Economic Development and Planning Committee
REPORT 09-020
Tuesday, October 6, 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: S. Duvall, B. McHattie, D. Mitchell, T. Whitehead

Absent with regrets: B. Clark - Personal Business
Pasuta - City Business

Staff Present: T. McCabe, General Manager – Planning and Economic Development
T. Sergi, M. Hazell, B. Janssen, K. Mihaljevic, C. Thomas, T. Lee,
B. Khes, K. Roberts, S. Robichaud, H. Milsome, G. Norton,
C. Reid, R. Marini, J. Strutt - Planning and Economic Development
P. Barkwell, M. Kovacevic - Legal Services
A. Rawlings – City Clerk’s Office

THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE PRESENTS
REPORT 09-020 AND RESPECTFULLY RECOMMENDS:

1. Membership for the Community Liaison Committee for City-Wide Regulation of Rental Housing (PED07296(e)) (City Wide) (Item 5.1)

a) That in accordance with the April 1, 2009 City Council direction, three (3) members of City Council be appointed to the City-wide Community Liaison Committee for regulating rental housing.

b) That in addition to the three members of City Council, membership for the City-wide Community Liaison Committee for regulating rental housing consist of:

– One (1) member of the Hamilton District Apartment Association;
– One (1) landlord of a large multi-unit rental housing complex;
– One (1) landlord of a small rental housing complex;
– One (1) landlord/property owner of a single/semi-detached house;
– One (1) member of the Housing Help Centre;
– One (1) member of the Affordable Housing Flagship;

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– One (1) staff member from a Legal Clinic;
– One (1) representative of the Realtors Association of Hamilton-Burlington;
– One (1) member of the Neighbourhood Residential Rental Housing Community Liaison Committee;
– Two (2) local residents affiliated with a neighbourhood association;
– Three (3) tenants of residential rental properties.

c) That staff be authorized and directed to advertise for membership as appropriate on the City-wide Community Liaison Committee.

d) That Councillors B. McHattie, T. Whitehead and C. Collins be appointed to the Community Liaison Committee

2. Tourism Hamilton 2008 Audited Financial Statements (PED09138(a)) (City Wide) (Item 5.2)

That Tourism Hamilton’s 2008 Audited Financial Statements, completed by Grant Thornton LLP, Chartered Accountants and Management Consultants, attached as Appendix “A” of Report PED09138(a) and supplemental to Report PED09138 respecting “Tourism Hamilton 2008 Annual Report (PED09138)”, be received for information.

3. Comments on Parkway Belt West Plan Review - Housekeeping Amendments (Wards 1 and 13) (PED09262) (Item 5.3)

That the City of Hamilton informs the Ministry of Municipal Affairs and Housing (MMAH) that it supports the comprehensive review of the Parkway Belt West Plan, including the current housekeeping amendments.

4. Request to Designate 140 Locke Street South, Hamilton Under Part IV of the Ontario Heritage Act (PED09264) (Ward 1) (Item 5.4)

(a) That Council direct staff to carry out a Cultural Heritage Assessment of 140 Locke Street South, Hamilton, to determine whether the property is of cultural heritage value, and worthy of designation under Part IV of the Ontario Heritage Act.

(b) That Council include 140 Locke Street South, Hamilton, in the Register of Property of Cultural Heritage Value or Interest following consultation with the Hamilton Municipal Heritage Committee, as per Recommendation (e) to Report PED09264 and the provisions of the Ontario Heritage Act, and that staff make
appropriate amendments to the Register of Property Cultural Heritage Value or Interest.

(c) That if 140 Locke Street South, Hamilton, is determined to be of cultural heritage value or interest, a Statement of Cultural Heritage Value and Description of Heritage Attributes be prepared by staff for Council’s consideration for designation under Part IV of the Ontario Heritage Act.

(d) That the Cultural Heritage Assessment work be assigned a medium priority, and be added to staff’s work program for completion in 2011, as per the attached Appendix “G” to Report PED09264.

(e) That Report PED09264 be forwarded to the Hamilton Municipal Heritage Committee for information and consultation prior to the Council approved inclusion of 140 Locke Street South, Hamilton, in the Register of Property of Cultural Heritage Value or Interest.

(f) That Report PED09264 be forwarded to the owner of the property for information.

5. Application to Amend the Hamilton Zoning By-law, for Property Located at 615-647 Rymal Road East to Permit 69 Block Townhouse Units (PED08265) (Ward 7) (Item 6.1)

(a) That amended Zoning Application ZAC-07-094, Rymal Square Developments Inc., Owner, for a change in zoning from the "E/S-1493" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, to the "RT-20" (Townhouse-Maisonette) District, Modified, to permit the development of 69 townhouse dwelling units on a condominium road, on lands located at 615-647 Rymal Road East, as shown on Appendix "A" to Report PED08265, be approved.

(b) That staff be directed to prepare and submit to Council for enactment a Zoning By-law Amendment, prepared in a form satisfactory to the City Solicitor, to change the zoning from the "E/S-1493" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, to "RT-20" (Townhouse-Maisonette) District, Modified, to establish site specific zoning provisions with respect to rear yard, distance between buildings, parking adjacent to a residential district and frontage on a condominium road as noted in Report PED08265.

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

(d) That the subject item be removed from the Outstanding Business List
6.  Application for a Change in Zoning for Lands Located at 354 East 14th Street (Hamilton) (PED09266) (Ward 7) (Item 6.2)

That approval be given to **Amended Zoning By-law Application ZAR-09-013, by 384269 Ontario Ltd., Owner**, for a change in zoning from the “A” (Conservation, Open Space, Park and Recreation) District to the “C/S-1617” (Urban Protected Residential, etc.) District, Modified, with a special exception to facilitate the construction of a single detached dwelling, located at 354 East 14th Street (Hamilton), as shown on Appendix “A” to Report PED09266 on the following basis;

(a)  That the draft By-law, attached as Appendix “B” to Report PED09266, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b)  That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

7.  Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 125 Wellington Street North and 50 Cathcart Street (Hamilton) (PED09268) (Ward 2) (Item 6.3)

That approval be given to **Condominium Conversion Application CDM-CONV-09-01, by IGW Reit, Owner**, to establish a Draft Plan of Condominium for 281 existing apartment units, located at 125 Wellington Street North and 50 Cathcart Street (Hamilton), as shown on the attached map marked as Appendix “A” to Report PED09268, subject to the following:

(a)  That this approval apply to the plan, prepared by Schaeffer and Dzaldov Limited and certified by O. N. Dzaldov, O.L.S., dated December 16, 2008, showing a total of 281 residential apartment units, an accessory variety retail store, and 254 vehicular parking spaces, attached as Appendix “B” to Report PED09268.

(b)  That the following conditions shall apply to the Draft Plan of Condominium approval:

   (i)  That the Final Plan of Condominium complies with all of the applicable provisions of the applicable Zoning By-law.

   (ii) That the Owner satisfies all conditions, financial or otherwise, of the City of Hamilton.

   (iii) That the Owner shall submit a report in accordance with Section 9 (4) of The Condominium Act, 1998, prepared and certified by a qualified
Registered Professional Engineer or Licensed Architect, to the satisfaction of the Chief Building Official of the City of Hamilton, to confirm the structural and mechanical integrity of the building and any Owner initiated measures required to correct any deficiencies prior to the release of the final plan for registration.

(iv) That the Owner dedicate to the City of Hamilton 1.524m from the subject lands adjacent to Kelly Street for road widening purposes, to the satisfaction of the Manager of Development Engineering, Planning and Economic Development Department.

8. City Wide Secondary Plan Review (PED08017(a)) (City Wide) (Item 7.1)

That Economic Development and Planning Committee receive Report PED08017(a) identifying priority areas for future Secondary Plan and Community Strategy work to be completed by the Department of Planning and Economic Development.

9. Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (PED09263) (Wards 1, 2, 3) (Item 8.1)

a) That the Program Description and Terms for the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program attached as Appendix ‘A’ to Report PED09263 be approved.

b) That staff be authorized to prepare and process the necessary amendments to the respective Community Improvement Plans and hold Public Meetings as required under the Planning Act to implement the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program in the following areas:

   Downtown Hamilton Community Improvement Project Area
   Setting Sail Secondary Plan boundaries

c) That staff report back to the Economic Development and Planning Committee in the Spring of 2011 on the success of the Program and its continuance or expansion.

d) That the General Manager, Planning and Economic Development be authorized and directed to execute any agreements as may be required to deliver the Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program in a form satisfactory to the City Solicitor.

e) That Report PED09263 be amended to require that the City shall take a form of security before any loan is issued.

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10. **Work Program - Comprehensive Zoning By-law (City Wide) (PED09255) (Item 8.2)**

   (a) That Council endorse the work program to complete a new Comprehensive Zoning By-law for the City of Hamilton, as attached as Appendix ‘A’ to Report PED09255, with the following additional directions;

   (b) That a review of regulations respecting the following items be included in the staff review;

       - accessory uses and structures in residential zones
       - the extent and height of walls and fences within residential zones
       - parking and appropriate setbacks of recreational vehicles on residential lots,
       - the use of Quonset huts as accessory structures on residential lots.

11. **City of Hamilton Comprehensive Zoning By-law: New Industrial Zones and Public Consultation (City Wide) (PED09260) (Item 8.3)**

   That Report PED09260, City of Hamilton Comprehensive Zoning By-law: New Industrial Zones and Public Consultation (City Wide), be received for information.

12. **Queendale Garden Homes Limited, 765 Rymal Road East Proposed Settlement of Outstanding Ontario Municipal Board Hearing**

   (a) That the City of Hamilton enter into the Minutes of Settlement with Queendale Garden Homes, attached hereto as Appendix “A”, respecting outstanding issues before the OMB in order to resolve the appeal;

   (b) That the Minutes of Settlement be in the form as submitted to the Economic Development and Planning Committee on October 2, 2009 by the City Legal staff; and

   (c) That the City Solicitor is hereby authorized to execute the aforesaid Minutes of Settlement.
13. Correspondence from Giuseppe DiCienzo requesting reconsideration of decision to deny delegation request by the Economic Development and Planning Committee re: Land Transaction Negotiations – City and DiCienzo Properties, Dartnall Road Extension – North Glanbrook Industrial Park- Referred by Council to Committee for consideration.

That the correspondence from Giuseppe DiCienzo be received

14. Petition respecting a Proposed Commercial Development in Downtown Binbrook-Referred by Council to Committee for consideration

That the petition from the Binbrook residents be received, and that the residents be advised that the matter is being taken under advisement

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following changes to the agenda:

Item 5.5, respecting a declaration of surplus land and sale of City lands is being withdrawn as the prospective purchaser of the lands is not in agreement with one of the City’s conditions.

Item 5.6 respecting Demolition Permit for property located at 1392 Ridge Road, Stoney Creek as Council, at its meeting of September 30, approved delegated authority to issue certain demolition permits for residential properties.

One added Closed Session item, respecting a matter which is currently before the Ontario Municipal Board, added as Item 12.4

On a Motion (Whitehead/Mitchell) the agenda for the October 6, 2009, meeting of the Economic Development & Planning Committee was approved, as amended
(b) DECLARATIONS OF INTEREST (Item 2)

Chair Pearson declared an interest with regard to Item 5.1, as she has an interest in rental property.

(c) APPROVAL OF MINUTES (Item 3)

(i) That the Minutes of the Regular Meeting of the Economic Development and Planning Committee of September 22, 2009 be approved, as amended, with regard to various numbering errors in the information section.

(ii) That the Minutes of the Sign By-law Meeting of the Economic Development and Planning Committee of September 22, 2009 be approved.

(d) Membership for the Community Liaison Committee for City-Wide Regulation of Rental Housing (PED07296(e)) (City Wide) (Item 5.1)

Committee discussed the matter and put forward an amendment to the Recommendation, to nominate 3 councillors to the Liaison Committee. Committee approved the Amendment, and then approved the Recommendation, as amended.

(e) Declaration of Surplus Property and Sale of City Land Described as Parts 1 and 2 on Plan 62R-18547 (Red Hill Valley Land to the Rear of 145 Reid Avenue South - owners Maria and Raffaele Malatesta and 161 Reid Avenue South - owners Carmela and Gaetano Malatesta), Hamilton, to the Malatesta Families (PED09269 / PW09083) (Ward 4) (Item 5.5)

As noted in the Changes to the Agenda, this item was withdrawn from the Agenda

(f) Demolition Permit – 1392 Ridge Road (Stoney Creek) (PED09261) (Ward 11) (Item 5.6)

As noted in the Changes to the Agenda, this item was withdrawn from the Agenda
(g)  Agriculture and Rural Affairs Advisory Committee May 28, 2009 (Item 5.7(a))

That the Minutes of the Agriculture and Rural Affairs Advisory Committee for May 28, 2009 be received for information.

(h)  Hamilton Municipal Heritage Committee, August 27, 2009 (Item 5.7(b))

That the Minutes of the Hamilton Municipal Heritage Committee for August 27, 2009 be received for information.

(i)  Application to Amend the Hamilton Zoning By-law, for Property Located at 615-647 Rymal Road East to Permit 69 Block Townhouse Units (PED08265) (Ward 7) (Item 6.1)

Chair Pearson advised that, this item was last before Committee on November 18, 2008, when it was tabled after the conclusion of the Public Meeting.

Councillor Duvall gave an overview of the situation. He explained that the applicant has advised there is no market for apartments and wishes to build 69 townhouses. Councillor Duvall distributed a Motion to approve the application.

Cam Thomas provided a short overview of the application.

The applicant’s agent, Angelo Cameracci, and the applicant, Tom Weiscz, were present to respond to questions.

The Committee discussed the item and had additional information supplied by staff. Councillor Duvall provided a petition, signed in 2007 from adjacent neighbours on Jonathan Court in favour of townhouses.

Tim McCabe explained that the need for higher density development, and how the market will change, in the future. Planning is reviewing possible incentives for apartment construction.

Committee approved Councillor Duvall’s Motion for the townhouse development.
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 approval authority gives or refuses to give approval to the Official Plan Amendment 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 approval authority gives or refuses to give approval to the official plan 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 an additional letter had been handed in this morning, in opposition to the application, from Joseph James.

Kate Mihaljevic provided an overview of the application.

The applicant’s agent, Matt Johnston, IBI, advised that he was satisfied with the staff recommendation.

Committee discussed the history of the site, the OMB decision in 1998, the changes in provincial policy since that time, the greenspace and the ownership issues surrounding the subject site.

Susan Ryan, 360 East 14th Street, addressed Committee. Her points included but were not limited to the following;

- 18 year resident, quiet area, pleasant green space
- concern about privacy issues between houses and apartment balconies
- traffic issues already existing on small street, will get worse
- safety issues, children on street, traffic does not obey stop sign,
- fear an accident will occur
- loss of greenspace, loss of mature trees
- application denied twice, cannot accept a third house.

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

Committee discussed the application.
Committee approved the staff recommendation.

(k) Application for Approval of a Draft Plan of Condominium Conversion for Lands Located at 125 Wellington Street North and 50 Cathcart Street (Hamilton) (PED09268) (Ward 2) (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 approval authority gives or refuses to give approval to the Official Plan Amendment 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 approval authority gives or refuses to give approval to the official plan 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.

Tim Lee provided an overview of the application with the aid of a powerpoint presentation.

The applicant’s agent, Franz Kloibhoffer, advised that he was satisfied with the staff recommendation.

No members of the public came forward to address Committee.

Committee discussed the matter and raised a number of points, including, but not limited to, the following;

- loss of rental units, particularly 3 bed units
- can existing renters buy units/access City programmes to assist in purchase

Mr. Kloibhoffer provided the following information:

- demand for 1 and 2 bed units, less so for 3 bed units
- owner has own “homestarter” programme to assist existing tenants to buy units
- units very affordable, $140-150,000 is affordable range in Hamilton, these units $70-100,000 range
- talking to CityHousing about partnering respecting sale of affordable units

Committee suggested that staff should check with CityHousing on the issues raised.

Committee approved the staff recommendation.

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 6.4)

Tim Lee provided an overview of the application, with the help of a powerpoint presentation. Staff noted a number of points, including but not limited to the following;

- original plan submitted with variance application included some inaccuracies, not all variances now required
- property line is actually outside the built fence line
- Committee of Adjustment has refused applications, and applicant has appealed, the matter will proceed to OMB, and they will deal with issues and changes
- possible for applicant to resubmit the application, to apply for variances which are actually needed now.

Building is checking into status of building permits on the site.

James Webb, applicant’s agent, addressed Committee. His points included but were not limited to the following;

- engaged after Committee of Adjustment application made
- first plan drawn by a landscape contractor, now have a survey of site which shows variances (4) and (5) not needed, and variance (2) for coverage is now reduced in size, will check the final requirements, probably an increase of 7%, will be requested for this
- there was a building permit for one of the buildings
- wooden fences are not included in coverage calculations
- working with staff on final details, unaware how high the stone wall is.
Committee asked additional questions of staff, and the following information was supplied:

- stone wall is not considered a “fence”, is attached to house structure and so can be build as high as allowable height for house, but is required to maintain the rear yard setback specified in the by-law

On a Motion (Ferguson/Bratina), Committee agreed to hear from an additional speaker, Marie Benassi.

Tina Agnello, 8 Houndtrail Drive, addressed Committee and submitted a letter and photos. Her points included but were not limited to the following;

- neighbours all very upset about construction in the subject yard, the structures built, the density, adverse impacts on neighbouring yards
- a lot of inaccurate information this morning, lack of objectivity
- wall started end of May, 9 feet high block wall, very intrusive, very unattractive, way above her fence
- how can variance for coverage go from 18.5%, down to 7%?
- Swimming pool had a permit, no other permits applied for
- Situation has been going on for years
- planner who wrote report for Committee of Adjustment did not visit site, his comments to Committee were inaccurate, this is not a minor variance
- development in backyard over-intensive, not in accord with Town of Flamborough Official Plan
- neighbours support the Committee of Adjustment decision to refuse variances
- want City to support neighbours, send staff to OMB Hearing in support of Committee, as outlined in Option 1.

Danielle and Joe Heins, 12 Houndtrail Drive, addressed Committee, and provided a letter and photos. Their points included but were not limited to the following;

- 14 year residents, support Committee of Adjustment decision
- applicants constructing in their yard for over 5 years, on-going, no permits
- planner did not visit site before he reported
- yard may look nice “inside”, but “outside” not so great
- not a minor variance, significant negative impact on neighbours, yard has pool, deck, 16 foot pavilion, 11 foot cabana and a 10 foot wall as well
- all structures are black, take up entire length of their yard and our yard
- excessive noise, offensive to neighbourhood
- footing for wall is 4 feet deep, 4 feet across and 12 feet long, a permanent structure
Sandy Simonits, 8 Houndtrail Drive, read a letter from Elise Stainton, 9 Houndtrail Drive, as she was unavailable to attend. Her points included but were not limited to the following:

- backyard at 10 Houndtrail Drive looks nice “inside” their yard but looks bad from outside their yard
- homeowners at 10 Houndtrail built without permits
- support Committee of Adjustment decision to deny variances and requests City to send Legal Services to support that decision at OMB

Ms. Benassi submitted a letter from Scott and Laura Johansen, 13 Houndtrail Drive, also in opposition to the variances.

Committee thanked the speakers and received all the letters submitted.

Committee discussed the possibility of visiting the site.

James Webb agreed to ask the owner for permission, the neighbours agreed to visits and will talk further with the Councillors.

On a Motion (Whitehead/McHattie), Committee deferred the matter to the next meeting, with the direction that staff should prepare a report to include the following information:

- accurate details respecting the lot coverage, measurements of the structures and all the variances which are needed
- complete details of building permit history for the site, permits applied for, permits issued, permits needed but not applied for
- details of zoning on the site – legal input/opinion on the issue

Kirsten McCauley provided an overview of the application, with the help of a powerpoint presentation.

She highlighted a new approach, Community Strategies, which has been used successfully in England and parts of the US.

Committee discussed the matter and had additional information supplied by staff.
Committee received the staff report.

(n) **Hamilton Downtown/West Harbourfront Remediation Loan Pilot Program (PED09263) (Wards 1, 2, 3) (Item 8.1)**

Hazel Milsome provided an overview of the application, with the help of a powerpoint presentation.

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

Councillor Ferguson raised the concern that all loans should require some kind of security.

On a Motion (Ferguson/McHattie) Committee amended the staff Motion by adding a condition to require that some kind of security be taken.

Staff noted that this new programme would bring more sites up to a standard where the banks would then provide loans. The new remediation loan programme would be run as a Pilot programme, with an update to Committee next year.

Committee approved the staff recommendation, as amended.

(o) **Work Program - Comprehensive Zoning By-law (City Wide) (PED09255) (Item 8.2)**

Al Fletcher provided an overview of the work plan. He noted the prime importance of engaging the public in this activity, and explained that various stakeholder and neighbourhood groups had already been contacted. Mr. Fletcher asked Councillors to identify any and all groups who might be interested in the new zoning by-law, and advise staff, so that these groups could be contacted and involved in the process.

Committee thanked Mr. Fletcher and the staff for their work on this project.

Staff is reviewing various ways to make contact with the public, including the use of the Hamilton website and standard advertising in the local newspapers.

Committee noted the problems brought forward by the Houndtrail Drive issue earlier in the Agenda.

Mr. Fletcher agreed that these issues would be addressed in the review.
On a Motion (Whitehead/Mitchell), an amendment to the staff recommendation was approved, to direct staff to add items to their review;

- accessory uses and structures in residential zones
- the extent and height of walls and fences within residential zones
- parking of recreational vehicles on residential lots
- the use of Quonset huts as accessory structures on residential lots.

Mr. Fletcher noted that direct mailings would be used for industrial and commercial zones, high density residential zones, with the use of postcards and stakeholder groups for the agricultural area.

In addition, there will be a series of public information centres.

Committee endorsed the proposed work programme, as amended.

City of Hamilton Comprehensive Zoning By-law: New Industrial Zones and Public Consultation (City Wide) (PED09260) (Item 8.3)

Jocelyn Strutt provided an overview of the zoning, with the help of a powerpoint presentation.

Tim McCabe noted that one of the main intents in the new Comprehensive By-law is to have a simpler document which is more easily understood.

Committee received the staff report

MOTIONS (Item 9)

Applying Site Plan Review to Ainslie Wood – Westdale Neighbourhood (Item 9.1)

Councillor McHattie noted that he was withdrawing his Motion, after speaking with staff.

NOTICES OF MOTION (Item 10)

None
(s) GENERAL INFORMATION (Item 11)

(i) Correspondence from Giuseppe DiCienzo requesting reconsideration of decision to deny delegation request by the Economic Development and Planning Committee re: Land Transaction Negotiations – City and DiCienzo Properties, Dartnall Road Extension – North Glanbrook Industrial Park (Item 11.1) Referred by Council to Committee for consideration.

Committee discussed the matter.

On a Motion (Ferguson/Mitchell) at 2:40 pm, Committee moved into Closed Session to consider an item which is subject to Section 8.1, subsection (c) of the City’s Procedural By-law and Section 239 of the Ontario Municipal Act as the subject matter pertains to a proposed or pending acquisition or disposition of land by the municipality or local board.

Committee resumed in Open Session at 2:45 pm.

On a Motion, Committee received the letter from Mr. DiCienzo.

(ii) Petition respecting a Proposed Commercial Development in Downtown Binbrook (Item 11.2)

Referred by Council to Committee for consideration

Committee discussed the matter and Councillor Mitchell noted the importance of continuing to work with local groups and businesses, and that

On a Motion, Committee received the petition.

(iii) News from the General Manager (Item 11.3)

Mr. McCabe provided the following updates:

Sign By-law

- public input period for the new Sign By-law will be month of November. Letters to be sent to Sign companies, businesses and HABIA, with meetings where needed
- ads to be placed in newspapers, on website requesting public input
- staff will provide an overview to councillors to send out on their emailing lists
- then all comments will be considered by staff in a final report back to Committee in February 2010

**Animal Control By-law**

- Special Public Meeting on November 17, 2009 where staff report to be discussed, public delegations received
- Then public consultation period, following which a staff report back to Committee, including comments and final recommendations.

**Grange School, Woodworth Drive OMB**

- good decision, upheld City By-law

On a Motion (Whitehead / Mitchell), Committee agreed to the early distribution on October 9, 2009, of the Tree By-law Report, which will be the subject of a Special Public Meeting on October 20, 2009, at 2:00 pm.

(t) **PRIVATE AND CONFIDENTIAL (Item 12)**

(i) **Minutes of the Closed Session meeting of September 8, 2009 (Item 12.1)**

On a Motion, in Open Session, the above-noted closed session minutes were approved, as presented. These Minutes will remain confidential and restricted from public disclosure in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act

(ii) **Minutes of the Closed Session meeting of September 22, 2009 (Item 12.2)**

On a Motion, in Open Session, the above-noted closed session minutes were approved, as presented. These Minutes will remain confidential and restricted from public disclosure in accordance with exemptions provided in the Municipal Freedom of Information and Protection of Privacy Act

On a Motion (Mitchell/Whitehead) at 12:20 pm, Committee moved into Closed Session to consider two items which are subject to Section 8.1, subsection (e) of the City’s Procedural By-law and Section 239 of the

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Ontario Municipal Act as the subject matter pertains to litigation or proposed litigation, including matters before administrative tribunals, affecting the municipalities or local board to communications and advice to which solicitor-client privilege attaches.

Committee reconvened in Open Session at 1:05 pm.

(iii) **Ontario Municipal Board Appeal (LS09014) (Ward 13) (Item 12.3)**

Chair Pearson advised that direction had been given to staff, and that there was nothing further to report.

(iv) **Queendale Garden Homes Limited, 765 Rymal Road East Proposed Settlement of Outstanding Ontario Municipal Board Hearing (Added Item 12.4)**

Committee passed the Motion noted in Item 12 above.

(u) **Adjournment (Item 13)**

The meeting adjourned at 2:50 pm.

Respectfully submitted,

Maria Pearson, Chair
Economic Development and Planning Committee

Alexandra Rawlings, Co-ordinator
Economic Development and Planning Committee
October 6, 2009
MINUTES OF SETTLEMENT

WHEREAS the City of Hamilton passed Zoning By-law Amendment 09-088 on April 29, 2009;

AND WHEREAS Queendale Garden Homes Limited appealed sections 1(d), 1(e) and 2 of the said By-law to the Ontario Municipal Board;

AND WHEREAS, by Order of the Ontario Municipal Board dated August 20, 2009, By-law 09-088 was deemed to have come into force as of April 29, 2009, save and except the appealed Sections;

AND WHEREAS the parties have reached a settlement regarding the appealed Sections;

NOW THEREFORE, the undersigned, by their solicitors, agree to a resolution of this appeal on the following terms:

1. We agree to make submissions to the Ontario Municipal Board on the first available date to counsel and the Board, by telephone conference call if possible, in support of these Minutes of Settlement to be filed as an Exhibit and attached to the Board Order.
2. We consent to an Order of the Ontario Municipal Board

- Allowing the appeal;
- Approving the amendments to Zoning By-law Amendment 09-088 attached as Appendix 1.
- Withholding the Board Order until being advised that Section 4 of these Minutes of Settlement have been satisfied.

3. Queendale Garden Limited will present professional land-use opinion evidence to the Board in support of the amendments attached as Appendix 1.

4. Upon being advised that the Change of Condition of Consent as identified in Section 8 of these Minutes of Settlement is final and binding, Queendale Garden Limited agrees to transfer to the City of Hamilton the lands identified as Part 6 on the Sketch Prepared for Land Division, being Appendix “B” to the staff report dated March 30, 2009 and attached as Appendix 2 to these Minutes of Settlement, at no cost to the City of Hamilton.

5. The City of Hamilton agrees to retain ownership to Part 6 until the earlier of the following events:
(a) Queendale Garden Limited (or a related legal entity to its principal, Paul Silvestri) purchases the lands to the south for assembly with Part 6 to create a lot; or

(b) The City of Hamilton enters into an Agreement of Purchase and Sale to sell Part 6 on terms in accordance with the Section 7 of these Minutes of Settlement.

6. In the event that the purchase contemplated by Section 5(a) occurs, the City of Hamilton will transfer Part 6 to Queendale Garden Limited (or a related legal entity to its principal, Paul Silvestri) at no cost to the City of Hamilton.

7. In implementing Section 5(b) of these Minutes of Settlement, the City of Hamilton agrees to use commercially reasonable efforts to sell Part 6 at market value as of the date of the Agreement of Purchase and Sale for Part 6. As of the date of these Minutes of Settlement, the parties agree that the market value of Part 6 is $20,000. The City of Hamilton agrees that it will not enter into an Agreement of Purchase and Sale for Part 6 at a market value of less than $20,000 without the written consent of Queendale Garden Limited. The City of Hamilton agrees to use commercially reasonable efforts to recover any servicing costs incurred by Queendale Garden Limited for Part 6 (or a related legal entity to its principal, Paul Silvestri) pursuant to the existing subdivision agreement in relation to Plan 62M-643 which were not paid by the City of Hamilton.
8. Upon execution of these Minutes of Settlement, the City of Hamilton will immediately notify the Secretary to the Committee of Adjustment that the City of Hamilton requests a change to Condition 3 of the Notice of Decision – HM/B-08:164 – B-164/08 to read as follows:

- That the lands identified as Part 6 be transferred to the City of Hamilton at no cost to the City.

Dated this ___ day of October, 2009

City of Hamilton

By the City Solicitor
Peter Barkwell

Dated this ___ day of October, 2009

Queendale Garden Limited

By its solicitor
Nancy Smith
APPENDIX 1

Changes to By-law 09-088

1. Section 1(d) – delete the “H” and the reference to “Holding”.

2. Section 1 (e) – delete the “H” and the reference to “Holding”.

3. Delete Section 2.