



**PLANNING COMMITTEE
REPORT
23-005**

April 4, 2023
9:30 a.m.

**Council Chambers, Hamilton City Hall
71 Main Street West**

Present: Councillor J.P. Danko (Chair)
Councillor T. Hwang (1st Vice Chair)
Councillor C. Cassar (2nd Vice Chair)
Councillors J. Beattie, E. Pauls, M. Francis,
C. Kroetsch, T. McMeekin, N. Nann, M. Tadeson, A. Wilson,
M. Wilson

THE PLANNING COMMITTEE PRESENTS REPORT 23-005 AND RESPECTFULLY RECOMMENDS:

1. **Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications (PED23054) (City Wide) (Item 9.1)**

That Report PED23054 respecting Active Official Plan Amendment, Zoning By-law Amendment, and Plan of Subdivision Applications, be received.
2. **Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-022 and Zoning By-law Amendment Application ZAC-22-048 to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 2900 King Street East, Hamilton (PED23073) (Ward 5) (Item 9.2)**

That Report PED23073 respecting Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-022 and Zoning By-law Amendment Application ZAC-22-048 to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 2900 King Street East, Hamilton, be received.
3. **Hamilton Municipal Heritage Committee Report 23-003 (Item 11.1)**
 - (a) **Heritage Permit Application HP2023-005, Under Part V of the Ontario Heritage Act, for the Erection of a Rear Detached Accessory Structure at 18 Chilton Place, Hamilton (PED23001) (Ward 2) (Item 8.1)**

- (i) That Heritage Permit Application HP2023-005, for the erection of a rear detached accessory structure on the designated property at 18 Chilton Place, Hamilton (Durand-Markland Heritage Conservation District), as shown in Appendix “A” attached to Report PED23001, be approved, subject to the approval of any required Planning Act applications and the following Heritage Permit conditions:
 - (a) That the final details of the windows and garage doors be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to installation;
 - (b) That any minor changes to the plans and elevations following approval shall be submitted to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit;
 - (c) That construction and site alterations, in accordance with this approval, shall be completed no later than March 31, 2025. If the construction and site alterations are not completed by March 31, 2025, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

- (b) Recommendation to Designate 115-117 George Street, Hamilton, under Part IV of the Ontario Heritage Act (PED23027) (Ward 2) (Item 8.2)**
 - (i) That the City Clerk be directed to give notice of Council’s intention to designate 115-117 George Street, Hamilton, shown in Appendix “A” attached to PED23027, as a property of cultural heritage value pursuant to the provisions of Part IV, Section 29 of the Ontario Heritage Act, in accordance with the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix “A” to Hamilton Municipal Heritage Committee Report 23-002, subject to the following:
 - (a) If no objections are received to the notice of intention to designate in accordance with the Ontario Heritage Act, City Council directs staff to introduce the necessary by-law to designate the property to be of cultural heritage value or interest to City Council;
 - (b) If an objection to the notice of intention to designate is received in accordance with the Ontario Heritage Act, City Council directs staff to report back to Council through

Planning Committee to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to designate the property.

- (ii) That staff be directed to investigate the addition of a designated heritage plaque to be added by the developer, to the property at 115-117 George Street, Hamilton.

- (c) Council Initiative to Repeal Designation By-laws under Section 31 the Ontario Heritage Act for Vacant Properties at 14 Belvidere Avenue and 14 Mary Street, Hamilton (PED23038) (Wards 2 and 8) (Item 10.1)**
 - (i) That the City Clerk be directed to give notice of Council's intention to repeal By-law No. 83-183, being a by-law designating 14 Belvidere Avenue, Hamilton (Appendix "A" attached hereto to Report PED23038), and By-law No. 01-225, being a by-law designating 14 Mary Street, Hamilton (Appendix "B" attached hereto to Report PED23038), in accordance with the requirements of Section 31(3) of the Ontario Heritage Act, subject to the following:
 - (a) For each property that receives no objections to the notice of intention to repeal in accordance with the Ontario Heritage Act, staff be directed to introduce the necessary by-law to repeal to City Council;
 - (b) For each property that receives any objection to the notice of intention to repeal in accordance with the Ontario Heritage Act, staff be directed to report back to Council through Planning Committee to allow Council to consider the objection and decide whether or not to withdraw the notice of intention to repeal.

 - (d) Notice of Intention to Demolish the Building Located at 99 Creighton Road, Dundas, being a Non-Designated Property Listed on the Municipal Heritage Register (PED23068) (Ward 13) (Item 10.2)**

That the non-designated property located at 99 Creighton Road, Dundas, be removed from the Municipal Heritage Register.

4. Outdoor Commercial Patios – Minor Variances and Temporary Use By-laws (Item 12.1)

WHEREAS, Outdoor Commercial Patios are regulated in size and location by Zoning By-law No. 05-200;

WHEREAS, By-law No. 20-181, as amended by By-law Nos. 20-215 and 21-143 amended the Outdoor Commercial Patio regulations in the Zoning By-law to provide temporary relief from the locational requirements for Outdoor Commercial Patios;

WHEREAS, Report PED20135(c) recommended reinstatement of the temporary locational permissions for Outdoor Commercial Patios to support local businesses by increasing operational flexibility;

WHEREAS, Council approved By-law No. 22-073 to reinstate the temporary locational permissions for Outdoor Commercial Patios on properties abutting a Residential Zone provided a minimum setback of 5 metres from a Residential Zone is provided and the patio does not obstruct a driveway, parking aisle or fire route, and the Zoning By-law restricts Outdoor Commercial Patios to the front yard of a property if the rear lot line abuts a Residential Zone, Downtown Residential (D5) Zone, or Downtown Multiple Residential (D6) Zone, or is separated by a laneway from said zones;

WHEREAS, Report PED20135(c) directed staff to report back to Council before April 2025, prior to the expiration of the Temporary Use By-law, to present staff's evaluation of the merits of establishing the temporary locational permissions for Outdoor Commercial Patios as permanent given that commercial entertainment and recreation on Outdoor Commercial Patios is now permitted in the Zoning By-laws and regulated by the Noise Control-By-law;

WHEREAS, a Minor Variance Application is required to assess variations from the requirements of the Zoning By-law;

WHEREAS, a Minor Variance Application fee is \$3,735.00.

WHEREAS, a Routine Minor Variance fee of \$675.00 is applied to pools, decks, sheds, accessory buildings, porches, eave projections, recognizing legal non-complying situations and secondary dwelling units;

WHEREAS, in 2022, four Minor Variance Applications were received to modify the zoning regulations associated with Outdoor Commercial Patio locations;

WHEREAS, a variance to the locational permissions and setback requirements for Outdoor Commercial Patios shall require varying the location requirements in the Zoning By-law and the temporary location permissions and setback requirements of the Temporary Use By-law;

THEREFORE, BE IT RESOLVED:

That staff be directed to amend the interpretation note for Routine Minor Variance applications in the Tariff of Fees By-law to include variances to the zoning by-law regulations for Outdoor Commercial Patios and the temporary use

provisions where a Temporary Use By-law applies to the property for Outdoor Commercial Patios as a Routine Minor Variance.

5. Demolition Permit for 1262 Centre Road, Flamborough (Added Item 12.2)

WHEREAS, the owner of the above-mentioned property would like to demolish the existing dwelling without having to obtain a Building Permit for a replacement building.

WHEREAS, in order to preserve the land, in a safe and secure manner, the family has removed (with building permit) the dilapidated garage. The remaining house is beyond repair and dangerous for people to enter, yet people continue to break in; and

WHEREAS, for the past 25 years, the majority of the 32 acres has been rented and farmed by a local farming family, Robinson Farms. This parcel would also be incorporated into farmland.

THEREFORE, BE IT RESOLVED:

That the Chief Building Official be authorized to issue a demolition permit for 1262 Centre Road, Flamborough, pursuant to Section 33 of the Planning Act as amended, without having to comply with the conditions in Sub-Section 6.(a) of Demolition Control Area By-law 22-101.

6. Extension for Reconstruction at 3334 Homestead Drive, Glanbrook (Added Item 12.3)

WHEREAS, a permit to demolish the existing residential building containing a single family dwelling (the “original building”) at 3334 Homestead Drive, Glanbrook was issued to the owner, Joel Tavormina, on August 5, 2018.

WHEREAS, a condition of the demolition permit required the owner to construct and substantially complete the new residential building containing a single family dwelling (the “replacement building”) that was proposed to be erected on the property not later than two (2) years from date of the demolition of the original building.

WHEREAS, on September 4, 2018 the original building was demolished and the condition of the demolition permit required that the replacement single family dwelling be constructed and substantially complete not later than September 4, 2020.

WHEREAS, on May 1, 2019 the partially constructed replacement building caught on fire during construction and was substantially damaged, which did not alter the condition that the replacement building be constructed and substantially complete by September 4, 2020.

WHEREAS, on May 31, 2019 a permit to demolish the fire damaged partially constructed replacement building and a replacement reconstruction permit were issued to permit the construction of another replacement building.

WHEREAS the owner has not commenced construction of the second replacement building.

WHEREAS, pursuant to subsection 33(7) of the *Planning Act*, upon failure to complete the replacement building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of \$20,000, as specified in the permit.

WHEREAS, pursuant to subsections 33(11) and (12) of the *Planning Act*, the demolition permit holder may submit a notice of application to the clerk requesting relief by Council from the conditions on which the permit was issued where the holder of the permit is of the opinion it is not possible to complete the replacement building within the time specified in the permit or that the construction of the replacement building has become not feasible on economic or other grounds, and this notice must be filed not less than sixty (60) days before the time specified in the permit for the construction of the replacement building.

WHEREAS, the statutory timeline to apply for relief from the conditions of the permit expired on July 6, 2020.

WHEREAS, subsection 33(13) of the *Planning Act*, authorizes Council to extend the sixty (60) day timeline for making of an application for relief from the conditions on which the permit was issued.

WHEREAS, subsection 33(14) of the *Planning Act* specifies where an application is made under subsection (11), the council shall consider the application and may grant the same or may extend the time for completion of the replacement building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the replacement building.

WHEREAS, the permit holder has requested that Council exercise its authority under subsection 33(13) of the *Planning Act* to extend the sixty (60) day period to submit notice and apply for relief as provided under subsection 33(11) and (12) of the *Planning Act*; and

WHEREAS, Council has considered the permit holder's applicant.

NOW THEREFORE BE IT RESOLVED:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the *Planning Act* and is granted relief from the time for

completion of a replacement building, on the property at 3334 Homestead Drive, Glanbrook, from two (2) years of the date of the demolition of the original building to two (2) years from the date of Council resolution.

7. **Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15) (Added Item 15.2)**
 - (a) That the directions to staff in Closed Session respecting Report LS22004(a)/PED22019(a), be approved;
 - (b) That closed session recommendations (a), (b), and (c) to Report LS22004(a) /PED22019(a) be released to the public, following approval by Council; and
 - (c) That the balance of Report LS22004(a)/PED22019(a) remain confidential.
8. **Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13) (Added Item 15.3)**
 - (a) That the directions to staff in closed session respect Report LS23017/PED23075, be approved;
 - (b) That closed session recommendations (a), (b), and (c) contained in Report LS23017/PED23075 remain confidential until made public coincident with staff's presentation of the City's position to the OLT;
 - (c) That Appendices "A" and "B" be approved and remain confidential until made public coincident with staff's presentation of the City's position to the OLT; and
 - (d) That the balance of Report LS23017/PED23075 remain confidential.
9. **Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12) (Added Item 15.4)**
 - (a) That the directions to staff in closed session respect Report LS23015, be approved;
 - (b) That closed session recommendations (a) and (b) to Report LS23015 be released to the public, following approval by Council; and,

- (c) That the balance of Report LS23015 remain confidential.

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

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

5. COMMUNICATIONS

- 5.2 Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1)

13. NOTICES OF MOTION

- 13.1 Demolition Permit for 1262 Centre Road, Flamborough

15. PRIVATE AND CONFIDENTIAL

- 15.2 Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15)
- 15.3 Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13)
- 15.4 Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12)

The agenda for the April 4, 2023 Planning Committee meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)

(i) March 21, 2023 (Item 4.1)

The Minutes of the March 21, 2023 meeting were approved, as presented.

(d) COMMUNICATIONS (Item 5)

(i) ACORN Hamilton respecting 1083 Main Street East (Item 5.1)

The Communication from ACORN Hamilton respecting 1083 Main Street East, was received.

(ii) Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1) (Added Item 5.2)

The Communication from Greg Dunnett, Hamilton Chamber of Commerce respecting Outdoor Commercial Patios - Routine Minor Variances and Temporary Use By-laws (Item 12.1), was received.

(e) DELEGATION REQUESTS (Item 6)

(i) Matt Johnston, Urban Solutions, respecting Redesignation of Class 4 Noise Designation for 115 and 121 Vansitmart Avenue (For a future meeting) (Item 6.1)

The Delegation Request from Matt Johnston, Urban Solutions, respecting Redesignation of Class 4 Noise Designation for 115 and 121 Vansitmart Avenue, was approved for a future meeting.

(f) DELEGATIONS (Item 7)

(i) Joel Tavormina respecting an Extension for Reconstruction (approved at the March 21st meeting) (Item 7.1)

Joel Tavormina addressed the Committee respecting an Extension for Reconstruction.

The Delegation from Joel Tavormina respecting an Extension for Reconstruction, was received.

For disposition of this matter, refer to Item 6 and (g)(ii).

- (ii) **Mike Burnet, ACORN, respecting a Landlord Registry (Approved at the February 14th meeting and deferred from the March 21st meeting) (Item 7.2)**

Mike Burnet was not in attendance when called upon.

(g) NOTICES OF MOTION (Item 13)

- (i) **Demolition Permit for 1262 Centre Road, Flamborough (Added Item 13.1)**

The Rules of Order were waived to allow for the introduction of a Motion respecting a Demolition Permit for 1262 Centre Road, Flamborough.

For disposition of this matter, refer to Item 5.

- (ii) **Extension for Reconstruction at 3334 Homestead Drive, Glanbrook (Added Item 13.2)**

The Rules of Order were waived to allow for the introduction of a Motion respecting Extension for Reconstruction at 3334 Homestead Drive, Glanbrook.

WHEREAS a permit to demolish the existing residential building containing a single family dwelling (the “original building”) at 3334 Homestead Drive, Glanbrook was issued to the owner, Joel Tavormina, on August 5, 2018.

WHEREAS a condition of the demolition permit required the owner to construct and substantially complete the new residential building containing a single family dwelling (the “replacement building”) that was proposed to be erected on the property not later than two (2) years from date of the demolition of the original building.

WHEREAS on September 4, 2018 the original building was demolished and the condition of the demolition permit required that the replacement single family dwelling be constructed and substantially complete not later than September 4, 2020.

WHEREAS on May 1, 2019 the partially constructed replacement building caught on fire during construction and was substantially damaged, which did not alter the condition that the replacement building be constructed and substantially complete by September 4, 2020.

WHEREAS on May 31, 2019 a permit to demolish the fire damaged partially constructed replacement building and a replacement

reconstruction permit were issued to permit the construction of another replacement building.

WHEREAS the owner has not commenced construction of the second replacement building.

WHEREAS pursuant to subsection 33(7) of the *Planning Act*, upon failure to complete the replacement building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of \$20,000, as specified in the permit.

WHEREAS pursuant to subsections 33(11) and (12) of the *Planning Act*, the demolition permit holder may submit a notice of application to the clerk requesting relief by Council from the conditions on which the permit was issued where the holder of the permit is of the opinion it is not possible to complete the replacement building within the time specified in the permit or that the construction of the replacement building has become not feasible on economic or other grounds, and this notice must be filed not less than sixty (60) days before the time specified in the permit for the construction of the replacement building.

WHEREAS the statutory timeline to apply for relief from the conditions of the permit expired on July 6, 2020.

WHEREAS subsection 33(13) of the *Planning Act*, authorizes Council to extend the sixty (60) day timeline for making of an application for relief from the conditions on which the permit was issued.

WHEREAS subsection 33(14) of the *Planning Act* specifies where an application is made under subsection (11), the council shall consider the application and may grant the same or may extend the time for completion of the replacement building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the replacement building.

WHEREAS the permit holder has requested that Council exercise its authority under subsection 33(13) of the *Planning Act* to extend the sixty (60) day period to submit notice and apply for relief as provided under subsection 33(11) and (12) of the *Planning Act*.

WHEREAS Council has considered the permit holder's applicant.

NOW THEREFORE BE IT RESOLVED:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the Planning Act and is granted relief from the conditions to construct a replacement building on the property at 3334 Homestead Drive, Glanbrook.

The above motion, was **amended** by adding a timeline, as follows:

That the permit holder be granted an extension to file a notice of application under section 33(13) of the *Planning Act* and is granted relief from the **time for completion of** a replacement building, on the property at 3334 Homestead Drive, Glanbrook, **from two (2) years of the date of the demolition of the original building to two (2) years from the date of Council resolution.**

For disposition of this matter, refer to Item 6 and (f)(i).

(h) GENERAL INFORMATION / OTHER BUSINESS (Item 14)

(i) Outstanding Business List (Item 14.1)

The following changes to the Outstanding Business List, were approved:

(a) Items to be Removed

12B - Request to Designate 437 Wilson Street East (Ancaster)
(Addressed as Item 9 on Planning Committee Report 23-004)

14A - Adding 206, 209 and 210 King St E to the Register of
Property of Cultural Heritage Value or Interest
(Addressed as Item 9 on Planning Committee Report 23-004)

17B - Designation of the Gore District as a Heritage Conservation
District
(Addressed as Item 9 on Planning Committee Report 23-004)

21Q - Options for Fee/Cost Recoveries for Multiple Requests for
Same Property being removed from the Heritage Registry
(Hamilton Municipal Heritage Committee Report 21-005
(Addressed as Item 9 on Planning Committee Report 23-004)

22B - MCR / Official Plan Review
(Addressed as Item (i)(iii) on Planning Committee Report 22-014 -
Referred to the November 30, 2022 Special Council meeting)

(b) Items to be Added

Annual Report on the Impacts of the No Growth Option
(Referred to the Planning Committee at the March 22, 2023
General Issues Committee meeting) (November 19, 2021, GIC 21-
023, Item 3(h))

(i) **PRIVATE AND CONFIDENTIAL (Item 15)**

(i) **Closed Session Minutes – March 21, 2023 (Item 15.1)**

The Closed Session Minutes dated March 21, 2023 were approved, as presented, and remain confidential.

The Committee moved into Closed Session for Items 15.2, 15.3 and 15.4, Pursuant to Section 9.3, Sub-sections (e), (f) and (k) of the City's Procedural By-law 21-021, as amended; and, Section 239(2), Sub-sections (e), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board..

(ii) **Appeal to the Ontario Land Tribunal (OLT) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-19-012), Zoning By-law Amendment Application (ZAC-19-044) and Draft Plan of Subdivision Application (25T-201905) for lands located at the Northeast and Southeast corners of Highway No. 6 and 30 Dundas Street East, Flamborough (OLT-21-001345) (LS22004(a)/PED22019(a)) (Ward 15) (Added Item 15.2)**

For disposition of this matter, refer to Item 7.

(iii) **Appeal to the Ontario Land Tribunal (OLT) of By-law #22-258, Melville Street Heritage Conservation District Study Area (LS23017/PED23075) (Ward 13) (Added Item 15.3)**

For disposition of this matter, refer to Item 8.

(iv) **Committee of Adjustment Decision regarding Minor Variance Application (AN/A-22:180) for Lands Located at 64 Lovers Lane, Ancaster (LS23015) (Ward 12) (Added Item 15.4)**

For disposition of this matter, refer to Item 9.

(j) ADJOURNMENT (Item 16)

That there being no further business, the Planning Committee be adjourned at 11:11 a.m.

Councillor J.P. Danko
Chair, Planning Committee

Lisa Kelsey
Legislative Coordinator