



Hamilton

REPORT 12-001

OPEN FOR BUSINESS SUB-COMMITTEE

Thursday, August 16, 2012

12:00 noon

Council Chambers

Hamilton City Hall

Present: Councillor R. Powers, Chair
Councillor T. Whitehead, Vice-Chair
Councillors C. Collins, L. Ferguson, R. Pasuta, and M. Pearson

Also Present: T. McCabe, General Manager of Planning and Economic Development
C. Phillips, Senior Advisor, Planning Department
N. Shleehahn, Manager of Business Development
D. Ortiz, Manager, Building Engineering and Zoning
G. Norman, Manager, Engineering Design and Construction
M. Hazell, Senior Director, Parking & By-law Services
A. Fletcher, Manager, Licensing and Permits
G. Paparella, Director of Growth Planning
S. Robichaud, Manager of Development Planning
E. VanderWindt, Director of Building Services
R. Hall, Director of Health Protection, Public Health Services
D. Spence, Communications Officer
K. Huigenbos, Co-Ordinator, Small Business Enterprise Centre
I. Bedioui, City Clerk's Office

THE OPEN FOR BUSINESS SUB-COMMITTEE PRESENTS REPORT 12-001 TO THE GENERAL ISSUES COMMITTEE AND RESPECTFULLY RECOMMENDS:

- 1. Business Licensing Process and Wall/Ground Sign (PED12150) (City Wide) (OBL 1 & 2) (Item 4.1)**

That Report PED12150 respecting Business Licensing Process and Wall/Ground Sign, be received for information.

2. Recognition of Legally Established Business Uses Where Property Records are Non-Existent (PED12161) (City Wide) (Outstanding Business List Item) (Item 4.2)

That Report PED12161 respecting Recognition of Legally Established Business Uses Where Property Records are Non-Existent, be received for information.

3. Legal Non-Conforming Status (PED12162) (City Wide) (Outstanding Business List Item) (Item 4.3)

That Report PED12162, respecting Legal Non-Conforming Status, be received for information.

4. Application for Temporary Occupancy (PED12151) (City Wide) (OBL – 12) (Item 6.1)

(a) That the process outlined in Report PED12151, “Application for Temporary Occupancy” be received;

(b) That the City of Hamilton User Fees and Charges By-law be amended to add a fee of \$750.00 for an Application for Temporary Occupancy.

5. Comprehensive Development Guidelines and Financial Policies Review (City Wide) (PED12165) (Item 6.3)

(a) That the General Manager of Planning and Economic Development Department be directed to complete an updating / review of the City’s Comprehensive Development Guidelines and Financial Policies at a cost of approximately \$80,000;

(b) That the funding for this project come from the Administrative Studies Development Charge Reserves #110324 (\$30,000), #110325 (\$30,000) and Capital Account #8121155101 (User Fee Review - \$20,000);

(c) That the General Manager of Planning and Economic Development Department be directed to conduct a Bi-Annual Comprehensive Development Guidelines and Financial Policies Workshop, to inform, discuss, review, and relay issues and propose solutions to Development Guidelines and Financial Policy issues.

FOR INFORMATION

The Chair thanked Tim McCabe and his staff for the extensive work they have completed to date respecting the Sub-Committee's work plan.

(a) CHANGES TO THE AGENDA

The Clerk advised there were no changes to the agenda.

The agenda for the August 16, 2012 meeting was approved as presented.

(b) DECLARATIONS OF INTEREST

None declared.

(c) APPROVAL OF MINUTES

The Minutes of the June 13, 2012 meeting were approved as presented.

(d) CONSENT ITEMS

(i) Recognition of Legally Established Business Uses Where Property Records are Non-Existent (PED12161) (City Wide) (Outstanding Business List Item) (Item 4.2)

On a motion, the Open for Business Sub-Committee supported the following new Department Policy respecting Non-Existent Property Records:

- (a) That where no records exist for a business use on a property, that the use be recognized as legally established for the purpose only of issuing a business licence within the existing premises, provided the following conditions are satisfied:
 - (i) The land use on the property is permitted under the current Zoning By-law and complies with the zoning regulations for the use; or,
 - (ii) The land use on the property is an established legal non-conforming use; or,
 - (iii) The business use on the property has been previously issued a business license from the former or current Municipality;
 - (iv) In lieu of a building permit for a change of use, the submission of a letter from a Professional Engineer or, where applicable, BCIN qualified Designer, stating the building is structurally safe and complies with the intent of

the Ontario Building Code Act for recognized business uses on the property that predate July 1, 2009, is required.

(ii) Legal Non-Conforming Status (PED12162) (City Wide) (Outstanding Business List Item) (Item 4.3)

On a motion, the Open for Business Sub-Committee supported the following new Department policy respecting Legal Non-conforming Status:

(i) That where no records exist for a current use on a property that is non-compliant to any of the following Zoning By-law regulations:

- (1) parking and loading spaces
- (2) manoeuvring area
- (3) ingress and egress
- (4) landscaped areas
- (5) planting strips
- (6) accessory structures
- (7) outside storage
- (8) lot coverage

that the business use be given a legal non-conforming status with respect to the above said regulations for the purpose of issuing a business licence provided the following:

- (aa) That the use on the property has been previously licensed; and
- (bb) that the use is permitted under the Zoning By-law or is an established legal non-conforming use.

(e) DISCUSSION ITEMS

(i) Application for Temporary Occupancy (PED12151) (City Wide) (OBL – 12) (Item 6.1)

The Sub-Committee approved the staff recommendations (See Item 4) and a copy of Report PED12151 is hereto attached as Appendix “A”.

(ii) Proposed Staff Action Plan Based on the “Open for Business” Public Consultation Process (PED12164) (City Wide) (Outstanding Business List Item) (Item 6.2)

Chris Phillips provided a brief, verbal overview of the report.

The Sub-Committee discussed the following:

- This is an evolving strategy;
- The Councillors need to be kept informed;
- How to best address the urban issues;
- Is further public consultation required?
- Written submissions from the public respecting the summary are welcome.

The Sub-Committee amended the staff recommendations by changing the word “October” in subsection (b)(ii) to “year end” and by adding subsection (c).

On a motion, the Sub-Committee approved the staff recommendations, as amended:

- (a) That Report PED12164 entitled “*Proposed Staff Action Plan Based on the “Open for Business” Public Consultation Process*” be received;
- (b) That items listed as “*Recommended Actions by Staff*”, as outlined in Appendix “A” to Report PED12164 entitled “*Open for Business Summary and Recommended Actions by Staff*”, be endorsed by the Open for Business Sub-Committee, and be referred back to the Staff Working Group to:
 - (i) prepare formal reports for those identified “*Recommended Actions by Staff*”, that relate to changes to By-Laws or formal Council Policy, and accordingly, require consideration by the General Issues Committee or Planning Committee, and City Council approval;
 - (ii) prepare a detailed workplan for implementation of the “*Recommended Actions by Staff*”, including identifying specific short, medium, and long-term time-frames for implementation, and report back for approval to the Open for Business Sub-Committee, no later than *year end 2012*.
- (c) *That the deadline for written submissions from stakeholders be extended to September 15, 2012.*

On a motion, the Sub-Committee received the following correspondence:

- (a) Correspondence from Michael Barton, Policy Director of the Hamilton-Halton Home Builders’ Association respecting Follow-up to April 25, 2012 Presentation to the Sub-Committee.
- (b) Correspondence from Ed Fothergill, President of Fothergill Planning & Development Inc., expressing concerns with the External Works Agreements process.

(iii) Comprehensive Development Guidelines and Financial Policies Review (City Wide) (PED12165) (Item 6.3)

The Sub-Committee approved the staff recommendations (See Item 5) and a copy of Report PED12165 is hereto attached as Appendix "B".

(iv) Proposed Meeting Dates for the Balance of 2012 (Item 6.4)

The Sub-Committee amended the proposed meeting dates by removing October 10, 2012 and approved the balance of the dates subject to the schedule being at the call of the Chair.

(f) MOTIONS/ OUTSTANDING BUSINESS LIST

- (i) On a motion, the Sub-Committee added the following Item to the Outstanding Business List:

That staff report back to Committee respecting the role of the Natural Heritage Planner with suggestions on how the role can be more objective and aligned with the positions of the Conservation Authorities.

- (ii) The following Items were identified as completed and removed from the Outstanding Business List:

Item 1 respecting "Non-Existent Property Records";

Item 2 respecting "Proving Legal Non-Conforming Status".

Item 7 respecting "Business Facilitation Checklist:

Item 12 respecting "Temporary Occupancy Update"

(g) ADJOURNMENT

There being no further business, the meeting adjourned at 12:45 p.m.

Respectfully submitted,

**Councillor R. Powers, Chair
Open for Business Sub-Committee**

**Ida Bedioui
Legislative Co-ordinator
Open for Business Sub-Committee
August 16, 2012**



CITY OF HAMILTON

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

TO: Chair and Members Open For Business Sub-Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: August 16, 2012	
SUBJECT/REPORT NO: Application for Temporary Occupancy (PED12151) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Al Fletcher (905) 546-2424 Ext. 1358
SIGNATURE:	

RECOMMENDATIONS

- a) That the process outlined in Report PED12151, "Application for Temporary Occupancy" be received;
- b) That the City of Hamilton User Fees and Charges By-law be amended to add a fee of \$750.00 for an Application for Temporary Occupancy.

EXECUTIVE SUMMARY

At the November 16, 2011 Open for Business Sub-Committee, Tim McCabe, General Manager, Planning and Economic Development Department, presented a draft Report regarding the issuance of Temporary Occupancy Permits for business uses. This permission would relate to the issuance of a licence where an application for rezoning

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SUBJECT: Application for Temporary Occupancy (PED12151) (City Wide) - Page 2 of 7

had been submitted or where the business use is expected to be permitted under the new Comprehensive Zoning By-law.

To stimulate new business that is anticipated to be permitted in the future zoning, this Report seeks to have Council endorse the process as previously approved with slight modifications respecting the organizational changes to the Department. To cover the staff costs to review, administer and grant approval of the application for Temporary Occupancy, an application fee of \$750.00 is being proposed. This process would however, permit a business use to be licensed and not be required to undertake a \$5,930.00 routine zoning application.

Alternatives for Consideration – See Page 3

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

Financial: N/A

Staffing: N/A

Legal: Under the City’s Business Licensing By-law No. 07-170, business licences can only be issued when there is compliance to all applicable statutes, regulations and by-laws, including Zoning By-laws.

HISTORICAL BACKGROUND (Chronology of events)

To assist in permitting the uses until the new Comprehensive Zoning By-law comes into effect or where an application has been made to permit the use, Tim McCabe, General Manager, Planning and Economic Development Department, presented a draft Report regarding Temporary Use at the November 16, 2011 Open for Business Sub-Committee. The Committee approved the Report and it was ratified at Council on December 14, 2011.

As the Report approved was only a draft, the implementation of Committee’s decision needed to be completed and original direction is to be amended to reflect organizational staffing changes, such as Al Fletcher, now Acting Manager, Licensing and Permits, is no longer working on the Comprehensive Zoning By-law.

POLICY IMPLICATIONS

N/A

RELEVANT CONSULTATION

Building Services Division

Planning Division
Economic Development Division

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Situations have arisen where uses have been identified that are not currently permitted under the existing Zoning By-laws but would be permitted either as part of a Council approval of development application or upon implementation of the new Comprehensive Zoning By-law. As the use is illegal, the by-law requires that enforcement must be undertaken.

While the timing of the new Comprehensive Zoning By-law is dependant on the New Urban Official Plan appeals being resolved, the direction of the new Official Plan is known and Commercial Zones have been drafted to implement the policy direction. In some cases, the applicant has applied for a rezoning or minor variance to permit the use or recognize the deficiency in the regulations. A routine rezoning application to add a use to a property is \$5,930.00 (2012 Prices).

The Report presented by Tim McCabe provides direction to staff whereby staff can issue a business licence for the use subject to the following:

1. A Zoning Application has been filed to permit the proposed use;
2. Confirmation that the proposed use is expected to be permitted in the new Comprehensive Zoning By-law;
3. There are no policy conflicts with the City’s Official Plan;
4. No Building Permit for construction is required by Building Services; and,
5. The owner signs a waiver that if the use is not permitted within the new Comprehensive Zoning By-law or the rezoning application not approved, the business shall vacate the premises within three months.

To cover the staff costs to review, administer and grant approval of the application for Temporary Occupancy, an application fee of \$750.00 is being proposed. As this is a new application process, the fee will be monitored over the first year of use and a determination will be made as to the appropriateness of the fee.

The application and waiver are attached as Appendix “A” for information.

ALTERNATIVES FOR CONSIDERATION

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

Should Temporary Occupancy not be permitted, the property owners will only be able to continue or commence a business use when, depending on the situation, either the new

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SUBJECT: Application for Temporary Occupancy (PED12151) (City Wide) - Page 4 of 7

Comprehensive Zoning By-law is in force or a rezoning or minor variance application is approved.

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

Skilled, Innovative & Respectful Organization

- ◆ A culture of excellence
- ◆ Staff are able to work with the business community to develop streamlined process to make the City a better place for business.

Financial Sustainability

Growing Our Economy

- ◆ Competitive business environment
- ◆ Through streamlined licensing processes, the business community can avoid such obstacles that might deter the business from locating in the City.

APPENDICES / SCHEDULES

Appendix “A” to Report PED12151– Application for Temporary Occupancy

AF/dt



Hamilton

City of Hamilton
 Mailing Address:
 Hamilton City Hall
 71 Main St. West
 Hamilton, ON L8P 4Y5
 www.hamilton.ca

Planning and Economic Development Department
 Parking and By-law Services Division
 Municipal Law Enforcement (Licensing) Section
 Physical Address: 77 James Street North, Suite 250
 Phone: 905.546.2782 Fax: 905.540.6280

Application for Temporary Occupancy

1. Address of Business _____
2. Proposed Use: (Please provide detailed description of use)

3. Name of Business: _____
4. Number of Employees: _____
5. Date Business Commenced: _____
6. Business Licence Required: _____
7. Floor Area:
 - i) Total Building Gross Floor Area _____
 - ii) Total Gross Floor Area Occupied by Business: _____
8. Previous Use (if known): _____

APPLICANT INFORMATION

Contact Information	Property Owner	Business Owner
Name		
Address		
City/Postal Code		
Phone Number		

Email		
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APPLICANT WAIVER

I, _____, declare that

(i) I am the:

___ Owner of the Premises

___ Authorized Agent of the Owner of the Premise (include written authorization); and,

(initial) The issuance of a Business Licence, based on the use applied for within the Application for Temporary Occupancy, does not confirm zoning compliance or legal non-conforming status for the use on the subject property.

(initial) I am aware that the use may not be permitted either through a Council decision on a related development application nor may not be permitted within the new Comprehensive Zoning By-law; and,

(initial) Should the use not be permitted through a related development application or within the new Comprehensive Zoning By-law, the use must cease within three months of receiving the decision; and,

(initial) Should the use cease, the Business License shall be returned to the City of Hamilton; and,

(initial) The Applicant and Property Owner do not hold the City of Hamilton responsible for any costs associated with the submission of a development application or any other costs associated with obtaining the Application for Temporary Occupancy approval.

I make this declaration that the information and statements provided within this application are to the best of my knowledge to be correct and true.

Applicant

Date

For Office Use Only	Staff	Date
Received by:		
Accepted for Processing		
Assigned to:		

APPLICATION REVIEW

1.	Confirmation from the Director, Planning Division, or designate, that a Zone Change Application has been filed with the Planning and Economic Development Department, which Application, if approved, will permit the proposed business use; or, <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Authorized Signature</div> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Date</div> </div>
2.	Confirmation from the Director, Planning Division or Designate that the City's Comprehensive Zoning By-law Program is expected, once approved, to permit the proposed business use; and, <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Authorized Signature</div> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Date</div> </div>
3.	Confirmation from the Director of Planning, or designate, that the proposed business use is a use permitted in the City's Official Plan, including the new Urban or Rural Official Plans presently before the Ontario Municipal Board; and, <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Authorized Signature</div> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Date</div> </div>
4.	Confirmation from the Chief Building Official, or designate, that occupancy for the proposed business use will not require the issuance of a Building Permit under the Ontario Building Code; <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Authorized Signature</div> <div style="width: 45%; border-top: 1px solid black; padding-top: 2px;">Date</div> </div>



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division

TO: Chair and Members Open for Business Sub-Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: August 16, 2012	
SUBJECT/REPORT NO: Comprehensive Development Guidelines and Financial Policies Review (City Wide) (PED12165)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Guy Paparella (905) 546-2424 Ext. 5807
SIGNATURE:	

RECOMMENDATION

- (a) That the General Manager of Planning and Economic Development Department be directed to complete an updating / review of the City's Comprehensive Development Guidelines and Financial Policies at a cost of approximately \$80,000;
- (b) That the funding for this project come from the Administrative Studies Development Charge Reserves #110324 (\$30,000), #110325 (\$30,000) and Capital Account #8121155101 (User Fee Review - \$20,000);
- (c) That the General Manager of Planning and Economic Development Department be directed to conduct a Bi-Annual Comprehensive Development Guidelines and

Financial Policies Workshop, to inform, discuss, review, and relay issues and propose solutions to Development Guidelines and Financial Policy issues.

EXECUTIVE SUMMARY

The land development industry has expressed concerns about consolidating and updating the Engineering Guidelines and other technical and financial policies which are implemented and applied to various development applications. In order to improve this situation, staff recommends a Comprehensive Development Guidelines and Financial Policies Review be conducted to consolidate and update recent changes and clearly identify processes and procedures for the application of approved and publicly available development standards and guidelines. The cost of the Review would be approximately \$80,000 and funded 75% from Development Charges and 25% from unspent monies from other related capital projects.

Alternatives for Consideration – Not Applicable

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

Financial: The recommended Comprehensive Development Guidelines and Financial Policies Review cost of approximately \$80,000 would be funded from Development Charges (75%) and WIP funding (25%).

Staffing: Not applicable

Legal: Not applicable

HISTORICAL BACKGROUND (Chronology of events)

A number of delegations to the Open for Business Sub-Committee from the land development industry have expressed concerns about the consistency with which the development engineering guidelines are being implemented and applied to various development applications.

Further, staff have determined that there are a number of other development processes, procedures, standards, guidelines and financial policies which need to be reviewed, updated or consolidated as part of a comprehensive review. This would include matters such as storm water management criteria, site plan guidelines, lot grading, financial policies, and other municipal best practices.

POLICY IMPLICATIONS

There are a number of development guidelines and financial policies which need to be updated and reviewed comprehensively. This will lead to streamlining of all processes, procedures and guidelines and provide more certainty to the development industry which has been its concern. In addition, the information will become more readily available and approved in a more formalized and public approach.

RELEVANT CONSULTATION

This report was reviewed in consultation with the development community including the Hamilton-Halton Home Builders Association (HHHBA). Corporate Services Department and other divisions within the Planning and Economic Development Department were also consulted.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Based on the concerns expressed through the Open for Business Sub-Committee and the numerous issues staff have compiled over the last few years regarding development guidelines and financial policies, it is appropriate to conduct a comprehensive review, update and consolidation of all development processes, procedures, standards, guidelines and financial policies. As identified in the above Financial Implications Section, the vast majority of the necessary funding for the review would be available from unspent monies in other related capital accounts.

At the same time, it would be important to incorporate a public consultation process as part of the Comprehensive Review. This should include a Technical Working Group including representatives from the HHHBA. In addition, staff propose a Bi-Annual Comprehensive Development Guidelines and Financial Policies Workshop, to inform, discuss, review, and relay issues and propose solutions. In the interim, any immediate changes or amendments to the Comprehensive Development Guidelines and Financial Policies would be published and distributed from time to time based on changes to legislative requirements, standards, or material specifications as well as other municipal policies and needs.

As such, staff would recommend that the General Manager of Planning and Economic Development Department be directed to complete a Comprehensive Development Guidelines and Financial Policies Review at a cost of approximately \$80,000 to be referred to the 2013 Capital Budget for consideration.

ALTERNATIVES FOR CONSIDERATION

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

Not applicable

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

Skilled, Innovative & Respectful Organization

- ◆ More innovation, greater teamwork, better client focus

Financial Sustainability

- ◆ Effective and sustainable Growth Management

Growing Our Economy

- ◆ An improved customer service

Environmental Stewardship

- ◆ Aspiring to the highest environmental standards

Healthy Community

- ◆ Plan and manage the built environment

APPENDICES / SCHEDULES

Not applicable

:GP/ra