PLANNING COMMITTEE
REPORT 11-015
Wednesday, September 7, 2011
9:30 am
Council Chambers
City Hall
71 Main Street West
Hamilton, Ontario

Present:
Councilor Pasuta (Chair)
Councilor Farr (Vice-Chair)
Councilors C. Collins, L. Ferguson, B. Johnson, J. Partridge,
M. Pearson, T. Whitehead, B. McHattie

Absent:
Councilor B. Clark (illness)

Also Present:
T. McCabe, General Manager, Planning & Economic Development
M. Hazell, Senior Director, Parking & By-Law Services
P. Mallard, Director, Planning
J. Spolnik, Director, Building Services
B. Janssen, Director, Strategic Services
G. Wide, Manager, Enforcement
S. Robichaud, Manager, Development Planning
P. De Iulio, Senior Project Manager
C. Bell, Senior Planner
D. Fisher, Assistant City Solicitor
R. Sabo, Assistant City Solicitor
H. Travis, Senior Planner
C. Vanderperk, Superintendent, Environmental Monitoring & Enforcement, Public Works
C. Newman, Legislative Assistant, Office of the City Clerk

THE PLANNING COMMITTEE PRESENTS REPORT 11-015 AND RESPECTFULLY RECOMMENDS:

1. Addendum to the Trinity East (Eramosa Karst) Environmental Study Report Completed by Infrastructure Ontario (PED07236(e)) (Ward 9) (Item 5.1)
   Council September 14, 2011
That Public Works Department and Planning and Economic Development Department staff be directed to withdraw the City of Hamilton Part II Order request to the Minister of the Environment for the Class Environmental Assessment for the Environmental Study Report completed by Infrastructure Ontario for the Land Adjacent to the Eramosa Karst Conservation Area.


That Heritage Permit Application HP2011-044 be approved for the demolition of an existing detached garage and the erection of new ancillary structures at 265 MacNab Street South (Durand-Markland Heritage Conservation District), (Hamilton), as shown on Appendix “A” to Report PED11146, subject to the following conditions:

(a) That the location, dimensions, materials, and design for the new ancillary structures, including a new shed and deck, are submitted, to the satisfaction and approval of the Heritage Permit Review Sub-committee and Planning staff, prior to submission as part of any application for a Building Permit and/or prior to the commencement of construction.

(b) That the location, dimensions, materials, and design for any new hard surface areas, fencing, and major plantings are submitted, to the satisfaction and approval of the Heritage Permit Review Sub-committee and Planning staff, prior to installation.

(c) That construction and site alterations, in accordance with this approval, shall be completed no later than September 30, 2013. If the construction and site alterations are not completed by September 30, 2013, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.


That Heritage Permit Application HP2011-045 be approved for the demolition of a detached garage and the construction of new additions to the existing house at 18 Melville Street (Cross-Melville Heritage Conservation District), (Dundas), as shown on Appendix “A” to Report PED11153, subject to the following conditions:
(a) That the design for any lighting on the front and side façades are submitted, to the satisfaction and approval of Planning staff, prior to installation.

(b) That any minor changes to the plans and elevations following approval are submitted, to the satisfaction and approval of Planning staff, prior to submission as part of any application for a Building Permit.

(c) That the previous Heritage Permit HP2011-039 for alterations to the existing house and garage, approved by the Director of Planning on July 15, 2011, is revoked as of the approval of Heritage Permit HP2011-045.

(d) That construction and site alterations, in accordance with this approval, shall be completed no later than September 30, 2013. If the construction and site alterations are not completed by September 30, 2013, then this approval expires as of that date, and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

4. Committee of Adjustment Minor Variance Application HM/A-11:58, for the Property Located at 53 Gibson Avenue (Hamilton), Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED11148) (Ward 3) (Item 5.4)

That Report PED11148, respecting Committee of Adjustment Minor Variance Application HM/A-11:58, for the property located at 53 Gibson Avenue (Hamilton), as shown on Appendix “A” to Report PED11148, supported by the Planning and Economic Development Department, but denied by the Committee of Adjustment, be received for information, and no action be taken.

5. Application for a Draft Plan of Vacant Land Condominium and an Amendment to Zoning By-law 87-57 for Lands Located at 143 and 153 Wilson Street West (Ancaster) (PED11112) (Ward 12) (Item 6.2)

(a) That approval be given to Zoning Application ZAC-10-050, 153 Wilson Street West (Ancaster) Ltd. and Garth Trails Ltd. (Ward Campbell), Owners, for a change in zoning from the Residential “R2” Zone to the Residential “R4-637” Zone, Modified, with a Special Exception, on lands located at 143-153 Wilson Street West, (Ancaster), as shown on Appendix “A” to Report PED11112, on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED11112, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the proposed change in zoning is consistent with the Provincial Policy Statement and conforms to the Places to Grow

(b) That approval be given to Draft Plan of Vacant Land Condominium 25CDM-201016, 153 Wilson Street West (Ancaster) Ltd. and Garth Trails Ltd. (Ward Campbell), Owners, to create 1 Block and 8 units. Units 1-8 will be developed as single-detached residential units, and Block 9 will be developed as a common element (Private) Roadway, subject to the following conditions:

(i) That this approval applies to the plan prepared by A.J. Clarke & Associates Ltd., signed by B.J. Clarke Ontario Land Surveyor, dated February 28, 2011, showing the following condominium elements: 1 block for a roadway, and 8 units for single-detached residential units, attached as Appendix “C” to Report PED11112.

Development Planning:

(ii) That, prior to the issuance of building permit(s), the owner shall submit and receive final approval of design details concerning Units 1, 4, 5, and 8, demonstrating that they are in accordance with City of Hamilton Site Plan Guidelines, to the satisfaction of the Manager of Development Planning.

(iii) That the owner covenants and agrees that no plan of condominium shall be registered on the lands of the Draft Plan until the owner has provided the Director of Planning with a list, certified by an Ontario Land Surveyor, showing the net area and width of each lot and block created by registration of a condominium plan, including the gross area of the plan to be registered, and that the Director of Planning has confirmed to the owner that the lots and blocks within the plan comply with the City’s requirements for zoning.

(iv) That the owner provides 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.

(v) That the owner agrees to construct acoustical barriers to shield the outdoor living areas of Units 1 and 8, respectively, as indicated on Figure 3.2 - Noise Contours and Mitigation Requirements of the December 21, 2010 Noise Impact Study, prepared by Paradigm Transportation Solutions Ltd. The barriers shall have a minimum height of 2.1 metres, and be constructed of a material with a
minimum surface density of 20 kg/m² (four pounds per square foot) and be in a continuous line without openings or gaps.

(vi) That the owner agrees that Units 1, 2, 7, and 8 shall be fitted with a forced air heating system and the ducting, etc., shall be sized to accommodate central air conditioning if it is found to be necessary for the owner/occupant at any time in the future.

(vii) That the owner agrees to include the following clause within all offers and agreements of purchase and sale or lease for Units 1 and 8:

“Purchasers/tenants are advised that the acoustical barrier, as installed, shall be maintained, repaired, or replaced by the Owner/Condominium Corporation. Any maintenance, repair, or replacement shall be with the same material and to the same standards as the original.”

(viii) That the owner agrees to include the following warning clauses within all offers and agreements of purchase and sale or lease for Units 1, 2, 7, and 8:

“Purchasers/tenants are advised that despite the inclusion of noise control features in this development and within the building units, sound levels due to increasing road traffic on Wilson Street West may, on occasion, interfere with some activities of the dwelling occupants as the sound levels exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”

“This dwelling unit has been fitted with a forced air heating system and the fans, ducts, etc., were sized to accommodate the installation of a central air conditioning system if it is found necessary by the owner/occupant at any time in the future. Installation of central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality’s and the Ministry of the Environment’s noise criteria. (Note: the location and installation of the outdoor air conditioning device should be done so as to comply with the noise criteria of MOE Publication NPC-216, Residential Air Conditioning Devices, and thus minimize the noise impacts both on and in the immediate vicinity of the subject property.)”

(ix) That the owner agrees that prior to the issuance of building permit(s) for Units 1 and 8, which have been identified for noise mitigation measures, the builder’s plans shall be certified by a Professional Engineer qualified to provide acoustical engineering services in Ontario as being in compliance with the
recommendations of the Noise Impact Study, prepared by Paradigm Transportation Solutions Ltd., dated December 21, 2010, as approved, to the satisfaction of the Manager of Development Planning. Prior to final inspection and release for occupancy, Units 1 and 8 shall be certified by a Professional Engineer qualified to provide acoustical engineering services in Ontario as being in compliance with the recommendations of the Noise Impact Study, dated December 21, 2010, as approved, to the satisfaction of the Manager of Development Planning.

(x) That the owner agrees to follow the City of Hamilton Standards for Street Name Signs on Private and Condominium Lanes Policy, including the construction, installation, and maintenance of such signs, to the satisfaction of the Director of Planning.

(xi) That the owner chooses a street name from the pre-approved Ancaster Street name list.

(xii) That the owner provides satisfactory evidence demonstrating that all maintenance easements are registered on title, to the satisfaction of the Director of Planning.

(xiii) That the owner agrees to include the following warning clauses within all offers and agreements of purchase and sale or lease for all units:

“The development is eligible for Municipal Garbage collection; however, private arrangements through the Condominium Corporation may be required to ensure the garbage is brought to the Municipal Street (Wilson Street West)”.

Hamilton Conservation Authority:

(xiv) That the owner prepares and agrees, in writing, to implement the recommendations of a Geotechnical Report, to the satisfaction of the Hamilton Conservation Authority.

Engineering:

(xv) That, should servicing be private, the owner will include a clause in all agreements of purchase and sale clearly advising all potential purchasers that this development has been serviced with a ‘private’ sanitary sewage disposal system (pumping station), which is to be owned, operated, and maintained, at the sole expense of the Condominium Corporation, to the satisfaction of the Senior Director of the Growth Management Division.

Hydro One:
(xvi) That the owner agrees to any potential easements that may be required, and will be identified on completion of the design of the electrical distribution system.

Canada Post:

(xvii) That the owner completes, to the satisfaction of the Director of Engineering of the City of Hamilton and Canada Post:

(a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:

   (i) That the home/business mail delivery will be from a designated Centralized Mail Box.

   (ii) That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

(b) That the owner further agrees to:

   (i) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision.

   (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post to facilitate the placement of Community Mail Boxes.

   (iii) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.

   (iv) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
(c) Canada Post’s multi-unit policy, which requires that the owner/developer provide the centralized mail facility, at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor, or sheltered space.

(c) That approval be given to Urban Hamilton Official Plan Amendment No. [redacted] to permit a low density residential development within the Mixed-Use Medium Density Designation, and to be held in abeyance until a final decision has been made regarding the Urban Hamilton Official Plan, for lands known municipally as 143 and 153 Wilson Street West (Ancaster), as shown on Appendix “E” to Report PED11112.

6. Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (Flamborough) (PED07278(b)) (Ward 14) (Item 6.4)

(a) That approval be given to Flamborough Official Plan Amendment Application OPA-07-015, by Lafarge Canada Inc, Owner, for Official Plan Amendment No. [redacted] to amend the land use designation from “Agricultural” to “Extractive Industrial”, on lands located on a portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (Flamborough), as shown on Appendix “A” to Report PED07278(b), on the following basis:

(i) That the Draft Official Plan Amendment, attached as Appendix “B” to Report PED07278(b), be adopted by Council.

(ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement, and conforms to the Places to Grow Plan and the Hamilton-Wentworth Official Plan.

(b) That approval be given to Zoning Application ZAC-07-054, by Lafarge Canada Inc, Owner, for a change in zoning from the Agricultural “A” Zone to the Extractive Industrial “EI-1” Zone, Modified, with a Special Exception (Block 1), and from the Conservation Management “CM” Zone to the Extractive Industrial “EI-1” Zone, Modified, with a Special Exception (Block 2), as shown on Appendix “A” to Report PED07278(b), for lands located on a portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (Flamborough), on the following basis:

(i) That the draft By-law, attached as Appendix “C” to Report PED07278(b), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the
Town of Flamborough Official Plan upon approval of Official Plan Amendment No. 

(c) That approval be given to Rural Hamilton Official Plan Amendment No. 
    to amend the land use designation from “Rural” to “Mineral Aggregate Resource Areas”, respecting lands located on a portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (Flamborough), as shown on Appendix “A” to Report PED07278(b), on the following basis:

(i) That Draft Rural Hamilton Official Plan Amendment No. 
    attached as Appendix “F” to Report PED07278(b), be adopted by City Council.

(ii) That Rural Hamilton Official Plan Amendment No. 
     is consistent with the Provincial Policy Statement.

(iii) That the By-law of adoption for Rural Hamilton Official Plan Amendment No. 
    referenced in Recommendation (c)(i) above, be held in abeyance until such time as the Rural Hamilton Official Plan comes into full force and effect.

(d) That staff be directed to notify the Ministry of Natural Resources that the City of Hamilton’s objections to the Aggregate Resources Act License Application, by Lafarge Canada Inc., for the subject lands, have been resolved; and that the City of Hamilton no longer has an objection to the issuance of a License under the ARA for the subject lands, in accordance with the ARA Site Plans, once the subject Official Plan Amendment and Zoning By-law Amendment are in full force and effect.

7. Repeal Store Hours By-Law R79-202 (PED11011(a)) (City Wide) (Outstanding Business List Item) (Item 8.3)

That the Store Hours By-law R79-202, being a by-law to set hours when shops are required to be closed to the public, be repealed.

8. Project Compliance Update (PED10049(f)) (Wards 1, 2, 3, 4, 5, 6, 7 and 8) (Item 8.4)

   a) That project compliance (property standards) be extended by four months through to the end of March 2012 to be funded though the Parking Reserve #108021

   b) That staff report back on licensing options based on the experience of other municipalities, including but not limited to a hybrid of a rental housing license/proactive By-law enforcement.
9. Funds from Sale of Wolverton Park (Item 9.1)

That, save for disbursements, the total amount collected in the sale of an unusable portion of Wolverton Park (estimated at $166,320) from the City to the developer in the St. Joseph’s Drive Condominium project, be directed towards the enhancement for Wolverton Park.

10. City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11 (LS11011) (City Wide) (Added Item 12.2)

That report LS11011, City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11, be referred to the General Issues Committee for consideration.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

ADDED CONSENT ITEMS

5.5 Legal Services - Outside Counsel Fees for Ontario Municipal Board Hearings (LS11010)

ADDED DELEGATION, PUBLIC HEARINGS AND ITEMS REFERRED FROM PREVIOUS MEETINGS

6.3.1 Correspondence from Mark Milne, respecting Lands Located at 252-254 Locke Street South

6.3.2 Correspondence from Mary Lou Reiman, respecting Lands Located at 252-254 Locke Street South

ADDED PRESENTATIONS

7.1 Presentation from Tesfaye Gebrezghi, P. Eng., Supervisor/Part V Director, Waste Approvals, Environmental Assessment and Approvals Branch, Ministry of the Environment respecting the Certificate of Approvals Process (Outstanding Business List Item) (Requested by Committee on January 18, 2011)

ADDED PRIVATE AND CONFIDENTIAL

12.2 City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11 (LS11011) (City Wide)
On a motion the agenda was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

Councillor Pearson declared a conflict of interest respecting item 8.4 Project Compliance Update, as she is a rental property owner.

Councillor Johnson declared a conflict of interest respecting item 12.2 City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11, as she is named in the pending litigation.

(c) APPROVAL OF MINUTES (Item 3)

(i) August 8, 2011 (Item 3.1)

On a motion the Minutes of the August 8, 2011 Planning Committee meeting were approved, as presented.

(d) DELEGATION REQUESTS (Item 4)

(i) DiCenzo Construction Company Limited, respecting the demolition permit application for 631 Rymal Road West, Hamilton (Item 4.1) (Added as item 8.1.1)

On a motion the delegation request by DiCenzo Construction Company Limited, respecting the demolition permit application for 631 Rymal Road West, was approved and added to the agenda as item 8.1.1.

(e) CONSENT ITEMS (Item 5)

(i) Legal Services - Outside Counsel Fees for Ontario Municipal Board Hearings (LS11010) (Added Item 5.5)

On a motion the report LS11010 was deferred to the September 20, 2011 Planning Committee meeting.

(f) DELEGATIONS, PUBLIC HEARINGS AND ITEMS REFERRED FROM PREVIOUS MEETINGS (Item 6)

(i) Rose Nielson, respecting Issues with Two Building Lots on Whitefish Crescent, Stoney Creek (Approved August 8, 2011) (Item 6.1)
Rose Nielson addressed the Committee. Her Comments included but were not limited to the following:

- Two lots adjacent to her property which are owned by Marz Homes have not been maintained in the last five years.
- Water is spilling onto the residence behind the property in question, because of backfilling on the property.
- Dumping is occurring on the property.
- Neighbors are in fear, and are not sure what they can do moving forward.
- The neighboring properties are having issues with water drainage.

The Committee asked questions of Ms. Nielson. The discussion included but was not limited to the following:

- Staff indicated that an inspector has been sent out and talked with builder. The property has been cleared and the builder has agreed to put in a rear back end swale to control the runoff water.
- Staff will meet with the builder to discuss any outstanding issues.
- Staff agreed to work with Ms. Nielson on issues surrounding water infrastructure and water contamination.
- The Committee were concerned that our City departments were not enforcing City policies.

On a motion the delegation by Rose Nielson, respecting Issues with Two Building Lots on Whitefish Crescent, Stoney Creek, was received.

(ii) Application for a Draft Plan of Vacant Land Condominium and an Amendment to Zoning By-law 87-57 for Lands Located at 143 and 153 Wilson Street West (Ancaster) (PED11112) (Ward 12) (Item 6.2)

Chair Pasuta advised the Committee 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 draft plan of condominium is approved, 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 draft plan of condominium is approved, 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.

Council September 14, 2011
On a motion the presentation respecting PED11112, Application for a Draft Plan of Vacant Land Condominium and an Amendment to Zoning By-law 87-57 for Lands Located at 143 and 153 Wilson Street West, was waived.

The agent Amanda McNeish, of Starwood Developments, addressed the Committee respecting Report PED11112. Ms. McNeish’s comments included, but were not limited to the following:

- Ms. McNeish indicated her support for the staff recommendation, and thanked staff for their hard work.

On a motion the presentation by Ms. McNeish respecting the Application for a Draft Plan of Vacant Land Condominium and an Amendment to Zoning By-law 87-57 for Lands Located at 143 and 153 Wilson Street West (PED11112), was received.

(ii)(i) Correspondence from W.D. Dobson, respecting 143 and 153 Wilson Street West (Item 6.2.1)

On a motion the correspondence from W.D. Dobson, respecting 143 and 153 Wilson Street West, was received.

On a motion, as there were no additional members of the public who wished to speak, respecting the Application for a Draft Plan of Vacant Land Condominium and an Amendment to Zoning By-law 87-57 for Lands Located at 143 and 153 Wilson Street West, the public meeting was closed.

(iii) Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (Hamilton) (PED11147) (Ward 1) (Item 6.3)

Chair Pasuta advised the Committee 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 draft plan of condominium is approved, 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 draft plan of condominium is approved, 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.

Daniel Barnett, Planning Technician, addressed Committee with the aid of a PowerPoint presentation respecting Report PED11147. Mr. Barnett's comments included, but were not limited to the following:

- The property in question is currently zoned commercial in the City's official plan.
- The application is to change the zoning to permit an outdoor licensed patio.
- To establish the patio the applicant has previously applied for a minor variance, which was approved the Committee of adjustment. It was subsequently appealed to the OMB and the decision reversed.
- A restaurant resides on the property with a patio in the front (6 seats) and an unlicensed patio in the back (36) seats.
- Any change in zoning would bring with it restrictions regarding the use of the patio, as well as measure to reduce noise (eg noise attenuation fencing, 11:00 pm curfew, no outdoor bar).
- Currently there is fencing surrounding the property and a five-car garage, which assists to damper noise from the patio.
- The current 36 seat patio is in existence but unlicensed.

The Committee asked questions of Mr. Barnett. The discussion included but was not limited to the following:

Councillor McHattie was present at Committee for the discussion regarding this item.

- Committee asked if the City has a policy surrounding the use and construction of commercial patios, and if we do not, suggested that the City study to look at the issues surrounding commercial patios. Staff suggested that a broad policy does not always fit each situation, and would rather look at each case individually.
- Committee had concerns that a decision to rezone the property would set a new precedent for other commercial, or food service industry businesses.
- Committee had concerns with the noise that may be generated from a licensed patio. Staff indicated that the patio was already in existence and some noise absorption features are already present, and that the stipulation which accompany the new zoning regulation, should mitigate any further noise generation.

Council September 14, 2011
• Committee asked if the local Business Improvement Association (BIA) and Kirkendale Neighborhood Association was consulted regarding this matter. Staff indicated that consultation was held with the Neighborhood Association and the main concern is respecting the liquor licensed being transferred to another business owner.
• Committee asked if any noise studies have been preformed in the area. Staff stated that no noise studies have been done, but that staff feel confident that with the current landscape and new provisions that noise should not be an issue.
• Committee asked if the garage were to be torn down, what could that area be used for. Staff indicated that it would have to either be reconstructed as a garage, or parking.
• Committee was concerned that there was not a sufficient buffer between the patio and neighboring properties. Staff indicated that neighboring properties had a sufficient buffer area and that the garage behind the patio provides a fifty-foot buffer.

On a motion the presentation by Mr. Barnett, respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

John Ariens, of IBI Group, addressed the Committee respecting Report PED11147. Mr. Ariens’ comments included, but were not limited to the following:

• The restaurant is a find dining establishment owned by Mr. Bernstein, which does not attract a loud group of patrons. The rezoning will allow customers to enjoy a glass of wine with dinner.
• The patio does not abut any residential lands and the garage provides both a visual and sound buffer.
• The owner is in agreement with the conditions set on the patio.
• The BIA wrote to the OMB in support of the application.
• A meeting was held with neighbors, concerns were surrounding the generation of noise and lighting. Through consultation, many of the concerns were put at ease.
• The owner of the restaurant is in support of the staff recommendation, and is thankful for their work.

The Committee asked questions of Mr. Ariens. The discussion included but was not limited to the following:

• Committee was concerned with the transfer of the liquor license, specifically related to the small amount of public involvement that goes into the transfer. If the restaurant were to change hands, the new owner may not run the same type of establishment. The agent suggested that the City differentiate between different types dining
establishments. Alternatively, he suggested that the City may want to grant a temporary use By-law for a three year period which can be extended.

- Staff felt the suggestion for a temporary use By-law had merit. Staff also indicated that a temporary use By-law would rest with the property and not with the owner of the establishment, meaning it would be transferable to any future owners of the property.
- Mr. Bernstein, indicated that it was his intention to keep the restaurant as a fine dining establishment.

On a motion the presentation by Mr. Ariens respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

Pam Habhand, 310 Herkimer Street, address the Committee. Her Comments included but were not limited to the following:

- Ms. Habhand indicated that she was there representing Mr. Milne, who was unable to make it to the meeting, but did send a written correspondence to the Committee.

On a motion the delegation by Ms. Habhand respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

Rainer Schneider, 321 Charlton Street West, address the Committee. His Comments included but were not limited to the following:

- Has been a resident at the address noted above since 1993.
- The approval of this rezoning may decrease the value of his property.
- Indicated that the current patio does abut the rear of his property.
- He does not believe that the garage will provide a sufficient sound buffer.
- As a resident, he has concerns that this rezoning will create a trend in the neighborhood.
- Thanked the Committee for addressing many of the concerns he had coming into today.

The Committee asked questions of Mr. Schneider. The discussion included but was not limited to the following:

- The Committee inquired if the restaurant has ever been a significant source of noise. Mr. Schneider indicated that the noise has previously been at a reasonable level.

Council September 14, 2011
The Committee asked if a market assessment of the property has been done, and if the approval of rezoning would cause a value decrease. Mr. Schneider indicated that no formal evaluation had been completed.

Committee asked staff if they had received any similar rezoning applications in the vicinity. Staff indicated that no applications had been received.

On a motion the delegation by Rainer Schneider, respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

Tony Greco, 2301 Locke Street South, addressed the Committee. His comments included but were not limited to the following:

- Has been involved in the neighborhood for forty years, and is a member of the local BIA.
- Would like to see the staff recommendation supported and felt that it would help continue the growth on Locke Street.

On a motion the delegation by Tony Greco, respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

Don Cameron, 246 Locke Street South, addressed the Committee. His comments included but were not limited to the following:

- Mr. Cameron has been a long time resident and business owner. The business and residence is located at the same address.
- Mr. Cameron expressed his support for the application, and the restaurant owner.
- The restaurant has promoted Locke Street and Mr. Cameron's business over the years.
- Mr. Cameron approves of the application with the conditions.

On a motion the delegation by Don Cameron, respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), was received.

(iii)(i) Correspondence from Mark Milne, respecting Lands Located at 252-254 Locke Street South (Added Item 6.3.1)
On a motion the correspondence from Mark Milne, respecting Lands Located at 252-254 Locke Street South, was received.

(iii)(ii) Correspondence from Mary Lou Reiman, respecting Lands Located at 252-254 Locke Street South (Added Item 6.3.2)

On a motion the correspondence from Mary Lou Reiman, respecting Lands Located at 252-254 Locke Street South, was received.

On a motion as there are no additional members of the public who wished to speak, respecting the Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South (PED11147), that the public meeting was closed.

On a motion report PED11147, respecting Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 252-254 Locke Street South, was TABLED. A meeting is to be scheduled involving the Ward Councillor, Applicant, Planning staff and all relevant stakeholders to discuss the possibility of a temporary use By-law.

(iv) Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (Flamborough) (PED07278(b)) (Ward 14) (Item 6.4)

Chair Pasuta advised the Committee 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 draft plan of condominium is approved, 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 draft plan of condominium is approved, 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.
Heather Travis, Senior Planner, addressed Committee with the aid of a PowerPoint presentation respecting Report PED11147. Ms. Travis’ comments included, but were not limited to the following:

- Lafarge Canada has asked for rezoning, they would like to extend the life of the existing quarry.
- The surrounding area consists of commercial, agricultural and residential uses.
- Proposed area is 30 hectares but limited to 29 hectares to allow for appropriate setbacks.
- If approved it would extend life of quarry for five years.
- Lafarge Canada wants has applied to rezone the land from agriculture to extractive industrial.
- The applicant has done the required studies and assessments. The studies have reported that the operation is within all required guidelines.
- The local community and conservations authorities have been consulted during the process and concerns have been addressed.

The Committee asked questions of Ms. Travis. The discussion included but was not limited to the following:

- Committee affirmed that both Conservation Hamilton and Halton did not have any further concerns with the rezoning. Staff indicated that they were satisfied with studies and noticed that sufficient monitoring is in place.
- The Committee noted that some letters of concern had been received in 2007. Staff indicated that in the elapsed time, the concerns of these residents have been addressed, and subsequently withdrawn.

On a motion the presentation by Mrs. Travis, respecting the Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (PED07278(b), was received.

Brian Zeman, of MHBC Planning, addressed the Committee respecting Report PED07278(b). Mr. Zeman’s comments included, but were not limited to the following:

- In support staff recommendation and is appreciative of their work.

The Committee asked questions of Mr. Zeman. The discussion included but was not limited to the following:

- The Committee asked about a meeting held to consult local residents and what topics the conversation surrounded. Mr. Zeman indicated
that there was concern with respect to wells, but the results of the studies done and the detailed complaint process in place alleviated any concerns.

On a motion the presentation by Mr. Zajac respecting the Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (PED07278(b), was received.

Al Volpe, 181 Spring Azo Crescent, address the Committee. His Comments included but were not limited to the following:

- Has been a resident since 1989, when he purchased the property it was zoned extractive industrial and without a public process or disclosure was rezoned to conservation management.
- Staff indicated that they would work with Mr. Volpe on this matter in more detail.

On a motion the presentation by Al Volpe, respecting the Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (PED07278(b), was received.

On a motion as there are no additional members of the public who wished to speak, respecting the Application for Approval of an Amendment to the Town of Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located on a Portion of 834 Brock Road, Part of Lots 9 and 10, Concession 4 (PED07278(b), that the public meeting was closed.

(g) **PRESENTATIONS (Item 7)**

(i) **Presentation from Tesfaye Gebrezghi, P. Eng., Supervisor/Part V Director, Waste Approvals, Environmental Assessment and Approvals Branch, Ministry of the Environment respecting the Certificate of Approvals Process (Outstanding Business List Item) (Requested by Committee on January 18, 2011) (Added Item 7.1)**

Tefsaye Gebrezghi and Andrew Neil, Ministry of the Environment, gave a presentation to Committee with the aid of a PowerPoint presentation. His comments included but were not limited to the following:

**Certificates of Approval as Part of the Ministry’s Business**

**Legislation & Policy**

Council September 14, 2011
• Certificates are required for facilities that release emissions to the atmosphere, discharge contaminants to ground and surface water. The goal is to prevent adverse environmental impacts.
• A signing Director who has been designated under the appropriate act makes approval decisions.

**Environmental Protection Act – Waste**
• Approval is required to establish, operate or enlarge a site to collect, handle, transport, sort, process or dispose of waste.

**Waste Application Process**
• *Six step process*
• *Application Screening*
• *Letter of Acknowledgement*
• *External Consultation*
• *Internal Consultation*
• *Assigned to Reviewer*
• *Terms and Conditions*
• *Signing Director Decision*

**EBR – Environmental Bill of Rights**

**Appeals**
• *Appeal by Applicant*
• *3rd Party Appeals*
• *Appeals of the Environmental Review Tribunal’s decision*

The Committee asked questions of Mr. Gebrezghi. The discussion included but was not limited to the following:

• The Committee inquired as to the time lines associated with the application process.
• The Committee expressed some frustration with the appeals process, as it can be difficult to obtain the documentation from the applicant. The Committee inquired if it was possible to have the MOE send them the appropriate documentation. The presenter indicated that this was not standard procedure and that there may be some issues with private and confidential information being on an application.
• The Committee asked that City staff work with MOE staff on issues that have been stumbling blocks in the past.
• Mr. Gebrezghi stated that changes are coming to the approvals process, but details at this point in time were minimal.
• The Committee indicated the need to develop a strong working relationship with the MOE, with respect to the number of applications that were being made in Hamilton.
On a motion the presentation by Tesfaye Gebrezghi and Andrew Neil, from the Ministry of the Environment, respecting the Certificate of Approvals Process, was received.

On a motion Planning Staff was requested to meet with the Ministry of the Environment staff to discuss experienced deficiencies in the Certificate of Approvals Process and report back to the Planning Committee in the first quarter of 2012.

(h) DISCUSSION ITEMS (Item 8)

(i) Demolition Report - 631 Rymal Road West, Hamilton (PED11151) (Ward 8) (Item 8.1)

On a motion PED11151, Demolition Report - 631 Rymal Road West, Hamilton, was deferred to the September 20, 2011 Planning meeting.

(ii) Pilot Project - Ward 1 - 12 Hour Parking By-law (PED11079(a)) (Ward 1) (Item 8.2)

Marty Hazell gave an overview of the staff report. His comments included but were not limited to the following:

- Presented to Committee is a terms of reference for a pilot program.
- The pilot program is to encourage individuals in Ward 1 to explore alternative transportation.
- It would be a change to the long standing parking By-law in the City and would also result in the loss of $3000 dollars annually.

The Committee discussed the matter. There comments included but were not limited to the following:

- Committee members indicated that there are other avenues such as permit parking that residents can explore. Furthermore, there was a feeling that the approval of this report could lead to further relaxing of parking regulations in the City.
- Staff indicated that the loss of revenue will have to be absorbed by the department.
- The Councilor’s debated the need for a relaxation of the parking By-law in certain areas of the City.
The following motion was **DEFEATED** on the following vote.

**Yeas:**    Collins, Farr, Johnson  
Total Yeas: 3
**Nays:**    Pearson, Pasuta, Whitehead, Partridge  
Total Nays: 4
**Absent:**  Ferguson, Clark  
Total Absent: 2

a) That staff be directed to conduct a pilot to address the 12 hour parking regulation in Ward 1, and recommend it be based on the following terms:

   i) the pilot will be for a one year duration and apply only to the Kirkendall and Strathcona Neighbourhoods in Ward 1;

   ii) upon receipt of a complaint about a vehicle being parked longer than 12 hours, staff will not respond for at least 72 hours (3 days);

   (iii) any complainant not satisfied with delayed enforcement of 12 hour violations will be referred to the Ward Councillor’s Office;

   (iv) the pilot in no way commits the Hamilton Police Service to any change in parking enforcement;

   (v) there will be no change in the traditional temporary signing methods used to accommodate the Public Works Department street maintenance operations; and,

b) That staff report back to the Planning Committee at the conclusion of the pilot.

(iii) **Repeal Store Hours By-Law R79-202 (PED11011(a)) (City Wide) (Outstanding Business List Item) (Item 8.3)**

Bill Young gave an overview of the report. His comments included but were not limited to the following:

- The recommendations in the report looks to repeal the Store Hours By-law which was enacted in 1979.
- The Committee requested that staff look into the matter and seek public consultation. 10 of 13 BIA’s were in support of repealing the By-law. A public meeting was held, 3 people were in attendance, all of which were in favour of keeping the By-law.
- Staff is recommending the repeal of the By-law, only Hamilton and Sudbury currently have By-laws which restrict store hours.
• If repealed, the Retail Business Holiday Act would apply to regulate business hours.
• Staff felt that repealing the By-law would allow Hamilton retailers to better compete with retailers in surrounding municipalities.

On a motion the item titled Store Hours was identified as completed and removed from the Planning Committee Outstanding Business List.

(iv) Project Compliance Update (PED10049(f)) (Wards 1, 2, 3, 4, 5, 6, 7 and 8) (Item 8.4)

Marty Hazell gave an overview of the report. His comments included but were not limited to the following:

• Eighteen month pilot program to look into the feasibility of licensing rental housing.
• Cost of the pilot is $33,000 a month. The program is beginning to recover more of its costs, but the program will never return a full cost recovery.
• Committee indicated interest in extending the funding for the program for the remainder of 2011, and sending the item to the budget process for 2012.

(v) Demolition Permit – 245 Catherine Street North, Hamilton (PED11136) (Ward 2) (verbal update) (Item 8.5) (verbal update)

Glyn Wide gave an update respecting 245 Catherine Street North. His comments included but were not limited to the following:

Mr. Wide provided a copy of his speaking notes to the Clerk.

• Mr. Wide gave a chronological list of events that have occurred on the property. The owner has had individuals working on the site but there has been no movement towards the proper disposal of toxic materials located on the premises or a proper demolition for the building.
• The owner has still not obtained a demolition permit from the City, despite the claim of his alleged employees stating that he has.
• Due to hazardous materials located on the site, the MOE has ordered that no one go into the building without proper clearance, as there are vats with highly corrosive materials inside.
• Many services to the building to the building have been shut off, although Union gas has not shut off services at this time.
• The owner has asked that only a portion of the building be demolished.
• The City has not received a method of demolition from the owner.
• The City has sent a legal document requested the details of the demolition, but has not received a response.

The Committee discussed the matter. Their discussion included but was not limited to the following:

• The Committee asked if the owner does not take action when can the City remove the vats. Staff indicated that they would take action on October 12, 2011. Staff felt it was unlikely that the owner would be able to comply within the remaining time.

• Questions were directed to the MOE representative respecting the sanctions put on the building and subsequent disciplinary actions. Discussion also surround the steps the owner will need to take to move forward with the demolition.

On a motion the update respecting the demolition permit for 245 Catherine Street North, was received.

(i) NOTICE OF MOTION (Item 10)

(i) Funds from Sale of Wolverton Park (Item 10.1)

Councillor Farr brought forward the following notice of motion.

That, save for disbursements, the total amount collected in the sale of an unusable portion of Wolverton Park (estimated at $166,320) from the City to the developer in the St. Joseph’s Drive Condominium project, be directed towards the enhancements for Wolverton Park.

On a motion the Rules of Order were waived to allow the introduction of a motion respecting the Funds from the Sale of Wolverton Park.

(j) GENERAL INFORMATION (Item 11)

(i) Outstanding Business List Amendments (Item 11.1)

(a) Item I: Harmonised Animal Control By-law
Current Due Date: Special Meeting, September 2011
Proposed New Due Date: Special Meeting, November 2011

(b) Item J: Reduce Dog Licence Fee for those receiving Disability Tax Credit.
Current Due Date: Special Meeting, September 2011
Proposed New Due Date: Special Meeting, November 2011
Staff indicated that both special meetings for Item I and J will be done together, but two meetings will be set up. One for public consultation the other for discussion of the Committee. Staff requested that the report be released earlier than usual. Staff indicated that notice of the meeting will be given to the public through advertisements in the local newspapers.

On a motion the public meetings be scheduled in November and that the staff report be released ahead of the guidelines set out in the City’s procedural By-law, subject to Planning Committee and Council receiving the report 48 hours prior to public release.

On a motion item V of the outstanding business list, was removed and marked as completed.

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

Tim McCabe, General Manager, Planning and Economic Development gave an update to the Committee respecting the following items:

- 2011 Development Activity and Revenue – Quarterly Report – April 1, 2011 to June 30, 2011 (2nd Quarter)
- Ontario Municipal Board decision respecting property located on Bay Street, Hamilton.
- The installation of sign kiosks in City BIA’s
- Update respecting the series in the Globe and Mail titled “Six-part series on Hamilton’s image makeover”

(k) PRIVATE AND CONFIDENTIAL (Item 12)

(i) Closed Session Minutes, August 8, 2011 (Item 12.1)

On a motion the closed session minutes of August 8, 2011, were approved and are to remain confidential.

(ii) City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11 (LS11011) (City Wide) (Added Item 12.2)

On a motion the Planning Committee moved into Closed Session, at 12:30 p.m., respecting City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11, pursuant to Section 8.1, Subsections (e) and (f) of the City’s Procedural By-law, and Section 239, Subsections (e) and (f) of the Ontario Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local government.

Council September 14, 2011
board; and, the receiving of advice that is subject to solicitor-client privilege including communications necessary for that purpose.

On a motion the Planning Committee reconvened in Open Session at 1:20 p.m.

On a motion report LS11011, City of Hamilton and Johnson ats Penady, Ontario Superior Court of Action No. 1234/11, was referred to the General Issues Committee for consideration.

(I) ADJOURNMENT (Item 13)

On a motion the Planning Committee adjourned at 5:00 p.m.

Respectfully submitted,

Councillor R. Pasuta
Chair, Planning Committee

Christopher Newman
Legislative Assistant
Office of the City Clerk
September 7, 2011