



Planning Committee
REPORT 11-008
Tuesday, April 19, 2011
9:30 am
Council Chambers
City Hall, 71 Main Street West,
Hamilton, Ontario

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

Absent: Councillor Pasuta- illness

Also Present: Councillor B. Morelli
T. McCabe, General Manager – Planning and Economic
Development
P. Mallard, G. Norman, M. Hazell, B. Janssen, N. Everson,
S. Robichaud, S. Stula, T. Lee, M. Blevins, J. Haan, J. Muto -
Planning and Economic Development
A. Zuidema – City Manager's Office
J. Wice, M. Minkowski - Legal
A. Rawlings, C. Newman – City Clerk's Office

**THE PLANNING COMMITTEE PRESENTS REPORT 11-008 AND RESPECTFULLY
RECOMMENDS:**

- 1. Telecommunications Policy (PW11033) - (City Wide) (Outstanding Business List Item) (Item 5.1)**

That Report PW11033 respecting Telecommunications Policy (PW11033) - (City Wide) (Outstanding Business List Item), be received.

- 2. Application for Approval of a Zoning By-law Amendment to Hamilton Zoning By-law No. 6593 for Lands Located at 830-836 and 840 Upper James Street (Hamilton) (PED09232(a)) (Ward 8) (Item 6.2)**

That approval be given to **Zoning By-law Application ZAR-08-066, by J. Beume Real Estate Limited, Owner**, for changes in zoning from the “HH/S-509a” (Restricted Community Shopping and Commercial) District, Modified, (Block 3) and the “HH” (Restricted Community Shopping and Commercial) District (Block 4) to the “HH-‘H’/S-509b” (Restricted Community Shopping and Commercial - Holding) District, with a Special Exception, to expand the range of permitted commercial uses to include a restaurant, reduce the required parking space dimension, and prohibit drive-thrus; and from the “H/S-542” (Community Shopping and Commercial, etc.) District, Modified, (Block 2) and the “H” (Community Shopping and Commercial, etc.) District (Block 1) to the “H/S-542a” (Commercial Shopping and Commercial, etc.) District, with a Special Exception, to reduce the required parking space dimension and prohibit drive-thrus, for lands located at 830-836, and 840 Upper James Street (Hamilton), as shown in Appendix “A” to Report PED09232(a) on the following basis:

- (a) That the Draft By-law, attached as Appendix “B” to Report PED09232(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.
- (b) That the proposed changes in zoning are in conformity with the Places To Grow Plan, the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan.

3. Application for a Draft Plan of Condominium (Common Elements Condominium) for the Lands Located at 19 Niagara Street (Hamilton) (PED11065) (Ward 3) (Item 6.3)

That approval be given to **Condominium Application 25CDM-201015, by Habitat Humanity, c/o Bob McConkey (Owner)**, to establish a draft plan of condominium (Common Elements Condominium), “Habitat for Humanity”, comprised of 14 visitor parking spaces for 8 townhouse units located at 19 Niagara Street (Hamilton), known legally as Part 5, Reference Plan 62R-18910, as shown on the attached location map marked as Appendix “A”, subject to the following conditions:

- (a) That this approval shall apply to the plan prepared by A.T. McLaren Ltd., and certified by S.D. McLaren, O.L.S., dated December 14, 2010, showing the following condominium element of 14 visitor parking spaces and associated manoeuvring area, attached as Appendix “B” to Report PED11065.
- (b) That the Final Plan of Condominium shall comply with all of the applicable provisions of Zoning By-law No. 05-200.
- (c) That the owner shall enter into a Condominium Agreement to ensure that the tenure of each of the proposed 8 freehold units and shared parking area has legal interest, in common, to the Common Elements Condominium, to the satisfaction of the City Solicitor.

- (d) That the final plan of condominium shall comply, in all respects, with the approved Site Plan (DA-10-019) and Site Plan Amendment (SPA-10-154), including the completion of all conditions of Site Plan Approval, to the satisfaction of the Director of Planning.
- (e) That the owner shall include the following warning clause in the Condominium Agreement and all Purchase and Sale Agreements, and any Rental or Lease Agreements required for occupancy:
 - “Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium parking lot.”
- (f) That the owner shall satisfy any conditions, financial or otherwise, of the City of Hamilton.
- (g) That the owner shall enter into, and register on title, the Condominium Agreement incorporating the approved plan of condominium and related conditions, to the satisfaction of the City Solicitor.

4. Application for a Change in Zoning for the Lands Located at 399 Greenhill Avenue (Hamilton) (PED10060(a)) (Ward 5) (Item 6.5)

That approval be given to **Zoning Application ZAC-09-052, by Greenhill Plaza, Owner**, for a change in zoning from the “G-1” (Designed Shopping Centre) District to the “G-1/S-1627” (Designed Shopping Centre) District, with a Special Exemption, to permit the conversion of vacant, second floor office space into 7 dwelling units, on the lands located at 399 Greenhill Avenue (Hamilton), as shown on Appendix “A” to Report PED10060(a), on the following basis:

- (a) That the REVISED By-law, attached as Appendix “C” to Report PED10060(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the proposed modification in zoning is consistent with the Provincial Policy Statement (PPS), and conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
- (c) That Report PED10060 respecting Application for a Change in Zoning for the Lands Located at 399 Greenhill Avenue be received.
- (d) That during the Site Plan Approval stage, alternatives to the removal of the window from one of the units be considered, provided that the solution is in accord with the results of the noise study.

5. Appeal to the Ontario Municipal Board respecting 168 Rymal Road East, Hamilton; Minor variance HM/A-09:114. (Item 12.1)

- (a) That the City Solicitor be directed to take the following position on the appeals by Salvatore Aquino respecting 168 Rymal Road East, Hamilton (OMB File Number PL100282):

That the City support the minor variance application (HM/A-09:114) pursuant to the March 25th, 2011, memorandum from Tim McCabe, General Manager, Planning and Economic Development Department to Legal Services, all as provided to the Planning Committee on April 19th, 2011, with such minor amendments thereto as the General Manager of Planning and Economic Development Department and City Solicitor deem appropriate.

- (b) That the staff memorandum respecting this issue, dated March 25, 2011, remain confidential and not be released to the public except for the Appendices A through D.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised that there were no changes to the agenda.

On a Motion the agenda was approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) APPROVAL OF MINUTES (Item 3)

The Minutes of the April 5, 2011 Planning Committee meeting were approved, as presented.

(d) DELEGATION REQUESTS (Item 4)

None

(e) Telecommunications Policy (PW11033) - (City Wide) (Outstanding Business List Item) (Item 5.1)

Committee discussed the matter briefly, and then received the staff report.

(f) Patrick Bermingham, 919 Mineral Springs Road, Dundas Ontario, respecting development in the Dundas Valley (Item 6.1)

Patrick Bermingham addressed the Committee, with the help of a powerpoint presentation. A copy of the presentation was provided to the Clerk for the public record. His points included, but were not limited to, the following;

- Mineral Springs is a unique, historic area, now of interest to residential developers who wish to build monster homes
- Area under NEC control, but the regulations which govern the area do not appear adequate to protect its character
- Requested that the City designate it as a Cultural Heritage District, under the Ontario Heritage Act.

Committee considered the matter and had additional information supplied by the delegation and by staff.

On a Motion (Collins/Pearson), Committee received the presentation.

On a Motion (Ferguson/Collins), the following direction was given to staff:

- (a) To report back to Committee respecting the potential designation of Mineral Springs as a Cultural Heritage District.
- (b) To consider and report back on what further controls can be put in place to protect established residential areas from monster homes.

(g) Application for Approval of a Zoning By-law Amendment to Hamilton Zoning By-law No. 6593 for Lands Located at 830-836 and 840 Upper James Street (Hamilton) (PED09232(a)) (Ward 8) (Item 6.2)

Chair Clark advised that the Public Meeting for this item had been held on August 10, 2009, but the by-law recommended by the Committee was held in abeyance until the applicant had completed a Record of Site Condition.

Tim Lee was present to assist Committee and provided a brief overview of the matter. He explained that the required Record of Site Condition had now been completed, and that no parking impacts were expected. Mr. Lee noted that the by-law could now proceed to Council, with no H "Holding" designation.

Committee approved the staff recommendation.

(h) Application for a Draft Plan of Condominium (Common Elements Condominium) for the Lands Located at 19 Niagara Street (Hamilton) (PED11065) (Ward 3) (Item 6.3)

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.

Prior to the consideration of this item, Councillor Clark introduced Leila Willoughby-Oakes, a planning student who had assisted with the subject application. He noted that Ms. Willoughby-Oakes is a co-op student in the Planning programme at the University of Waterloo, and is with the City on her third and final term. In the fall, she will be heading to the University of Victoria, to take a masters in Public Administration.

On a Motion, Committee dispensed with the planner's presentation.

Joe Muto and Leila Willoughby-Oakes were present to assist Committee.

Angela Buonamici, IBI Group, advised Committee that, as the agent for the applicants, she was in favour of the staff report.

No members of the public came forward to address Committee.

On a Motion, Committee closed the Public Meeting.

Committee approved the staff recommendation.

(i) **Application for an Amendment to Hamilton Zoning By-law No. 6593 for Lands Located at 922 Main Street East (Hamilton) (PED11057) (Ward 3) (Item 6.4)**

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 the zoning application is approved and by-law is passed, 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 the zoning application is approved and by-law is passed, 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.

Prior to the presentation by the planner, Councillor B. Morelli joined the meeting.

Jennifer Haan addressed the Committee, with the help of a powerpoint presentation, and provide an overview of the subject application. Her points included, but were not limited to, the following:

- proposal is seven storey, 48 unit rental apartment building, targeted to seniors, has commercial on main floor, existing church to be retained as amenity space for seniors.
- Following public circulation, two letters of concern received, concerns included privacy issues, traffic, parking, loss of green space and one letter in favour, noted in favour of density and maintaining the church building
- Ward Councillor involved in the discussions
- Proposal has many positive aspects but lack of parking for each unit an issue, 35-37 proposed for site, not adequate to handle all uses on the site, and neighbourhood parking already an issue
- Traffic Study by applicants concluded 43 spaces needed, so shortfall would be handled in neighbourhood
- Applicant would need off-site parking agreement to handle shortfall
- While existing by-law does not require parking spaces for proposed commercial uses or church use, additional spaces could be needed if special uses proposed for either.

On a Motion, Committee received the staff presentation.

On questions from Committee, staff provided additional information;

- off-site parking arrangements would need to be long-term, guaranteed

- proposal originally eight storey height, at that time had a second level parking structure
- to ensure that church not demolished, a specific provision could be placed in the by-law
- Bee-Line Corridor Study currently underway, reviewing intensification, new parking standards, results expected this year, could lead to changes in parking requirements along the study route
- Existing H district allows 8 storeys, existing mix of heights in the area, there is a 6 storey building on Prospect.

Brandon Flewelling, GSP Group, applicant's agent, addressed Committee in support of the proposed development. His points included, but were not limited to, the following:

- Trinity Baptist Church to be retained as amenity space, not as a standard church
- Original concept was 8 storey building containing 56, one-bedroom units, after review with staff, revised to 7 storey with 48 units, all one-bedroom
- Building will be rental, market will be seniors, but this cannot be guaranteed
- Building could act as catalyst for new development in an area which has not seen any serious re-development for years, good development for Main Street
- Good location, 3 transit routes pass site, appropriate for intensification, on Bee-Line Corridor Study route
- Building has been carefully designed
- 77% of units have a parking space, based on experience of his client with similar buildings, this number will be more than adequate for target group
- Urban Design Study done, said building should be at 45 degree plane from the property line
- A smaller building would require fewer parking spaces but would not provide adequate performance for his client
- Underground parking would be cost-prohibitive; removal of church to provide parking is not desirable, would waste a good building which can easily be re-purposed.

Bill O'Brien, Paradigm Transportation, addressed Committee in support of the traffic study. His points included, but were not limited to, the following:

- study done by reviewing site and area at various times of day and night
- study concluded that parking needed by building could exceed supply on site
- building is well located on transit corridor.

On a Motion, the presentations were received.

Committee discussed the presentations and had additional information supplied by the delegations and by staff.

The Committee expressed concerns about the proposal including the following:

- density too high for area; overlooking of adjacent single-family houses; lack of conformity with Official Plan policies on density, privacy, views and compatibility; parking provided will be inadequate; impacts on surrounding area.

Paul Williams, 121 Balsam Avenue South, addressed the Committee. His points included, but were not limited to, the following:

- parking already an issue in neighbourhood, events at Ivor Wynne and Gage Park are problematic, this will make things worse
- lack of handicap parking spots will be a problem
- lack of delivery/loading spaces will be a problem
- only one access driveway for ingress/egress, and this is situated on Balsam, should be on Main
- should build a two storey parking structure, similar to the one at 150 Prospect Street South, if the building is to be this size
- 4 storey height would be OK, 7 storey is too much for this site better to have this kind of development downtown Hamilton, should not have this type of development in this neighbourhood
- building too close to street at 1.8 metres
- would like to keep the church building.

Bruce Duncan, 117 Balsam Avenue, addressed Committee. His comments included, but were not limited to, the following:

- concern about 45 degree plane, building too high
- serious parking problem in area, this will make it worse, even more difficult when events at Ivor Wynne and Gage Park
- entrance to parking area from Balsam will make it a Balsam building, too much traffic, delivery vehicles, garbage trucks, will have adverse impact on residential street, will be dangerous for kids in the neighbourhood
- suggested units could be a mix of 1 and 2 bedrooms, would reduce parking needs, provide flexibility for residents; not legal to say only seniors could live there
- additional commercial proposed, but is this reasonable, many vacant commercial units already on Main Street
- recommended additional setbacks from Balsam, place driveway onto Main Street
- 8 storey could be OK, if 45 degree plane maintained.

Igor Kusprzycki, 425 Cumberland, addressed Committee. His points included, but were not limited to, the following:

- expressed concerns with access being from Balsam, noted experience of City Housing building on Cumberland, where entrance to the building is

from the residential street, explained how difficult it is for the neighbours on that street

- noted that all service vehicles would need to back out onto Balsam, since no turnaround room on site
- parking problems on Balsam will get worse if this is approved.

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

On a Motion, the Public Meeting was closed.

Committee discussed the issues raised by the speakers.

Staff advised that the current by-law does not require a specific number of handicapped parking spaces, and that this issue is handled at the Site Plan stage.

Councillor Morelli expressed his concerns, particularly with regard to access to the site, height, density, intensity, traffic and parking.

Committee passed the following Motion:

That application ZAC-09-039, respecting 922 Main Street East, be tabled, to permit further public consultation with the neighbours to address access, building height, parking and other related matters.

(j) Application for a Change in Zoning for the Lands Located at 399 Greenhill Avenue (Hamilton) (PED10060(a)) (Ward 5) (Item 6.5)

Chair Clark advised that the Public Meeting had been held in March 23, 2010. At that time, the decision on the application had been held in abeyance, pending the completion of a noise study.

Matthew Belvins was present to assist Committee and explained the background to the matter. He noted points including the following:

- the noise study was intended to address the noise impacts from the grocery store on the proposed apartment units
- that each unit would have a warning clause included in the lease agreement, respecting the potential noise issues
- with steps being proposed, tenants expected to have adequate protection from noise
- residential units will have entrance from rear of building
- in view of expected noise, a window in one unit to be removed, this room will be noted on plans as "den" not a bedroom.

Committee discussed the issue and noted concerns about eliminating a window in one of the units.

Mr. Blevins explained that this was proposed by the Noise Study, but during site plan process, other methods of noise reduction could be reviewed.

On a Motion, Committee received the presentation.

On a Motion, Committee approved an amendment to the staff recommendation:

That during the Site Plan Approval stage, alternatives to the removal of the window from one of the units be considered, provided that the solution is in accord with the results of the noise study.

Committee then approved the application, as amended.

(k) MOTIONS (Item 9)

None

(l) NOTICES OF MOTION (Item 10)

None

(m) GENERAL INFORMATION (Item 11)

(i) 11.1 Outstanding Business List Items

- (i) 17 Ewen Road
Due date: April 19 2011
Proposed new date: July 5, 2011

On a Motion, Committee approved the new date.

- (ii) City response to grading and drainage issues
Due date: April 19 2011
Proposed new date: May 17, 2011

Councillor Ferguson advised that he would be out of the country on May 17, 2011, and asked if the report could be on the Agenda for a later meeting.

On a Motion, the due date was changed to June 7, 2011.

- (iii) Dutch Mill Country Market, Millgrove Side Road
Due date; April 19 2011
Proposed new date: August 8, 2011

Councillor Partridge asked if the report could be on the Agenda for an earlier meeting.

Staff responded that there were issues with the second stage of the hydro-geological study, and so the application is not yet ready to proceed.

On a Motion, it was agreed that the new date would be considered at the next Planning Committee meeting, on May 3, 2011, after meetings had been held with the applicants.

(ii) News from the General Manager (Item 11.2)

There was none today.

Committee used this opportunity to raise a number of different issues.

(n) PRIVATE AND CONFIDENTIAL (Item 12)

On a Motion, Committee moved into Closed Session, at 12:15 pm, to consider three items which are before the OMB and subject to Section 8.1(e) of the City's Procedural By-law and Section 239 of the Ontario Municipal Act as the subject matters pertain to litigation or potential litigation, including matters before administrative tribunals affecting the City, with respect to:

- 12.1 Appeal to the Ontario Municipal Board respecting 168 Rymal Road East, Hamilton; Minor variance HM/A-09:114.
- 12.2 Appeal of Committee of Adjustment decision re: Minor Variance HM/A-10:249, 99 Burris St.
- 12.3 Appeal of Committee of Adjustment decision re: Minor Variance HM/A-10:127, 22-24 Emerald St. S.

The Chair advised the public that while they were required to leave the Chambers for the consideration of these items, they were welcome to return, when Committee had finished their Closed Session discussions.

On a Motion, Committee reconvened in open session at 12:35 pm.

The Chair advised the audience that Committee had met in Closed Session to receive advice from legal counsel respecting three matters before the OMB.

(i) Appeal to the Ontario Municipal Board respecting 168 Rymal Road East, Hamilton; Minor variance HM/A-09:114. (Item 12.1)

Committee passed a motion on the matter (See Item 5)

(ii) Appeal of Committee of Adjustment decision re: Minor Variance HM/A-10:249, 99 Burris St. (Item 12.2)

The Chair advised that staff had been given direction on this matter, in closed session and that there was nothing further to report.

(iii) Appeal of Committee of Adjustment decision re: Minor Variance HM/A-10:127, 22-24 Emerald St. S. (Item 12.3)

The Chair advised that staff had been given direction on this matter, in closed session and that there was nothing further to report.

(o) ADJOURNMENT (Item 13)

On a Motion, the meeting adjourned at 12:40 pm.

Respectfully submitted

Brad Clark, Chair
Planning Committee

Alexandra Rawlings
Co-ordinator
April 19, 2011