



PLANNING COMMITTEE

REPORT 12-018

9:30 am

Tuesday, November 20, 2012

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Councillors B. Clark (Chair), J. Farr (1st Vice Chair), C. Collins, J. Partridge, R. Pasuta and M. Pearson

Absent with Regrets: Councillor L. Ferguson – vacation
Councillor B. Johnson – vacation
Councillor T. Whitehead – city business

THE PLANNING COMMITTEE PRESENTS REPORT 12-018 AND RESPECTFULLY RECOMMENDS:

1. Hamilton Historical Board (HHB) Annual Report (No Copy) (Item 7.1)

That the presentation of the Annual Report from the Hamilton Historical Board (HHB), be received.

2. Committee of Adjustment Minor Variance Application HM/A-12:43 for the Property Known as 222 Wentworth Street South (Hamilton) - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED12138) (Ward 2) (Tabled from August 14, 2012) (Item 5.1)

That Report PED12138, respecting Committee of Adjustment Minor Variance Application HM/A-12:43, to permit the conversion of the ground floor retail store into 3 residential dwelling units and establish an 8 unit multiple dwelling, at the property known as 222 Wentworth Street South (Hamilton), as shown on Appendix "A" to Report PED12138, supported by the Planning and Economic

Development Department, but Denied by the Committee of Adjustment, be received for information.

3. Sharing The Names Of Owners Whose Dogs Are Involved in Attacks (LS12035) (preceding reports: PED11053/(a)/(b)) (City Wide) (Item 5.2)

That Appendix "A" of Item 1 of Planning Report 12-013 respecting, Sharing the Names of Owners Whose Dogs Are Involved in Attacks, approved by Council on September 12, 2012, be deleted in its entirety and replaced with the amended Appendix "A" attached hereto.

4. Revised Waterdown South Urban Design Guidelines (PED10171(a)) (Ward 15) (Item 5.3)

That the Revised Waterdown South Secondary Plan Urban Design Guidelines, attached Report PED10171(a) as Appendix "B", be approved and adopted.

5. Extension of Project Compliance and Vital Services Programs (PED10049(i)) (City Wide) (Item 5.4)

That the following two related pilot programs be extended until December 2013, or until such time as City Council makes a final decision on the creation of a license category for rental housing:

- (a) The Proactive By-law Enforcement Pilot Program for Wards 1 to 8, to be funded from the Parking Reserve (Account # 108021);
- (b) The temporary Vital Services Program, to be funded from the Tax Stabilization Reserve (Account # 110046).

6. Food Service Vehicles – Designated Parking (PED12085(b)) (City Wide) (Item 5.5)

That Information Report PED12085(b) respecting Food Service Vehicles – Designated Parking, be received.

7. Pre-Christmas Free Parking Program – Concession Street Business Improvement Area (B.I.A.) (PED12225) (Wards 6 and 7) (Item 5.6)

That the annual Pre-Christmas Free Parking Program, approved by City Council on June 25, 2003, be amended to include free on-street parking, on a trial basis

for one Christmas season, from December 10 to December 24, 2012, and limited to two hours in duration, for the Concession Street Business Improvement Area (B.I.A.).

8. Enforcement of Accessible Parking Spaces on Municipal and Private Property (PED12226) (City Wide) (Item 5.7)

That no action be taken on the Council direction of May 9, 2012 to update the design of accessible parking spaces for persons with disabilities for implementation into every parking lot within the City of Hamilton, and the corresponding By-law 01-220 (Private and Municipal Properties), until such time as the Province releases the new accessible parking space standards.

9. Hamilton Historical Board (HHB) 2013 Volunteer Committee Budget Submission (PED12216) (City Wide) (Item 5.8)

(a) That the Hamilton Historical Board's 2013 base budget submission, attached as Appendix A to Report PED12216, in the amount of \$14,340, be received and forwarded to the 2013 budget process;

(b) That in addition to the base funding, a one-time budget allocation for 2013 of \$5,370.00, funded by the Hamilton Historical Board reserve, be received and forwarded to the 2013 budget process.

10. Delegation from Abacu Mendoza respecting property maintenance and erosion (Item 6.1)

That staff report back to the appropriate Committee with all options to address the erosion on the property.

11. Application for Approval of a Draft Plan of Condominium (Common Elements) for Lands Located at 107 Padua Crescent, being Part of Block 19, Registered Plan 62M-1170, "Trillium Gardens - Phase 2" (Stoney Creek) (PED12201) (Ward 11) (Item 6.2)

That approval be given to Draft Plan of Condominium Application 25CDM-201206, by DiCenzo Construction Company, Owner, to establish a common element condominium for, but not limited to, a private internal roadway, visitor's parking area, and landscaped area, on the property located at 107 Padua Crescent (Stoney Creek), as shown on Appendix "A" to Report PED12201, subject to the following conditions:

- (a) That this approval shall apply to the plan, prepared by Barich Grenkie Surveying Ltd., and certified by Edward J Grenkie, O.L.S., dated July 26, 2012, showing common elements for, but not limited to, a private internal roadway, visitor's parking area, and landscaped area, attached as Appendix "B" to Report PED12201;
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Stoney Creek Zoning By-law No. 3692-92, as amended;
- (c) That the owner/developer shall provide to Union Gas Limited the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited;
- (d) That the owner shall include the following warning clauses in the Development Agreement and all Purchase and Sale and/or any Rental or Lease Agreements required for occupancy:
 - (i) Purchasers/Tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road;
 - (ii) Home/business mail delivery shall be from a designated Centralized Mail Box;
 - (iii) The developer/owner shall be responsible for officially notifying the purchasers of the exact Centralized mail Box locations prior to the closing of any home sales.
- (e) That the owner/developer shall work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post until the curbs, boulevards, and sidewalks are in place in the remainder of the condominium, to the satisfaction of the Senior Director of Growth Management of the City of Hamilton and Canada Post;
- (f) That the owner/developer shall install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post, to facilitate the placement of Community Mail Boxes, to the satisfaction of the Senior Director of Growth Management of the City of Hamilton and Canada Post;
- (g) That the owner/developer shall identify the pads above on engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of condominium, to

the satisfaction of the Senior Director of Growth Management of the City of Hamilton and Canada Post;

- (h) That the owner/developer shall determine the location of all centralized mailing facilities in co-operation with Canada Post, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations, to the satisfaction of the Senior Director of Growth Management of the City of Hamilton and Canada Post;
- (i) That Canada Post's Multi-Unit Policy, which requires that the owner/developer provide the centralized mail facility, at their own expense, will be in affect for buildings and complexes with a common lobby, common indoor, or sheltered space;
- (j) That the owner shall include the following warning clause in the Development Agreement and all Purchase and Sale and/or any Rental or Lease Agreements required for occupancy as related to the rear yard catchbasins to be constructed at the rear of 11, 31, 55, 73, and 85 Padua Crescent:

“Lot grading and drainage of these lands has been designed to require a rear yard catchbasin at the rear of this lot, with a connection to the mainline sewer. It is the sole responsibility of the owner of this lot to maintain and operate the rear yard catchbasin and its connection. The owner of this lot shall in no way interfere with, alter, change, or remove the rear yard catchbasin or its connection to the mainline sewer.”
- (k) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed 34 freehold, semi-detached residential units has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor;
- (l) That the owner shall receive final approval of Part-Lot Control Application PLC-12-019 for the establishment of the respective building lots and/or any necessary easements and/or parts;
- (m) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-11-162), to the satisfaction of the Director of Planning;
- (n) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

12. Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 446 Springbrook Avenue (Ancaster) (PED12208) (Ward 12) (Item 6.3)

That approval be given to Amended Zoning Application ZAR-12-018, by Emidio and Maria Casimirri, Owners, for changes in zoning from the Agricultural “A” Zone to the Agricultural “H-A-654” Holding Zone (Block 1), and to the Residential “R4-555” Zone, Modified, with a Special Exception (Block 2), to permit land use regulations to facilitate a condition of Consent Application AN/B-12:39, thereby allowing the existing dwelling to be located on a severed lot and facilitate the future residential development of the remaining lands fronting onto Springbrook Avenue, on lands located at 446 Springbrook Avenue (Ancaster), as shown on Appendix “A” to Report PED12208, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12208, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and Official Plan for the Town of Ancaster.

13. Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) (Item 6.4)

That approval be given to Zoning Application ZAC-12-011, by 1826240 Ontario Inc. (Zahra Arabkraramy), Owner, for a change in zoning to Hamilton Zoning By-law No. 6593 from the “C” (Urban Protected Residential, Etc.) District to the “H/S-1655” (Community Shopping and Commercial, Etc.) District, with a Special Exception, in order to permit a 3-storey, mixed-use building containing 8 dwelling units on the 2nd and 3rd floors and ground floor commercial uses, for the lands located at 788 Upper Ottawa Street (Hamilton), as shown on Appendix “A” to Report PED12207, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12207, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the change in zoning conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

14. **Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED12209) (Ward 15) (Item 6.5)**

- (a) That **Zoning By-law Amendment Application ZAC 09-036, by Domson Investments Ltd., Owner**, to recognize existing and proposed uses of the Dutch Mill Country Market, 533 Millgrove Side Road (Flamborough), as shown on Appendix "A" to Report PED12209, and as generally presented in the submission by Ed Fothergill to the Economic Development and Planning Committee on October 5, 2010, that were deemed by City Council on October 13, 2010, to be agri-tourism and, accordingly, in conformity with both the Rural policies of the Hamilton-Wentworth Official Plan and the Agricultural policies of the Flamborough Official Plan, be deemed to comply with the land use policies of the Rural Hamilton Official Plan.
- (b) That **Zoning By-law Amendment Application ZAC-09-036, by Domson Investments Ltd., Owner**, for a modification to the "A" (Agricultural) Zone to permit agri-tourism uses, including a tearoom, gift shop, and entertainment uses, on lands located at 533 Millgrove Side Road (Flamborough), as shown on Appendix "A" to Report PED12209, **be approved, in part**, to allow a gift shop and/or restaurant of an intensity that will not generate a combined sewage design flow capacity of greater than 10,000 L/day, on the following basis:
- (i) That the draft By-law, attached as Appendix "B" to Report PED12209, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (ii) That the amending By-law be added to Schedule "A-11", of Zoning By-law No. 90-145-Z.
- (iii) That the proposed change in zoning is deemed by Council to be in conformity with the Rural Hamilton Official Plan.
- (c) That the implementing Zoning By-law referred to in Recommendation (b)(i) of PED12209, and attached as Appendix "B", of the staff report regarding the Dutch Mill Farm Market be modified to allow additional banquet centre use of up to a maximum 150 people now (which includes the current 112 restaurant seating), and include a Holding "H" provision to additionally allow the banquet centre capacity of up to 250 along with the other existing agri-tourism uses;
- (d) The Holding "H" provision shall not be lifted until the submission of additional Hydrogeological Investigation demonstrating that the uses can be adequately serviced by private water and sanitary services, to the satisfaction of the Manager of Development Planning, Heritage & Design

and the Manager of Infrastructure and Source Water Planning, in consultation with Ministry of the Environment;

- (e) That the approval be conditional on an agreed to timeline by the applicant or compliance agreement.

15. City Initiated Amendments to the Former City of Stoney Creek Official Plan, Urban Hamilton Official Plan, and Zoning By-laws 3692-92 and 05-200, for Lands Located at 1925 Rymal Road East (Stoney Creek) (PED12214) (Ward 9) (Item 6.6)

- (a) That approval be given to Stoney Creek Official Plan Amendment No. [REDACTED] to redesignate the subject lands from “Mixed-Use-Medium Density” to “General Open Space” on Schedule A3-4 - Trinity West Secondary Plan, for the lands located at 1925 Rymal Road East (Stoney Creek), as shown on Appendix “A” to Report PED12214, to maintain the lands for open space purposes held in long term lease by the Hamilton Conservation Authority, on the following basis:
 - (i) That the Official Plan Amendment, attached as Appendix “B” to Report PED12214, be adopted by Council;
 - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe (Places to Grow Plan), and conforms to the Region of Hamilton-Wentworth Official Plan.
- (b) That Urban Hamilton Official Plan Amendment No. [REDACTED], to redesignate the subject lands from “Mixed-Use-Medium Density” to “Open Space” on Schedule E-1 - Urban Land Use Designations, and from “Mixed-Use-Medium Density” to “General Open Space”, and from “Mixed-Use-Medium Density” to “General Open Space” on Vol.2: Map B.7.7-1 - Trinity West Secondary Plan - Land Use Plan, attached as Appendix “E” to Report PED12214, be received and held in abeyance until such time as the relevant sections of the Urban Hamilton Official Plan come into force and effect; and when the relevant sections of the Urban Hamilton Official Plan come into force and effect, that Planning and Economic Development Department staff be directed and authorized to hold a Public Meeting, pursuant to the provisions of the Planning Act, to consider the proposed Urban Hamilton Official Plan Amendment, for lands located at 1925 Rymal Road East (Stoney Creek);
- (c) That approval be given to rezone the subject lands from the Neighbourhood Development “ND” Zone of the former City of Stoney Creek Zoning By-law 3692-92 to an Open Space (P4, H50) Holding Zone,

of Zoning By-law 05-200, to maintain the lands for open space purposes held in long term lease by the Hamilton Conservation Authority, for lands located at 1925 Rymal Road East (Stoney Creek), as shown on Appendix "A" to Report PED12214, on the following basis:

- (i) That the Draft By-law, attached as Appendix "C" to Report PED12214, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (ii) That the Draft By-law, attached as Appendix "D" to Report PED12214, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (ii) That the proposed rezoning is in conformity with the Region of Hamilton-Wentworth Official Plan, and will be in conformity with the former City of Stoney Creek Official Plan upon finalization of Official Plan Amendment No. [REDACTED].

16. Taxi Cab Broker Participation in Seasonal Promotional Public Service Campaign with the LCBO (Item 9.1)

That taxi cab brokers be allowed to participate in a seasonal promotional public service campaign with the LCBO as it relates to the serious issue of drinking and driving, limited only to Saturdays from November 24, 2012 to December 29, 2012, subject to the following requirements:

- (a) A document outlining the specifics of the promotional public service campaign be provided in advance to the satisfaction of the Issuer of the License;
- (b) That the roof mount sign and any other advertising shall be approved in advance by the Issuer of the License and shall only be affixed to the taxi on Saturdays during the specified dates above;
- (c) That the approval be conditional on an agreed to timeline by the applicant or compliance agreement.

17. Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024) (Item 12.1)

- (a) That Report LS12024, Urban Hamilton Official Plan Proposed Settlements and Legal Direction, be received;

- (b) That Report LS12024, Urban Hamilton Official Plan Proposed Settlements and Legal Direction, and recommendation (c)(5) remain confidential, but that the appendices and recommendations (c)(1) to (c)(3), be made public in the event that a settlement is reached with the applicable appellant.
- (c) That staff be directed to settle certain of the OMB appeals of Urban-Hamilton Official Plan on the following basis:
 - (4) In the event a settlement is not reached with DiCenzo Construction Company Limited, or 1800615 Ontario Inc. and 1536708 Ontario Inc. notwithstanding there being no material change to the factual or planning basis for the appeals by these companies, that the content of the draft minutes of settlement in Appendices E and F constitute the City's response to the appeals by these companies to the Urban Hamilton Official Plan and Legal staff be authorized to submit such position on a with prejudice basis to the Ontario Municipal Board.

18. Supplementary Report regarding Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024(a)) (Item 12.2)

- (a) That Report LS12024(a), Supplementary Report regarding Urban Hamilton Official Plan Proposed Settlements and Legal Direction, be received;
- (b) That Report LS12024(a), Supplementary Report regarding Urban Hamilton Official Plan Proposed Settlements and Legal Direction, remain confidential, but that Appendix C and recommendation (c)(1), be made public in the event that a settlement is reached with the applicable appellant.
- (c) That staff be directed to settle certain of the OMB appeals of Urban Hamilton Official Plan on the following basis:
 - (2) In addition to recommendation #4 in Report LS12024, in the event a settlement is not reached with DiCenzo Construction Company Limited, or 1800615 Ontario Inc. and 1536708 Ontario Inc. with respect to their appeal for any one or more of their properties prior to the next Ontario Municipal Board prehearing but a settlement is reached with respect to the appeals for other properties, that Legal staff conclude and present a settlement to the Ontario Municipal Board with respect to such properties in which a settlement has been reached.

19. Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024(b)) (Item 12.3)

- (a) That Report LS12024(b), Urban Hamilton Official Plan Proposed Settlements and Legal Direction, be received;
- (b) That Report LS12024(b), Urban Hamilton Official Plan Proposed Settlements and Legal Direction, remain confidential, but that the appendix and recommendation (c), be made public in the event that a settlement is reached with the appellant.

20. Appeals to the Ontario Municipal Board by Recchia Developments Inc. on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Town of Dundas Official Plan and Zoning By-law for Lands located at 231 York Road (Dundas) (LS12036) (Item 12.4)

- (a) That Report LS12036, Appeals to the Ontario Municipal Board by Recchia Developments Inc. on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Town of Dundas Official Plan and Zoning By-law for Lands located at 231 York Road (Dundas), be received;
- (b) That Report LS12036, Appeals to the Ontario Municipal Board by Recchia Developments Inc. on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Town of Dundas Official Plan and Zoning By-law for Lands located at 231 York Road (Dundas), remain confidential;
- (c) That Council's directions and reasons therefore be made public upon Council approval as outlined in the recommendations of Report LS12036.

21. OPA, ZBA and Draft Plan of Subdivision appeals for non-decision and Development Charge By-law Appeals by Parkside Hills Inc. for the property known municipally as 619 Centre Road, Hamilton (in the former municipality of Flamborough) (LS12031) (Delivered Under Separate Cover) (Item 12.5)

- (a) That Report LS12031, OPA, ZBA and Draft Plan of Subdivision appeals for non-decision and Development Charge By-law Appeals by Parkside Hills Inc. for the property known municipally as 619 Centre Road, Hamilton (in the former municipality of Flamborough), be received;
- (b) That Report LS12031, OPA, ZBA and Draft Plan of Subdivision appeals for non-decision and Development Charge By-law Appeals by Parkside Hills Inc. for the property known municipally as 619 Centre Road, Hamilton (in the former municipality of Flamborough), remain confidential except for

Appendix "A" attached thereto which shall be publicly disclosed upon council adoption of the recommendations in Report LS12031;

- (c) That the recommendations and reasons for said recommendations as set out in Appendix "A" to Report LS12031 in respect to the proposed OPA and draft Plan of Subdivision and as presented to the Ontario Municipal Board on October 24, 2012 be approved;
- (d) That Council support the planning staff recommendation for rear yard setback 7m for townhouses within the draft Plan of Subdivision and that the zoning by-law, as otherwise recommended by staff as attached as Appendix "A" to Report LS12031 be approved;
- (e) That the recommendations and reason for said recommendations contained in Report LS12031 in respect to the draft plan conditions submitted to the Ontario Municipal Board as Exhibit 17 be approved subject to further revisions recommended by planning staff including the provision for a final lotting plan (condition 37) and a condition which addresses cost sharing arrangements between the Applicant, Parkside Hills Inc. and the owner of the adjoining subdivision, MC2 Homes Inc. (condition 49) with all conditions being set out in Appendix "A" to Report LS12031;
- (f) That staff be directed to request that the Ontario Municipal Board hold its file open until such time as the Parkside Hills Inc. appeals of the Urban Hamilton Official Plan are resolved or determined by the Ontario Municipal Board;
- (g) That staff be directed to settle the appeals of Parkside Hills Inc. and Silverwood Homes Limited of DC By-laws 09-143/09-144/11-173/11-174 and 11-175 to the Ontario Municipal Board in accordance with the executed Minutes of Settlement attached as Appendix "B" to Report LS12031;
- (h) That the City Solicitor, or designate, be authorized and directed to execute the said Minutes of Settlement on behalf of the City.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

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

4. DELEGATION REQUESTS

- 4.3 Delegation Request from Danya Scime respecting concerns regarding zoning and future well being of tourism in Flamborough

6. PUBLIC HEARINGS AND DELEGATIONS

- 6.1(a) Delegation from Charlie Bois respecting Sunday Gun Hunting in the City of Hamilton

- 6.3 Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 446 Springbrook Avenue (Ancaster) (PED12208) (Ward 12)

- (i) Correspondence from IBI Group

- 6.5 Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED12209) (Ward 15)

- (i) Correspondence from Evans, Philp LLP
- (ii) Correspondence from Peto MacCallum Ltd.
- (iii) Correspondence from Turkstra Mazza
- (iv) Letters of support from various citizens

10. NOTICE OF MOTIONS

- 10.1 Taxi Cab Broker Participation in Seasonal Promotional Public Service Campaign with the LCBO

12. PRIVATE AND CONFIDENTIAL

- 12.5 OPA, ZBA and Draft Plan of Subdivision appeals for non-decision and Development Charge By-law Appeals by Parkside Hills Inc. for the property known municipally as 619 Centre Road, Hamilton (in the former municipality of Flamborough) (LS12031) (Delivered Under Separate Cover)

The Agenda for the November 20, 2012 meeting of the Planning Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None.

(c) APPROVAL OF MINUTES (Item 3)

(i) November 6, 2012

The Minutes of the November 6, 2012 Planning Committee meeting were approved.

(d) DELEGATION REQUESTS (Item 4)

(i) Delegation Request from Darlene Miller respecting increased licensing fees for body rub parlors (Item 4.1)

The delegation request from Darlene Miller, respecting increased licensing fees for body rub parlors, was approved for a future meeting.

(ii) Delegation Request from James Roberts respecting the Hamilton Animal Control By-law (Item 4.2)

The delegation request from James Roberts, respecting the Hamilton Animal Control By-law, was approved for a future meeting.

(iii) Delegation Request from Danya Scime respecting concerns regarding zoning and future well being of tourism in Flamborough (Item 4.3)

The delegation request from Danya Scime, respecting Item 6.5, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED12209) (Ward 15), was approved for today's meeting.

(e) PRESENTATIONS (Item 7)

(i) Hamilton Historical Board (HHB) Annual Report (No Copy) (Item 7.1)

A member of the Hamilton Historical Board (HHB) presented with the aid of a PowerPoint presentation. A copy of the presentation has been included in the public record.

For disposition on this Item, refer to item 1.

(f) PUBLIC HEARINGS AND DELEGATIONS (Item 6)

(i) Delegation from Abacu Mendoza respecting property maintenance and erosion (Item 6.1)

Mr. Mendoza presented to Planning Committee with the aid of speaking notes. A copy of the speaking notes has been included in the public record.

The delegation from Abacu Mendoza respecting property maintenance and erosion, was received.

For disposition on this Item, refer to item 10.

(ii) Delegation from Charlie Bois respecting Sunday gun hunting in the City of Hamilton (Item 6.1(a))

Mr. Bois presented to the Planning Committee detailing the rules for Sunday gun hunting, including that the City of Hamilton must register with the Ministry of Natural Resources in order to allow Sunday gun hunting within City limits.

The delegation from Charlie Bois respecting Sunday gun hunting in the City of Hamilton, was received.

(iii) Application for Approval of a Draft Plan of Condominium (Common Elements) for Lands Located at 107 Padua Crescent, being Part of Block 19, Registered Plan 62M-1170, "Trillium Gardens - Phase 2" (Stoney Creek) (PED12201) (Ward 11) (Item 6.2)

In accordance with the provision of the Planning Act, Chair B. Clark advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the draft plan of condominium, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Ontario Municipal Board, and 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.

No public speakers came forward.

The public meeting respecting, Report PED12201, Application for Approval of a Draft Plan of Condominium (Common Elements) for Lands Located at 107 Padua Crescent, being Part of Block 19, Registered Plan 62M-1170, "Trillium Gardens - Phase 2" (Stoney Creek), was closed.

The staff presentation respecting, Report PED12201, Application for Approval of a Draft Plan of Condominium (Common Elements) for Lands Located at 107 Padua Crescent, being Part of Block 19, Registered Plan 62M-1170, "Trillium Gardens - Phase 2" (Stoney Creek), was waived.

For disposition on this Item, refer to item 11.

(iv) Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 446 Springbrook Avenue (Ancaster) (PED12208) (Ward 12) (Item 6.3)

In accordance with the provision of the Planning Act, Chair B. Clark advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the amendment to 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, and 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.

No public speakers came forward.

The public meeting respecting, Report PED12208, Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 446 Springbrook Avenue (Ancaster), was closed.

The staff presentation respecting, Report PED12208, Application for Amendment to the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 446 Springbrook Avenue (Ancaster), was waived.

For disposition on this Item, refer to item 12.

(v) Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton) (PED12207) (Ward 6) (Item 6.4)

In accordance with the provision of the Planning Act, Chair B. Clark advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the amendment to 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, and 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.

No public speakers came forward.

Written Submission:

1. Joan Craig

A letter from Joan Craig expressing her opposition to the application was received at the November 20, 2012 Planning Committee.

The public meeting respecting, Report PED12207, Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton), was closed.

The staff presentation respecting, Report PED12207, Application for an Amendment to Hamilton Zoning By-law No. 6593 for the Property Located at 788 Upper Ottawa Street (Hamilton), was waived.

For disposition on this Item, refer to item 13.

(vi) Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED12209) (Ward 15) (Item 6.5)

- (i) Correspondence from Evans, Philp LLP**
- (ii) Correspondence from Peto MacCallum Ltd.**
- (iii) Correspondence from Turkstra Mazza**
- (iv) Letters of support from various citizens**

In accordance with the provision of the Planning Act, Chair B. Clark advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the amendment to 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, and 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.

Chris Bell, Senior Planner, presented highlights of the report to the Planning Committee with the aid if a PowerPoint presentation. A copy of the presentation has been included in the public record.

The staff presentation respecting, Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), was received.

Public Speakers:

1. Danya Scime – 367 Highway 5 West Dundas, ON L9H 5E2

Ms. Scime expressed concerns regarding zoning and future well being of tourism in Flamborough.

2. Mark Giavedoni, Evans Philp LLP – Commerce Place, 16th Floor, 1 King St. W, Hamilton, ON L8P 1A4

Mr. Giavedoni, representing Nicodemo and Rosa Restagno, expressed concerns regarding traffic concerns and opposing the claim on agri-tourism.

The public presentations respecting, Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), were received.

The public meeting respecting, Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), was closed.

The correspondence respecting, Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), was received.

Ed Fothergill, agent on behalf of the applicant, expressed concern with the reduced size of the restaurant and the gift shop.

Dennis Kerr, consulting engineer on behalf of the applicant, addressed the hydro-geological study and the adequate capacity on site to ensure that the ground and surface water (on and off-site) is safe, and if there is adequate water supply on-site to avoid adverse effects of those off-site.

The agents' presentations respecting, Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), were received.

The recommendations in Report PED12209, Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough), were amended by adding new Sub-Sections (c), (d) and (e), as follows:

- (c) That the implementing Zoning By-law referred to in Recommendation (b)(i) of PED12209, and attached as Appendix "B", of the staff report regarding the Dutch Mill Farm Market be modified to allow additional banquet centre use of up to a maximum 150 people now (which includes the current 112 restaurant seating), and include a Holding "H" provision to additionally allow the banquet centre capacity of up to 250 along with the other existing agri-tourism uses;
- (d) The Holding "H" provision shall not be lifted until the submission of additional Hydrogeological Investigation demonstrating that the uses can be adequately serviced by private water and sanitary services, to the satisfaction of the Manager of Development Planning, Heritage & Design and the Manager of Infrastructure and Source Water Planning, in consultation with Ministry of the Environment;
- (e) That the approval be conditional on an agreed to timeline by the applicant or compliance agreement.

The amendment CARRIED on the following vote:

Yeas: M. Pearson, J. Partridge, R. Pasuta, C. Collins, J. Farr

Total: 5

Nays: B. Clark

Total: 1

Absent: T. Whitehead, B. Johnson, L. Ferguson

Total: 3

For disposition on this Item, refer to item 14.

The Planning Committee recessed from 12:37 p.m. to 1:00 p.m.

(vii) City Initiated Amendments to the Former City of Stoney Creek Official Plan, Urban Hamilton Official Plan, and Zoning By-laws 3692-92 and 05-200, for Lands Located at 1925 Rymal Road East (Stoney Creek) (PED12214) (Ward 9) (Item 6.6)

In accordance with the provision of the Planning Act, Chair B. Clark advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council approves the amendment to official plans and the zoning by-laws, 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, and 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.

No public speakers came forward.

The public meeting respecting, Report PED12214, City Initiated Amendments to the Former City of Stoney Creek Official Plan, Urban Hamilton Official Plan, and Zoning By-laws 3692-92 and 05-200, for Lands Located at 1925 Rymal Road East (Stoney Creek), was closed.

The staff presentation respecting, Report PED12214, City Initiated Amendments to the Former City of Stoney Creek Official Plan, Urban Hamilton Official Plan, and Zoning By-laws 3692-92 and 05-200, for Lands Located at 1925 Rymal Road East (Stoney Creek), was waived.

For disposition on this Item, refer to item 15.

(g) NOTICES OF MOTION (Item 10)

Councillor Farr introduced the following Notice of Motion:

(i) Taxi Cab Broker Participation in Seasonal Promotional Public Service Campaign with the LCBO (Item 10.1)

That Council allow taxi cab brokers to participate in a seasonal promotional public service campaign with the LCBO as it relates to the serious issue of drinking and driving, limited only to Saturdays from Nov 24, 2012 to Dec 29, 2012, subject to the following requirements:

- (a) A document outlining the specifics of the promotional public service campaign be provided in advance to the satisfaction of the Issuer of the License.
- (b) That the roof mount sign and any other advertising shall be approved in advance by the Issuer of the License and shall only be affixed to the taxi on Saturdays during the specified dates above.

The rules were waived in order to allow for the motion respecting Enforcing Blocked Swales to be heard as a motion at today's meeting.

For disposition on this Item, refer to item 16.

(h) GENERAL INFORMATION AND OTHER BUSINESS (Item 11)

(i) Outstanding Business List Amendments (Item 11.1)

The following items were removed from the Outstanding Business List:

- (a) Item C: Regulating Residential Rental Housing (Project Compliance Update)
- (b) Item O: Built Environment Sub-committee Report March 19, 2012 – Enforcement of Accessible Parking violations on Private Property
- (c) Item D: Dutch Mill Country Market, Millgrove Side Road

(i) PRIVATE AND CONFIDENTIAL (Item 12)

At 12:07 p.m., Committee moved into Closed Session to consider a confidential matter pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law and Section 239, Sub-sections (e) and (f) 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; and, the receiving of advice that is subject to solicitor-client privilege including communications necessary for that purpose.

The Planning Committee reconvened in Open Session at 12:37 p.m.

(i) Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024) (Item 12.1)

For disposition on this Item, refer to item 17.

(ii) Supplementary Report regarding Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024(a)) (Item 12.2)

For disposition on this Item, refer to item 18.

(iii) Urban Hamilton Official Plan Proposed Settlements and Legal Direction (LS12024(b)) (Item 12.3)

For disposition on this Item, refer to item 19.

(iv) Appeals to the Ontario Municipal Board by Recchia Developments Inc. on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Town of Dundas Official Plan and Zoning By-law for Lands located at 231 York Road (Dundas) (LS12036) (Item 12.4)

For disposition on this Item, refer to item 20.

(v) OPA, ZBA and Draft Plan of Subdivision appeals for non-decision and Development Charge By-law Appeals by Parkside Hills Inc. for the property known municipally as 619 Centre Road, Hamilton (in the former municipality of Flamborough) (LS12031) (Delivered Under Separate Cover) (Item 12.5)

For disposition on this Item, refer to item 21.

(j) ADJOURNMENT

There being no further business, the Planning Committee adjourned at 1:09 p.m.

Respectfully submitted,

Councillor B. Clark
Chair, Planning Committee

Vanessa Robicheau
Legislative Coordinator
Office of the City Clerk

DISCLOSURE POLICY

OWNER WHOSE DOG HAS ATTACKED A PERSON OR A PERSON'S ANIMAL

1. Policy Statement

This Policy sets out when the Manager of Animal Services, Parking and By-law Enforcement, Planning Department ("Manager of Animal Services") may disclose the name of, charge against and last known address of an owner whose dog has attacked a person or a person's animal.

The Policy is not applicable to any information relating to a dog attack other than the name of, the charge against and the last known address of the owner.

2. Definitions

For the purposes of this Policy:

"**animal**" means any member of the animal kingdom, other than a human;

"**attack**" includes an alleged attack and, when used as verb, includes to allegedly attack;

"**charge**" means a charge under a City of Hamilton by-law or the *Dog Owners' Liability Act*;

"**owner**" means an adult who has care, control or possession of an animal; and

"**victim**" means:

(a) a person who has been attacked by an animal and includes:

(i) when the person is a child, the child's parent or guardian;

(ii) when the person is incompetent or incapacitated, the person's legal representative; or

(b) an owner of an animal that has been attacked by another animal.

3. Scope

This policy applies to animal attacks on a person or a person's animal in the City of Hamilton that are investigated by Animal Services.

4. Before a Charge is Laid / No Charge is Laid

- (1) The Manager of Animal Services may not disclose the name and/or last known address of an owner whose dog has attacked a person or a person's animal before a charge in respect of the attack is laid.

Rationale

Disclosure is not provided before a charge is laid because this may be detrimental to proceeding with enforcement. (Section 8(1)(b) *Municipal Freedom of Information and Protection of Privacy Act*)

In addition, the information is not yet publicly available through the courts.

- (2) The Manager of Animal Services may not disclose the name and/or last known address of an owner whose dog has attacked a person or a person's animal when no charge in respect of the attack is laid.

Rationale

Disclosure is not provided when no charge is laid because in most circumstances, this occurs when a reasonable belief that an offence took place is lacking.

In addition, the information is not yet publicly available through the courts.

- (3) Despite subsections 4(1) and 4(2), the Manager of Animal Services may disclose the name and last known address of an owner whose dog has attacked a person or a person's animal before a charge in respect to the attack is laid or when no charge in respect of the attack is laid if the dog remains in the possession of the owner, in the form of a press release or by other means.

The Manager of Animal Services shall make a reasonable attempt in advance to provide the dog owner with the opportunity to make representations as to why the disclosure should not take place and shall consider any such representations before deciding whether to make a disclosure. The Manager of Animal Services will consult the City's freedom of information staff and may consult legal staff in making a request for and responding to any representation. The timeline for responding to a request for a representation will be such that the objective of protecting the health and safety of residents of the City can be met.

Rationale

Disclosure of the name and the last known address is provided when the dog has not been impounded to protect the health and safety of residents of the City by making them aware of where the dog is kept and allowing them to take precautions to protect themselves and their animals against subsequent attacks. Notice of this disclosure will be provided to the dog owner in accordance with s. 14(1)(b) of *Municipal Freedom of Information and Protection of Privacy Act* which states that:

Personal privacy

14.(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

...

(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;

5. After a Charge is Laid

- (1)(a) The Manager of Animal Services may disclose to the public the name of and the charge against an owner whose dog has attacked a person or a person's animal after a charge with respect to the attack is laid upon request, in the form of a press release or by other means.

Rationale

Disclosure to the public of the name and the charge is provided after a charge is laid because it notifies the public of the City's law enforcement activities and deters others from committing similar offences.

In addition, the name and the charge, although difficult to obtain, are publicly available through the courts.

- (b) The Manager of Animal Services may disclose to the public the name of, the charge against and the last known address of an owner whose dog has attacked a person or a person's animal after a charge with respect to the attack is laid and when the dog remains in the possession of the owner, in the form of a press release or by other means.

The Manager of Animal Services shall make a reasonable attempt in advance to provide the dog owner with the opportunity to make representations as to why the disclosure should not take place and shall consider any such representations before deciding whether to make a disclosure. The Manager of Animal Services will consult the City's freedom of information staff and may consult legal staff in making a request for and responding to any representation. The timeline for responding to a request for a representation will be such that the objective of protecting the health and safety of residents of the City can be met.

Rationale

Disclosure of the name, the charge and the last known address is provided after a charge is laid when the dog has not been impounded to protect the health and safety of residents of the City by making them aware of where the dog is kept and allowing them to take precautions to protect themselves and their animals against subsequent attacks. Notice of this disclosure will be provided to the dog owner in accordance with s. 14(1)(b) of *Municipal Freedom of Information and Protection of Privacy Act* which states that:

Personal privacy

14.(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

...

(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;

In addition, the name, the charge and the last known address, although difficult to obtain, are publicly available through the courts.

- (2) The Manager of Animal Services may disclose to a victim the name of, the charge against and the last known address of an owner whose animal has attacked a person or a person's animal after a charge with respect to the attack is laid upon request.

The Manager of Animal Services shall make a reasonable attempt in advance to provide the dog owner with the opportunity to make representations as to why the disclosure should not take place and shall consider any such representations before deciding whether to make a disclosure. The Manager of Animal Services will consult the City's freedom of information staff and may consult with legal staff in making a request for and responding to any representation. The timeline for responding for a request for a representation will be such that the objective of enabling a victim to seek redress can be met.

Rationale

Disclosure of the name, the charge and the last known address is provided after a charge is laid to a victim to enable them to seek redress.

In addition, the name, the charge and the last known address, although difficult to obtain, are publicly available through the courts.

6. Access Request under the *Municipal Freedom of Information and Protection of Privacy Act*

It is open to the public to make a formal access request to the City of Hamilton for the name and/or last known address of a dog owner under the *Municipal Freedom of Information and Protection of Privacy Act*. Such access requests should be directed to:

Manager, Records and Freedom of Information
City Clerk's Division
City Hall
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

(905) 546-2424 ext. 2743
(905) 546-2095 (fax)
clerk@hamilton.ca (email)

7. Review and Updating of Policy

This Policy will be reviewed and updated as required.