TO: Chair and Members  
Planning Committee  

WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: January 31, 2012

SUBJECT/REPORT NO:  
Housekeeping Amendments to Comprehensive Zoning By-law 05-200, (PED12015)  
(City Wide)

SUBMITTED BY:  
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY:  
Al Fletcher 905-546-2424 Ext. 5802

SIGNATURE:

RECOMMENDATION:

(a) That approval be given to City Initiative CI-11-B to provide housekeeping amendments to the City’s Comprehensive Zoning By-law known as Zoning By-law 05-200.

(b) That the attached draft Zoning By-law, marked as Appendix “A” to Report PED12015, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
EXECUTIVE SUMMARY

This report recommends the following housekeeping amendments:

- Clarify the definition of “yard” to reflect that it is relative to any building on a property versus only the “main” building;
- Clarify the parking requirements within the downtown whereby additional parking requirements for existing buildings is only relative to the additions related to increase in gross floor area and/or increase in number of dwelling units, whichever shall apply;
- Provide for regulations within the Industrial Zones prohibiting accessory buildings to be located within the Front Yard or required Flankage Yards;
- Correct a special exception for the lands at 620 South Service Road to reference the Prestige Business Park (M3) Zone to permit the use of commercial recreation; and,
- Zone City-owned parkland off of DiCenzo Drive to provide residents with the certainty to the use of the lands.

Alternatives for Consideration – See Page 4 or Not Applicable

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Not applicable

Staffing: Not applicable

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for Official Plan Amendments and Zoning By-law Amendments. Public Notice as per the Planning Act has been provided in the Hamilton Spectator. As this was a City-initiated Official Plan Amendment and Zoning By-law with City-wide effects, no notification by mail or sign on the property was required, per Council policies.

HISTORICAL BACKGROUND (Chronology of events)

Since the adoption of the original stage of the Comprehensive Zoning By-law in 2005, staff has committed to continued monitoring of the document to ensure that the document remains user friendly and easily interpreted. Through discussions with staff, an error has been found, as well as, a couple changes proposed to assist with
interpretation issues. Further, the City has acquire additional lands for park purposes which now can be zoned within the new Comprehensive Zoning By-law.

**POLICY IMPLICATIONS**

No policy implications.

**RELEVANT CONSULTATION**

Housekeeping amendments being undertaken are as a result of consultation with City staff since November 2011.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(Include Performance Measurement/Benchmarking Data, if applicable)

**Comprehensive Zoning By-law 05-200**

Since the implementation of the first phase of the Comprehensive Zoning By-law, staff committed to ensure the document is monitored so that it remains relevant, implementing the intent and any corrections are completed in a timely manner. This report deals with the following amendments:

1. Clarify the definition of “yard” to reflect that it is relative to any building on a property versus just the “main” building;
   - the current definition of “yard” refers to the linear distance between the property line and the nearest potion of the main building whereas the definitions of “flankage yard”, “front yard, “rear yard” and “side yard” do not refer to distance to the “main” building which has cause some interpretation issues.
   - with the proposed change to the By-law, by replacing the word “main” with “any”, the definitions are now consistent.

2. Clarify the parking requirements within the downtown whereby additional parking requirements for existing buildings is only relative to the additions related to increase in gross floor area and/or increase in number of dwelling units, whichever applies;
   - within the parking requirements for the downtown, any permitted use can occupy an existing building and the only parking requirement is that the existing parking be maintained becoming the required parking for the use.
   - should the building be subject of an addition, parking shall be required for the increased gross floor area.
- the existing definition has been interpreted where the increase in parking is based on gross floor area, e.g. office space, but does apply if the increase floor area increases the number of residential units.
- the proposed change to the By-law provides for parking to be provided whether it relates to increase in gross floor area or dwelling units.

3. Provide for regulations within the Industrial Zones prohibiting accessory buildings to be located within the Front Yard or required Flankage Yards;

- the new industrial zones require that accessory buildings be subject of the same zoning regulations as any principle building on the property
- the proposed changes will prohibit accessory buildings within the front yard as well as not being permitted within the required flankage yards

4. Correct a special exception for the lands at 620 South Service Road to reference the Prestige Business Park (M3) Zone to permit the use of commercial recreation.

- an error was made whereby the property located at 620 South Service Road (Stoney Creek) did not reference that the regulations permitting use within the Prestige Business Park (M3) Zone.
- the proposed changes to the By-law rectify the issue.

5. An additional change proposed relates to lands the City acquired on DiCenzo Drive for the purpose of a park. While the former City of Hamilton Zoning By-law permits parks within any zone, by zoning the lands as Neighbourhood Park (P1) Zone brings the lands into the new Comprehensive Zoning By-law and provides residents with the certainty of the use of the lands consistent with the other Neighbourhood Parks zoned within the City.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the amendments not be undertaken, the new Comprehensive Zoning By-law would not be consistent and may lead to interpretations which do not implement the intent of the By-law.
CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


**Skilled, Innovative & Respectful Organization**

- A culture of excellence
- A skilled, adaptive and diverse workforce, i.e. more flexible staff
- Housekeeping Amendments will provide for clearer, consistent wording to provide for easier interpretation of the Comprehensive Zoning By-law.

APPENDICES / SCHEDULES

Appendix “A”  Zoning By-law Amendments to Comprehensive Zoning By-law 05-200

AF
CITY OF HAMILTON

BY-LAW No. ______

Housekeeping Amendments to By-law 05-200

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

AND WHEREAS it was desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS this By-law provides for housekeeping amendments to By-law 05-200, as hereinafter described and depicted;

AND WHEREAS the Council of the City of Hamilton, in adopting Section ______ of Report ______ of the Planning Committee at its meeting held on the ______ day of ______, 2012, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Section 3, of By-law 05-200, be amended by deleting "main" and replacing it with “any” in the definition of Yard, and adding the words “but shall not be measured to a building required for security within any Industrial Zone.”
2. That Section 5.6 b), of By-law 05-200, be amended by adding “or increased number of dwelling units, whichever shall apply.” after the words “of the building”.

3. That Section 9.1.3, of By-law 05-200, be amended by adding the following section:

   "i) Accessory Buildings i) In accordance with the requirements of Section 9.1.3;

   ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes.”

4. That Section 9.2.3 k), of By-law 05-200, be deleted in its entirety and replaced with the following:

   "k) Accessory Buildings i) In accordance with the requirements of Section 9.2.3;

   ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes.”

5. That Section 9.3.3 q), of By-law 05-200, be deleted in its entirety and replaced with the following:

   "q) Accessory Buildings i) In accordance with the requirements of Section 9.3.3;

   ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes.”
6. That Section 9.4.3 r), of By-law 05-200, be deleted in its entirety and replaced with the following:

"r) Accessory Buildings i) In accordance with the requirements of Section 9.4.3;

ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes."

7. That Section 9.5.3 j), of By-law 05-200, be deleted in its entirety and replaced with the following:

"j) Accessory Buildings i) In accordance with the requirements of Section 9.5.3;

ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes."

8. That Section 9.6.3 q), of By-law 05-200, be deleted in its entirety and replaced with the following:

"q) Accessory Buildings i) In accordance with the requirements of Section 9.6.3;

ii) In addition to i) above, no accessory building shall be permitted within a front yard or a required flankage yard, except where the structure is for security purposes."

9. That Map 1395 of Schedule “A”, of By-law 05-200, be amended to include additional zone boundaries, for the property located on DiCenzo Drive the extent and boundaries of the lands attached to this By-law as Schedule “A” and be zoned “Neighbourhood Park (P1) Zone”.

10. That Special Exception 434 of Schedule “C”, of By-law 05-200, be amended by adding the following:

i. “Section 9.3.1” between the words “Section 9.2.1” and “on these lands”; and,

ii. “and Prestige Business Park (M3) Zone” between the words “(M2) Zone” and “identified”.

11. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the **Planning Act**.

**PASSED and ENACTED** this ___ day of ______, 2012.

________________________________________  _________________________________
R. Bratina                                        R. Caterini
Mayor                                          Clerk

CI-12-A
This is Schedule "A" to By-Law No. 12-
Passed the ........... day of ....................., 2012

Schedule "A"

Map Forming Part of By-Law No. 12-______
to Amend By-law No. 05-200
Map 1395

Subject Property

Lands to be Zoned Neighbourhood Park (P1) Zone.

Scale: N.T.S.
Date: Dec. 22, 2011

File Name/Number: Dicenzo Park
Planner/Technician: AF / AL

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT