



Planning Committee
REPORT 11-002
9:30 a.m.
Tuesday, February 1, 2011
9:30 am
Council Chambers
City Hall, 71 Main Street West,
Hamilton, Ontario

Present: Vice Chairs: Councillors B. Clark, J. Farr
Councillors: C. Collins, B. Johnson, J. Partridge,
M. Pearson, T. Whitehead

Absent with Regrets: Chair: Councillor R. Pasuta – Bereavement
Councillor L. Ferguson – Personal

Also Present: Councillor T. Jackson

Staff Present: T. McCabe, General Manager – Planning and Economic
Development
M. Sergi, P. Mallard, T. Sergi, M. Hazell, M. Inrig, G. Norman,
A Fletcher, D. Cuming, B. Janssen, P. De Iulio, Planning and
Economic Development
L. Pasternak, M. Kovacevic J. Wice – Legal Services
A. Grozelle, C. Newman – City Clerk's Office

**THE PLANNING COMMITTEE PRESENTS REPORT 11-002 AND RESPECTFULLY
RECOMMENDS:**

- 1. Kiosk Pilot Program PED05172(i) (Wards 1 and 2) (Item 5.1)**
 - (a) That Report PED05172(i), Kiosk Pilot Program PED05172(i) (Wards 1 and 2) be received.
 - (b) That staff be directed to include Dundas in the Kiosk Pilot Program.

2. Waste Chute Closure Permit Policy (PED09165(d)) (City Wide) (Item 5.2)

- (a) That the Waste Chute Closure Permit Policy attached hereto as Appendix "A" of Report 11-002 be approved;
- (b) That subject to approval of recommendation (a), the amendment to the Property Standards By-law No. 10-221, included in Appendix "A" to Report PED09165(d), which has been prepared in a form satisfactory to the City Solicitor, be passed;
- (c) That a \$150.00 application fee for a Waste Chute Closure Permit be approved and added to the City's User Fees and Charges By-law

3. Trinity East - Official Plan Amendment and Zoning By-law Amendment (Ward 9) (PED07236(d)) (Item 6.1)

- (a) That approval be given to Official Plan Amendment [REDACTED] to the former City of Stoney Creek Official Plan, for the lands located south of Highland Road, north of Rymal Road, and west of Second Road (Stoney Creek), as shown on Appendix "A" to Report PED07236(d), to change the land use designation from "Low Density Residential", "Medium Density Residential", "Local Commercial", and "Elementary School" to "Open Space" and "Natural Open Space"; and to establish Special Policy Area 'J' to require additional studies to address any potential impact on the Karst prior to permitting any municipal infrastructure or consideration of any future land use change, as set out in Appendix "B" to Report PED07236(d).
- (b) That approval be given to Official Plan Amendment [REDACTED] to the Urban Hamilton Official Plan (Ministerial approval pending), for the lands located south of Highland Road, north of Rymal Road, and west of Second Road (Stoney Creek), to change the land use designation from "Neighbourhoods" to "Major Open Space"; and to establish Area Specific Policy USC-4 to require additional studies to address any potential impact on the Karst prior to permitting any municipal infrastructure or consideration of any future land use change, as set out in Appendix "C" to Report PED07236(d).
- (c) That the Province be requested to modify the Urban Hamilton Official Plan for lands located south of the Highland Road, north of Rymal Road, and west of Second Road (Stoney Creek), to designate the lands Open Space, as defined in Appendix "C" to Report PED07236(d).
- (d) That approval be given to amend Zoning By-law No. 05-200 by incorporating the lands located south of Highland Road, north of Rymal Road, and west of Second Road (Stoney Creek) to be zoned

"Conservation/Hazard Land (P5)" Zone, as set out in Appendix "D" to Report PED07236(d).

4. Trinity East lands related requests to the Province of Ontario (Added Items 9.1 and 9.2)

- (a) That the City of Hamilton request the Government of Ontario and the Ontario Realty Corporation to transfer the ownership of the Trinity East lands, located south of Highland Road, north of Rymal Road and west of Second Road in Ward 9 of the City of Hamilton, to the Hamilton Conservation Authority for a nominal fee of two dollars with the intent to protect these environmentally sensitive lands into the future.
- (b) That staff be directed to report back to the Planning Committee in respect to requesting the Province increase the subject lands Area of Natural and Scientific Interest (ANSI) rating.

5. Lot Grading Review / Policy (No copy) (Item 7.1)

- (a) That the current retaining wall maintenance policy and property standards By-law be incorporated as part of the lot Grading Review.
- (b) That staff report back on the ways and means to validate drainage plans and ways and means to ensure functionality of Private Collection Basins.

6. Hamilton Municipal Heritage Report 11-001, respecting the Federal Building, 150 Main Street, West (Item 8.1)

- (a) That the Hamilton Municipal Heritage Report 11-001, respecting the Federal Building, 150 Main Street, West, be received.
- (b) That the Ward 2 Councillor, Jason Farr, report back to Council on the results of his discussions with the Developer and the Federal Government with the understanding that staff will not delay their regular functions pending the outcome of this report.

7. Draft Proposed Sidewalk Policy for New Development (PED11030) (City wide) (To be distributed) (Item 8.2)

- (a) That the General Manager of the Planning and Economic Development Department be authorized and directed to bring forth a revised Sidewalk Policy for New Development.

- (b) That staff be authorized and directed to meet with the development industry, stakeholders, affected City departments, utility companies, Advisory Committee for Persons with Disabilities, community groups and the public for the purpose of discussion, consultation and input toward a sidewalk policy which represents the needs of the Community and the vision of the City.

8. Ontario Municipal Board appeal respecting Consent to Sever Applications GL/B-09:71, 3328 Golf Club Road (Glanbrook); SC/B-09:72, 455 Tapleytown Road (Stoney Creek); and GL/B-09:104, 3151 Hendershot Road (Glanbrook) (Item 12.1)

- a) That in the matter of the appeals to the Ontario Municipal Board by P&L Livestock Ltd respecting 3328 Golf Club Road, 455 Tapleytown Road, and 3151 Hendershot Road (OMB File Numbers PL100118, PL100255 and PL100120), the City Solicitor be directed to advance the following position before the Ontario Municipal Board and enter into minutes of settlement as follows:

That the applications for Consent to Sever and conditions for 3151 Hendershot Road and 3328 Golf Club Road be supported, conditional upon the withdrawal of the 455 Tapleytown Road appeal, as outlined in the January 17th, 2011, memorandum from Tim McCabe, General Manager, Planning and Economic Development Department, to Legal Services, all as provided to the Planning Committee on February 1st, 2011, with such minor amendments thereto as the General Manager of Planning and Economic Development Department and City Solicitor deem appropriate

- b) That the staff memo, dated January 17, 2011, remain confidential and not be released to the public, with the exceptions of Appendix "A" and Appendix "B"

9. Comprehensive Zoning By-law-Industrial Zone Appeals (PED11027) (City Wide) (Item 12.2)

- (a) That approval be given to the staff recommended Ontario Municipal Board settlements, related to the implementation of the new Industrial Zones, as outlined in Report (PED11027) and that staff be directed to present these settlements to the Ontario Municipal Board, regarding the following appellants:

1201076 Ontario Limited

681-695 Barton Street

Bunge Canada	400, 424, 442 and 446 Burlington Street East
Flamborough Power Centre	Parkside Drive
ShawCor Ltd.	385 Nebo Road, 1280 Rymal Road East
2243361 Ontario Inc.	39, 43, 45, 67 Lloyd Street

And that the details of the settlements, as outlined in Report (PED11027), remain confidential, until the time of the OMB Hearing into this matter, whereafter they will be released as public information;

- (b) That Council take no action regarding settlements with the following three appellants and that the By-law affecting their issues/properties be defended in the form enacted by Council, on May 26, 2010 regarding:

Wayne Clayton	No specific property –City Wide
ZBX Hamilton Lands Inc.	80 Brant Street
TDL Group Corp.	No specific property – City Wide
Sam's Auto Wrecking Co. Ltd.	495 Wentworth Street North

- (c) That the City Solicitor be authorized to retain outside counsel and such experts as necessary, to support City Council's position before the Ontario Municipal Board in respect of the appeal by 1823474 Ontario Inc., 620 South Service Road, of the City of Hamilton Zoning By-law 10-128 and that the amount required to retain outside counsel and experts be funded first, through 2011 Budget, second through year end Corporate Surpluses, and lastly through the Tax Stabilization Reserve;

- (d) That in respect of the appeal of 5A Developments Inc. the City Solicitor be instructed to take the position before the OMB that Council no longer supports the Prestige Business Park (M3) Zone as modified by Special Exception 399 zoning placed on the property municipally known as 650 South Service Road in By-law 10-128 by the previous Council of the City;

And further that the City Solicitor be instructed to advance the position before the appeal of By-law No. 10-128 by 5A Developments Inc. that the appropriate zoning for the property municipally known as 650 South Service Road is a modified Prestige Business Park (M3) Zone with Special Exception 399 as recommended in Staff Report PED090260(a) dated April 27, 2010 for the reasons set out;

- (e) That Report PED11027, in its entirety, remain confidential, and not be released to the public, with the exceptions of the matters outlined in (a) above.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised the following changes to the agenda.

COMMUNICATIONS

6.1.1

- (i) Correspondence from Bill Lamond, Hamilton Naturalists' Club, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment
- (ii) Correspondence from Tom Scott, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment
- (iii) Correspondence from Anil Wijesooriya, General Manager, Planning Survey, Appraisal, Accessibility, Ontario Realty Corporation, requesting a deferral of the recommendations of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment (Item

8.1.1

- (i) Letter from Darko Vranich, President of Vrancor Development Corporation, respecting Hamilton Municipal Heritage Report 11-001, regarding the Federal Building, 150 Main Street West.
- (ii) Submission by Councillor Terry Whitehead, respecting Covenant of Transfer of land on 150 Main Street West.

GENERAL BUSINESS

- 11.2 Proposed Removal of Outstanding Business Item H - Potential of Parking lots in commercial area of Locke Street

The Clerk indicated that the Committee would be moving into Closed Session around noon out of consideration for staff in attendance.

On a Motion the agenda was approved as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) APPROVAL OF MINUTES (Item 3)

The Minutes of the January 18, 2011 Planning Committee were approved.

(d) DELEGATION REQUESTS (Item 4)

(i) Dave Braden respecting his proposals for Rebuilding Urban Development (Item 4.1)

The Delegation Request from Dave Braden respecting his proposals for Rebuilding Urban Development was approved.

(e) Municipal Heritage Committee Minutes December 16, 2010 (Item 5.3(a))

The Municipal Heritage Committee Minutes December 16, 2010 were received.

(f) Trinity East - Official Plan Amendment and Zoning By-law Amendment (Ward 9) (PED07236(d)) (Item 6.1)

(i) (a) Correspondence from Brad Gautreau, Friends of the Eramosa Karst, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment (Item 6.1.1)

The correspondence from Brad Gautreau, Friends of the Eramosa Karst, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment was received

(b) Correspondence from Bill Lamond, Hamilton Naturalists' Club, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment (Added Item 6.1.1 (i))

The correspondence from Bill Lamond, Hamilton Naturalists' Club, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment was received

- (c) **Correspondence from Tom Scott, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment (Added Item 6.1.1 (ii))**

The correspondence from Tom Scott, in support of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment was received

- (d) **Correspondence from Anil Wijesooriya, General Manager, Planning Survey, Appraisal, Accessibility, Ontario Realty Corporation, requesting a deferral of the recommendations of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment (Added Item 6.1.1 (iii))**

The correspondence from Anil Wijesooriya, General Manager, Planning Survey, Appraisal, Accessibility, Ontario Realty Corporation, requesting a deferral of the recommendations of Report PED07236(d), Trinity East - Official Plan Amendment and Zoning By-law Amendment was received

Vice Chair Clark advised the meeting of the following, in accordance with the provisions of the Planning Act,

- a) 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 approves the Official Plan Amendment, and passes the zoning by-law, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Ontario Municipal Board.
- b) 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 approves the Official Plan Amendment, and passes the zoning by-law, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.
- (ii) Michelle Sergi, Manager, Community Planning and Design provided the following overview to Committee members with the aid of a Power Point presentation. Highlights included but were not limited to the following:

- Discussed the subject lands and how they are situated geographically

- Owned in part by Hamilton Conservation Authority and the ORC
- Showed a picture of the subject land looking across Rymal Road
- Discussed the past history and designations placed on the land by Stoney Creek prior to amalgamation
- Discussed the quarry area, buffer areas and the feeder areas
- Discussed what the term ‘karst’ means, indicating that it deals with the acidic quality of the water after it encounters limestone
- Following the 2002 Staff Report on the area, it became clear that some additional work/studies was needed, regarding the Official Plan/Secondary Plan for the area
- Moving on to 2007, the ORC transferred numerous sections of the area to the Conservation Authority
- At that point the Trinity master plan was divided into two separate plans East and West.
- The West has since moved forward however the East has been held up
- The Province then underwent studies and indicated that some of the land could be developed, this is out of sync with the City’s longstanding viewpoint that the principle of development has not yet been met on the area
- The City’s position through out this is that the principle of development has not been met.
- Showed an overhead map and described the area
- Gave an in-depth background on the lands in question and the City’s ongoing position that the principle for development has not been met

Committee members discussed the matter and asked questions of staff. Points raised included but were not limited to the following:

- Councillor Johnson asked why we aren’t looking at saving South of Rymal Road
- Staff indicated that there was already in a plan in place protecting some of that area and designating some for development
- Councillor Johnson indicated that the ORC was not made aware of this Motion and asked if it would cause any problems
- Staff indicated that they were sent formal notices as well as newspaper advertisements and informal notices to anyone who spoke previously at meeting on this
- Councillor Clark indicated that he had also informed the ORC of this meeting in addition to all the other notifications given
- Councillor Clark asked what the Conservation Authority’s opinion was on the recommendations being brought forward by staff
- Staff indicated that the Board of the Conservation Authority voted in favour of the City of Hamilton’s position.

The staff presentation by Michelle Sergi was received.

Vice Chair Clark asked again if members of the public would like to address the Committee reminding them once again of the provisions of the Planning Act.

- (iii) Rita Giulietti, of Friends of the Eramosa Karst came forward to speak in favour of the staff report, with the aid of a large photo. Highlights included but were not limited to the following:
- Indicated her organization's support of the approach of the City of Hamilton
 - Talked about the importance of the Eramosa karst and the need to preserve it
 - Showed a large aerial picture of the green space to show what the location could look like in the future
 - Spoke briefly to thank the City and their staff for all their efforts on this and for listening to the needs of the community
 - Thanked the City of Hamilton for all their work and the direction they have taken

Councillor Johnson thanked Ms. Giulietti for her work on and the work of the Friends of the Eramosa karst over the years to help preserve this area.

Vice Chair Clark also thanked Ms. Giulietti for the efforts of the Friends of the Eramosa Karst as well as thanking her for appearing before the Planning Committee to share that organization's support of the City of Hamilton's direction.

The presentation by Rita Giulietti of the Friends of the Eramosa Karst, was received.

- (iv) Joe Minor, came forward to speak in favour of the staff report, with the aid of a large photo. Highlights included but were not limited to the following:
- Indicated that he was in support of the proposed actions of the City of Hamilton
 - Discussed his background and experience as a biologist
 - Provided a Power Point presentation of pictures of flora and fauna within the area previously shown by City staff to be the land in question
 - Indicated that he took all the pictures there within the last year period
 - Cycled through the pictures and gave descriptions of the flora and fauna represented
 - Discussed how there were hundreds of species that live in that area

- Indicated that he has seen four species at risk in the area within the last year, monarch butterflies , threatened species at risk: night hawks, threatened species at risk: chimney swift, threatened species at risk: bobolinks
- Showed pictures of all these species as proof that they reside in the area
- Discussed that legally the ORC probably couldn't develop this land because of the threatened species that currently reside there.
- Discussed that the value of the land is in the biology that resides there

Councillor Pearson thanked Mr. Minor for the presentation and hoped that one day these materials would be available for public viewing possibly somewhere near the site to inform people of the biological significance of the area.

Councillor Clark asked what the threatened species means in relation to the bobolink.

- Mr. Minor outlined how there are basically four classifications of threatened species , that move up from species of interest to various increased levels of threatened species
- Discussed how bobolink was recently designated “threatened” by the Province last fall
- Under that designation process, the Province would now form a committee to decide what is critical habitat for the species
- In Mr. Minor's understanding of the law, in the interim there is no development of any areas where bobolinks are known to reside.
- This is covered under the Endangered Species Act of 2007
- Minor indicated that the federal government began looking into the bobolink prior to the provincial government, however their review is taking longer.
- He expects that the federal government will also move to place a threatened species legislation around the bobolink in the near future
- Indicated that it would look very bad for the provincial government to develop land where a threatened specie resides especially when on the other hand they are preventing other developers from developing land where the species resides

Councillor Clark thanked Mr. Minor for bringing forward this new evidence of the existence of threatened species on the subject lands. Indicating that the new evidence provided further supports the direction proposed by the staff report.

Other Committee members expressed their thanks for the work done by Mr. Minor and the new information he was able to provide them with.

The presentation by Joe Minor in support of the staff report, was received.

- (v) Gordon McNulty of the Hamilton Naturalists' Club, came forward to speak in favour of Report PED07236(d) Highlights included but were not limited to the following:
- Indicated that another Club member Terence Carleton a Professor of Plant Ecology and Evolutionary Biology at the University of Toronto would be providing the Naturalists' Clubs presentation

Terence Carleton of the Hamilton Naturalists' Club addressed the Committee. Highlights included but were not limited to the following:

- Discussed his role in the Club as well as his profession and specialization in the field of plant biology
- Naturalists' Club has 600 members across the Hamilton area
- Discussed the area and that the Eramosa karst should be designated as unmanaged open space
- Discussed the Official Plan and welcomed what was proposed by the City of Hamilton
- Discussed concerns that the report indicated that there would be the allowance for certain municipal infrastructure to be developed on site
- Discussed the preference to see the area completely unmanaged
- Indicated that they were concerned that the members of the public only got the staff report four days before the meeting and the letter they submitted to the Committee predated that
- Discussed how he worked with Dr. Minor however his specialization is in plant life
- Discussed how there were numerous plant life that have been omitted from the survey of the area
- Indicated that a section of the area was originally a plowed field in the 1950's however it has gone into disuse which led to the invasion of other species, such as goldenrod, creating a natural prairie transition of that former field area
- Indicated that there are also several plants that are related to wet lands on site however they were not captured in the report.
- These plant species identify the area as a wet land and a feeder area to the Eramosa Creek, this is an aspect of the site which was not previously considered
- Indicated that there is the a wood lot on the area however previous studies indication there was no woodland
- In this wood lot there are two dominant trees, Burr Oak and Shagbark Hickory
- One which is a Carolinian tree the other that grows farther North.

- While not unusual in themselves together they represent a unique savannah type woodland that is not seen in the area and could develop in the future.
- There are also endangered butternut trees in the area
- The western edges of the Hamilton region are well endowed with natural areas for people to enjoy however this is not true on the Eastern area which was traditionally agricultural and have been dominated recently by housing developments

Councillor Johnson indicated that when she visited the area for the first time years ago it was a dry summer and there was water on the site indicating that the wet land aspect of the land rang true. The Councillor asked staff if they would be placing municipal infrastructure on the land asking if this is a loophole that needs to be closed.

- Staff indicated that there would need to be extensive studies done to the City of Hamilton's approval prior to any development
- Staff estimated that the timeline for such studies would likely be around two-years.
- Staff indicated that the Province is recommending that development occur although the Ministry of the Environment has yet to have a finding on the area. Staff indicated that the City of Hamilton's longstanding stance is that the principle of development has not been met and they are trying to get out in front of the issue to ensure there are policies in place to protect the site and it is designated as open space.

Councillor Whitehead indicated that he feels the City could do more, even though it is outside our powers, we could request that the Province place a special designation on the area.

- If the science was there the province could place a designation on the site
- In terms of the Planning world the open space designation is the most restrictive we can place upon it an Area of Natural and Scientific Interest (ANSI) designation.

Staff indicated that there are difficulties with trying to get the area placed in the Greenbelt. They indicated that there is already a Provincial Earth Science ANSI on the site however they could request that the Province designate it as a Life Science ANSI. Staff indicated that ultimately the best protection would be public ownership of the land.

Councillor Whitehead indicated that he would propose a motion to request the Province designate the lands as the highest level of Area of Natural and Scientific Interest possible. Vice Chair Clark indicated that the Councillor could bring forward his motion during the discussion period.

Councillor Partridge indicated that the municipality does not seem to have funds to purchase the land, and asked if the Hamilton Naturalists' Club would be able to find a donor who may be willing to pay towards the purchase of the land.

- Mr. McNulty indicated that he ask their land sanctuary Committee to see if there is any possibility of this

The presentation by Gord McNulty and Terence Carleton of the Hamilton Naturalists' Club, in support of the staff was received.

Councillor Clark vacated the Chair to Vice Chair Farr to comment on the matter. Highlights included but were not limited to the following:

- Indicated that this is a case study of how our public consultation process works.
- Indicated that the province has held up the approval of the City of Hamilton's Official Plan because of this issue
- Discussed the financial interest of the ORC and thus the Province in this land
- Indicated that with the evidence that has been presented both previously and today there should be no question that the land should be designated as Open Space and that the Official Plan approval should no longer be delayed
- Noted specifically the new biological evidence brought before the Committee today, indicated there should be no question that this is the appropriate designation for this land.
- He added that there should no longer be any reasonable challenge to the designation and the province no longer has a reason to delay the passing of the City of Hamilton's Official Plan.

On a Motion subsection (c) was deleted in its entirety and replaced with the following

- (c) That the Province be requested to modify the Urban Hamilton Official Plan for lands located south of the Highland Road, north of Rymal Road, and west of Second Road (Stoney Creek), to designate the lands Open Space, as defined in Appendix "C" to Report PED07236(d).

On a Motion, staff was directed to report back to the Planning Committee in respect to requesting the Province upgrade the subject lands' Areas of Natural and Scientific Interest (ANSI) rating.

Councillor Clark resumed the Chair.

(g) Lot Grading Review / Policy (No copy) (Item 7.1)

Gavin Norman, Manager - Engineering Design and Construction, provided a presentation with the aid of a Power Point. Highlights included but were not limited to the following:

- Discussed the progress of the Grading and Drainage policy
- Indicated that the public engagement process is going well
- There is now a handbook available at Municipal Service Centres
- Will be making recommendations in relation to drainage issues
- There are still issues including those being raised by the Halton-Hamilton Home Builders Association, longer time frame and increased cost
- There can be some impact on zoning, example when there is a two meter space between homes, staff would request that drainage not be allowed in the area
- There has been a review of how to offer the service delivery and implementation and this will be brought back to Committee soon

Councillor Collins asked about neighbours changing the grading of their property and now it drains onto their land.

- Staff indicated that there are always issues in that respect
- Staff have looked at a process used by the City of Burlington that allows staff to work as an intermediary
- There is also increased information to be made available to the public to make them aware of what they can and can't do.

Councillor Collins asked about a cost sharing agreement for drainage with the municipality.

- Staff indicated that there are a lot of issues that need to be addressed especially when looking at drainage such as where to drain

Councillor Collins asked if they were looking at the deterioration of retaining walls as part of this policy.

- Staff indicated that although it is not part of this policy there is a policy in place regulating retaining walls which includes details about an expected lifespan
- Staff indicated they are working on retaining walls and that they do use the Property Standards Committee to address a number of these issues
- Staff indicated that they are looking at possible involving mediators outside of the City Of Hamilton to resolve resident against resident issues

- Staff indicated that this new group they are forming for grading issues includes staff from building inspections, so the new group will be able to address numerous issues and identifying these issues through discussion with Committee is helpful to the process.

Councillor Whitehead indicated that there is a By-Law that allows residents to bring in a certain number of loads of fill during the year. He asked if there are contrary By-laws on the books.

- Staff indicated that they are moving forward and reviewing the By-laws to create a harmony of intent

Councillor Whitehead indicated that the plotting issue has come up before and there are elevations on the plan that are not in reality the actual elevations on site

- Staff indicated that individual plot plans are required by the builder
- Indicated that a new proposal in the report is that there is also a requirement for builders to submit an as-built plot plan.
- Also the requirement for the surveyor to check the elevation once the foundation is poured to ensure that if there is an issue it can be addressed proactively
- Staff clarified that they are doing visual inspections of the site and these inspections are to verify the plotting surveys submitted by the builders surveyors'

Councillor Whitehead indicated that he felt that a visual inspection could not be accurate enough to judge whether there is an issue. The Councillor suggested that there are municipalities that have independent surveyors.

- Staff suggested that these are interesting issues to be examined and that possible there could be a validation process done of a certain percentage of the gradings submitted
- Pointed out numerous issues with people having catch basins in their backyard and doing various things such as building sheds on top of them

Councillor Johnson asked if there could be one policy governing all these issues so that everyone could look into it. Discussed the problems with not having a clearly relatable set of rules to pass onto members

- Staff indicated that it would be doubtful for that such a document could be made as there are different departments that touch on different issues

Councillor Jackson inquired about where the process has gone in the past year and are we looking at involving other municipalities to see what practices are being used.

- Staff indicated that they are moving forward reviewing issues however there are factors such as additional staffing, possible additional charges or a levy charge

Councillor Jackson indicated that he would request that comparators be brought back to Committee

- Staff indicated that they will be coming back and would break it up a little more in the way they respond to this. More detailed consultations are required with residents, Public Works and legal and staff will endeavor to have this brought back to General Issues on April 19, 2011. Staff also indicated that this timeline may be hard to meet with the expanded scope of the project

Committee members mentioned a myriad of drainage related problems that have been brought forward by their respective ward residents and the frustration in dealing with them. It was noted that in many instances the municipality was forced to indicate that these were civil matters. Members also noted that this is not helpful to the residents who find the process frustrating.

Councillor Pearson indicated that these issues are more important than ever before as we have been recently dealing with unusual weather events that have caused flooding.

On a Motion, staff was directed to incorporate the current retaining wall maintenance policy and Property Standards By-law as part of the lot Grading Review.

On a Motion, staff was directed to report back on the ways and means to validate drainage plans and ways and means to ensure functionality of Private Collection Basins.

On a Motion, the staff presentation on the Lot Grading Review/Policy was received.

(h) Summary of Growth Management Division (No copy) (Item 7.2)

Tim McCabe, General Manager of Planning and Economic Development provided an update to Committee members. Highlights included but were not limited to the following:

- Indicated is department taken over some areas from Public Works and are working on service consolidation
- Indicated that they are looking at increased productivity and costing because of these changes

Tony Sergi, Senior Director of Growth Management, provided a presentation with the aid of a Power Point. Highlights included but were not limited to the following:

- Attempting to consolidate services, increase assessment and build a good public image
- Looking for gaps in service areas, address issues of succession planning in the reorganization
- Take a proactive approach to issues
- Working on integrating the restructuring with staff to make a greater level of integration
- Improve communications, this should be used as a planning tool
- Allows for greater integration, bigger presence
- Showed detailed charts of organizational structure and activities of the group
- Indicated that wherever possible they want to rely on internal staff resources rather than bring in outside consultants

Councillor Collins asked how the division is funded.

- Staff indicated that the intent is that this division will be 100% user fee driven
- Staff indicated that a report related to this will be coming forward in the future

Councillor Collins asked if the department was under or over staffed right now.

- Staff indicated that they are monitoring the vacancies and looking at the amount available in the reserve
- In this way staff examine the levy side of things and gauge the economic slow down leaving vacancies open.

Councillor Whitehead indicated that he would like the organizational chart to be further defined to indicate the role/responsibilities of Senior Directors/Directors

- Staff indicated that they could provide further details related to this to Councillors.

Councillor Johnson inquired if both a Senior Director and Directors are necessary inquiring if this organizational structure is indicative of the City at large.

- Staff indicated that this organizational structure was common in the City
- Staff offered to provide more detailed role functions to Committee if they desired.

On a Motion, the presentation Summary of Growth Management Division was received.

(i) Hamilton Municipal Heritage Report 11-001, respecting the Federal Building, 150 Main Street, West (Item 8.1)

On a Motion, Committee received the following two added communications;

Letter from Darko Vranich, President of Vrancor Development Corporation, respecting Hamilton Municipal Heritage Report 11-001, regarding the Federal Building, 150 Main Street West

Submission by Councillor Terry Whitehead, respecting Covenant of Transfer of land on 150 Main Street West.

David Cuming, Senior Project Manager (Heritage and Urban Design) provided an update on Report 11-001 from the Hamilton Municipal Heritage Committee. His points included but were not limited to the following:

- Indicated that the Municipal Heritage Committee is an advisory committee for the City and they are suggesting a heritage designation on the Federal Building, 150 Main Street West
- Indicated that they have advised the property owner of the property's heritage value
- The Ontario Heritage Act allows the municipality to place designations on properties and there is an appeal process within that which would see the matter go to a Conservation Tribunal

Councillor Farr asked why this matter was brought forward at this point in this manner?

- Staff indicated that the Heritage Committee members became aware that the owner had requested a demolition permit for the site.
- Indicated that the Heritage Committee had the site listed as one of interest for the last three years

Councillor Farr asked the General Manager Tim McCabe to comment on the process

- Mr McCabe Indicated that he did not agree with this being brought forward in this manner
- Indicated that staff believe they do not have any legal obligations in relation to this and are in a position to issue a demolition permit
- Indicated that the normal process would be for suggested Heritage sites to be sent from staff to the Committee for their consideration and that this did not follow that process.

- Mr. McCabe indicated that he did not agree with the Heritage Committee bringing this matter forward in such a manner and added that it did not send the right message to developers looking to build in Downtown Hamilton.

Councillor Collins asked about the covenant that was brought forward and if that would be legally binding

- Staff indicated that there would need to be further legal advice sought but that the covenant was an agreement between the federal government and the owner and did not involve the municipality
- Indicated at this point it would be advisable for the City of Hamilton to issue the demolition permit rather than delay the matter without justification

Councillor Whitehead indicated that he had checked previously and it was indicated at that time that the covenant was binding. He indicated that they should inform the federal government that a covenant is about to be broken.

- Staff indicated that they could inform the Federal government that they were issuing a demolition permit if that is the desire of the committee, however they should not delay the issuing of the permit while they proceed with this

Committee discussed ways to address the issue, as it involves a contract between the federal government and the owner of the building.

Committee passed a Motion on the matter (See Item 6)

**(j) Draft Proposed Sidewalk Policy for New Development (PED11030)
(City wide) (Item 8.2)**

Mark Inrig, Senior Development Administrator, provided a presentation with the aid of Power Point. Highlights included but were not limited to the following:

- Discussed how staff formed the policy and were then invited to attend the Advisory Committee for Persons with Disabilities who identified some gaps
- Used examples such as there being no sidewalks on Courts for about the length of 15 houses
- ACPD basically said they wanted sidewalks everywhere
- Indicated that staff is committed to working with community stakeholders as they move forward with the policy

Vice Chair Clark thanked staff for their presentation.

The staff presentation on the Draft Proposed Sidewalk Policy for New Development was received.

(k) MOTIONS (Item 9)

Trinity East lands requests to the Province of Ontario (Added Item 9.1)

On a Motion, Committee made a request to the Provincial Government. (See Item 4)

Trinity East lands request to the Province of Ontario (Added Item 9.2)

On a Motion staff was directed to report back to the Planning Committee in respect to requesting the Province increase the Areas of Natural and Scientific Interest (ANSI) rating.

(l) NOTICES OF MOTION (Item 10)

None

(m) GENERAL INFORMATION/OTHER BUSINESS (Item 11)

(i) News from the General Manager (Item 11.1)

Tim McCabe indicated that he had no news for the Committee

(ii) Outstanding Business List Items requiring approval for removal:

(a) Item X - Waste Chutes in apartment buildings Report (PED09165(d)) (Item 5.2)

On a Motion the Item respecting the Waste Chute Closure Permit Policy was removed from the Planning Committee's Outstanding Business List.

(b) Item H - Potential of Parking lot or lots in commercial area of Locke Street

On a Motion, the Item respecting Potential Parking lot or lots in the commercial area of Locke Street was removed from the Planning Committee's Outstanding Business List.

(n) PRIVATE AND CONFIDENTIAL (Item 12)

On a Motion, the Committee moved into Closed Session to discuss items 12.1 and 12.2 which are confidential matters which are before the OMB and subject to Section 8.1(e) of the City's Procedural By-law and Section 239 of the Ontario Municipal Act as the subject matters pertain to litigation or potential litigation, including matters before administrative tribunals affecting the City, with respect to the following;

- 12.1 Ontario Municipal Board appeal respecting Consent to Sever Applications GL/B-09:71, 3328 Golf Club Road (Glanbrook); SC/B- 09:72, 455 Tapleystown Road (Stoney Creek); and GL/B-09:104, 3151 Hendershot Road (Glanbrook)**
- 12.2 Comprehensive Zoning By-law-Industrial Zone Appeals (PED11027) (City Wide) (Item 12.2)**

The Committee Vice Chair notified those in attendance that the Committee would reconvene in Open Session after the conclusion of the Closed Session to deliver their recommendations.

The Committee moved into Closed Session at 12:27p.m.

The Committee reconvened in Open Session at 2.19p.m.

- (i) Ontario Municipal Board appeal respecting Consent to Sever Applications GL/B-09:71, 3328 Golf Club Road (Glanbrook); SC/B-09:72, 455 Tapleystown Road (Stoney Creek); and GL/B-09:104, 3151 Hendershot Road (Glanbrook) (Item 12.1)**

Committee passed a Motion on this matter. (See Item 8)

- (ii) Comprehensive Zoning By-law-Industrial Zone Appeals (PED11027) (City Wide) (Item 12.2)**

Committee passed a Motion on this matter. (See Item 9)

(o) ADJOURNMENT (Item 13)

On a Motion (Pearson/Collins), the meeting adjourned at 4:48 pm.

Respectfully submitted

Brad Clark, Vice Chair
Planning Committee

Andy Grozelle
Legislative Assistant
February 1, 2011



Hamilton

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: December 7, 2010	
SUBJECT/REPORT NO: Waste Chute Closure Permit Policy (PED09165(c)) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Carmela Vidic 905-546-2424 Ext 2547 Marty Hazell 905-546-2424 Ext 4588
SIGNATURE: 	

RECOMMENDATION

- (a) That the Waste Chute Closure Permit Policy attached as Appendix "A" to Report PED09165(c) be approved;
- (b) That subject to approval of recommendation (a), the amendment to the Property Standards By-law No. 10-221, attached as Appendix "B" to Report PED09165(c), which has been prepared in a form satisfactory to the City Solicitor, be passed; and,
- (c) That a \$150.00 application fee for a Waste Chute Closure Permit be approved and added to the City's User Fees and Charges By-law.

EXECUTIVE SUMMARY

The recommended Waste Chute Closure Permit Policy supports and aligns with the principles and goals of Waste Management for waste diversion by allowing property owners to choose how waste is disposed of in buildings containing 3 or more dwelling units and providing for the closure of waste chutes when certain conditions are met.

**SUBJECT: Waste Chute Closure Permit Policy (PED09165
of 5**

Alternatives for Consideration – See Page 5

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing: Waste Chute Closure Permit Applications will not generate any significant additional work for staff, and the recommended application fee will allow for cost recovery of staff time for reviewing/processing an application.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

On June 16, 2009 the Economic Development and Planning Committee approved Report PED09165 (Amendments to the Property Standards By-law 03-117 to Reflect Current Waste Management Principles) which recommended updating the Property Standards By-law to recognize recyclable or compostable materials in accordance with the City's Solid Waste Management Master Plan and Solid Waste Management By-law to allow more flexibility in waste removal and to recognize diversion efforts.

The matter was referred back by City Council on June 24, 2009 and again approved upon reconsideration by Committee on August 9, 2009.

On August 13, 2009, Council approved the recommendations but referred back the recommended amendments related to the operation of garbage chutes in multi-residential buildings, for further consultation.

In dealing with Report PED09165(a), the following recommendations were approved by the Economic Development and Planning Committee on November 3, 2009, and by Council on November 11, 2009:

- that in accordance with the August 13, 2009 City Council direction the draft by-law be enacted, and;
- that the public consultation process for the proposed Property Standards By-Law amendments relating to the operation of garbage chutes in multi-residential buildings consist of:
 - (i) a survey be made available to the general public on the City's Website and through hard copy at all Municipal Service Centres and various Community Centres, and;
 - (ii) encouraging public participation in the survey through advertisements in local newspapers and direct mailings to various Tenant Organizations.

**SUBJECT: Waste Chute Closure Permit Policy (PED0916
of 5**

On June 1, 2010, through Report PED09165(b), staff provided the Economic Development and Planning Committee with the results of the public consultation related to the closure of waste/garbage chutes in multi-residential buildings, and concluded that there was merit in exploring a waste chute closure permit to provide an option for multi-residential building owners who want to close their chutes.

POLICY IMPLICATIONS

The Waste Chute Closure Permit Policy and the corresponding Property Standards By-law amendment support and align with the principles and goals of the City's Solid Waste Management Master Plan.

RELEVANT CONSULTATION

Legal, Finance, and Public Works were consulted in the preparation of this Report.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The Property Standards By-Law 10-221 prescribes that, where waste chutes exist in a building containing 3 or more dwelling units, they are required to remain open, operating and maintained. If the recommendations contained in this Report are adopted, then waste chutes could be closed if all of the following requirements of the Waste Chute Closure Permit Policy are met:

- 1) **Application** - An owner of a building containing 3 or more dwelling units may apply to close waste chutes and must provide, to the satisfaction of the Director of Municipal Law Enforcement, the following, as part of their application:
 - a communication plan to occupiers to explain the changes to waste disposal;
 - a sample letter from the owner to occupiers describing how to properly recycle and manage waste along with the financial and environmental benefits;
 - a sample notice from the owner to occupiers reminding/explaining how to recycle and manage waste;
 - a training plan for the owner's staff explaining the changes;

SUBJECT: Waste Chute Closure Permit Policy (PED0916)
of 5

- an assistance plan for occupiers who are seniors and or individuals with disabilities in transporting their waste, whether recyclable or not, when the waste chutes are closed;
- rental buildings must provide certified results of a poll showing more than 50% of all occupied units are in favour of the waste chute closure (the Director may verify the certified results by reviewing the ballots and or contacting the voters);
- condominium corporations or housing co-operatives must submit a resolution of the condominium corporation's or housing co-operative's board of directors endorsing the application to close the waste chutes; and,
- if applicable, verification from the City's Operations and Waste Management Division that any changes to the waste collection service have been approved.

Templates for the above letters, plans and poll will be provided by the City.

2) Permit - Upon receipt of a completed application, a permit may be issued to close waste chutes, subject to following conditions:

- the communication plan is implemented within 30 days of the permit being issued and before the waste chutes are closed;
- the training plan is implemented within 30 days of the permit being issued and before the waste chutes are closed;
- the waste chutes are closed within 45 days of the permit being issued and are not reopened;
- the assistance plan for seniors and individuals with disabilities is implemented on the same day as the waste chutes are closed and continues to be implemented for all existing and future occupiers;
- there is compliance with all applicable laws and by-laws relating to the waste chutes and the disposal and collection of waste at all times;
- the owner informs the City of any change in ownership in advance; and,
- the owner informs any subsequent owner of the permit and this Policy before the change in ownership occurs.

**SUBJECT: Waste Chute Closure Permit Policy (PED09165
of 5**

A permit may be transferred when a change in ownership occurs provided that all of the conditions are met and the new owner requests the transfer in writing. The conditions continue to apply to any transferred permit.

- 3) **Revocation** - A permit issued under the Policy may be revoked if the permit was issued based on mistaken, false or incorrect information, or if the owner fails to comply with any of the conditions.

Subject to approval of the Waste Chute Closure Permit Policy, it will be necessary to amend the Property Standards By-law to require owners to obtain a Waste Chute Closure Permit prior to closing waste chutes.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Council could amend the Property Standards By-law to delete any mention of waste chutes and allow building owners to close their waste chutes without any conditions.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Environmental Stewardship

- *Aspiring to the highest environmental standards*

APPENDICES / SCHEDULES

Appendix "A" - Waste Chute Closure Permit Policy

Appendix "B" - Property Standards By-law amendment respecting Waste Chute Closures

MH/CV/dt
Attachs.

WASTE CHUTE CLOSURE PERMIT POLICY

<i>Approved by City Council:</i>	[X, 2010]
<i>Effective Date:</i>	[X, 2010]
<i>Amended On:</i>	[insert date(s) as required]

1. Policy Description

The Waste Chute Closure Permit Policy (the “Policy”) supports and aligns with the principles and goals of the City of Hamilton’s Solid Waste Management Master Plan. The Policy gives the owner of a building containing 3 or more dwelling units the option of obtaining a permit to close waste chutes when other means for waste disposal that encourage diversion from landfill are implemented. The Policy requires a communication plan for occupiers, a training plan for staff and an assistance plan for seniors and individuals with disabilities be submitted by the owner and approved before a permit is issued.

2. Definitions

For the purposes of this Policy:

“**building**” means a building containing 3 or more dwelling units;

“**Director**” means the City’s Director of Municipal Law Enforcement and his or her designate or successor; and

“**owner**” in the case of:

- a rental building means the owner in fee simple or the person for the time being managing or receiving the rent of the property whether on the person’s own account, or as agent or trustee of any other person, or who would receive the rent if the property were let;
- a condominium corporation means the condominium corporation’s board of directors; and
- a housing co-operative means the housing co-operative’s board of directors.

3. Scope

This policy applies to all buildings with waste chutes whether open or closed before this Policy came into effect.

4. Application to Close

- (1) The owner of a building containing a waste chute may apply to the Director to close all of the waste chutes in their building.
- (2) The owner's application shall include:
 - (a) A communication plan to occupiers to explain changes to the disposal of waste and the rationale and objectives of the changes. The communication plan shall include:
 - (i) a sample letter to occupiers describing how to properly recycle and manage waste and explaining the environmental and monetary benefits;
 - (ii) a sample notice to occupiers reminding them of how to properly recycle and manage waste.
 - (b) A training plan for the owner's staff with respect the changes to the disposal of waste.
 - (c) An assistance plan for occupiers who are seniors or individuals with disabilities in transporting their waste, whether recyclable or not, for collection when the waste chutes are closed.
 - (d)(i) In the case of a rental building, certified results of a poll showing more than 50% of all occupied units, one vote per unit, voting “yes” or indicating “take no position” with respect to the closure, using a ballot provided by the Director asking if all the occupiers of each unit 16 years of age or older:
 - vote yes to the closure;
 - vote no to the closure;
 - take no position on the closure;
 - cannot agree on the closure.

The Director may verify the certified results by reviewing the ballots and/or contacting the voters.

Appendix 'A'

- (ii) In the case of condominium corporation or a housing co-operative, a resolution of the condominium corporation's or housing co-operative's board of directors endorsing the application to close the waste chutes.
- (e) Where the Operation and Waste Management Division will:
 - (i) provide collection service to the building as a result of the closure of the waste chutes, proof satisfactory to the Director that Waste has approved such collection service;
 - (ii) provide collection service to the building and changes will occur as a result of the closure of the waste chutes, proof satisfactory to the Director that Waste has approved such changes; or
 - (iii) provide collection service to the building and no changes will occur as a result of the closure of the waste chutes, a certified statement that there will be no such changes.
- (f) A signed acknowledgement that a permit issued under this Policy may be revoked in accordance with section 6 of this Policy.
- (g) Any other information or documentation as may be required by the Director.

Templates for the above plans and poll will be provided by the Director.

5. Issuance of Permit

- (1) Upon receipt of an application under section 4 that is satisfactory to the Director, the Director may issue a permit to close the waste chutes, subject to following conditions:
 - (a) The communication plan under subsection 4(2)(a) is implemented within 30 days of the permit being issued and before the waste chutes are closed.
 - (b) The training plan under subsection 4(2)(b) is implemented within 30 days of the permit being issued and before the waste chutes are closed.
 - (c) The waste chutes are closed within 45 days of the permit being issued and are not reopened.
 - (d) The assistance plan under subsection 4(2)(c) is implemented on the same day as the waste chutes are closed and continues to be implemented for all existing and future occupiers.

Appendix “,

- (e) There is compliance with all applicable laws and by-laws relating to the waste chutes and the disposal and collection of waste at all times.
 - (f) The owner informs the City of any change in ownership in advance.
 - (g) The owner informs any subsequent owner of the permit and this Policy before the change in ownership occurs.
- (2)(a) A permit may be transferred when a change in ownership occurs provided that all the conditions listed under subsection 5(1) are met and the new owner requests the transfer in writing.
- (b) The conditions listed under subsection 5(1) continue to apply to any transferred permit.

6. Revocation of Permit

The Director may revoke a permit issued under this Policy if:

- (a) the permit was issued based on mistaken, false or incorrect information or documentation; or
- (b) the owner fails to comply with any of the permit conditions listed under subsection 5(1).

7. Review and Updating of Policy

This Policy shall be reviewed and updated as required.

Authority: Item , Planning Committee
Report (Staff report
number)
CM: Date

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend By-law No. 10-221, a By-law to Prescribe Standards for the Maintenance and Occupancy of Property

WHEREAS Council enacted a by-law to prescribe standards for the maintenance and occupancy of property being City of Hamilton By-law No. 10-221;

AND WHEREAS this By-law provides for the amendment of the subsection 24(3) of City of Hamilton By-law No. 10-221 with respect to the closing of waste chutes;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Subsection 24(3) of By-law No. 10-221 is amended by adding the following new paragraph (c):

(c) the owner has a current and valid permit to close a waste chute issued by the Director.

and by making the resulting necessary grammatical changes to paragraphs (a) and (b).

2. This By-law comes into force on the day it is passed.

PASSED this day of , 20 .

Bob Bratina Mayor	Rose Caterini Clerk