

BELLEVILLE PLANNING ADVISORY COMMITTEE

A G E N D A

JULY 2, 2013

5:30 P.M.

COUNCIL CHAMBER

Starting

Page No.

CITY COUNCIL PLANNING COMMITTEE MEETING

1. ATTENDANCE

Councillor Taso Christopher
Councillor Pat Culhane
Councillor Jackie Denyes

Councillor Tom Lafferty
Councillor Jack Miller

2. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

3. PUBLIC MEETING - THE PLANNING ACT

- 3.1 PROPOSED AMENDMENT TO ZONING BY-LAW NUMBER 10245, AS AMENDED – PART OF LOTS 6 AND 7, WEST OF NORTH PARK STREET, GOVERNMENT PLAN, TOWNSHIP OF THURLOW, NOW IN THE CITY OF BELLEVILLE, COUNTY OF HASTINGS
FILE NO.: B-77-941
APPLICANT: MARK GEERTSMA C/O ROYAL LEPAGE PRO ALLIANCE REALTY
OWNER: S&A (BELLEVILLE) INVESTMENT LIMITED

- 3.2 **PROPOSED AMENDMENT TO ZONING BY-LAW NUMBER
10245, AS AMENDED – 301 DUNDAS STREET WEST, CITY
OF BELLEVILLE, COUNTY OF HASTINGS
FILE NO.: B-77-942
APPLICANT/OWNER: PAUL RENAUD/LUISA BARTON**

Notice of Meeting and Map

5

4. ADJOURNMENT

BELLEVILLE PLANNING ADVISORY COMMITTEE

A G E N D A

JUNE 3, 2013

5:30 P.M.

COUNCIL CHAMBER

Starting
Page No.

PLANNING ADVISORY COMMITTEE MEETING

1. ATTENDANCE

Councillor Taso Christopher
Councillor Pat Culhane
Councillor Jackie Denyes
Councillor Tom Lafferty
Councillor Jack Miller

Michael Graham
David Joyce
Mike Letwin
Ross Rae

2. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

3. CONFIRMATION OF MINUTES

- 3.1 Minutes of the City Council Planning Committee Meeting and Planning Advisory Committee Meeting held on June 3, 2013

4. DEPUTATIONS

5. COMMUNICATIONS**6. REFERRALS FROM PUBLIC MEETING**

- 6.1 PROPOSED AMENDMENT TO ZONING BY-LAW NUMBER 10245, AS AMENDED – PART OF LOTS 6 AND 7, WEST OF NORTH PARK STREET, GOVERNMENT PLAN, TOWNSHIP OF THURLOW, NOW IN THE CITY OF BELLEVILLE, COUNTY OF HASTINGS**
FILE NO.: B-77-941
APPLICANT: MARK GEERTSMA C/O ROYAL LEPAGE PRO ALLIANCE REALTY
OWNER: S&A (BELLEVILLE) INVESTMENT LIMITED

Manager of Policy Planning's Report No. PP-2013-25

7

RESOLUTION

"THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that the application to amend the City's Zoning By-Law Number 10245, as amended, for Part of Lots 6 and 7, West of North Park Street, Government Plan, Township of Thurlow, Now in the City of Belleville, County of Hastings, be APPROVED as follows:

THAT Zoning By-law Number 10245, as amended, be amended by rezoning the subject land from 'R2 – Residential Second Density' to an 'R6 – Residential Sixth Density' zone, with special provisions to permit a six (6) unit apartment building. The special provisions include recognizing 15.2 metres of lot frontage on North Park Street, interior side yard widths of 3.0 metres and a 1.5 metre southerly landscaped strip and a 1.0 metre northerly landscaped strip, respectively, adjacent to the parking area and/or the driveway."

- 6.2 PROPOSED AMENDMENT TO ZONING BY-LAW NUMBER 10245, AS AMENDED – 301 DUNDAS STREET WEST, CITY OF BELLEVILLE, COUNTY OF HASTINGS**
FILE NO.: B-77-942
APPLICANT/OWNER: PAUL RENAUD/LUISA BARTON

Manager of Policy Planning's Report No. PP-2013-26

14

RESOLUTION

"THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that the application to amend the City's Zoning By-Law Number 10245, as amended, by permitting a second (2nd) dwelling unit for 301 Dundas Street West, City of Belleville, County of Hastings, be DENIED."

7. REPORTS

- 7.1 REQUEST TO REVISE DRAFT PLAN CONDITION NO. 12, HANLEY PARK SUBDIVISION, PART OF LOT 14, CONCESSION 1, FORMERLY TOWNSHIP OF THURLOW
OWNER: HANLEY PARK DEVELOPMENTS INC.
AGENT: MACAULAY SHIOMI HOWSON LTD.**
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Manager, Approvals Section's Report No. APS-2013-21

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RESOLUTION

"THAT pursuant to Section 51(44) of the Planning Act, the Council of The Corporation of the City of Belleville approve the request to modify the draft approved Plan of Subdivision (File No.: 12T-02506) submitted by Macaulay Shiomi Howson Ltd. on behalf of Hanley Park Developments Inc., to re-word Condition No. 12 as follows:

12. That the Owner agrees in the subdivision agreement, in wording acceptable to the City of Belleville, that no vehicular access will be provided to Janlyn Crescent via Street 'A' until such time as a building permit has been issued for the 80th dwelling unit. A temporary vehicular access connection from Bridge Street East to Street 'B' may be provided through Street 'F' and across Block 184 until such time as permanent access is fully constructed."

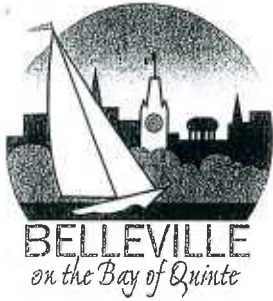
8. INFORMATION MATTERS**8.1 OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT
MONITORING REPORT**

Report to July 2, 2013

23**8.2 ONTARIO MUNICIPAL BOARD DECISION**

May 29, 2013 Decision regarding Cloverbell Developments Ltd. and 1255437 Ontario Inc. appeal regarding Part of Lot 3, Concession 2, formerly Township of Thurlow, now City of Belleville to rezone as a special C1 zone and add a casino as a permitted use

25**9. GENERAL BUSINESS AND INQUIRIES****10. ADJOURNMENT**



City of Belleville

Engineering & Development Services Department

169 Front Street

Tel: 613-968-6481

Fax: 613-967-3262

File No.: B-77-941

**PUBLIC MEETING
CITY COUNCIL PLANNING COMMITTEE
CITY HALL - COUNCIL CHAMBER
169 FRONT STREET
TUESDAY, JULY 2, 2013
AT 5:30 P.M.**

A Public Meeting will be held to consider an amendment to Zoning By-Law Number 10245, as amended. The application pertains to the land that serves as the North Park Street driveway access for the commercial plaza located at 257 North Front Street.

The site comprises a land area of approximately 1,312 square metres and the applicant requests a rezoning from "R2 – Residential Second Density" to a special "R6 - Residential Sixth Density" zone to permit a six (6) unit apartment. The special provisions include recognizing 15.2 metres of lot frontage on North Park Street, interior side yard widths of 3.0 metres for the proposed building and both a 1.5 metre southerly landscaped strip and a 1.0 metre northerly landscaped strip, respectively, adjacent to a parking area and/or driveway.

The land is also subject to Severance Application File No. B 15/13 which proposes to sever the subject land from the commercial plaza property. The severance will be considered by the Committee of Adjustment on July 11, 2013.

The land is described as Part of Lots 6 and 7, West of North Park Street, Government Plan, Township of Thurlow, Now in the City of Belleville, County of Hastings.

OFFICIAL PLAN:

The land is designated "Residential Land Use" in the Official Plan which permits a range of dwelling types subject to satisfying the policies of the Plan.

ZONING BY-LAW:

The land is zoned "R2 – Residential Second Density" and the applicant is requesting a rezoning to a "R6 – Residential Sixth Density" zone, with special provisions, to permit the construction of a six (6) unit apartment. The special provisions include recognizing 15.2 metres of lot frontage, interior side yard widths of 3.0 metres and a 1.5 metre southerly landscaped strip and a 1.0 metre northerly landscaped strip, respectively, adjacent to a parking area and/or driveway.

If you wish to be notified of the decision of the City of Belleville or Belleville Planning Advisory Committee in respect of this application, you must submit a written request to Matt MacDonald, Secretary, Planning Advisory Committee, City Hall, 169 Front Street, Belleville, K8N 2Y8 (Telephone: 613-967-3256, Fax: 613-967-3206, TTY: 613-967-3768, Email: mtmacdonald@city.belleville.on.ca).

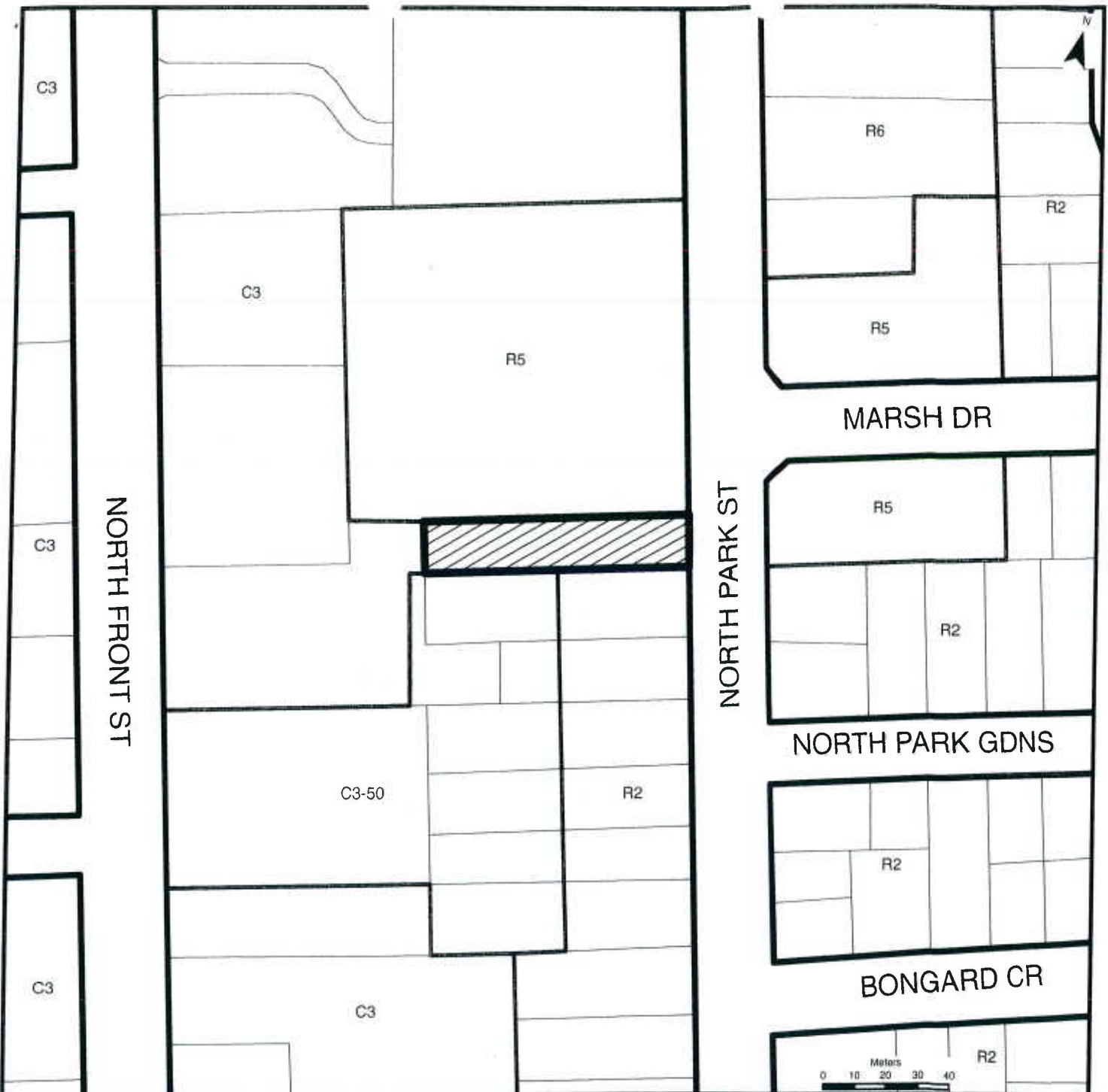
If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Belleville before the by-law is passed, the person or public body is not entitled to appeal the decision of the City of Belleville to the Ontario Municipal Board and may not be added as a party to a hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

Additional information is available by contacting or visiting the Planning Section, Development Services Department, City Hall, 169 Front Street, Belleville, K8N 2Y8 (Telephone: 613-967-3288, Fax: 613-967-3262).

As per the requirements of the Planning Act, this application is confirmed to be complete.

Matt MacDonald, Secretary
Planning Advisory Committee

DATED at the City of Belleville this 12th day of June, 2013

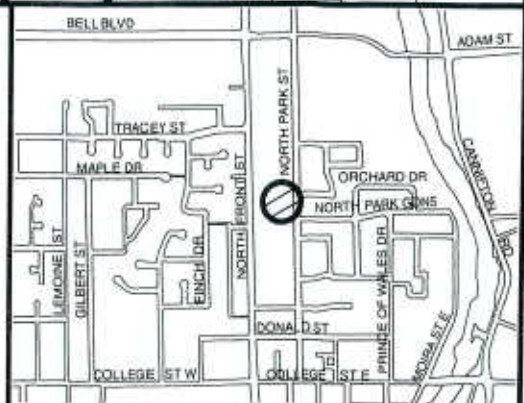


PROPOSED ZONING BY-LAW AMENDMENT

LOCATION: NORTH PARK STREET



PROPOSED ZONING CHANGE FROM R2 (RESIDENTIAL SECOND DENSITY) ZONE TO R6 (RESIDENTIAL SIXTH DENSITY) ZONE WITH SPECIAL PROVISIONS



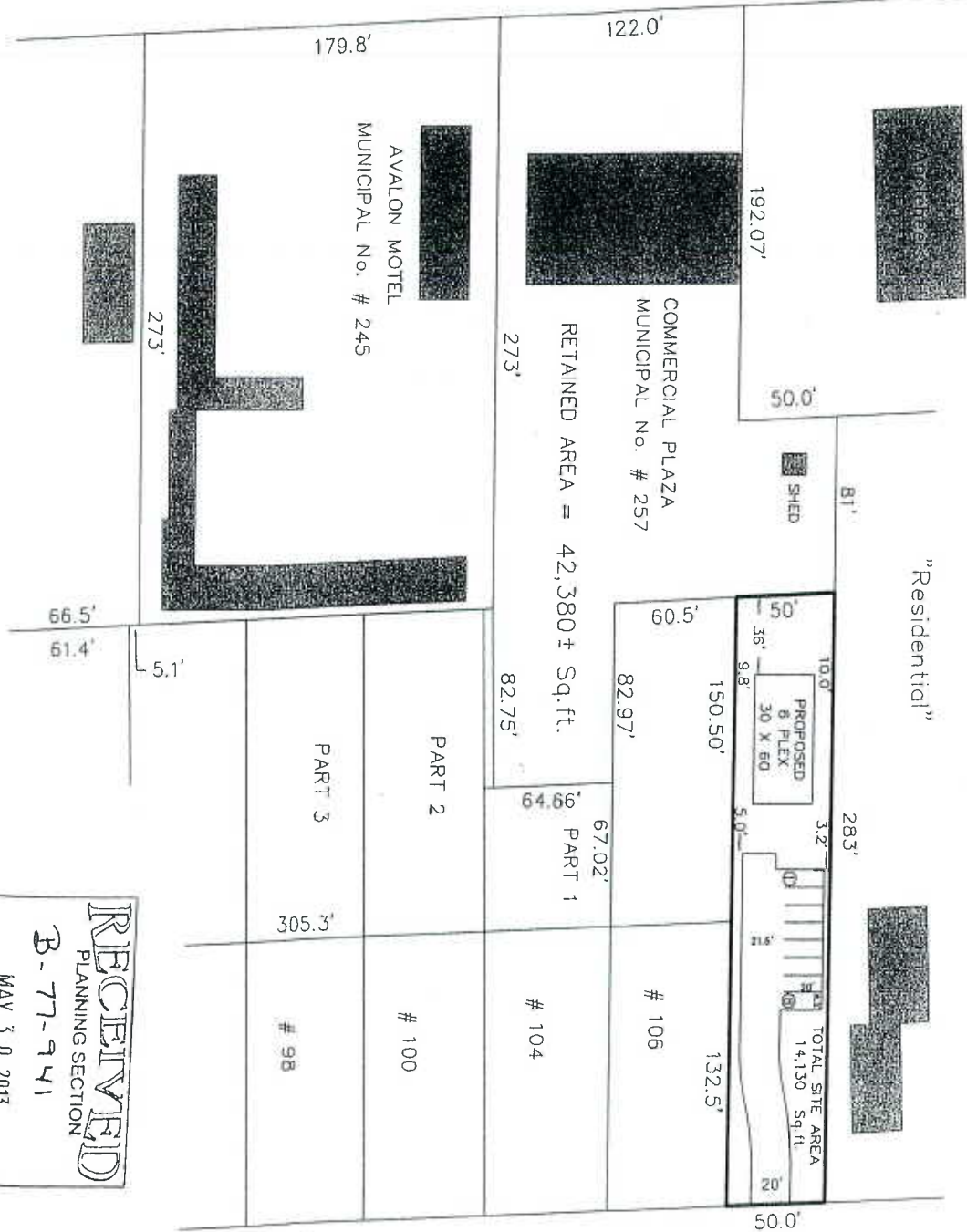
CITY OF BELLEVILLE

ENGINEERING & DEVELOPMENT
SERVICES DEPARTMENT

Page 3

CAUTION This is not a Plan of Survey and portions of this Sketch are from compiled and calculated information.

NORTH FRONT STREET



NORTH PARK STREET

RECEIVED	
PLANNING SECTION	
B-77-941	
MAY 30 2013	
A.M.	ACTION
N.T.	INFO
G.P.	
J.S.	



BELLEVILLE
on the Bay of Quinte

File No.: B-77-942

City of Belleville

Engineering & Development Services Department

169 Front Street

Tel: 613-968-6481

Fax: 613-967-3262

**PUBLIC MEETING
CITY COUNCIL PLANNING COMMITTEE
CITY HALL - COUNCIL CHAMBER
169 FRONT STREET
TUESDAY, JULY 2, 2013
AT 5:30 P.M.**

A Public Meeting will be held to consider an amendment to Zoning By-Law Number 10245, as amended, for 301 Dundas Street West. The applicant has requested a rezoning from "R1 – Residential First Density" to a special R1 zone to permit a second dwelling unit to be constructed above a proposed attached two (2) car garage. The property has a lot frontage of approximately 28.5 metres and an approximate lot area of 3,482 square metres.

The land is described municipally as 301 Dundas Street West, City of Belleville, County of Hastings.

OFFICIAL PLAN:

The land is designated "Residential Land Use" in the City's Official Plan. Residential uses are permitted subject to satisfying various policies in the Plan.

ZONING BY-LAW:

The subject land is zoned "R1 – Residential First Density". The applicant has requested a rezoning to a special R1 zone to permit a second dwelling unit to be constructed above a proposed attached two (2) car garage.

If you wish to be notified of the decision of the City of Belleville or Belleville Planning Advisory Committee in respect of this application, you must submit a written request to Matt MacDonald, Secretary, Planning Advisory Committee, City Hall, 169 Front Street, Belleville, K8N 2Y8 (Telephone: 613-967-3256, Fax: 613-967-3206, TTY: 613-967-3768, Email: mtmacdonald@city.belleville.on.ca).

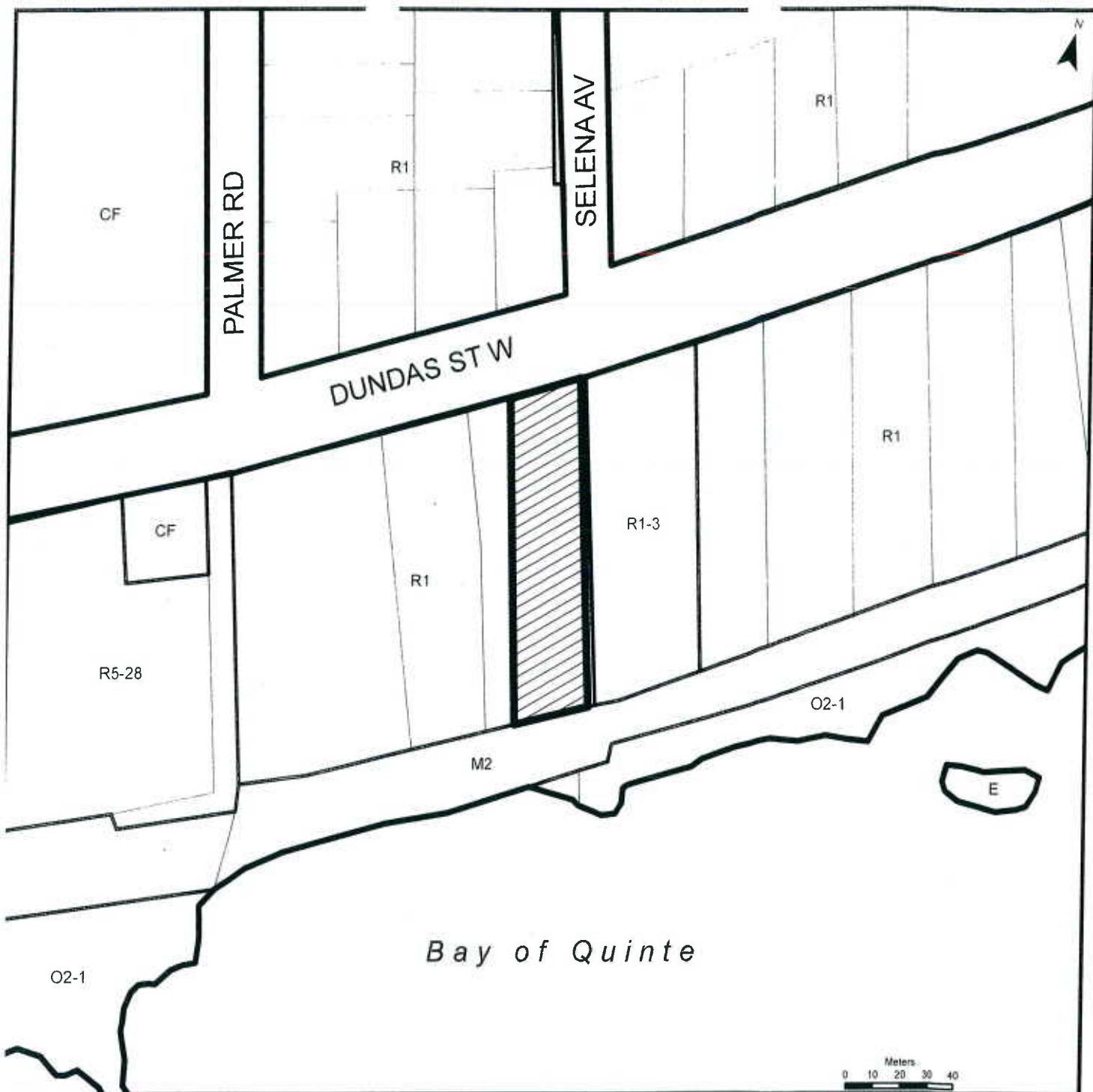
If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Belleville before the by-law is passed, the person or public body is not entitled to appeal the decision of the City of Belleville to the Ontario Municipal Board and may not be added as a party to a hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

Additional information is available by contacting or visiting the Planning Section, Development Services Department, City Hall, 169 Front Street, Belleville, K8N 2Y8 (Telephone: 613-967-3288, Fax: 613-967-3262).

As per the requirements of the Planning Act, this application is confirmed to be complete.

Matt MacDonald, Secretary
Planning Advisory Committee

DATED at the City of Belleville this 12th day of June, 2013



PROPOSED ZONING BY-LAW AMENDMENT

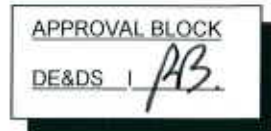
LOCATION: 301 DUNDAS ST. WEST



PROPOSED ZONING CHANGE FROM R1
(RESIDENTIAL FIRST DENSITY) ZONE TO
R1 ZONE WITH A SPECIAL PROVISION



CITY OF BELLEVILLE
ENGINEERING & DEVELOPMENT
SERVICES DEPARTMENT



CITY OF BELLEVILLE
ENGINEERING & DEVELOPMENT SERVICES DEPARTMENT
PLANNING SECTION
Arthur MacKay, Manager of Policy Planning
Report No. PP-2013-25
July 2, 2013

To: Councillor Lafferty, Chair and
Members of the Belleville Planning Advisory Committee

Subject: Proposed Amendment to Zoning By-Law Number 10245, As Amended –
Part of Lots 6 and 7, West of North Park Street, Government Plan,
Township of Thurlow, Now in the City of Belleville, County of Hastings
File Number: B-77-941
Applicant: MARK GEERTSMA c/o ROYAL LEPAGE PRO ALLIANCE
REALTY
Owner: S & A (BELLEVILLE) INVESTMENT LIMITED

Recommendation:

"THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that the application to amend the City's Zoning By-Law Number 10245, as amended, for Part of Lots 6 and 7, West of North Park Street, Government Plan, Township of Thurlow, Now in the City of Belleville, County of Hastings, be APPROVED as follows:

THAT Zoning By-Law Number 10245, as amended, be amended by rezoning the subject land from 'R2 – Residential Second Density' to a 'R6 – Residential Sixth Density' zone, with special provisions, to permit a six (6) unit apartment building. The special provisions include recognizing 15.2 metres of lot frontage on North Park Street, interior side yard widths of 3.0 metres and a 1.5 metre southerly landscaped strip and a 1.0 metre northerly landscaped strip, respectively, adjacent to the parking area and/or the driveway."

SUMMARY:

The application pertains to the land that serves as the North Park Street driveway access for the commercial plaza located at 257 North Front Street.

The site comprises a land area of approximately 1,312 square metres and the Applicant requests a rezoning from "R2 – Residential Second Density" to a special "R6 - Residential Sixth Density" zone to permit a six (6) unit apartment. The special provisions include recognizing 15.2 metres of lot frontage on North Park Street, interior side yard widths of 3.0 metres for the proposed building and both a 1.5 metre southerly landscaped strip and a 1.0 metre northerly landscaped strip, respectively, adjacent to the proposed parking area and/or driveway.

The land is also subject to Severance Application File No. B 15/13 which proposes to sever the subject land from the commercial plaza property. The severance will be considered by the Committee of Adjustment on July 11, 2013.

The land is designated "Residential Land Use" in the Official Plan, which can permit a range of dwelling types, including apartment buildings, subject to satisfying various policies.

Planning Staff are satisfied that the use is appropriate for the location and therefore recommend approval of the Zoning By-Law amendment.

BACKGROUND:

Purpose and Effect

The proposed Zoning By-Law amendment applies to approximately 1,312 square metres of land that presently serves as the North Park Street driveway access for a commercial plaza located at 257 North Front Street.

The purpose of the application is to amend Zoning By-Law Number 10245, as amended, so as to permit the development of the parcel with a six (6) unit apartment building.

The lands subject to the proposed amendment are shown on the attached location plan.

Subject Property

- **Site Characteristics**

The site is located on the west side of North Park Street and constitutes a rear driveway access to a commercial plaza fronting on North Front Street.

- **Adjacent Land Uses**

To the north and across North Park Street to the east are townhouse developments. To the south are single detached dwellings fronting on North Park Street. To the west are commercial uses fronting on North Front Street.

Official Plan

The land is designated "Residential Land Use" in the Official Plan, which can permit a range of dwelling types, including apartment buildings, subject to satisfying various policies.

Zoning By-Law

The parcel is zoned "R2 – Residential Second Density" and the Applicant is requesting a rezoning to a "R6 – Residential Sixth Density" zone, with special provisions, to permit the construction of a six (6) unit apartment.

The special provisions include recognizing 15.2 metres of lot frontage (versus the minimum requirement of 24 metres), interior side yard widths of 3.0 metres (versus a minimum requirement of approximately 4 metres based on a building height proposed of 8 to 8.5 metres) and a 1.5 metre southerly landscaped strip (versus 3.0 metres) and a 1.0 metre northerly landscaped strip (versus 1.5 metres), respectively, adjacent to the proposed parking area and/or driveway.

The minimum number of parking spaces to be provided for six (6) units is eight (8). The Applicant has submitted a preliminary concept plan that shows that sufficient parking can be accommodated on-site. The minimum lot area per dwelling unit required by the R6 is zone is 161.5 square metres. Given the size of the parcel, the subject development would constitute a lot area per dwelling unit of approximately 219 square metres, which would well exceed the minimum required in the By-Law. In addition, the total green space to be provided is 54% versus the R6 zone's minimum of 40% for landscaped areas.

Application Circulation

- **External Agency Circulation**

The subject application was circulated for comment to the Algonquin & Lakeshore Catholic School Board, the Hastings & Prince Edward District School Board, Bell Canada, Canada Post, Ontario Power Generation, Union Gas, Hydro One, Veridian Connections, TransCanada Pipeline, Enbridge Pipelines, Trans-Northern Pipelines and Quinte Conservation on June 12, 2013.

The Algonquin & Lakeshore Catholic School Board and Quinte Conservation advise that they have no concern.

To date, no other comments or concerns have been received regarding this application.

- Internal Department Circulation

The subject application was circulated for comment to Belleville Fire and Emergency Services, Belleville Police Service, the Department of Engineering and Development Services, the Environmental & Operational Services Department, the Department of Recreation, Culture and Community Services and the Manager of Approvals on June 12, 2013.

The Development Engineer advises as follows:

"We have no objection to the proposed Zoning By-Law Amendment. The Applicant should be advised that the property will need to be developed in accordance with the Site Plan process, including the dedication of road widening to the City, the preparation of a Stormwater Management Report and the provision of a driveway in accordance with the City's Driveway Control By-Law No. 2001-129 and to the satisfaction of the City."

The Manager of Approvals reiterates that the development of the property will require site plan review and approval.

The Fire Department has no concern with the proposal.

- Public Circulation

Notice of the subject application was circulated to all registered landowners within 120 metres (400 feet) of the subject property and notice was provided by advertisement in The Intelligencer on June 12, 2013.

No comments or concerns have been received.

Planning Analysis

The Official Plan supports a range of housing types and densities. The Plan also includes provisions that encourage infill housing in existing neighbourhoods to maximize land utilization and efficiency of municipal infrastructure. Similarly, the Provincial Policy Statement (Sec. 1.1.2) encourages intensification and redevelopment to accommodate an appropriate range and mix of housing and directs municipalities (Sec. 1.4.3) to provide for an appropriate range and densities of housing types.

Presently the site is used as a commercial driveway access to the commercial plaza at 257 North Front Street with access also available to the commercial parcel located to the north (former Applebee's restaurant). In addition, this access can be used as a through lane connecting North Front Street with North Park Street. Thus, if this application is approved, the driveway will only be utilized as a residential access to the

six (6) unit apartment. The entrance/exit function of the lane and associated impacts on adjacent lands will not change, but rather should generate a lesser traffic flow with the use changing from commercial traffic to the six (6) unit residential use proposed. Moreover, and notwithstanding the requested special provisions, the approval of this application will enable the incorporation of landscaping areas that do not presently exist for this property. The building itself is proposed to be setback approximately 55 metres from North Park Street which would position it opposite the parking area of the townhouses to the north and the back rear yard of the single detached dwelling located to the south. Given the depth (approximately 86 metres) of the residential parcel to the south, the distance between the proposed location of the apartment building and the residential dwelling would be approximately 40 metres.

It is also noted that the adjacent rear yard area of the single detached dwelling has commercial zoning which was attached to the site at the time of the rezoning application for the Avalon Motel property located to the southwest which proposed to acquire this land as part of their hotel redevelopment.

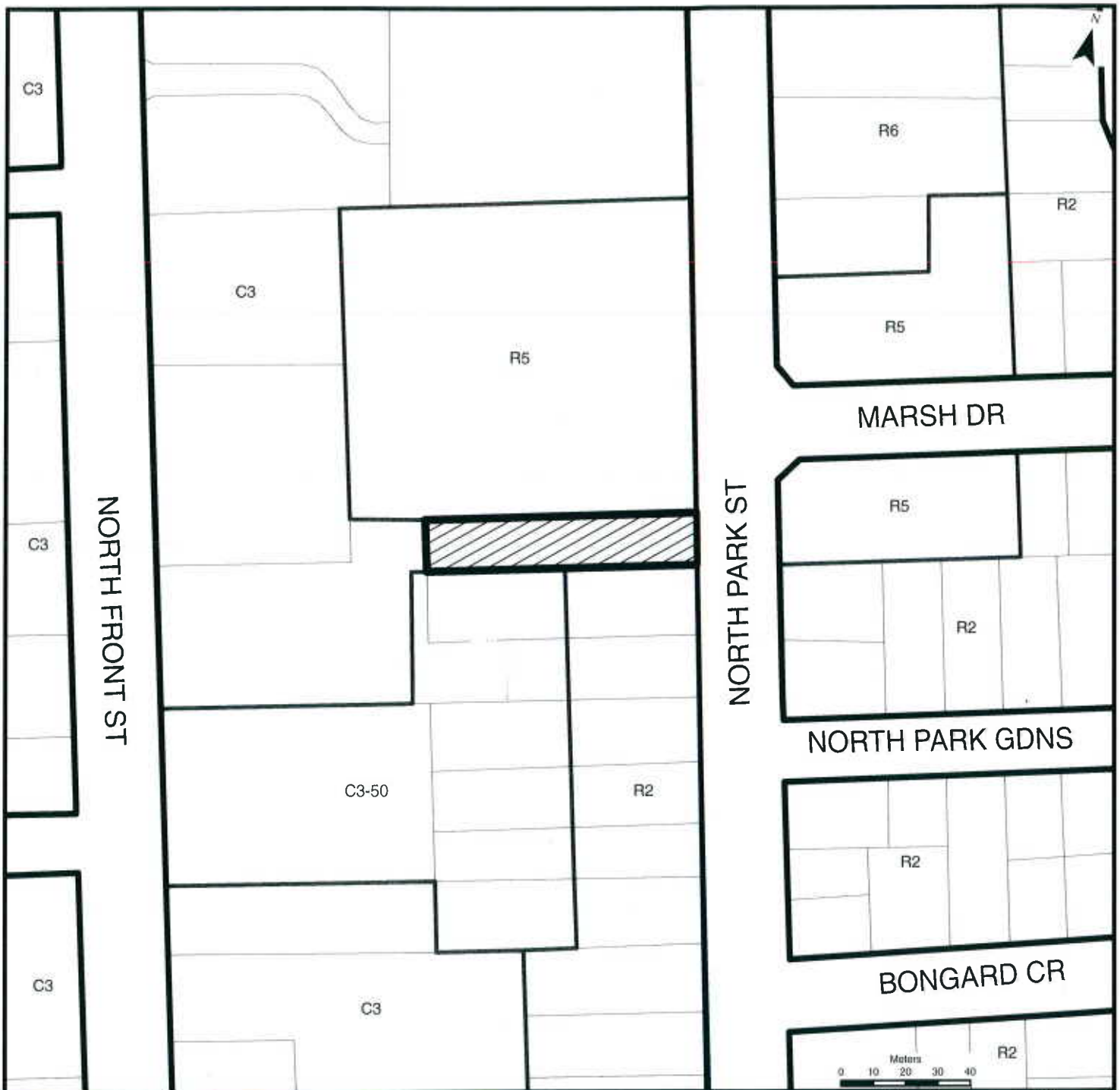
The immediate neighbourhood is characterized by a mix of land uses and dwelling types given the commercial North Front Street strip located to the west and several townhouse developments directly located to the north and east. North Park Street is classified as a collector road which is the preferred location for multi-residential unit development.

If approved, the development will be subject to a site plan review and approval process to ensure the site satisfies the required engineering and planning requirements.



Arthur MacKay
Manager of Policy Planning

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PROPOSED ZONING BY-LAW AMENDMENT

LOCATION: NORTH PARK STREET



PROPOSED ZONING CHANGE FROM R2 (RESIDENTIAL SECOND DENSITY) ZONE TO R6 (RESIDENTIAL SIXTH DENSITY) ZONE WITH SPECIAL PROVISIONS

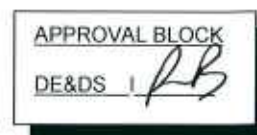


CITY OF BELLEVILLE

ENGINEERING & DEVELOPMENT
SERVICES DEPARTMENT

RECEIVED	
PLANNING SECTION	
B-77-941	
MAY 3 0 2013	
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RECEIVED	
PLANNING SECTION	
B-77-941	
MAY 3 0 2013	
A.M.	ACTION
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G.P.	
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CITY OF BELLEVILLE
ENGINEERING & DEVELOPMENT SERVICES DEPARTMENT
PLANNING SECTION
Arthur MacKay, Manager of Policy Planning
Report No. PP-2013-26
July 2, 2013

To: Councillor Lafferty, Chair and
Members of the Belleville Planning Advisory Committee

Subject: Proposed Amendment to Zoning By-Law Number 10245, as Amended –
301 Dundas Street West, City of Belleville, County of Hastings
File Number: B-77-942
Applicant/Owner: PAUL RENAUD/LUISA BARTON

Recommendation:

"THAT the Belleville Planning Advisory Committee recommends to the Council of The Corporation of the City of Belleville that the application to amend the City's Zoning By-Law Number 10245, as amended, by permitting a second (2nd) dwelling unit for 301 Dundas Street West, City of Belleville, County of Hastings, be DENIED."

SUMMARY:

The Applicant has requested a rezoning from "R1 – Residential First Density" to a special R1 zone to permit a 2nd dwelling unit to be constructed above an attached two (2) car garage. The provisions of the R1 zone do not permit more than one (1) dwelling unit per property and the Applicant has stated that the proposed dwelling unit is for an in-law. The property has a lot frontage of approximately 28.5 metres and an approximate lot area of 3,482 square metres.

Planning Staff note that the subject property is extensive in area, and well exceeds the minimum lot frontage (18 metres) and lot area (696.5 square metres) requirements of the R1 zone. This is the largest urban zone category for single detached dwellings in the City's Zoning By-Law.

If the parcel was located in an R4 zoned area of the City, the standards of the By-Law would allow a 2nd dwelling unit. However, within the R1 (and R2) zoned areas, only one (1) one dwelling unit is permitted per property. In this quadrant of the City (Ponton Park) the R1 zone is the predominate single detached residential zone classification.

If this application were approved, Staff would have the following concerns:

- Allowing a 2nd dwelling unit would not maintain the predominate single detached nature of the neighbourhood and the surrounding single detached residential zoning;
- A precedent would be set thereby triggering the potential for a number of similar applications for oversized residential properties, including several located in this area; and
- Notwithstanding that this is a request to provide accommodation for a family member; it is beyond the powers of zoning to regulate or control the relationship of an occupant to the owner.

On the basis of the foregoing, Staff does not support the zoning amendment request.

BACKGROUND:

Purpose and Effect

The proposed Zoning By-Law amendment applies to 301 Dundas Street West.

The purpose of the application is to amend Zoning By-Law Number 10245, as amended, to permit the construction of a 2nd dwelling unit above the attached garage.

The lands subject to the proposed amendment are shown on the attached location plan.

Subject Property

- Site Characteristics

The property contains a single detached residential dwelling.

- Adjacent Land Uses

Single detached uses surround the property to the east, west and to the north across Dundas Street West. To the south is located the CPR mainline and the Bay of Quinte.

Official Plan

The land is designated "Residential Land Use" in the City's Official Plan which permits residential uses subject to satisfying various policies in the Plan.

Zoning By-Law

The subject land is zoned "R1 – Residential First Density". The Applicant has requested a rezoning to a special R1 zone to permit a 2nd dwelling unit to be constructed above an attached two (2) car garage.

Application Circulation

- External Agency Circulation

The subject application was circulated for comment to the Algonquin & Lakeshore Catholic School Board, the Hastings & Prince Edward District School Board, Bell Canada, Canada Post, Ontario Power Generation, Union Gas, Hydro One, Veridian Connections, TransCanada Pipeline, Enbridge Pipelines, Trans-Northern Pipelines and Quinte Conservation on June 12, 2013.

The Algonquin & Lakeshore Catholic School Board has advised that they have no concerns.

Quinte Conservation also advises that they have no concerns, but note that a portion of the subject property is located within their regulated area. They also advise that a portion of the property is within Intake Protection Zone 1 (IPZ-1) for Belleville's drinking water system. They note that residential uses are not considered significant threats in that zone.

No other comments have been received to date.

- Internal Department Circulation

The subject application was circulated for comment to the Belleville Fire Department, Belleville Police Service, the Department of Engineering and Development Services, the Environmental & Operational Services Department, the Department of Recreation, Culture and Community Services and the Manager of Approvals on June 12, 2013.

The Fire Department and the Development Engineer have no objection to this application.

The Manager of Approvals advises that the 2nd dwelling unit should not be permitted to be permanent in nature.

- Public Circulation

Notice of the subject application was circulated to all registered owners of land within 120 metres (400 feet) of the subject property on June 12, 2013. Notice was also provided by advertisement in The Intelligencer.

Martha Grant inquired as to the nature of the application and questioned whether it was in keeping with the surrounding neighbourhood.

Planning Analysis

As noted, the Applicant has requested a rezoning to permit a 2nd dwelling unit on the property to house an in-law. The parcel is extensive in area, and well exceeds the minimum lot frontage (18 metres) and lot area (696.5 square metres) requirements of the "R1 – Residential First Density" zone. In the subject instance, the parcel consists of a lot frontage of approximately 28.5 metres and a lot area approximating 3,482 square metres.

It is noted that the Official Plan supports a range of housing types and densities and includes provisions that encourage infill housing in existing neighbourhoods to maximize land utilization and efficiency of municipal infrastructure. However, the Plan also states that "in some cases this is not possible nor is it desirable; some neighbourhoods therefore may consist predominately of one form of housing..."

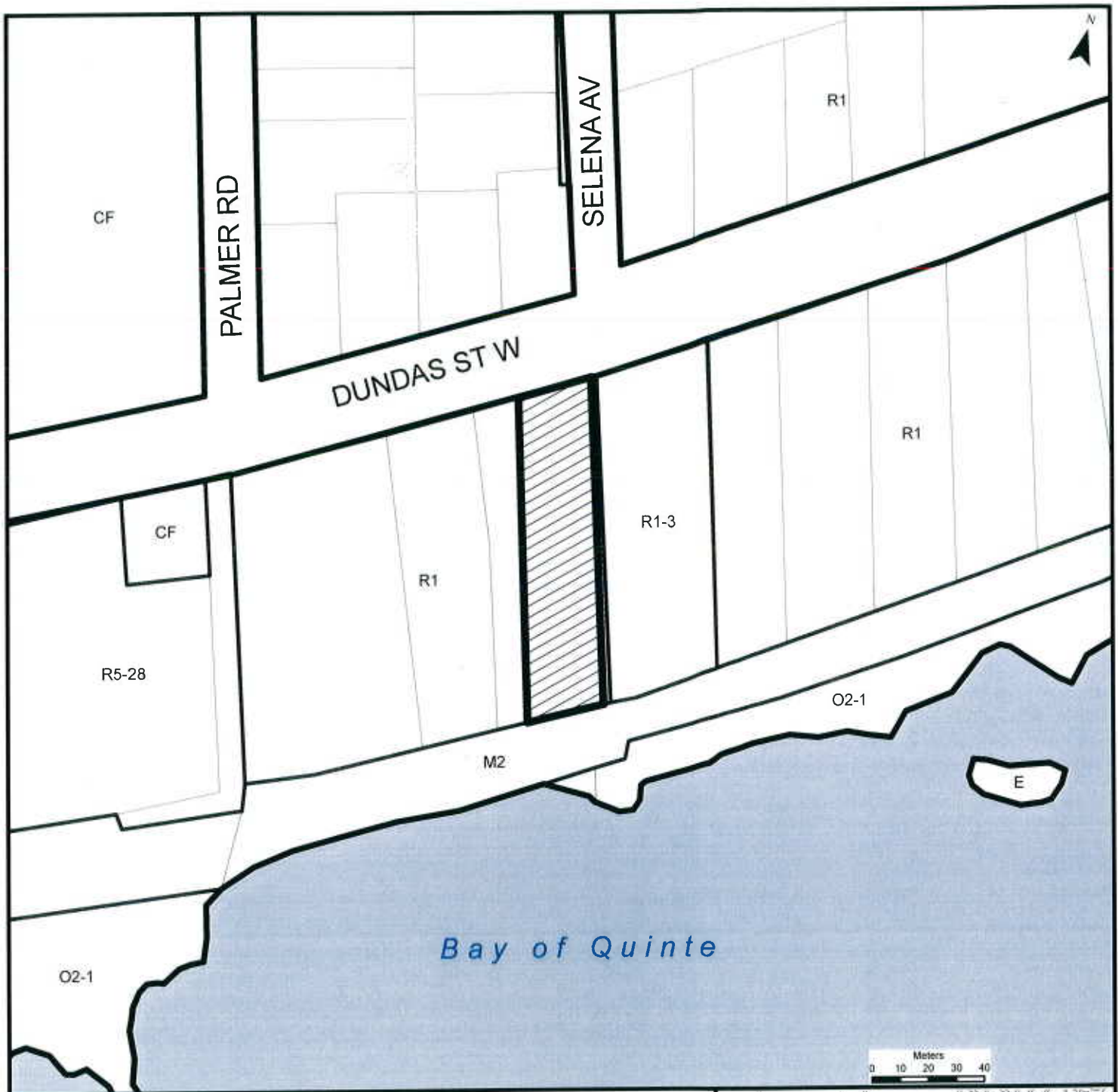
The subject property is located within Ponton Park which is predominated zoned and characterized as a single detached only neighbourhood. Allowing a 2nd dwelling unit, as requested, would be counter to this predominate housing form and, further, would create a precedent for the potential submission of a number of rezoning requests for similarly oversized single detached only properties, including several that are located in this immediate area. Finally, the Applicant requests this 2nd unit for the purpose of providing housing for a family member. However, it is beyond the powers of zoning to regulate or control the relationship of the occupant to the owner. The Planning Act has provisions for so called "Garden Suites" (i.e. in-law suites) but the legislation stipulates that these are to be only temporary and portable in nature, and that the modular housing unit is ultimately to be removed. This would not be the case with the subject application. Once created, the unit would be permanent in nature and be able to be occupied by any individual.

On the basis of the foregoing, the application is not recommended for approval.



Arthur MacKay
Manager of Policy Planning

atta



PROPOSED ZONING BY-LAW AMENDMENT

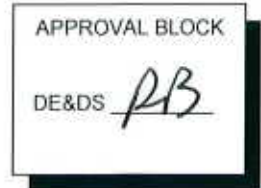
LOCATION: 301 DUNDAS ST. WEST

 PROPOSED ZONING CHANGE FROM R1
(RESIDENTIAL FIRST DENSITY) ZONE TO
R1 ZONE WITH A SPECIAL PROVISION



CITY OF BELLEVILLE
Page 18

ENGINEERING & DEVELOPMENT
SERVICES DEPARTMENT



CITY OF BELLEVILLE
Spencer Hutchison
Manager, Approvals Section
Engineering and Development Services Department
Report No. APS-2013-21
July 2, 2013

To: Planning Advisory Committee

Subject: Request to Revise Draft Plan Condition No. 12
Hanley Park Subdivision
Part of Lot 14, Concession 1, formerly Township of Thurlow
OWNER: Hanley Park Developments Inc.
AGENT: Macaulay Shiomi Howson Ltd.

File: 12T-02506

Recommendation:

"That, pursuant to Section 51(44) of the Planning Act, the Council of The Corporation of the City of Belleville approve the request to modify the draft approved Plan of Subdivision (File No.: 12T-02506) submitted by Macaulay Shiomi Howson Ltd. on behalf of Hanley Park Developments Inc., to re-word Condition No. 12 as follows:

12. That the Owner agrees in the subdivision agreement, in wording acceptable to the City of Belleville, that no vehicular access will be provided to Janlyn Crescent via Street "A" until such time as a building permit has been issued for the 80th dwelling unit. A temporary vehicular access connection from Bridge Street East to Street "B" may be provided through Street "F" and across Block 184 until such time as permanent access is fully constructed."

Background:

At the March 4, 2013 Planning Advisory Committee (PAC) meeting Staff presented Report No. APS-2013-4 which outlined a request to revise or redline the draft approved Hanley Park plan of subdivision. PAC and subsequently, City Council approved the revision to the draft plan along with the inclusion of two new draft plan conditions. Moving forward, the Consultants for the Developer have contacted Staff and requested a revision to Condition No. 12.

Background (cont'd):

Condition No. 12 as currently approved states:

12. That the Owner agrees in the subdivision agreement, in wording acceptable to the City of Belleville, that no permanent access will be provided to Janlyn Crescent via Street "A" until such time as Bridge Street East is fully constructed and a building permit has been issued for the 80th dwelling unit.

The proposed re-wording of Condition No. 12 is as follows:

12. That the Owner agrees in the subdivision agreement, in wording acceptable to the City of Belleville, that no vehicular access will be provided to Janlyn Crescent via Street "A" until such time as a building permit has been issued for the 80th dwelling unit. A temporary vehicular access connection from Bridge Street East to Street "B" may be provided through Street "F" and across Block 184 until such time as permanent access is fully constructed.

Attached as **APPENDIX 1** is a copy of the proposed subdivision plan which indicates the temporary access route as a "dashed" rectangular area extending southward from Street "F" to Street "B" and a darker gray area along Bridge Street East and Street "F".

Comments:

Firstly of all, it is noted that Condition No. 12 as re-worded maintains the intent of the original condition. Access to the first 80 lots within this new subdivision will be via Bridge Street East and not Janlyn Court. Therefore no traffic is allowed along Janlyn Crescent in the timeframe established by the Planning Advisory Committee and City Council. Secondly, as with the construction of all new subdivisions the key to getting underway is to make it economical at the front end when most of the heavy upfront expenses are incurred. As can be recognized the development costs to obtain the first building permit are substantial but as more and more lots are developed the upfront costs are reduced on a per lot basis.

As currently drafted Condition No. 12 requires Bridge Street East to be fully constructed. This is an onerous financial requirement and is not necessary in terms of being required to develop the first lot 80 lots in this subdivision. This type of requirement would not normally be used in other developments throughout the municipality. The City has allowed the phasing of infrastructure if it is technically feasible to do so.

It is also noted that as re-worded, Condition No. 12 would require the construction of Bridge Street East from the western edge of the subdivision to the east side of Street "F" and the completion of Street "F" itself. There then would a temporary road surface from the south end of Street "F" to the north end of Street "B" that would be removed as other permanent streets within the subdivision are completed. Thus the actual length of temporary road is minimal.

Comments (cont'd):

Lastly, the Municipality has considered the construction of temporary access roads, or the sequential construction of new roads in the initial phases of other subdivisions. Heritage Park – Phase 1 has a temporary access road from Farnham Road. Phase 1 of Potters Creek utilized Aldersgate Drive. Only the southern portion of Tessa Boulevard has been constructed in Phase 1 of Mercedes Meadows.

Conclusion:

The Approvals Sections supports the request to revise Draft Plan Condition No. 12 so as to allow for the Hanley Park subdivision to get underway while restricting access to Janlyn Crescent until construction of this subdivision is well underway.

Respectfully submitted.

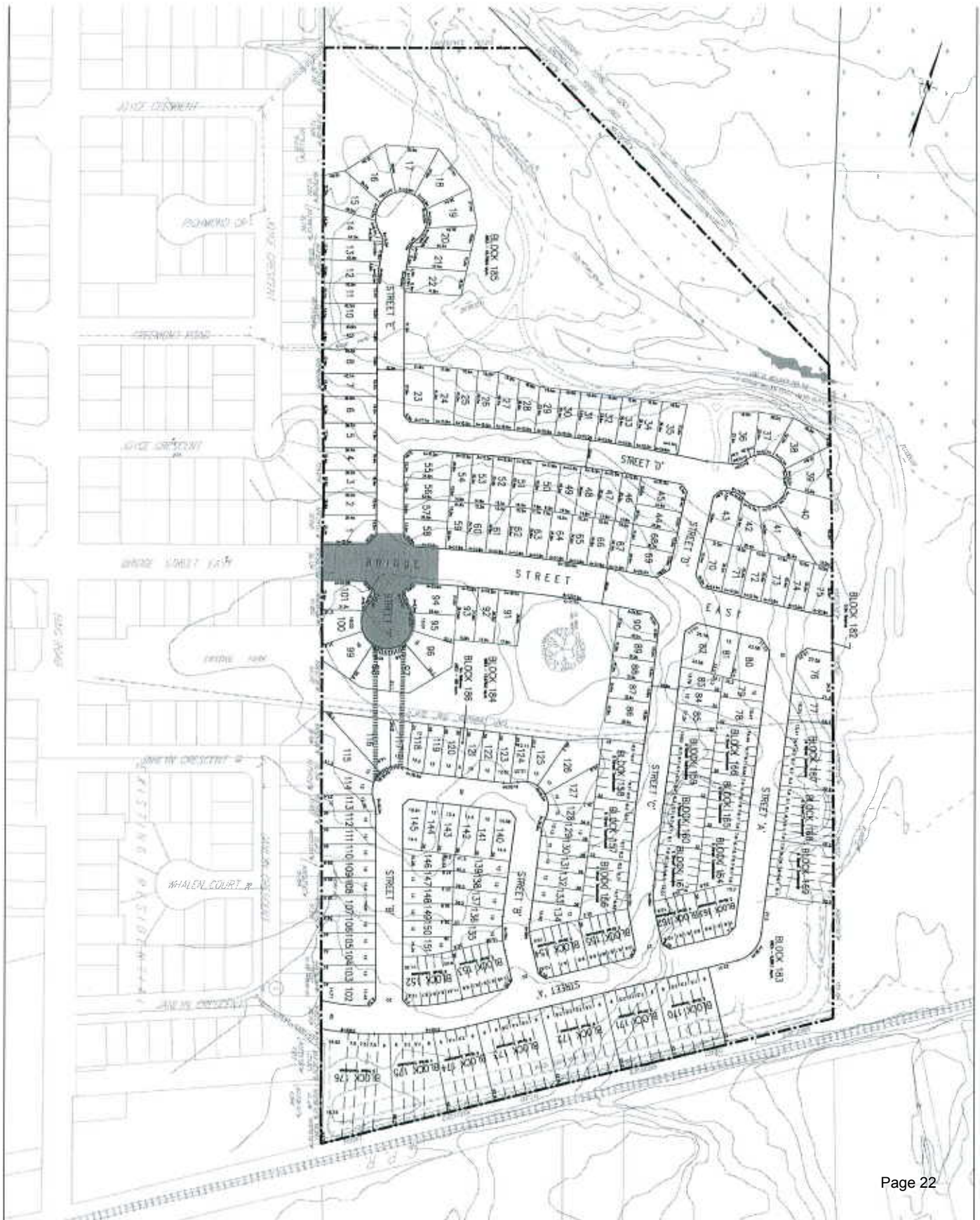
A handwritten signature in black ink that reads "Spencer Hutchison". The signature is written in a cursive, flowing style. The first name "Spencer" is written in a larger, more prominent script, and "Hutchison" follows in a similar but slightly smaller script. The signature is positioned above a horizontal line.

Spencer Hutchison

SH/MG
attachments

APPENDIX 1

Proposed Temporary Access Road



**ENGINEERING AND DEVELOPMENT SERVICES DEPARTMENT
PLANNING SECTION
OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT MONITORING REPORT**

FILE NO.	DATE REC'D	APPLICANT/OWNER/AGENT	PROPOSAL	STATUS
2012				
B-77-915	May 2/12	Monty Smith Ron Anderson	<i>South Front Street</i> Zoning By-Law amendment to allow 2-unit residential dwelling	Public Mtg: June 4/12 Planning Report: June 4/12 PAC Decision: Application 'on hold' pending further info
B-77-921	July 4/12	Shady Ridge Stock Farms Inc.	<i>West of Windwhisper Drive, Thurlow</i> Official Plan & Zoning By-Law amendment to permit a portion of the site to be developed with a total of 38 single detached dwellings by registered Plan of Subdivision (expansion of Phase 2 - Hearthstone Ridge subdivision)	Public Mtg: Aug 7/12 Requires Council approval
B-77-923	June 19/12	Cloverbell Developments Ltd. & 1255437 Ontario Inc. John Halloran	<i>Millennium Parkway</i> Zoning By-Law amendment to allow additional casino use	Public Mtg: Sept 4/12 PAC Decision: Denied Council Decision: Return to Oct 1/12 PAC PAC Decision: Denied Council Decision: Denied Oct 9/12 Appeal Date: Nov 1/12 Applicant Appealed to OMB - File Forwarded Nov 1/12 OMB Hearing Date: May 1/13 OMB Approved May 29/13 Waiting for By-Law
B-77-928	Oct 31/12	Settlers Ridge Developments Inc. RFA Planning Consultant Inc.	<i>Phase 2 Settlers Ridge Developments</i> Zoning By-Law amendment to permit Phase 2 expansion of Settlers Ridge subdivision (290 units proposed)	Public Mtg: Dec 3/12 PAC Decision: Deferred pending service details & Quinte Conservation report

**ENGINEERING AND DEVELOPMENT SERVICES DEPARTMENT
PLANNING SECTION
OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT MONITORING REPORT**

FILE NO.	DATE REC'D	APPLICANT/OWNER/AGENT	PROPOSAL	STATUS
2013				
B-77-938	Apr 26/13	Potters Creek Developments Inc. RFA Planning Consultant Inc.	<i>Dundas Street West</i> Zoning By-Law amendment to permit Phase 3 expansion of Potters Creek subdivision (164 dwelling units proposed)	Public Mtg: June 3/13 PAC Decision: Approved Council Approved: June 10/13 Appeal Date: July 2/13
B-77-939	Apr 30/13	Elaine McMurter Courtney McMurter	<i>1602 Casey Road</i> Zoning By-Law amendment to rezone the severed & retained parcels of Land Division File #B33/12 & permit a residential building lot	Public Mtg: June 3/13 PAC Decision: Approved Council Approved: June 10/13 Appeal Date: July 2/13
B-77-940	May 1/13	Quinte Health Care RFA Planning Consultant Inc.	<i>First Street</i> Zoning By-Law amendment to permit a Temporary Use By-Law to allow parking of construction office trailers for a period of one (1) year to accommodate on-going construction projects	Public Mtg: June 3/13 PAC Decision: Approved Council Approved: June 10/13 Appeal Date: July 2/13
B-77-941	May 30/13	Paul Renaud/Luisa Barton	<i>301 Dundas Street West</i> Zoning By-Law amendment to permit a second dwelling unit to be constructed above a proposed attached two car garage	Public Mtg: July 2/13
B-77-942	May 30/13	Mark Geertsma, c/o Royal LePage Pro Alliance Realty S & A (Belleville) Investment Limited	<i>North Park Street</i> Zoning By-Law amendment to permit the construction of a six unit apartment	Public Mtg: July 2/13
B-77-943	June 25/13	Mark Donnan, c/o Ridgeline Farms Inc. Watson Land Surveyors Ltd.	<i>Donnan Road, Thurlow</i> Zoning By-Law amendment to permit a single detached dwelling	Public Mtg: Aug 6/13

ISSUE DATE:

May 29, 2013



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL121299

Cloverbell Developments Ltd & 1255437 Ontario Inc. have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 3014 of the Town of Belleville to rezone lands described as Part of Lot 3, Concession 2 from 'C1-Highway Commercial' and 'C1 h-Highway Commercial Holding' to a special C1 zone and add a casino as a permitted use.
OMB File No.: PL121299

APPEARANCES:

Parties

Cloverbell Developments Ltd.
1255437 Ontario Inc.

City of Belleville

Counsel

D. White

D. W. Fairbrother

DECISION OF THE BOARD DELIVERED BY M.C DENHEZ

INTRODUCTION

[1] In 2012, the Ontario Lottery and Gaming Corporation ("OLG") suggested a new private sector casino, in or near the City of Belleville (the "City"). City Council agreed. Landowners at four locations then came forward, hoping their lands would be the ones selected for the future casino.

[2] Three of those four sites are side by side, with ample land, but in an outlying location on Bell Boulevard. At two of them, Council agreed to rezone for a "casino", thereby indicating that these were now in the running for selection.

[3] The fourth is smaller, but more central. It is owned by Cloverbell Developments Ltd. and 1255437 Ontario Inc. (the "applicants"), who similarly applied for casino rezoning, so that they too could compete for selection. City planning staff agreed with their proposed rezoning, but City Council's Planning Committee did not. It called their

site too small, and too close to residences. Ultimately, Council turned down that rezoning, and the applicants appealed to the Ontario Municipal Board (the "Board").

[4] At the hearing, the applicants and the City were ably represented by counsel, with the expert support of consulting planners, Celeste Phillips and Robert Clark, respectively.

[5] The Board has carefully considered all the evidence, as well as the submissions of counsel. The Board finds the applicants' proposed "casino" use consistent with the City's Official Plan ("OP"), which had specified the appropriateness of the area for tourism-related functions (the OP offered no such specification, in the case of the Bell Boulevard properties). Although the City argued eloquently that the applicants' property had substantive and procedural shortcomings, the Board was not persuaded of those apprehensions, nor that they should preclude the subject property from contention. In particular, the Board found the applicants' property no less worthy of rezoning than the Bell Boulevard properties were. The appeal is allowed accordingly.

[6] Counsel for the applicants asked that the Board withhold its order, pending editorial changes to be made to the draft rezoning, to be forwarded to the Board on consent. The Board has no objection.

[7] The details and reasons are set out below.

BACKGROUND AND GEOGRAPHY

[8] In 2012, OLG issued "Request for Information #1213-001", with a related explanatory document entitled Modernizing Land Based Gaming in Ontario. Those documents announced OLG's intent to "expand regulated private sector delivery of lottery and gaming services", across the 29 "Gaming Zones" in Ontario. This would include a prospective facility for "Gaming Zone E2, which includes parts or all of the City of Belleville and the Municipality of Quinte West."

[9] The project would be undertaken not by OLG itself, but by an approved private sector entrepreneur, to be called a "Service Provider." This same Service Provider, yet to be selected, would also create and operate gaming facilities in two other nearby Gaming Zones, for Peterborough and Kingston. OLG stipulated maximum capacity for

each Gaming Zone; but within those parameters, the relative scale of the operation (in each of those three centres) would be largely up to the Service Provider.

[10] OLG invited municipalities to express interest/support. In Belleville, the City's Chief Administrative Officer recommended that Council do so; and in June, 2012, Council adopted a Resolution accordingly. Owners of four sites then came forward, interested in competing for selection:

- Belleville Racetrack Development Corporation ("Racetrack")
- a firm named Jenlands
- a firm named Bellezar
- and the applicants

[11] The applicants' site is comprised of two abutting lots, one in the name of Cloverbell Developments Ltd., and the other in the name of 1255437 Ontario Inc. These total just under six hectares, backing onto an expressway cloverleaf (to the east and south) at the junction of Highway 401 and Highway 62 (also called North Front Street). The site faces Millennium Drive to the north and northwest, a municipal road roughly parallel to Highway 401. The area is largely built-up. Further west of this site, Millennium Drive has several car dealerships. Across that road to the north are a Lowe's building supply store, a Tim Hortons, and a gas station. To the east, across Highway 62, are a Walmart and two big box stores. Immediately to the west, there is a property with a transmission tower, near the corner of a T-intersection, where Cloverleaf Drive ends at Millennium Drive. Cloverleaf Drive is mostly residential. To the southwest is a Ministry of Transportation dome for road supplies. On the opposite side of Highway 401, North Front Street has several hotels.

[12] The other three competing properties are all larger, and almost contiguous, toward the western end of Bell Boulevard, near Walbridge Loyalist Road (which, in turn, connects to Highway 401 at a halfway on cloverleaf several kilometers west of the applicants' site). Two of those three Bell Boulevard properties back onto Highway 401, but are not as close to that interchange as the applicants' property is to theirs. The general area is undeveloped (forested). The Board was told of no amenities or transit.

[13] Successive councils appear to have wanted development there. A decade ago, the Council of the day zoned land there for a racetrack and slots (the Racetrack lands). That project failed to materialize. In 2010, the City also adopted a secondary plan for the area, anticipating a wide variety of possible uses, though they too have not yet materialized.

[14] In the latter part of 2012, Council rezoned the Jenlands and Bellezar sites to permit casino use. In each case, the rezoning was accompanied by an Official Plan Amendment, pertaining to other subjects. No traffic studies preceded those measures.

Regulatory Framework

[15] There was no dispute that, according to the OP, a casino was a permitted use under the respective OP designations of all four locations. However, there are differences of nuance. The applicants said the OP favoured their site over the Bell Boulevard sites in terms of OP tourism policy. At Policy 3.9.5(a), the OP specifies that the North Front Street area is the "major arterial entrance" of the City, with importance to the "tourism sector":

The North Front / Highway 62 Corridor represents the major existing and developing arterial commercial strip that is intended to serve regional and local markets, as well as provide specialty services for the tourism sector.... As the major arterial entrance to the City from the north, it is important that the North Front Highway 62 Corridor be as attractive and accessible as possible to both the citizens of Belleville and the traveling public.

[16] In contrast, the applicants said, there is no specific mention of tourism or tourism-related uses in the OP treatment of the Bell Boulevard properties. Indeed, the OP says the latter area can be used for commercial purposes – or alternatively for industrial ones, which would be a curious context for a casino.

[17] The City replied that the applicants' site had a major OP disadvantage, namely development at that site was premature. Policy 3.9.5(c) foresaw that there should be a "Corridor Study" around Highway 62:

It is important that the municipality undertake a corridor study as soon as possible for the North Front / Highway 62 Corridor to address issues pertaining to land use, traffic flow, servicing of the north end of the corridor, and the manner by which private developments occur along the corridor to ensure the corridor was developed in a safe, attractive and functional manner.

[18] That policy had been enacted at least a decade ago, but the City had never executed the Study. The absence of the Study, however, had not stopped construction of the Lowe's store, or expansion of the Walmart. The City's witnesses were unaware of any plans to do the Study in the foreseeable future.

[19] In none of the four locations did existing zoning permit a casino. Zoning for the applicants' property was outlined in By-law 3014 of the former Township of Thurlow, now amalgamated with the City.

[20] As mentioned, their six-hectare site is comprised of two lots; both have Commercial zoning, permitting hotels, convention centres, and places of amusement (though not casinos). However, the southerly lot also has an "h" Holding provision, under s. 36 of the *Planning Act* (the "Act"). The Board was told that there were three preconditions for "lifting the h", to permit development there: (a) merger on title, (b) a traffic study, and (c) a hydrogeological study.

[21] The entire project would also be subject to Site Plan Control.

[22] The three Bell Boulevard sites have relatively open-ended zoning that would allow a wide variety of commercial and industrial uses.

Chronology of Events

[23] In late June, 2012, Council expressed its interest/support for the OLG initiative in Belleville. One owner came forward, suggesting it already had incipient approval for gaming: Racetrack's land had no actual racetrack, but had nonetheless been zoned for a racetrack and slots a decade ago. Racetrack sought to add a "casino" to its permitted uses, via an application for a minor variance under s. 45(1) of the Act. The City replied that was the wrong mechanism, and that the proposed variance did not meet statutory criteria; that application was denied, and Racetrack launched a variance appeal to the Board, in a separate file.

[24] The owners of the three other locations, including the applicants, also filed applications with the City – for rezoning. Planning staff supported all three. As mentioned, in the case of Jenlands and Bellezar, Council ultimately approved rezoning, to include a "casino" as a permitted use.

[25] For their part, the applicants' rezoning application included a tentative sketch for a casino of 4,325 square metres, a 10-storey hotel, "retail" of 765 square metres (apparently in big-box format, near the northeast corner of the property), and 780 at-grade parking spaces. However, their proposal was first turned down by the Planning Committee on the stated grounds that the site was too small and too close to residences. Council, for its part, referred the matter back to the Committee for "reconsideration." The Committee "reconsidered" – and again recommended against the application. This time, Council sided with the Committee, and turned down the application, whereupon the applicants filed this appeal.

[26] As mentioned, planning staff had supported the applicants' proposed rezoning. However, at the Board's hearing, staff was called by neither side to testify. The Board is mindful that in any event, the City ultimately speaks through its Council; here, the Board was told that Council's opposition was based on size, procedure, and externalities:

- On size, said the City's expert Mr. Clark, "this site is seriously constrained." There were particular concerns expressed about physical limitations on
 - parking
 - the complex's potential for expansion
- Procedurally, the City argued that development of the applicants' site was premature, in the absence of the Corridor Study mentioned in the OP.
- Concerning externalities, objections were stated about
 - traffic
 - disturbance to neighbouring residents
 - and lack of synergy

On that last point, said the City, the Bell Boulevard sites would permit the casino to spawn related uses, thereby evolving into a "node" of related activities, in accordance with the OP (the OP favours "nodes"). The applicants' site, in contrast, was reputedly unlikely to evolve into a similar

node, because of size and location: if any node were likely there, it would be a retail node, consistent with Walmart and Lowe's.

[27] The applicants countered by calling, as their first witness, Ron Steiner, a principal of the firm operating the Great Blue Heron Casino (a potential bidder to become "Service Provider" for the three Gaming Zones in Eastern Ontario). He said he was familiar with all four sites; they were "all good", but he preferred the applicants' site, because of visibility and access.

[28] Counsel for the applicants insisted that their purpose was not to persuade the Board that their site was best (that decision would be largely up to the Service Provider), but to assure that their site was "in the starting gate... so that it may be considered." Counsel called the Bell Boulevard area a "desolate site" by comparison, adding that "nothing's happened in a decade". Indeed, he said that this prolonged inactivity may have "tainted" that area in the eyes of the business community – a proposition to which the City took exception.

[29] Parenthetically, for this Gaming Zone, OLG set a limit of 300 slots and 180 table positions. Mr. Steiner insisted, however, that it would be irresponsible to presume the project would be built to full capacity: that would depend on market studies. He hazarded a guess that the number of slots might approach the 300 figure; but he categorically refused to estimate table positions, or even confirm that any table positions would exist at all.

Applicable Criteria

[30] A zoning appeal may involve several factors, notably whether the proposal complies with the Act. Section 2 of the Act outlines "Provincial interests" which municipalities and the Board "shall have regard to".

[31] The Provincial Policy Statement ("PPS"), for its part, declares that Ontario's is a "planning system led by Provincial policy"; and the PPS reasserts that this system is "policy-led". The Act adds, at s. 3(5), that decisions of Councils and the Board must not only have "regard", but "shall be consistent" with the PPS.

[32] Next, s. 24(1) of the Act says that “no By-law shall be passed for any purpose that does not conform” with the OP.

Analysis

[33] The question in this case was whether the City should exclude the applicants' property from contention, as a possible casino location. Other properties, which the applicants suggested were less meritorious, have already been rezoned for casino consideration. Here, the OP refers to the area around the applicants' property as being the “entrance” to the City, and having a tourism function; but the City nonetheless argued that there were flaws which precluded the applicants' property from consideration. The Board offers two preliminary observations.

[34] The first pertains to the broader apparent context of the OLG initiative. Mr. Steiner said that when he started in the gaming business 41 years ago, it was to transport the many prospective gamblers to the few facilities of the day. The Board notes that with so few locations, each had a huge geographic catchment area; of necessity, each destination had to include hotels, restaurants, and related amenities, for travelers. A casino was a variation on a resort destination.

[35] But times – and strategies – change. Now with 29 specified catchment areas across Ontario (“Gaming Zones”), OLG has signalled its intent to bring the gaming to the public, rather than have the public travel to the gaming, as it used to.

[36] This changes the nature of the operation – and casts into question whether all 29 Gaming Zones will want or need large traditional resort-type complexes like Windsor or Rama. For example, Gananoque's casino (which already has some 60% more slots than Belleville's proposed maximum) has no hotel.

[37] The next preliminary observation concerns the purview of governmental intervention in real estate. In this case, there was considerable conjecture about the kind of land a Service Provider might want. That conjecture is understandable; governments in a free market system want lands to be useful and profitable to their owners, and in this case, no one would want the Service Provider to be set up to fail.

[38] However, there are limits to how much micromanagement is properly within a municipal government's purview, concerning an entrepreneur's prospective selection of property. A municipality's core planning priority is the public interest – to ensure that externalities (notably impacts on surrounding properties and areas) comply with the Act, Provincial policy, and the OP. Factors that are purely internal or private to the property – notably its profitability – are primarily the responsibility of the property's owners.

[39] In this case, that distinction was sometimes blurred. Although the City addressed quintessentially public sector questions like parking, traffic, and overall urban structure, other arguments ventured into more traditionally private sector questions, such as whether sites would have enough space for whatever a Service Provider might intend. Municipalities must be cautious about the extent to which they try to second-guess a future occupant.

[40] As for the substantive public sector issues, the City's stated concerns began with size. The candidacy of the applicants' site, it said, was pre-empted by inadequacy of space for parking. In a "maximum" scenario of 300 slots and 180 table positions, Mr. Steiner had estimated a parking requirement of 700-750 spaces; the sketch accompanying the application indicated 780 at-grade spaces which, the City said, would be clearly inadequate if – above and beyond the casino – there were a hotel, and retail uses.

[41] That argument at first appeared compelling, but on closer analysis, the Board was left unconvinced, for several reasons. First, casino parking requirements would depend on the scale of the gaming operation – which was not known yet; nor could the construction of a hotel (or other uses) be confirmed yet. The City could not know whether the size of the parking was appropriate to the facility, until it knew the size of the facility.

[42] Second, even if the complex were built to maximum allowable capacity, there are more ways to accommodate parking than just at grade: parking might also be underground, and/or in a structure.

[43] Perhaps most importantly, the property remains subject to Site Plan Control: the project cannot be built anyway, unless the parking arrangements are sufficient. The City retains comprehensive authority to demand adequate parking, even if rezoning

proceeds. In the words of counsel for the applicants, "the City still holds all the cards under Site Plan." For those reasons, the City had no ground – or even need – to exclude the applicants' property from contention on the basis of parking, at least at this time.

[44] A different argument about space was that the applicants' site left no room for future expansion, whether for the casino, the hotel, or (perhaps most importantly) related uses.

[45] Normally, that question – of whether an entrepreneur is picking the right property for his/her long-term business plan – is left to the entrepreneur. In this case, however, the City said the question was central to its own ambitions concerning "nodes" and future synergy among neighbouring uses. The Board will return to that question later.

[46] The next question was procedural, pertaining to the Corridor Study. Until that Study was done, said the City, development of the applicants' property was "premature."

[47] There were several difficulties with that argument, too. The OP reference to the Corridor Study had been on the books for a decade – yet previously, it appears the City had never considered the Study sufficiently significant to warrant doing.

[48] For that matter, there was no explanation why the City's failure, to do its own Study, would now be fatal to the plans of third parties, namely individual property owners. Although the policy says that "it is important that the municipality undertake a corridor study as soon as possible", it does not specify that development can or should be arrested in the meantime. Indeed, the absence of the study did not stop approval of development at Lowe's and Walmart – and the Board was certainly shown no reason why the policy should be applied selectively.

[49] It is also important to consider the purposive wording of the policy itself, at s. 3.9.5. It said North Front Street was supposed to serve "as the major arterial entrance to the City", as well as the City's location for "specialty services for the tourism sector." This was challenging, because of the presence of heavy industry just north on Highway 62. Not surprisingly, the OP devoted special attention to "(ensuring) the corridor is developed in a safe, attractive and functional manner", adding that "development and

redevelopment of this area should focus not only on future land-use but also on appropriate urban design...."

[50] It follows that a driving force of that Corridor Study was to identify design approaches worthy of:

- a civic "entrance" for the population in general
- and tourists in particular

[51] The Board heard no evidence on how that objective would be compromised by the applicants' proposal, and no relevant evidence on the necessity of delaying the applicants' proposal pending the Study.

[52] Turning to externalities, the Board was similarly unconvinced of the City's traffic argument. The City's stated apprehension was two-pronged: that traffic could overload the intersection of Highway 62 and Millennium Drive beside the entrance/exit to the Highway 401 cloverleaf, and if so, drivers might detour westward along Millennium Drive – or residential Cloverleaf Drive.

[53] The Board will address those apprehensions in reverse order. The detour westward would cover a long distance to the next major road (Sidney Street) – which does not connect to Highway 401. The Board was not shown why a driver, who essentially was already at an expressway interchange, would be motivated to prefer a detour via kilometers of side streets.

[54] As for the larger question of traffic generally, the Board was not shown why a casino would cause greater apprehension than other uses, for which the property was already zoned (like a conference centre or "place of amusement"). More importantly, even if there were a potential traffic problem, no development can proceed *anyway*, at least on one of the applicants' lots, without "lifting the h" (Holding provision) – via a traffic study satisfactory to the City. There was no need to prejudge that study, or to preempt the site's candidacy, on that ground at this time.

[55] As for other kinds of disturbance to residents along Cloverleaf Drive, the City said the casino could generate noise and commotion – the whole on a 24-hour basis. However, there are distances to consider: the intersection of Cloverleaf Drive and

Millennium Drive is separated from the applicants' property by the transmission tower property, which appears to cover a substantial area. Furthermore, the Board was not shown how any such noise and commotion would be marginally more significant than in the case of activities for which the property was already zoned, e.g. a conference centre or place of amusement. Finally, even if noise barriers or similar measures were found necessary, those matters could all be addressed through Site Plan Control. The Board was not shown how the prospect of disturbance was a significant concern.

[56] That leaves the City's final proposition, arguably the most significant. Mr. Clark opined that any of the three Bell Boulevard sites would allow more opportunity for complementary uses and future expansion than the applicants' site: Bell Boulevard held out the potential – and space – for synergy, which the applicants' site did not.

[57] That is an eloquent argument. The City has an understandable interest in seeking to generate maximum benefit from this OLG initiative, in terms of investment, multi-purpose facilities, and jobs – what one Councillor aptly called "the best bang for the buck." The City hopes, reasonably, that the outcome will be more than a simple barn structure, with some slots and no ancillary amenities. The Board commends the City's determination.

[58] Practical application of that ambition, however, must contend with a dilemma familiar to real estate since time immemorial. As a general rule, outlying locations have almost invariably offered more space than more central locations – but the risk has always been that they might remain isolated. Inversely, the risk for more central locations has always been that they might eventually become crowded. The weighing of the relative risk is a perennially challenging judgment call.

[59] Counsel for the applicants argued that this should not be exclusively the City's decision to make. The Service Provider should also have some say, in being able to select the best location for the project. For that matter, skilful use of the Site Plan process may also have the potential of deploying the project in a way that allows future growth.

[60] Furthermore, if synergy is the objective, the applicants' proximity to Belleville's hotel strip holds out some promise for synergy and "node" dynamics, whereas – at least for the short term – the uninhabited Bell Boulevard area does not.

[61] The Board, for its part, must ultimately take its guidance from the OP. Notwithstanding the comments earlier about the changing face of casinos; they remain high-profile activities, with at least some tourism dimension.

[62] As such, casinos are more consistent with the OP's entrance/tourism description of North Front Street, than with the Commercial/Industrial designation of the Bell Boulevard lands.

[63] In the absence of the fatal flaws ascribed to the applicants' property that property is therefore no less appropriate for rezoning, to allow it to compete for selection.

ORDER

[64] The Board concludes that the City's concerns, while understandable, are manageable. Indeed, the applicants' proposed rezoning is at least as consistent with the City's Official Plan as the casino rezonings that have already occurred.

[65] The Board orders that the appeal is allowed. The applicants had produced a draft rezoning by-law for approval (Exhibit 2, Tab 10); however, counsel for the applicants asked the Board to withhold its order. He advised that some minor redrafting may be necessary, and that if the appeal were allowed, he would consult with counsel for the City, and produce agreed appropriate wording, to forward to the Board for issuance in the Board's final order. The Board has no objection to doing so, and withholds its order until further notice. If there are difficulties, the Board may be spoken to.

"M.C. Denhez"

M.C. DENHEZ
MEMBER