



Planning Committee
AMENDED REPORT 11-005

9:30 a.m.

Tuesday, March 1, 2011

9:30 am

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

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

Absent: Councillor R. Pasuta - personal

Also Present: Councillor B. McHattie
T. McCabe, General Manager – Planning and Economic
Development
P. Mallard, T. Sergi, M. Hazell, J. Spolnik, F. Peter, J. Xamin,
C. Plosz, J. Thompson, A. Fletcher, B. Janssen, T. Lee
- Planning and Economic Development
R. Norman – Public Works
C. Herstek - Recreation
M. Kovacevic – Legal Services
A. Rawlings – City Clerk’s Office

**AT THE COUNCIL MEETING OF MARCH 9, 2011, COUNCIL AMENDED ITEM 5 AND
INFORMATION ITEM (j), AS SHOWN BELOW**

**THE PLANNING COMMITTEE PRESENTS REPORT 11-005 AND RESPECTFULLY
RECOMMENDS:**

- 1. Project Compliance Status Report (PED10049(d)) (Wards 1, 2, 3, 4, 5, 6, 7 and 8) (Item 5.1)**

That Report PED10049(d), Project Compliance Status Report (PED10049(d)) (Wards 1, 2, 3, 4, 5, 6, 7 and 8), be received for information.

- 2. Taxicab Inspection and Enforcement (PD05141(b)) (City Wide) (Item 5.2)**

That Report PD05151(b), Taxicab Inspection and Enforcement (PD05141(b)) (City Wide), be received for information.

Council – March 9, 2011

3. Application for Approval of a Draft Plan of Condominium (Common Element) (25CDM-201014) for Lands Known as 389 Garner Road West (Ancaster) (PED11022) (Ward 12) (Item 6.2)

That approval be given to **Condominium Application 25CDM-201014, Tandri Construction, Owner**, to establish a Draft Plan of Condominium (Common Element) to create a common element condominium road for three single-detached dwelling units on lands known as 389 Garner Road West (Ancaster), as shown on the attached location map marked as Appendix "A" to Report PED11022, subject to the following conditions:

- (a) That this approval shall apply to the plan, prepared by B.A. Jacobs Surveying Limited, and certified by Byran Jacobs, O.L.S., dated January 11, 2011, showing the condominium road labelled as Part 1 and residential dwelling lots as Parts 2-4, attached as Appendix "B" to Report PED11022.
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Ancaster Zoning By-law No. 87-57.
- (c) That the owner shall include the following warning clause in the Condominium Agreement and in all Purchase and Sale, and Rental or Lease Agreements, to the satisfaction of the Director of Operations and Maintenance, Public Works Department:

"Purchasers/tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for private condominium roads."

- (d) That the owner shall enter into a Development Agreement to ensure that the tenure of each of the proposed three single-detached dwellings has legal interest, in common to the Common Element Condominium, to the satisfaction of the City Solicitor.
- (e) That the owner shall agree to include the following warning clause in the Condominium Agreement, and in all Purchase and Sale and/or Lease/Rental Agreements, to the satisfaction of the Director of Planning:

"Purchasers/tenants are advised that sound levels due to increasing traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

- (f) That the owner shall provide the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian

Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller's name and location information.

- (g) That prior to registration, the owner shall agree that Parts 1-4, as shown in the draft plan, are subject to Site Plan approval. The owner shall further agree that this information shall also be included in all Purchase and Sale and/or Lease/Rental Agreements for all lands tied to the common element condominium.
- (h) That the owner shall agree to deed, free and clear to the City of Hamilton, any easements that may be required for utility purposes.
- (i) That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

4. Demolition Permit - 218 Beach Boulevard (PED11025) (Ward 5) (Item 8.1)

That the Director of Building Services be authorized and directed to issue a demolition permit for 218 Beach Boulevard in accordance with By-Law 09-208 pursuant to Section 33 of The Planning Act, as amended, subject to the following conditions:

- (a) That the applicant has applied for and received a building permit for a replacement building on this property;
- (b) That the said building permit specifies that the replacement building be erected within two years of the demolition of the existing building on this property;
- (c) That the said building permit for the replacement building specifies if such replacement building is not erected within the said two year time limit, that the City be paid the sum of \$20,000;
- (d) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions (including the directions to the City Clerk outlined in sub-section (e)) in a form satisfactory to the Director of Building Services and to the City Solicitor; and
- (e) That if the said replacement building is not erected as required, the City Clerk be authorized to add the said sum, until payment thereof, as a lien or charge upon the property until paid.

5. Parkland Dedication / Cash-in-Lieu for Schools (PED11041) (City Wide) (Item 8.2)

That sub-section (a) of Item 5 of Planning Committee Report 11-005 respecting Parkland Dedication/Cash-in-Lieu for Schools be referred back to the Planning Committee for further discussion

a) That By-law 09-124, the Conveyance of Land for Park or Other Public Recreational Purposes as a Condition of Development or Re-development or the Subdivision of Land, be amended to exempt from said By-law, the replacement or expansion of an existing school building, on the same site, and that this be forwarded to City Council for enactment.

b) That this matter be referred to the School Board Liaison Committee to develop a joint position to be communicated to the Government of Ontario

~~That the matter be referred to the School Board Liaison Committee.~~

6. Comprehensive Zoning By-law - Industrial Zone Appeals (PED11063)(City Wide) (Item 12.1)

a) That Item 9(b) of Planning Committee Report 11-002, respecting the direction on settlements be amended to remove the following property from the recommendation:

Sam's Auto Wrecking Co. Ltd., 495 Wentworth Street North

b) 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 (PED11063) and that staff be directed to present these settlements to the Ontario Municipal Board, regarding the following appellant:

Sam's Auto Wrecking Co. Ltd., 495 Wentworth Street North

c) That the details of the settlements, as outlined in Report PED11063, remain confidential, until the time of the OMB Hearing into this matter, whereafter they will be released as public information

d) That Report PED11063, in its entirety, shall remain confidential, and not be released to the public, with the exceptions of the matters outlined in (c) above.

7. Proposed Addition of Ward 15 Councillor to the Agriculture and Rural Affairs Sub-Committee

That the Ward 15 Councillor, Judi Partridge, be added as a Council member on the Agriculture and Rural Affairs Sub-Committee.

FOR THE INFORMATION OF COUNCIL:**(a) CHANGES TO THE AGENDA (Item 1)**

The Clerk advised the following changes to the agenda.

- Councillor Whitehead introduced a Notice of Motion at the Budget meeting of February 22, 2011, which is to be added to the Agenda as a Motion, under Item 9.1. Copies have been distributed this morning.
- Added Item 11.1, proposal to add Ward 15 Councillor to the Agriculture and Rural Affairs Sub-Committee has been distributed.
- Proposed added Motion to consider the Budget, and forward it to the General Issues Committee, as this item was not completed at the Budget meeting on February 22, 2011. Copies have been distributed this morning.

On a Motion the agenda was approved, as amended.

Chair Clark noted that the Ontario Realty Corporation had asked if their application for the Nash Neighbourhood, tabled at the Economic Development and Planning Committee on September 15, 2010, could be added to today's agenda, as the conditions had now been addressed.

Committee did not agree to this addition.

(b) DECLARATIONS OF INTEREST (Item 2)

Councillor Ferguson declared a conflict respecting Item 5.2, Taxicab Inspection and Enforcement, as he is an investor in the taxi industry.

When Committee started their review of Item 5.1, Project Compliance Status Report, Councillor Pearson declared an interest as she is the owner of rental property.

(c) APPROVAL OF MINUTES (Item 3)

The Minutes of the February 15, 2011 Planning Committee meeting were approved.

(d) DELEGATION REQUESTS (Item 4)**(i) Patrick Bermingham, 919 Mineral Springs Road, Dundas Ontario, respecting development in the Dundas Valley (Item 4.1)**

Committee approved the delegation request, to speak at a future meeting.

(e) Project Compliance Status Report (PED10049(d)) (Wards 1, 2, 3, 4, 5, 6, 7 and 8) (Item 5.1)

Marty Hazell and Joe Xamin provided an overview of the staff report with the aid of a powerpoint presentation. Copies of the presentation were distributed. Highlights included, but were not limited to, the following:

- status on work of staff since March, 2010, when Council approved 18 month pro-active by-law enforcement for Wards 1-8
- six part-time officers, working three days per week, standard duties plus 11 pro-active blitzes, across Wards 1-8, for property standards and yard maintenance violations
- good response achieved, 51%, often without further enforcement
- now partnering with Public Health staff who go with By-law staff on internal inspections of multi-residential buildings/complexes
- due to significant compliance rates at early stages, unlikely project will ever be full cost recovery
- cost of first six months of pilot program \$217,037.
- Pro-active by-law enforcement involves letters and contacts made ahead of the actual visit by staff, often compliance is achieved ahead of inspection
- Experienced some language/cultural differences during the blitzes, so staff is looking at partnerships with immigrant organizations
- Included sharing of information with other departments, including fire services.

Committee discussed the issues raised and had additional information supplied by staff. Committee noted the following points:

- pro-active enforcement is very expensive, but produces great results
- need to work on language barriers/cultural sensitivities.

On a Motion, the report was received.

(f) Municipal Heritage Committee Minutes January 20, 2011 (Item 5.3(a))

The Minutes of the Municipal Heritage Committee Meeting on January 20, 2011, were received.

(g) Mike Nickerson, respecting sustainability issues (Delegation approved by Committee on February 15, 2011) (Item 6.1)

Mike Nickerson, author of Life, Money and Illusion, addressed Committee regarding general sustainability issues. His comments included, but were not limited to the following:

- long-term well being can be sustained when activities use materials in continuous cycles; when activities use continuously reliable sources of energy, and when activities come mainly from the qualities of being human
- long-term well being is diminished when activities:
 - require continual input of non-renewable resources
 - use renewable resources faster than their rate of renewal
 - cause cumulative degradation of the environment
 - require resources in quantities that undermine other people's well-being
 - lead to extinction of other life forms.

On a Motion, Committee received the presentation by Mr. Nickerson and thanked him for his attendance.

(h) Application for Approval of a Draft Plan of Condominium (Common Element) (25CDM-201014) for Lands Known as 389 Garner Road West (Ancaster) (PED11022) (Ward 12) (Item 6.2)

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 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.

- 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 draft plan of condominium, 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.

Timothy Lee was present to assist Committee, and gave an overview of the application with the aid of a powerpoint presentation. Highlights included, but were not limited to, the following:

- subject site is presently vacant, was subject of successful severance in 2005, however, severance lapsed due to non-completion of the required conditions
- new application submitted, and approved by Committee on February 4, 2010, included condition that condominium common element road be established to serve the three lots
- subject condominium application then made to establish road
- staff consider application is in conformity with Provincial policies, local Official Plans and Town of Ancaster Zoning By-law.

Sergio Manchia, IBI Group, addressed Committee on behalf of the applicant, Tandi Construction. He showed a powerpoint presentation to the Committee, and provided a handout to Committee. Highlights of the presentation included, but were not limited to, the following:

- provided copies of decision of severance approval from 2005 and from 2010, as well as a coloured air photo of the subject property
- lots have been created through severance, current application is for a condominium in order to establish a common access road
- site originally severed in 2005, when one of conditions indicated that the development of land would be in accordance with recommendations of a submitted Environmental Impact Study, completed by applicants. New applicant is willing to abide by this condition
- in agreement with staff report but not with added environmental conditions
- staff now saying that additional environmental conditions are required under the Site Plan Approval. Applicant not in agreement with new environmental conditions, considers that environmental requirements addressed by previously submitted EIS, no need or requirement for further environmental conditions
- unfair to applicant to change the rules which have already been established for site, and agreed to by applicant.

Committee requested further details of the environmental issues/conditions regarding the site.

Cathy Plosz, Natural Heritage Planner, addressed Committee and provided information including, but not limited to, the following:

- area not classified as Environmentally Significant Area, but as a Core Area, including significant woodland
- Environmental Impact Study done in conjunction with application in 2005, not reviewed by ESAEIG, at any time
- 2005 EIS is deficient, did not follow EIS Guidelines, done at wrong time of year, in October/November, and did not cover bird breeding areas (to be done June/July), amphibians (should be done April/May/June) and botanical (should be done in May/June again in Fall).

Also missed out screening for species at risk, deficient in mitigation measures:

- new study should be reviewed by ESAEIG, and as part of required site plan approval
- development is proposed outside area designated as Open Space.

Committee discussed the matter in detail, and the following additional information was supplied by staff:

- garbage can be taken out to Garner Road
- any removal of trees in road allowance covered by Tree By-law
- development rights already exist on property, current application is to establish condominium for land, environmental conditions not part of condominium application but part of required Site Plan Application
- Site Plan Approval authority is delegated to staff, staff consider that proposed environmental conditions are required as part of the Site Plan Approval, as addendum to Site Plan.

On a Motion, Committee received the presentation from staff.

On a Motion, Committee received the presentation from the agent.

Richard Rempel, 443 Hamilton Drive, Ancaster, addressed Committee. His points included, but were not limited to, the following:

- concern about two-dimensional photo used which does not show full picture of slopes on site, crest on site
- concern about disturbance to the environment by new development.

Councillor Ferguson advised that the areas outside the actual development area would be protected by fences, during the construction phase.

Angelique Mori, 441 Hamilton Drive, Ancaster, addressed Committee. Her comments included, but were not limited to, the following:

- read from a prepared statement, a copy of which was given to the Clerk for the public record
- concerns about negative results on the natural heritage features as a result of this development
- concerned about lack of notification on severance while she did receive letter about this Public Meeting
- while GRCA advised they had no problems, they also said that inadequate information had been provided
- neighbours want to see Addendum and details, want to know that development will actually comply with Addendum
- not opposed to development, but need to protect flora and fauna on site, numerous species of mammals, reptiles, birds, butterflies, this is a fragile area, needs protection
- concerned that new development always leads to new traffic, in turn leads to more road kill
- concerned that construction equipment operating on site since last Summer.

Jason Thompson advised that applications for severance require a 60 metre radius, which did not include the speaker's house, but condominium applications require 120 metre radius, which did include the speaker's house. He also noted that securities are taken at the Site Plan Stage to ensure compliance with conditions.

Mr. Thompson explained that 11 residents were circulated on the consent application.

No further members of the public came forward to address Committee.

On a Motion, the Public Meeting was concluded.

Committee discussed the matter in detail, and had additional information on the severance process, and the history of the site provided by staff.

Councillor Ferguson noted the following points:

- 5 or 6 trees will be preserved on site in development area
- applicant thought he had met all environmental conditions when he purchased site, concerned that additional conditions will slow down start of actual construction by as much as a year.

Councillor Johnson expressed concerns about potential adverse impact of development on Open Space.

Councillor Clark noted his support for the environmental addendum, and that this is a reasonable request, given that the original study was done six years ago.

Committee approved the staff recommendation.

(i) Demolition Permit - 218 Beach Boulevard (PED11025) (Ward 5) (Item 8.1)

Frank Peter gave a brief overview of the application. Points raised included the following:

- application for demolition permit made for the subject property, which is in a residential area. Staff recommends standard conditions of approval, including rebuilding a house on property within two years
- applicant does not agree with conditions, wants to have demolition permit approved without any conditions or timelines attached.

Sheila Crowe, property owner of 218 Beach Boulevard, addressed Committee and explained her reasons for requesting that the demolition permit be approved without conditions. Her points included, but were not limited to, the following:

- would like to demolish existing house, buy adjacent property at 210 Beach Boulevard from City, create larger lot and possibly build 6-7 townhouses or maisonettes.
- Concern that complying with all requirements related to demolition and new construction will take longer than two years, concern that she may then have to pay City
- Requesting that demolition be allowed to proceed without conditions, to allow her adequate time to go through all the required stages.

Committee discussed the matter and had additional detail supplied by the applicant, including the following:

- house is in very poor condition, not worth fixing up
- Property Standards issues have now come up, not worth spending money on the house, inherited it in 2005, vacant since late 1980's, used to be rented. Property Standards want house fixed up or demolished.

On a Motion, Committee received the presentations from staff and from the delegate.

Committee approved the staff recommendation.

(j) Parkland Dedication / Cash-in-Lieu for Schools (PED11041) (City Wide) (Item 8.2)

Paul Mallard addressed Committee and gave an overview of the report. Highlights included the following:

- current Parkland Dedication By-law requires a 5% fee for schools
- proposed amendment to by-law proposes 2% fee for schools, and exemptions for specific additions
- Separate School Board and Hillfield Strathallan are OK with this approach, Wentworth County Board of Education considers that no parkland dedication should be paid by the school boards
- Community Services staff have concerns about any reduction in parkland dedication revenues, due to parkland shortage across City
- Some sampling of the practice of other municipalities included in report, some take parkland dedication from school boards, some do not
- Proposed 2% is the amount of parkland dedication paid by commercial development, appears as a good balance for Hamilton.

Committee discussed the matter and had further information supplied by staff.

Judith Bishop, Chair, Hamilton Wentworth Board of Education, addressed Committee. Her comments included, but were not limited to, the following:

- gave overview of the lands and schools owned by Board across the City, being 850 acres and 113 schools
- explained that Board values relationship with City, and co-operates with City and public in use of playing fields and open space
- concern that City is “double-dipping” in taking parkland development
- requested City completely waive parkland dedication for school boards, and treat school boards the same as universities and colleges.

Tim McCabe explained that “double-dipping” was contrary to the Planning Act, and was not done by the City.

Paul Mallard explained that no municipalities charge parkland dedication to universities and colleges.

Ms. Bishop added that she had been trying to get a meeting of the School Board Liaison Committee arranged, but no date had yet been set.

On a Motion, Committee received the presentation.

Pat Daly, Chair, Hamilton Wentworth Catholic District School Board, addressed Committee. His points included, but were not limited to, the following:

- thanked City for inviting him to the meeting
- agreed with points made by Ms Bishop, and suggested McMaster and Mohawk should be charged parkland dedication and suggested that like

McMaster and Mohawk, the School Board should be exempt from parkland dedication.

- School Board allows public use of their facilities, McMaster and Mohawk do not
- Concern about any charges for school additions/replacements, since a parkland charge had already been paid previously
- In past 25 years, City has not purchased one surplus site from his Board, his Board has never bought an undersized site and expected to use adjacent parkland
- Where a Board builds a new school on an existing site, should not have to pay any parkland fees
- His schools are not usually adjacent to parks.

On a Motion, Committee received the delegation.

Chris Kwiecen and Marc Ayotte, Hillfield Strathallan College, addressed Committee. Points raised included, but were not limited to, the following:

- thanked Committee and staff for involvement in the process
- Hillfield committed to continue sharing our open space facilities
- We value community partnerships, we do not use public facilities.

On a Motion, Committee received the delegation.

Committee continued their discussion on the matter, and approved an amendment to the Motion:

That the current Parkland Dedication By-law be amended to provide exemptions for the replacement and/or expansion of existing school buildings on the same site.

The Motion, as amended, Lost, on the following Recorded Vote:

YEAS:	Whitehead, Pearson, Partridge
TOTAL:	3
NAYS:	Johnson, Farr, Collins, Clark
TOTAL:	4
ABSENT:	Ferguson, Pasuta
TOTAL:	2

Committee then passed a Motion to amend the existing Parkland Dedication By-law, to exempt school additions and school replacements from paying parkland dedication, while maintaining the existing 5% parkland payment for schools.

On a Motion, Committee moved that the matter of parkland payment for schools be referred to the School Liaison Committee, and that staff report back to Planning Committee on the matter of parkland payment for colleges and universities.

(k) MOTIONS (Item 9)

Committee passed the following direction to staff

(Whitehead/Pearson)

That a sub-Committee of the Planning Committee work with staff to develop terms of Reference for the Growth Management (Development Engineering) Operational Review.

(l) NOTICES OF MOTION (Item 10)

None

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

(i) Proposed Addition of Ward 15 Councillor to the Agricultural and Rural Affairs Sub-Committee (Item 11.1)

Committee passed the Motion (See Item 7).

(ii) Update on use of microphones during Closed Session Meetings (Item 11.2)

The Clerk advised that the system had been tested, it was working properly, and that microphones could be used in Closed Session Meetings, with no amplified sound being heard outside the Chambers. However, due to the glass entrance doors to the Council Chambers not being a tight fit, sound carries outside into the foyer. The use of microphones compounded the problem.

The Chair said that it would not be appropriate to use the microphones in the circumstances.

Councillor Farr asked that Clerks investigate whether the cameras used for webcasting could be adapted to show which of them was being used at a particular time, maybe by the use of a red light. He noted that it would be useful to know which view of the Chambers was being broadcast, and that he understood that this was technically possible.

Councillor Farr asked staff to investigate the provision of a longer gooseneck on the podium microphone, to make it easier for speakers to use the microphone effectively.

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

None

(n) PRIVATE AND CONFIDENTIAL (Item 12)

(i) Comprehensive Zoning By-law-Industrial Zone Appeals (City Wide) (Item 12.1)

On a Motion, at 1:50 pm, Committee moved into Closed Session to consider an item which is 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 Comprehensive Zoning By-law-Industrial Zone Appeals to the Ontario Municipal Board.

The Chair advised the public that while they had to leave the Chambers for this item, they were welcome to return, when Committee had finished their Closed Session discussions.

On a Motion, Committee reconvened in Open Session at 2:05 pm.

The Chair advised the audience that Committee had just met in Closed Session to receive advice from legal counsel respecting a matter before the OMB, respecting the following matter;

Comprehensive Zoning By-law-Industrial Zone Appeals (City Wide) (Item 12.1)

Committee passed a Motion respecting this matter (See item 6).

o) 2011 Budget

Committee then considered the unfinished matter relating to the Budget, and approved the following Motion:

That the 2011 net operating levy for Planning & Economic Development of \$16,727,677, inclusive of Recommended Savings Options as per Appendix Three to report FCS11023(g), and as reduced by reductions in both the Tourism and the Parking and By-law Services Operating Budgets to 0%, be received and forwarded to General Issues Committee Budget process.

Committee then agreed that the Budget Meeting planned for March 25, 2011 was no longer needed.

NOTE: As the subject Motion relates to the Budget process, as considered by Planning Committee on February 22, 2011, it will be included with Report 11-004.

(o) ADJOURNMENT (Item 13)

On a Motion, the meeting adjourned at 2:15 pm.

Respectfully submitted

Brad Clark, Chair
Planning Committee

Alexandra Rawlings
Co-ordinator
March 1, 2011