For disposition of this matter refer to Item 4.

- (ii) **Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 157 Gibson Avenue, Hamilton (Ward 3) (PED18101) (Item 6.2)**

In accordance with the provisions of the *Planning Act*, Chair A. Johnson advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council 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 Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

No members of the public came forward.

The public meeting was closed.

The staff presentation was waived.

Franz Kloibhofer of A. J. Clarke and Associates. representing the owner, was in attendance. Franz Kloibhofer advised that the owner is in agreement with the staff report.

The recommendations were amended by adding the following subsection (b) and re-lettering the balance:

- (b) That there were no public submissions received regarding this matter.

For disposition of this matter refer to Item 5.

(iii) Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 389 Garner Road East (Ancaster) (Ward 12) (PED18112) (Item 6.3)

In accordance with the provisions of the *Planning Act*, Chair A. Johnson advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council makes a decision regarding the Draft Plan of Condominium, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

No members of the public came forward.

That the public meeting be closed.

That the staff presentation be waived.

The recommendations were amended by adding the following subsection (b) and re-lettering the balance:

- (b) That the public submissions received regarding this matter did not affect the decision.

For disposition of this matter refer to Item 6.

(f) DISCUSSION ITEMS (Item 8)

(i) Parkland Dedication By-law Review – Large Scale Intensification, Multi-storey Residential Developments (PED18105) (City Wide) (Item 8.1)

Ray Kessler, Manager, Real Estate, provided a brief verbal introduction to Item 8.1 and he recognized the work undertaken by staff on this initiative.

Danielle Lapp, Appraiser Coordinator, addressed Committee with the aid of a PowerPoint presentation and provided an overview of the report. Copies were distributed and a copy is available for viewing on the City's website.

The staff presentation was received.

Delegation

1. Suzanne Mammel, Hamilton-Halton Home Builders' Association (Added Item 4.1)

Suzanne Mammel addressed Committee and indicated that this was a collaborative process and thanked staff for seeking the input of the Association on this matter.

She indicated that she is pleased with the report and requested future consideration of the following suggestions:

- Annual reporting on what monies are collected vs what is paid out;
- An innovative approach in the types of parks that are provided;
- That a portion of the fees be used in the Ward where they are collected.

The delegation was received.

For disposition of this matter refer to Item 7.

(g) NOTICES OF MOTION

(i) 141 Park Street North, Hamilton, Development Application for Building Expansion (Item 10.1)

Councillor Farr introduced a Notice of Motion respecting 141 Park Street North, Hamilton, Development Application for Building Expansion.

The rules of order were waived to allow the introduction of a Motion respecting 141 Park Street North, Hamilton, Development Application for Building Expansion.

For disposition of this matter refer to Item 8.

(ii) An 18-Month Pilot on Patio Encroachment Agreement Amendment to Allow a BBQ and Taps on the Black Forest Inn Seasonal Patio (Added Item 10.2)

Councillor Farr introduced a Notice of Motion respecting an 18-Month Pilot on Patio Encroachment Agreement Amendment to Allow a BBQ and Taps on the Black Forest Inn Seasonal Patio.

The rules of order were waived to allow the introduction of a Motion respecting an 18-Month Pilot on Patio Encroachment Agreement Amendment to Allow a BBQ and Taps on the Black Forest Inn Seasonal Patio.

For disposition of this matter refer to Item 9.

(h) GENERAL INFORMATION/OTHER BUSINESS

(i) Outstanding Business List (Item 11.1)

(a) The following new due dates were approved:

Item "H" – ACPD Report 16-002 – Re: financial incentives for taxi operators to make replacement vehicles accessible.

Due date: May 15, 2018

New due date: June 19, 2018

Item "I" - That staff be directed to present to the Planning Committee an updated digital sign by-law.

Due date: June 5, 2018

New due date: August 14, 2018

Item "M" - Staff to report back on the feasibility of amending the Licensing By-law including comparators across the country, to

clearly define adult services in relation to the distinction between strip clubs and other performances, including but not limited to burlesque.

Due date: TBD

New due date: June 19, 2018

Item “O” - That staff monitor the operations of the Personal Transportation Providers (Schedule 24 of the Licensing By-law 17-170) licensing category over the next year to determine if any adjustments are required and report back to Committee.

Due date: May 15, 2018

New due date: June 19, 2018

Item “Q” - That staff report back with legislative options and alternatives to the regulation of driving schools in Hamilton that seeks to address the practice areas utilized by driving schools and individual driving instructors, and that the information contained in the report include, but not be limited to, legislation adopted by neighbouring municipalities who have adopted driving school rules and regulations.

Due date: May 15, 2018

New due date: June 6, 2018

Item “R” - That Planning staff be directed to report to the Planning Committee about the City’s policies respecting Boulevard Standards and that the report outline the options & alternatives that are available for future designs.

Due date: May 15, 2018

New due date: June 5, 2018

(b) That the following Item be identified as completed and be removed:

Item “F” – Deferral of Item 5 of HMHC Report 15-005 proposing inclusion of 1021 Garner Rd E on register of properties of cultural heritage value or interest to allow consultation with property owner and to correct wording. (Item 8.2 – Hamilton Municipal Heritage Committee Report 18-004 on May 1, 2018 agenda)

CARRIED

(i) PRIVATE AND CONFIDENTIAL

Committee approved the following Items without moving into Closed Session:

(i) Closed Session Minutes of May 1, 2018 meeting. (Item 12.1)

(a) The Closed Session Minutes of the May 1, 2018 meeting were approved;

- (b) The Closed Session Minutes of the May 1, 2018 meeting are to remain private and confidential and restricted from public disclosure.

- (ii) **Update on LPAT Appeals (LPAT File Nos. PL170698, PL170699, PL170700 and PL170743) by Harbour West Neighbours Inc. et al, regarding Temporary Use By-law Nos. 17-082, 17-083, 17-084 and 17-096 (Entertainment on Outdoor Commercial Patios) (LS18018) (City Wide) (Item 12.1)**

For disposition of this matter refer to Item 10.

(j) ADJOURNMENT (Item 14)

There being no further business, the Planning Committee was adjourned at 10:40 a.m.

Respectfully submitted,

Councillor A. Johnson
Chair, Planning Committee

Ida Bedioui
Legislative Co-ordinator
Office of the City Clerk