Economic Development and Planning Committee

AMENDED REPORT 09-021

Tuesday, October 20, 2009
9:30 am
Albion Room, Hamilton Convention Centre
1 Summer’s Lane, Hamilton

Present:  Chair M. Pearson
Vice Chairs, Councillors:  B. Bratina, L. Ferguson,
Councillors:  B. Clark, B. McHattie, D. Mitchell, R. Pasuta,
T. Whitehead

Absent with Regrets:  S. Duvall-Personal Business

Staff Present:  C. Murray – City Manager
T. McCabe, General Manager – Planning and Economic
Development
T. Sergi, M. Hazell, B. Janssen, J. Spolnik, T. Lee, J. Muto,
S. Robichaud, E. John, N. Everson, D. Cole, G. Paparella
- Planning and Economic Development
G. Davis, General Manager – Public Works
M. Kovacevic, D. Fisher, L. Pasternak -Legal Services
A. Rawlings, C. Biggs – City Clerk’s Office

AT THEIR MEETING OF OCTOBER 28, 2009, COUNCIL AMENDED THE REPORT
AS SHOWN BELOW;

THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE PRESENTS
REPORT 09-021 AND RESPECTFULLY RECOMMENDS:

1. Westdale Village Business Improvement Area (B.I.A.) Board of Management
   Resignation (Item 5.1)

   That the Westdale Village Business Improvement Area (B.I.A.) Board of Management
   Resignation be received for information.

2. Proposed Lafarge Dundas North Quarry Extension - Objection Reply Letter
   and Status Update (Ward 14) (Item 5.2)

   That the Proposed Lafarge Dundas North Quarry Extension - Objection Reply Letter
   and Status Update (Ward 14) be received for information.

Council – October 28, 2009
3. **Proactive Approach of Vacant/Derelict Buildings (PED09031(a)) (City Wide) (Item 5.3)**

That Report PED09031(a), Proactive Approach of Vacant/Derelict Buildings (PED09031(a)) (City Wide), be received for information.

4. **Final Monthly Update - Hess Village Review (PED09127(c)) (Ward 2) (Item 5.4)**

(a) That the spreadsheet attached as Appendix ‘A’ to Report PED09127(c) titled “Hess Village Review – Status of Recommendations” dated September 11, 2009 be received.

(b) That Item ‘Z’ from the Economic Development and Planning Committee’s Outstanding Business List with respect to the Hess Village Review be removed.

5. **Hess Village Community Liaison Committee (PED09127(b)) (Wards 1 & 2) (Item 5.5)**

That Council endorse the Terms of Reference for the Hess Village Community Liaison Committee, attached as Appendix A to Report PED09127(b).

6. **Maintaining Animal Control Customer Service Counter Hours of Operation (PED09276) - (City Wide) (Item 5.6)**

That approval be given to the addition of .66 FTE to the existing staff complement, for which funding already exists in the Animal Control budget in order to maintain current counter service hours at the Animal Control facility.

7. **Lease – 21 King Street West, Suite 1101 and 1200 - MVD Properties Inc. (PED09282) (Ward 2) (Item 5.7)**

(Pearson/Mitchell)
That subsections (a), (a)(i), (a)(iii), (c) and (d)(i) and (iii) of Item 7 of the Economic Development and Planning Committee respecting Lease – 21 King Street West, Suite 1101 and 1200 - MVD Properties Inc. be amended as per highlighted text:

(a) That the City of Hamilton enters into a new lease agreement with MVD Properties Inc. or its successor on title for the property known as Suite 1101, 21 King Street West, Hamilton, subject to the following terms:

(i) **Term:** 9 year, 10 month term commencing November 16, 2009, terminating August 31, 2019.

(ii) **Property:** Comprised of Suite 1101, 21 King Street West, with a total rentable area of 288.6 square metres (3,107 square feet) more or less as shown on Appendix "B" attached to Report PED09282.

(iii) **Rental Rate:**
- November 16, 2009 to August 31, 2010, $23,367.25, (Net), $2,459.71 per month, plus G.S.T. The rental rate is $9.50 net, per square foot.
- September 1, 2010 to August 31, 2014, $29,516.50, (Net) per annum, $2,459.71. per month, plus G.S.T. The rental rate is $9.50 net, per square foot.
- September 1, 2014 to August 31, 2019, $31,070.00 (Net) per annum, $2,589.17 per month, plus G.S.T. The rental rate is $10.00 net, per square foot.

(iv) **Operating Costs:** Operating costs which were estimated at $7.50 per square foot in 2007, $23,302.50 per annum or $1,941.88 monthly plus G.S.T. The operating costs reflect that the premises will be designated as a City Capital Facility and exempt from property taxes.

(v) **Parking:** One underground parking space will be provided at market rate.

(vi) **Payment:** All rent and operating costs are to be paid monthly and charged to Risk Management Services Section against Account No. 791530-357005.

(vii) **Special Conditions:** The landlord agrees to provide the premises to the tenant 3 months free gross rent to allow the tenant time to complete all tenant improvements as shown on Appendix “B” attached to Report PED09282.
should be noted that the 3 months free gross rent effectively reduces the rental rate to $9.29 per square foot throughout the entire lease term.

The City shall not be required to demolish the existing tenant improvements at the termination of the lease term however the City is allowed to remove all Teknion cubicles.

A rent abatement clause will be included in the lease agreement.

The landlord agrees to co-operate fully with the tenant’s project consultants and contractors to ensure that construction of the tenant improvements proceed without incident, delay or loss of access in any way.

(viii) **Option to Renew:**

Upon 6 months written notice before expiry of the 9 year, 10 month term, (August 31, 2019) the City of Hamilton will have the option to renew the lease for an additional 5 year term under the same terms and conditions as this lease, save for the rental rate, which will be negotiated at market levels.

(ix) **Lease:**

The lease shall be prepared by the Landlord in accordance with the terms and conditions contained within the Landlord’s Letter of Intent and shall be subject to the City’s solicitor being completely satisfied with the terms contained therein.

(b) That the Legal Services Division be authorized to prepare a by-law, under Section 110 of the Municipal Act, to propose that the 11th floor premises become designated as a City Capital Facility, whereby the City would be exempt from paying realty taxes at this location.

(c) That the Mayor, and City Clerk be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor and subject to all taxes being paid in full unless otherwise directed by the General Manager of Finance and Corporate Services.

(d) That the Legal Services Division be allowed to assume the space previously occupied and shared by Risk Management Services Section at Suite 1200, 21 King Street West, Hamilton, subject to the following terms:
(i) **Term:** Assume Risk Management’s share of the remaining existing lease as of November 16, 2009 terminating August 31, 2014. Risk Management Services Section will no longer be responsible or obligated to honour any terms and conditions of that lease for the remainder of the term.

(ii) **Property:** Comprised of 21 King Street West, 12th floor, with a rentable area of 184.4 square metres (1,985 square feet) more or less. Note: Legal Services Division will now occupy the entire 12th floor, as shown on Appendix “C” attached to Report PED09282.

(iii) **Rental Rate:** The rate for the remainder of the term will be as follows:

- November 16, 2009 to August 31, 2010, $14,928.87 (Net), $1,571.46 per month, plus G.S.T.
- September 1, 2010 to August 31, 2014, $18,857.50 (Net) per annum, $1,571.46 per month. The rental rate agreed to September 1, 2009 is $9.50 net, per square foot.

(iv) **Operating Costs:** Operating costs which were estimated at $7.50 per square foot in 2007, $14,887.50 per annum or $1,240.63 monthly plus G.S.T. The operating costs reflect that the premises have been designated as a City Capital Facility and are exempt from property taxes.

(v) **Payment:** All rent and operating costs are to be paid monthly and charged to Legal Services Division against Account No. 55358-791530.

(vi) **Special Conditions:** The Landlord, at its expense, contractually agreed to clean and shampoo the broadloom annually throughout the term of the lease.

- A rent abatement clause was included in the existing lease agreement.

(vii) **Option to Renew:** Upon 6 months written notice before expiry of the first 5 year term, (August 31, 2014) the City of Hamilton has the option to renew the lease for an additional 5 year term under the same terms and conditions as this lease, save for the rental rate,
(a) That the City of Hamilton enter into a new lease agreement with MVD Properties Inc. for the property known as Suite 1101, 21 King Street West, Hamilton, subject to the following terms:

(i) Term: 9 year, 10 month term commencing November 1, 2009, terminating August 31, 2019.

(ii) Property: Comprised of Suite 1101, 21 King Street West, with a total rentable area of 288.6 square metres (3,107 square feet) more or less as shown on Appendix “B” attached to Report PED09282.

(iii) Rental Rate: November 1, 2009 to August 31, 2010, $24,597.10, (Net) per annum, $2,459.71. per month, plus G.S.T. The rental rate is $9.50 net, per square foot.

September 1, 2010 to August 31, 2014, $29,516.50, (Net) per annum, $2,459.71. per month, plus G.S.T. The rental rate is $9.50 net, per square foot.

September 1, 2014 to August 31, 2019, $31,070.00 (Net) per annum, $2,589.17 per month, plus G.S.T. The rental rate is $10.00 net, per square foot.

(iv) Operating Costs: Operating costs which were estimated at $7.50 per square foot in 2007, $23,302.50 per annum or $1,941.88 monthly plus G.S.T. The operating costs reflect that the premises will be designated as a City Capital Facility and exempt from property taxes.

(v) Parking: One underground parking space will be provided at market rate.

(vi) Payment: All rent and operating costs are to be paid monthly and charged to Risk Management Services Section against Account No. 791530-357005.

(vii) Special Conditions: The landlord agrees to provide the premises to the tenant 3 months free gross rent to allow the tenant time to complete all tenant improvements as shown on Appendix “B” attached to Report PED09282. It should be noted that the 3 months free gross rent effectively reduces the
The rental rate to $9.29 per square foot throughout the entire lease term.

The City shall not be required to demolish the existing tenant improvements at the termination of the lease term however the City is allowed to remove all Teknion cubicles.

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The landlord agrees to co-operate fully with the tenant’s project consultants and contractors to ensure that construction of the tenant improvements proceed without incident, delay or loss of access in any way.

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(ix) **Lease:** The lease shall be prepared by the Landlord in accordance with the terms and conditions contained within the Landlord’s Letter of Intent and shall be subject to the City’s solicitor being completely satisfied with the terms contained therein.

(b) That the Legal Services Division be authorized to prepare a by-law, under Section 110 of the Municipal Act, to propose that the 11th floor premises become designated as a City Capital Facility, whereby the City would be exempt from paying realty taxes at this location.

(c) That the Mayor, General Manager of Finance and Corporate Services and City Clerk be authorized and directed to execute the Lease in a form satisfactory to the City Solicitor and subject to all taxes being paid in full unless otherwise directed by the General Manager of Finance and Corporate Services.

(d) That the Legal Services Division be allowed to assume the space previously occupied and shared by Risk Management Services Section at Suite 1200, 21 King Street West, Hamilton, subject to the following terms:

(i) **Term:** Assume Risk Management’s share of the remaining
existing lease as of November 1, 2009 terminating August 31, 2014. Risk Management Services Section will no longer be responsible or obligated to honour any terms and conditions of that lease for the remainder of the term.

(ii) Property: Comprised of 21 King Street West, 12th floor, with a rentable area of 184.4 square metres (1,985 square feet) more or less. Note: Legal Services Division will now occupy the entire 12th floor, as shown on Appendix “C” attached to Report PED09282.

(iii) Rental Rate: The rate for the remainder of the term will be as follows:

November 1, 2009 to October 31, 2013, $18,857.50 (Net) per annum, $1,571.46 per month, plus G.S.T.

November 1, 2013 to August 31, 2014, $15,714.58 (Net) per annum, $1,571.46 per month. The rental rate agreed to September 1, 2009 is $9.50 net, per square foot.

(iv) Operating Costs: Operating costs which were estimated at $7.50 per square foot in 2007, $14,887.50 per annum or $1,240.63 monthly plus G.S.T. The operating costs reflect that the premises have been designated as a City Capital Facility and are exempt from property taxes.

(v) Payment: All rent and operating costs are to be paid monthly and charged to Legal Services Division against Account No. 55358-791530.

(vi) Special Conditions: The Landlord, at its expense, contractually agreed to clean and shampoo the broadloom annually throughout the term of the lease.

A rent abatement clause was included in the existing lease agreement.

(vii) Option to Renew: Upon 6 months written notice before expiry of the first 5 year term, (August 31, 2014) the City of Hamilton has the option to renew the lease for an additional 5 year term under the same terms and conditions as this lease, save for the rental rate, which will be negotiated at market levels.
8. **Committee of Adjustment Minor Variance Application FL/A-09:173 for the Property Known as 10 Houndtrail Drive, Flamborough - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED09267) (Ward 15) (Item 6.1)**

   (a) That Item 8 of the Economic Development & Planning Committee Report 09-021 be referred back to the Economic Development & Planning Committee.

   (b) That staff be directed to obtain a binding agreement/arrangement from the owners of 10 Houndtrail Drive, Flamborough regarding their proposed changes to the property and to share this information with the surrounding neighbours, prior to the matter returning to the Economic Development & Planning Committee.

   (a) That Reports PED09267, and PED09267(a), respecting Committee of Adjustment Minor Variance Application FL/A-09:173, for the property known as 10 Houndtrail Drive (Flamborough), as shown on Appendix “A” to Report PED09267, supported by the Planning and Economic Development Department, but denied by the Committee of Adjustment, be received.

   (b) That the City Solicitor be authorized to retain such experts, as necessary, to support the City’s position before the Ontario Municipal Board in respect of any appeals of Minor Variance Application FL/A-09:173; and,

   (c) That the amount required to retain experts to support the City’s position before the Ontario Municipal Board, in respect to Minor Variance Application FL/A-09:173, be funded first, through the 2009 Budget; second, through year end Corporate Surpluses; and lastly, through the Tax Stabilization Reserve.

9. **Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 427 Aberdeen Avenue (Hamilton) (PED09280) (Ward 1) (Item 6.3)**

   That approval be given to **Zoning Application ZAC-09-026, Urbancore Developments (Sergio Manchia), Owner**, for a change in zoning from the “H” (Community Shopping and Commercial, Etc.) District, to the “E-3” (High Density Multiple Residential) District, Modified, with a Special Exception, to permit the development of a multiple residential building, on lands located at 427 Aberdeen Avenue, as shown on Appendix “A” to Report PED09280, on the following basis:
(a) That the building be a maximum of 8 storeys with 32 units, as revised by Committee on October 23, 2009.

(b) That the revised draft By-law, as presented to Committee on October 20, 2009, to include an 8 storey building containing 32 units, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and the Hamilton Official Plan.

(d) That a Development Co-ordination Committee be established.

10. Staging of Development Plan (2010 - 2012) (PED08205(a)) (City Wide) (Item 7.1)

That Recommendation (a) of Report PED08205(a) be deleted in its entirety and replaced with the following:

(a) That City Council approve the Staging of Development Report (2010-2012) attached as Appendix “A” to Report PED08205(a) with the following amendments to Tables 8 and 9 in Appendix “A”, and corresponding mapping changes in Appendix ‘C’

TABLE 8-Priority Processing for Draft Plan Approval:

(i) 25T200614 - Fairground West – Date change from 2011 to 2010 (B)
(ii) 25T200610 – Caterini – Date change from 2011 to 2010 (B)
(iii) 25T99001 - Highbury Meadows - 2010 (B) (Added to list)
(v) 25T200513 - Waterdown Bay Phase 2 - 2011) (Added to list)

TABLE 9- Timing of Servicing for Draft Approved Plans

(i) 25T86008 - DiCenzo Gardens Phase 10 - 2010 (1) (Added to list)
(ii) 25T91007 - Jamesmount Gardens Phase 2 - Date change from 2011+ to 2010 (2)
(iii) 25T97009 - Paradise Meadows Phase 2 - 2010 (2) (Added to list)
(iv) 25T97009 - Paradise Meadows Phase 3 – 2011 (Added to list)
(v) 25T88031 - Sandrina Gardens Phase 7 – 2011 (Added to list)
(vi) 25T76024 - Battleridge Subdivision Phase 3 - 2011+ (Added to list)
(vii) 25T200208 - Summit Park Phase 7 - 2011+ (Added to list)
(viii) 25T200518 - 1169 Garner Road East – 2011 (Added to list)
(viii) 25T99001 - Highbury Meadows – 2011 (Added to list)
(x) 25T200811 - 12 Ambrose Avenue - 2010 (2) (Added to list)

(b) That the Planning and Economic Development Department be directed to further develop and refine the Staging of Development Program by enhancing the coordination of initiatives and developing policies and processes to:

   (i) determine the appropriate staging and priority for development using weighted evaluation criteria. This will be undertaken through the establishment of a Staging Review Committee;

   (ii) monitor intensification and density commitments as set out in the Province’s Growth Plan and the City’s new Urban Official Plan and its growth objectives; and,

   (iii) monitor water and wastewater capacity to ensure that growth is in harmony with the City’s Water and Wastewater Master Plan Strategy.

(c) That the General Manager of the Planning and Economic Development Department be given the authority to bring forward 'non-scheduled' subdivisions to Council for approval in the current year where deemed appropriate, such as, infill developments.

11. Proposed Land Exchange between the City of Hamilton and Demik Brothers (Hamilton) Limited (John Demik) of Development Lands in the Former Township of Glanbrook, now in the City of Hamilton

   (a) That vacant City lands forming part of 925 Nebo Road, identified as Parcel “A”, Plan RC-G-636-C, described as Part of Lot 15, Concession 2, of the former Township of Glanbrook, now in the City of Hamilton (as shown on Appendix “A” to Report PED09279 attached) having an area of approximately 2.40 hectares (5.95 acres), form part of this proposed land exchange.

   (b) That the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to exchange the land described in Recommendation (a) for lands held by Demik Brothers (Hamilton) Limited (John Demik) described as:

       Part of 5365 Twenty Road
Parts 7, 11 and 12, Plan 62R-18129, being Part of Lot 15, Concession 2 of the former geographic Township of Glanbrook, (as shown on Appendix “B” to Report PED09279 attached) having an area of approximately 1.08 hectares (2.68 acres).

(c) That in addition to the land exchange of parcels described in Recommendations (a) and (b), staff is seeking approval to convey an additional 1.63 ha (4.05 acres) of land identified as Parcel “B” on Plan RC-G-636-C (as shown on Appendix “A” to Report PED09279 attached) to Demik Brothers (Hamilton) Limited at fair market value.

(d) That the financial details of the sale of the aforementioned City owned lands, as noted in Recommendations (e), (f), (g), (h), (i) and (j) of Report PED09279 remain confidential until final disposition by Council and the completion of the transaction.

(e) That completion of the land exchange is conditional upon the City being satisfied with the results of an Environmental Assessment to be completed on the properties described in (b) before the closing date.

(f) That the Mayor and Municipal Clerk be authorized and directed to execute and issue a Certificate of Compliance in the form prescribed pursuant to Section 268 of the Municipal Act, incorporating the following, if required:

(i) That on November 24, 2004, City Council approved By-law No. 04-299 entitled “A By-law To Establish Procedures, Including the Giving of Notice to The Public, Governing the Sale of Land Owned by the City of Hamilton”, Section 8 - Exclusion from Conditions, declares lands to be used for the establishment and carrying on of industrial operations and incidental uses surplus to the requirements of the City of Hamilton.

(ii) That in accordance with the approved method of providing notice in the City of Hamilton By-law No. 04-299 “Procedural By-Law for the Sale of Land”, notice has been given to the Public with a City of Hamilton “Notice of Sale” sign on the subject property for at least the minimum seven-day period and by inclusion of the land sale on the agenda of Committee recommending to Council the sale of the land.

(iii) That a Real Estate Appraisal was completed on the property shown in Appendix “A” and for the lands shown in Appendix “B” attached, complying with the requirement for an Appraisal under Section 3 (b) of the City of Hamilton By-law No. 04-299 “Procedural By-law for the Sale of Land”.

(g) That the Mayor and Clerk be authorized and directed to sign all relevant documents relating to this transaction.

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(h) That only Recommendations (a), (b), (c), (k), (l), (m) and (n) of Report PED09279, respecting the land exchange and sale of 925 Nebo Road and Part of 5365 Twenty Road, Glanbrook, be made public at this time, and further, that the body of the report remain confidential and not be released as a public document.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes to the agenda:

- one added Closed Session Item, respecting a proposed land acquisition, which will become Item 12.4

On a Motion (Ferguson/Pasuta), the agenda for the October 20, 2009, meeting of the Economic Development & Planning Committee was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

None

(c) APPROVAL OF MINUTES (Item 3)

That the Minutes of the October 6, 2009 meeting of the Economic Development and Planning Committee be approved, as presented.

(d) Sandy Simonits and Tina Agnello, Joe and Danielle Heins, Marie Benassi, respecting Item 6.1 -10 Houndtrail Drive (Item 4.1)

Committee approved the delegations to speak today

(e) Steve Spicer, HHHBA respecting Item 7.1 Staging of Development
Karl Gonnsen, on behalf of various clients respecting Item 7.1 Staging of Development
James Webb, on behalf of Waterdown bay Ltd respecting Item 7.1 Staging of Development
Committee approved the delegations to speak today

(f) Committee of Adjustment Minor Variance Application FL/A-09:173 for the Property Known as 10 Houndtrail Drive, Flamborough - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED09267) (Ward 15) (Item 6.1)

The Chair advised Committee that this item had been deferred on October 6, 2009, with direction for staff to bring back a further report.

The addendum staff report was e-mailed to Committee yesterday, and has been provided in hard copy this morning.

Tim Lee gave a short overview of the matter, and noted that variances 1, 2, 3 and 5 are still needed, but 4 no longer needed as setbacks comply, based on new survey provided by the applicant. Staff consider the variances are not undesirable.

Committee discussed the matter and had additional information about the site and variances supplied by staff.

Tina Agnello, 8 Houndtrail Drive, addessed Committee. Her points included but were not limited to the following;

- support Committee of Adjustment denial, request city to send legal counsel and outside planner to support Committee of Adjustment
- concern that applicant has still not finalized the exact variances needed, unfair to residents
- negative, cumulative effect of the application
- camera on subject property, at eaves height, don’t know if it loock into our yard.

A copy of Ms. Agnello’s letter was provided to the Clerk for the public record.

Sandy Simonits, 8 Houndtrail Drive, addessed Committee. His points included but were not limited to the following;

- applicant has lawyer to represent them at OMB, City should have the same.

Danielle Heins, 12 Houndtrail Drive, addessed Committee. Her points included but were not limited to the following;
- supports Committee of Adjustment decision
- glad applicant has reduced some of variance requirements
- applicant’s yard is overcrowded, whole process a nightmare for neighbours
- unfair process, confusing for residents who are doing the right thing, being good neighbours
- the subject site is a building site from May 1 through October, for the past 5 years

A copy of Ms. Heins’s letter was provided for the public record.
Marie Benassi, 11 Houndtrail Drive, addressed Committee. Her points included but were not limited to the following;

- wants City to support Committee of Adjustment be sending a lawyer to OMB
- 5 years of trucks on street, construction vehicles, landscaping rocks – would like horrendous experience to end
- the applicants have a habit of building, knocking down, then rebuilding

Ms. Benassi submitted a copy of her letter for the public record. Ms. Benassi then presented a letter from Scott and Laura Johanson, in support of the Committee of Adjustment decision. The letter was given to the clerk for the public record.

Committee discussed the options available. Mr. McCabe noted that previous direction had been given to review this type of situation as part of the new zoning by-law. He also advised that should decision of the Committee of Adjustment be upheld by the OMB, there would be no automatic removal of any offending structures. If this occurs, the City would need to take further action through the Building Department and the court system.

Committee approved a recommendation to send legal staff, and an outside consultant, to the OMB to support the Committee of Adjustment position.

Councillor Pearson requested her opposition be noted.

(g) Application for Approval of a Draft Plan of Subdivision, “Empire Nash”, and Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 22 Green Mountain Road West (Hamilton) (PED09275) (Ward 9) (Item 6.2)

Chair Pearson 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 before the draft plan is approved and the the zoning 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 before the draft plan is approved and the the zoning 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.

The Chair noted that an additional letter from a neighbouring landowner, William Robertson, had been received, in support of the application.

Joe Muto provided an overview of the staff report and explained a minor revision to correct a typographical error in Condition 11 of Appendix “E”, where the word “those” will be changed to “that”.

Mr. Muto provided a powerpoint presentation to Committee. He noted concerns raised after the circulation of the application included the following;

- impact of development on Hamilton Teleport
- proximity of active landfill site
- noise, traffic, impacts on health

Councillor Clark raised questions including but not limited to the following;

- how was the operation of the Hamilton Teleport addressed, review of health issues
- buffer/setbacks for Eramosa Karst
- are setbacks adequate
- impact of active landfill operation – noise, odours, nuisance
- wants Landfill Impact Assessment Study brought to this Committee
- serious issues respecting ground water when purge wells eventually cease operation

Paul Moore, Armstrong Hunter, addressed Committee in support of the applications. His points included but were not limited to the following;

- working on landfill issues, will talk further to Councillor Clark
- satellite dishes are higher elevation than houses, will not be blocked
- have relocated their subdivision road away from teleport boundary
- developments implement the Nash Neighbourhood Secondary Plan
Councillor McHattie raised issues related to the ESA, and whether ESAIEG was now satisfied, and whether there was a danger of “losing” the higher density housing, since this is located in an “H” zone, and depends on OK from NEC.

Mr. Muto explained that applicant and ESAIEG working together and that the overall development exceeds the 50 jobs/persons per hectare standard, being 56 overall.

Mark Giavedone, Evans Philp, addressed Committee with regards to the matter, on behalf of Juch-Tech. His comments included, but were not limited to the following;

- Juch-Tech operates the Hamilton Teleport, concerned about application
- Prefers Open Space use adjacent to client’s operation
- Noted Condition 45, said a Class EA is needed
- Potential health risks from radiation to new residents
- Applicant has not done the proper studies, or talked to his client about health issues, noted Safety Code 6 of Health Canada, importance of adhering to them
- Considers that the location of houses will be closer to radiation sources than the regulations permit
- Wants Empire to do a radiation report and to address any required mitigation

A resident addressed Committee. Her points included but were not limited to the following;

- concern that one of subdivision roads goes closer to her property than shown in approved Secondary Plan
- note that Empire has agreed that road was moved 10 metres into her property

Mr. Muto noted that the road location in the Secondary Plan was conceptual.

Mr. Moore explained that the location of the road now allows all benefitting landowners to pay their share.

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

Chair Pearson confirmed that the Public Meeting was now closed.

Committee continued their discussion of the matter.
On a Motion (Clark/McHattie), Committee deferred the report, with the following direction to staff to report back on the following;

(1) a Landfill Impact Assessment is completed, peer reviewed, and presented to Economic Development and Planning;
(2) that an assessment of the potential health impacts of effective radiated power emissions of Juch-Tech operation be completed, peer reviewed, and presented to EDP;
(3) until staff can review proposed conditions from Juch-Tech’s counsel.

(h) Application for Approval of an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 427 Aberdeen Avenue (Hamilton) (PED09280) (Ward 1) (Item 6.3)

Chair Pearson 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 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 before the zoning 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.

Chair Pearson noted that additional letters from Murph Yule, Marci Vernon, and Jennifer Merriam had been distributed.

Councillor McHattie gave an overview of a revised Recommendation for the subject matter. Copies of the revisions to the Recommendation and to the by-law were distributed.

Councillor McHattie explained that he had worked closely with the applicants and with representatives of the community respecting the application. He noted points including but not limited to the following;

- developers held a community meeting, a smaller citizen group then formed to review application
- 10-12 citizens met twice, agreed to reduce number of units from 42 to 32
- Community Liaison Committee will be established for the design of building
- Negotiations continue with Aberdeen Gardens about use of 5 added parking spaces at their site
- Process resulted in the revised recommendation and by-law being presented today, for an 8 storey, 32 unit building

Edward John provided an overview of the report with the aid of a powerpoint presentation. His points included but were not limited to the following:

- one petition, and total of 59 letters had been received by Planning
- concerns expressed by letters including parking, traffic, loss of views, density, loss in property value, safety and design issues
- applicant held Open House September 14, 2009
- building will have car share and bike share programs, building is on a bus route
- traffic has indicated road capacity is satisfactory and can take new use
- impact on surrounding properties has been considered and mitigated by design

Glen Scheels, GSP Group, agent for the applicant, advised that he was satisfied with the staff recommendation. He made a number of points, including but not limited to the following:

- we support revised recommendation outlined by Councillor McHattie
- building at commercial heart of neighbourhood, many amenities and services within walking distance, building is on a bus route and we will provide a bus shelter
- 28 parking spaces provided, are proposing to have car share and bike share program, a transit pass program
- will be a sustainable building, sensitive design, improvement over what is there now.

Gillian Seaman, 432 Dundurn Street South, addressed Committee with regard to the matter. Her comments included, but were not limited to the following:

- originally against the application but through discussions, amendments agreed which are much better than original proposal
- can now support revised application
- traffic issues still exist but can be addressed in the future, will be part of Advisory Committee
Mike Ryan, 394 Dundurn, addressed Committee. His points included but were not limited to the following:

- lives in adjacent apartment building, will lose entire view from balcony, beautiful view now but in future will look directly into this new building
- parking an issue in neighbourhood, this will make it worse
- car share parking proposed in a “no-stopping” area
- potential danger of entrance from Aberdeen, Tim’s was not allowed an Aberdeen entrance
- traffic safety issue at corner, City had to install special timed lights, there is a crossing guard for school children
- no one informed him of Neighbourhood Meeting, does not think building tenants were asked, so considers process of formation of a group to consult with developer to be unfair

Staff confirmed that Mr. Ryan is on the City circulation list. Mr. Scheels confirmed that he had used the City’s list for circulation of the meeting, and had informed the building superintendent.

Mike McCloskey, 66 Garden Avenue, addressed Committee. His points included but were not limited to the following;

- he and wife downsizing, have one car, would be interested in buying a unit, suits their needs

Paul Smithson, 35 Flatt Avenue, addressed Committee. His points included but were not limited to the following;

- wants mixed use for site, not 2 floors of parking at building base
- development too dense for site

Andrea Smith, 81 Hyde Park, addressed Committee. Her points included but were not limited to the following;

- generally supportive but concerns respecting land use, would prefer mixed use, more pedestrian friendly
- site plan should have input from community, suggested it could be considered by Committee and not through delegated authority to Planning Department, consideration of streetscape plans
- concerns respecting setbacks, streetscape, design issues
- hydro pole location, relationship of hydro lines to building/balconies should be addressed
- where will snow storage go

Denise Minardi, 31 Mount Royal Avenue, addressed Committee. Her points included but were not limited to the following;

- 6 or 7 storey building not appropriate for this area
- concerns respecting so many variances from by-law
- surrounding roads tight for parking, single lane in winter due to snow
- lack of parking for building, people will park on surrounding streets
- safety issues for pedestrians, many children walk in area
- lack of setbacks and adverse impact on pedestrian traffic

Julie Sergi-Waxman, 172 Hillcrest Avenue, addressed Committee. Her points included but were not limited to the following;

- parking already a serious problem in area, narrow streets, houses have restricted driveways
- winter parking will be more serious
- building too close to street, too high
- concern about upset to residents in apartments adjacent

Marni Bell, 20 Flatt Avenue, addressed Committee. Her points included but were not limited to the following;

- parking provided will not be adequate, parking already an issue in area
- very small site for the proposal, miniscule
- concern that subject rezoning may lead to more apartments being built along Aberdeen, this could be a foot in the door, apartment should stay on north side of Aberdeen
- narrow sidewalks in area
- wants site to remain commercial

David Cohen, 89 Stanley Avenue, addressed Committee. His points included but were not limited to the following;

- favours overall development concept, but prefers mixed use for site
- parking is a concern in area, suggests that building be constructed without any parking at all, people would buy in this knowledge, would take bus or walk or bike
Elspeth Thomson, 12 Hyde Park, addressed Committee. Her points included but were not limited to the following;

- concerned about development, size, density
- concerned about parking, parking on adjacent streets, pedestrian safety

Terry Cooke, 14 Amelia, addressed Committee. His points included but were not limited to the following;

- advised he is not involved in development, has no interest in it
- considers it exciting economic opportunity
- lives in neighbourhood, walks his kids through the intersection, very familiar with site and corner
- traffic and parking are issues but Tim Horton’s used to produce more traffic
- mixed use would be desirable but site too small
- the architect, Rick Lintack, lives in the neighbourhood
- don’t need another fast food restaurant on the site
- intensification opportunity, suitable for the site, it’s on a bus line
- recommended that the application be approved.

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

Chair Pearson advised that the Public Meeting was now closed.

Councillor McHattie spoke to the revised recommendation and by-law. His points included but were not limited to the following;

- intensification main issue, along with parking
- need to look at alternatives for parking, traffic, can we look at use of alleyways
- traffic calming should be considered
- has asked to meet with City Manager to address intensification.

Councillor Whitehead spoke in favour of development, need for public input in site plan.

Mr. McCabe explained that site plan process could be handled by initial meetings between neighbourhood representatives, Ward Councillor, developer and staff, before final site plan submission made.
On a Motion (McHattie/Whitehead), Committee approved the revised recommendation which had been distributed today, for an 8 storey building with 32 units.

Chair Pearson thanked everyone for their input.

(i) PRIVATE AND CONFIDENTIAL (Item 12)

(i) Proposed Land Exchange between the City of Hamilton and Demik Brothers (Hamilton) Limited (John Demik) of Development Lands in the Former Township of Glanbrook, now in the City of Hamilton (Item 12.3)

(ii) Added item respecting a land acquisition (Item 12.4)

On a Motion (Clark/Ferguson), Committee moved into Closed Session to consider two items pursuant to Section 239 of the Municipal Act, 2001, respecting proposed or pending acquisition or disposition of land by the municipality or local board at 1:31 pm.

Committee reconvened in Open Session at 1:45 pm.

Committee approved a staff recommendation respecting Item 12.3 (see (ii) above).

Chair Pearson advised that item 12.4 had been discussed and advice provided by legal counsel. She noted that the matter would be discussed at a Special Council Meeting at 3:00 pm.

(j) Minutes of the first Closed Session meeting of October 6, 2009 (Item 12.1)

On a Motion (Bratina/Mitchell), Committee approved the Minutes, as presented.

(k) Minutes of the second Closed Session meeting of October 6, 2009 (Item 12.2)

On a Motion (Bratina/Mitchell), Committee approved the Minutes, as presented.
(1) Staging of Development Plan (2010 - 2012) (PED08205(a)) (City Wide) (Item 7.1)

Tony Sergi and Sally Yong-Lee gave an overview of this report with the aid of a powerpoint presentation. A copy of the presentation was provided to Committee.

Staff explained the report and highlighted a number of points, including, but not limited to;

- significant growth management tool
- provides certainty to developers
- will be an evolving document, not set in stone, updated annually
- contains priorities for development, landowners have been consulted.

Tim McCabe explained the corporate effort which had gone into the document, the long-term nature of the matter, and the fact that we should stick to the priority list.

Gerry Davis, General Manager of Public Works, confirmed the importance of the document, the significant co-operation between departments, co-ordination of the Master Plans.

Committee discussed the matter and staff provided additional information.

At 2:29 pm, on a Motion (Ferguson/Mitchell), the regular meeting of Economic Development and Planning recessed, in order to convene a Special Tree By-law Meeting of the Committee.

At 2:30 pm, on a Motion (Ferguson/Whitehead), a Special Tree By-law Meeting of the Committee was called to order, and then recessed on a Motion (Whitehead/Clark) to allow the regular meeting to deal with the remaining items.

At 2:31 pm, the regular meeting of the Committee reconvened.

Steve Spicer, HHHBA addressed Committee. His comments included, but were not limited to the following;

- HHHBA has discussed matter, thanked staff for all the work, and for involving HHHBA in process
- Giant step forward in certainty for the industry, has appeal process built in.

Mr. Spicer submitted a copy of his written notes for the public record.
Karl Gonnsen, on behalf of various clients, addressed Committee. His comments included, but were not limited to the following:

- represents Silverwood Homes, Parkside Hills Inc., and Paletta
- concern that not all of his letters addressed in staff report
- development staging is good tool but some concerns remain – questions about complete applications, will developers not in the “queue” have their applications deemed premature?
- Member of HHHBA since January 2009, but most of consultations were prior to that
- Requested a deferral for 2 weeks to talk to staff about these issues.

James Webb, addressed Committee on behalf of Waterdown Bay. His comments included, but were not limited to the following;

- requested a revision to maps/schedules, due to errors in describing his client’s property, and an amendment to one of working sheets
- requested that staff be directed accordingly

Committee discussed the ways in which the concerns of the speakers could be addressed. Staff noted the urgency of proceeding with the report.

Committee approved the staff recommendation and directed that staff should work with the two delegations and bring any revisions to the report to Council.

At 2:59 pm, on a Motion (Clark/Bratina), Committee recessed in order to hold an emergency Council meeting.

Chair Pearson advised the audience that Council would be meeting in Room 207, and that the meeting would commence in Open Session and then move into Closed Session to deal with a property issue. She explained that the Council meeting would be short.

At 3:15 pm, on a Motion (Mitchell/Clark), Committee reconvened.

Chair Pearson welcomed journalism students from Mohawk College, who were present to record the meeting for a class project.

(m) MOTIONS (Item 9)

None
(n) NOTICES OF MOTION (Item 10)

None

Councillor Ferguson noted that he had considered placing a Notice of Motion before Committee on the issue of security cameras, due to the situation at Houndtrail Drive. He explained that after speaking to Marty Hazell, he understood there was no municipal jurisdiction in this area, so any action would be a civil matter.

(o) GENERAL INFORMATION (Item 11)

(i) 1955 Regional Road 97, zoning application (Outstanding Business List, due date October 20, 2009) (Item 11.1)

Proposed new date: February 16, 2010

On a Motion (McHattie/Pasuta), Committee approved the new date.

(ii) Book House, 167 Book Road East, Ancaster (Outstanding Business List, due date October 20, 2009) (Item 11.2)

Proposed new date: March 23, 2009

On a Motion (McHattie/Pasuta), Committee approved the new date.

(iii) OSWC issues respecting Subdivision Agreement conditions and pay assurance (Outstanding Business List, due date October 20, 2009) (Item 11.3)

Proposed new date: January 19, 2010

On a Motion (McHattie/Pasuta), Committee approved the new date.

(iv) News from the General Manager (Item 11.4)

Mr. McCabe had no new items to discuss.

(p) Adjournment (Item 13)

On a Motion, the meeting adjourned at 3:56 pm.
Respectfully submitted,

Maria Pearson, Chair
Economic Development and Planning Committee

Alexandra Rawlings, Co-ordinator
Economic Development and Planning Committee
October 20, 2009