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**TO:** GENERAL COMMITTEE

**SUBJECT:** APPLICATION FOR OFFICIAL PLAN AND ZONING BY-LAW  
AMENDMENT – CITY OF BARRIE – 155 DUNLOP STREET EAST  
(PORTION OF BAYVIEW PARK)

**PREPARED BY AND KEY CONTACT:** R. WINDLE, MANAGER OF DEVELOPMENT CONTROL  
EXT. 4324

**SUBMITTED BY:** S. NAYLOR, MES, M.C.I.P., R.P.P., DIRECTOR OF PLANNING 

**GENERAL MANAGER APPROVAL:** R. FORWARD, MBA, M.Sc., P. ENG.  
GENERAL MANAGER OF INFRASTRUCTURE & GROWTH  
MANAGEMENT 

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** C. LADD, CHIEF ADMINISTRATIVE OFFICER 

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### RECOMMENDED MOTION

1. That the application to amend the Official Plan submitted by the City of Barrie Planning Services Department to redesignate lands known municipally as 155 Dunlop Street East from City Centre to Open Space be approved.
2. That Part A and B of the Official Plan Amendment, as set out in Appendix "A" attached to Staff Report PLN016-13, be approved.
3. That the application to amend the Zoning By-law 2009-141 submitted by the City of Barrie Planning Services Department for lands known municipally as 155 Dunlop Street East from Central Area Commercial – 1 (CC-1) to Open Space (OS) be approved.
4. That in accordance with Section 17(22) and 34(17) of the Planning Act, no further public notification is required.

### PURPOSE & BACKGROUND

#### Report Overview

5. The purpose of this staff report is to recommend approval of a City initiated application to amend the City of Barrie Official Plan and Zoning By-law for property known municipally as 155 Dunlop Street East as per City Council Motion 13-G-031. The subject lands form a portion of Bayview Park. Staff is recommending approval of the Official Plan amendment and zoning amendment as the proposed Official Plan designation and zoning would be consistent with the balance of Bayview Park. A map illustrating existing zoning is attached as Appendix "B".

Location

6. The property is located on the south side of Dunlop Street East and forms the western portion of Bayview Park. The property is situated in the City Centre Planning Area and is 0.09ha (0.21 acres) in size.

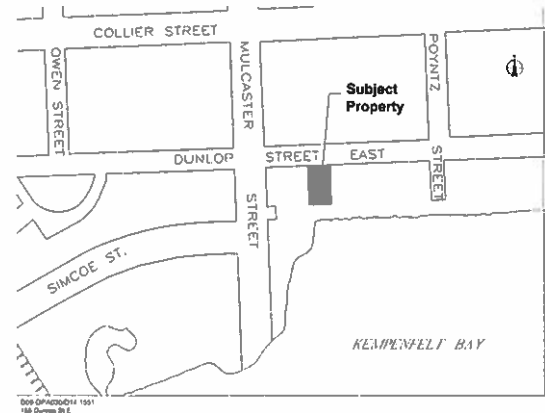
7. The existing land uses surrounding the subject properties are as follows:

North: Mixed commercial/residential high-rise complex zoned C1-1

South: City of Barrie Walking Trail designated and zoned OS and Kempenfelt Bay

East: Bayview Park designated and zoned OS

West: Commercial/retail multi-tenant building zoned C1-1



Existing Policy

8. The lands at 155 Dunlop Street East are designated City Centre in the Official Plan and zoned Central Area Commercial C1-1 in Zoning By-law 2009-141. The Official Plan designation and C1-1 zoning encourages and permits a variety of uses including commercial, residential, institutional and public open space.

Background

9. In September of 2012, General Committee, through Staff Report IDC003-12, considered a confidential unsolicited offer to purchase the subject lands from the adjacent landowner (John Trecapelli). Mr. Trecapelli wished to purchase the subject lands for the purpose of consolidating the parcel with his land holdings to accommodate a proposed mixed commercial/residential condominium development. A memo providing the history of the unintended Official Plan designation and zoning of the parcel (see September 24, 2012 memo attached as Appendix "C") was presented to Council at the same time as the staff report on this matter. Subsequent to the tabling of this memorandum and staff report, a second memo dated October 22, 2012 (attached as Appendix "D") was provided to Council at their request outlining options that would accommodate the proposed development with the City retaining ownership of the surface area of the park and the above air space.

10. Based on the staff report and memos, Council passed Motion 13-G-031 which reads as follows:

a) That Staff Report IDC003-12 concerning the declaration of City owned lands as surplus – 155 Dunlop Street (westerly portion of Bayview Park) be received and no further action be taken by staff with respect to the declaration of the lands as surplus, at this time.

b) That a public meeting be scheduled to consider an amendment to the Official Plan and Zoning By-law 2009-141 for the City owned lands located at 155 Dunlop Street East, forming the westerly portion of Bayview Park described as Part of Lots 19-20, Plan 2, located on the south side of Dunlop Street East, east of Mulcaster Street, having a frontage of 22.86 metres (75 feet) with a depth of 37.35 metres (122.55 feet) and a total area of 0.09 hectares (0.21 acres), to rezone the lands from Central Area Commercial C1-1 to Open Space and to redesignate the lands as Open Space.

Public Meeting

11. The public meeting was held on May 6, 2013. A number of members of the public indicated that they were in support of the proposed Official Plan and Zoning By-law Amendments.
12. Magnus Clarke, Agent for John Trecapelli, indicated that his client does not support the proposed Official Plan and Zoning By-law Amendment. Mr. Clarke made a presentation illustrating the most recent development concept for Mr. Trecapelli's lands, which includes the use of the subject lands for an urban park with parking underneath. One member of the public supported the concept plan and a number of members of the public were not in favour. Notwithstanding, the development of Mr. Trecapelli's lands is not the subject of this application.

**ANALYSIS**

13. Given Motion 13-G-031, City Council does not support the sale of the subject lands for private development. Based on this decision and considering the unintended Official Plan designation and zoning, staff support the re-designation and re-zoning of the subject lands. This action would result in an Official Plan designation and zoning on the property that is consistent with the use of the property and the designation and zoning of the balance of Bayview Park. The Open Space designation and zoning is consistent with Official Plan policy that encourages a wide range of uses within the City Centre including public open space.

**ENVIRONMENTAL MATTERS**

14. There are no environmental matters related to the proposed recommendation.

**ALTERNATIVES**

15. There is one alternative available for consideration by General Committee:

**Alternative #1**

General Committee could deny the recommendation to amend the Official Plan and Zoning By-law.

Staff are not recommending this action as the recommendation is in keeping with Council's approved motion and the Official Plan designation and zoning would be consistent with use of the parcel and the Official Plan designation and zoning on the balance of Bayview Park.

**FINANCIAL**

16. There are no direct financial implications for the Corporation resulting from the proposed recommendations.

**LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN**

17. The recommendation included in this Staff Report is not directly related to the goals identified in the 2010-2014 City Council Strategic Plan.

Attachments: Appendix "A" – Part A and B of the Official Plan Amendment  
Appendix "B" – Map Illustrating Proposed Amendment to the Zoning By-law  
Appendix "C" – Memo Dated September 24, 2012  
Appendix "D" – Memo Dated October 22, 2012

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APPENDIX "A"

**Part A and B of the Official Plan Amendment**

**PART A - THE PREAMBLE**

**Purpose**

The purpose of this amendment is to re-designate property municipally known as 155 Dunlop Street East from City Centre to Open Space to recognize the current use of the property for a park (western portion of Bayview Park).

**Location**

The property subject to this amendment is located on the south side of Dunlop Street East within the City Centre Planning Area. The property is municipally known as 155 Dunlop Street East and has an area of 0.09 hectares (0.21ac). The property is currently used as open space as it forms the western portion of Bayview Park.

**Basis**

The subject property is currently used as public open space which is permitted within the City Centre designation. However, the current designation was placed on the property in error. In the year 2000, the subject parcel was zoned Open Space (OS). In 2002, the City transferred the zoning maps into digital form and at that time the zoning was erroneously changed to Central Area Commercial -1 (CC-1). Subsequent Official Plan updates designated the subject property City Centre to match the zoning. The proposed amendment would serve to re-designate the subject property to Open Space (OS) in conjunction with the re-zoning of the property back to the originally intended zone. The OS designation is consistent with the original zone and reflects the current use of the subject property. In addition, the re-designation reflects Council Motion 13-G-031 where Council requested consideration of the re-designation and did not support the declaration of the property as surplus so it could be used as part of the development concept prepared by the adjacent land owner.

The application for Official Plan Amendment proposes to re-designate the subject property to OS in response to the above.

There are a number of policies that support a designation of the subject property as OS to ensure the property can only be developed for Open Space uses. Policy 4.6.2.4 promotes the preservation of a linked open space system. Policy 4.6.2.5 promotes the development of waterfront lands along Kempenfelt Bay as a continuous major public open space system and does not support the sale or leasing of City owned land within the system.

**PART B - THE AMENDMENT**

**Details of the Amendment**

The Official Plan is amended by altering as follows:

Schedule A – Land Use Plan is hereby amended by re-designating certain lands shown on Schedule A of the Amendment from City Centre to Open Space.

**Implementation**

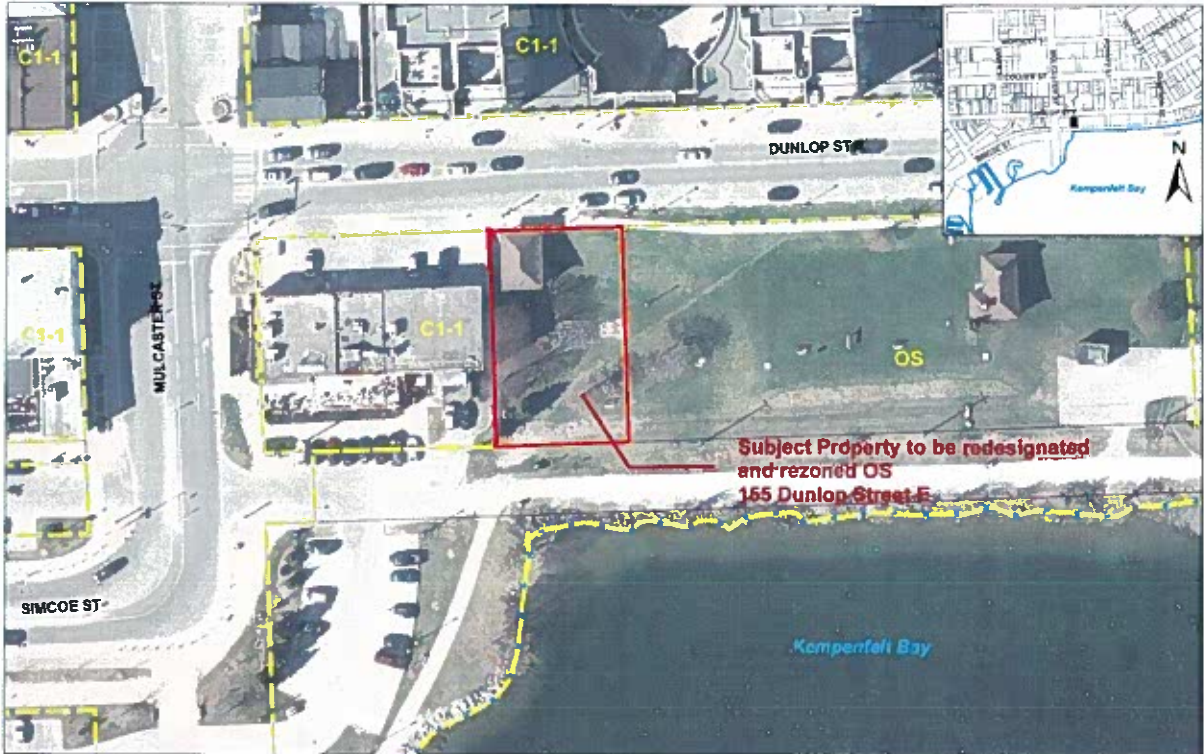
Subsequent to the adoption of the amendment, City Council will consider passing and implementing a zoning by-law which will rezone the subject lands from Central Area Commercial – 1 (CC-1) to Open Space (OS).

**Interpretation**

The provisions of the Official Plan, as amended from time to time, shall apply in regard to this Amendment.

APPENDIX "B"

**Proposed Amendment to the Zoning By-law Map**



APPENDIX "C"

Memo Dated September 24, 2012

The City of  
**BARRIE**

Planning Services Department  
**MEMORANDUM**

TO: MAYOR J. LEHMAN AND MEMBERS OF COUNCIL FILE: D18-DUN

FROM: S. NAYLOR, M.E.S., M.C.I.P., R.P.P., DIRECTOR OF PLANNING SERVICES *Steph Naylor*

NOTED: R. W. McARTHUR, P. ENG. *RWM*  
GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE

C. LADD, CHIEF ADMINISTRATIVE OFFICER *for Mr. Ladd and*

RE: 155 DUNLOP STREET EAST (PORTION OF BAYVIEW PARK) – ADDITIONAL  
INFORMATION TO STAFF REPORT IDC003-12 REGARDING ZONING

DATE: SEPTEMBER 24, 2012

This memo provides additional information to staff report IDC003-12 regarding the surplus and sale of 155 Dunlop Street East, the westerly portion of Bayview Park, specifically concerning the zoning of the parcel.

The subject parcel is currently zoned Central Area Commercial C1-1 by comprehensive Zoning Bylaw 2009-141. In the year 2000, the subject parcel was zoned Open Space OS. At that time, the City's Zoning Bylaw schedule/mapping was on mylar copy, which was hand drawn with pen and ink. In and around 2002, the City transferred the mapping into digital form. In 2002, the subject lands were identified on the digital mapping as zoned C1-1. Council did not pass a resolution specific to the acceptance of the digitized zoning schedule, however, staff did provide information to Council that the mapping had changed from mylar to digital copy. There was no site specific Council resolution accepting the change in zoning for the subject lands. By virtue of the update to the comprehensive Zoning Bylaw process, which resulted in the passage of Bylaw 2009-141, the subject lands were, and still are, zoned C1-1.

The Downtown Commercial Master Plan, completed in 2006, did recognize the zoning of the subject lands as C1-1, consistent with the adjoining lands, 149-153 Dunlop Street East (the Hooters building). The Plan recognized the south east corner of Mulcaster and Dunlop Streets as a strategic location for the redevelopment of the combined parcels for an iconic building.

APPENDIX "D"

Memo Dated October 22, 2012

The City of  
**BARRIE**

Planning Services Department &  
Legal Services Department  
**MEMORANDUM**

**TO:** MAYOR J. LEHMAN AND MEMBERS OF COUNCIL FILE: D18-DUN

**FROM:** S. NAYLOR, M.E.S., M.C.I.P., R.P.P., DIRECTOR OF PLANNING SERVICES *Steph Naylor*  
AND  
I. PETERS, DIRECTOR OF LEGAL SERVICES *I. Peters*

**NOTED:** R. W. McARTHUR, P. ENG. *Rum*  
GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE

E. ARCHER  
GENERAL MANAGER OF CORPORATE SERVICES *on behalf of E. Archer*

C. LADD, CHIEF ADMINISTRATIVE OFFICER *C. Ladd*

**RE:** 155 DUNLOP STREET EAST (PORTION OF BAYVIEW PARK)  
ADDITIONAL INFORMATION

**DATE:** OCTOBER 22, 2012

This memo provides information in follow up to discussion and questions raised at the October 1, 2012 Council meeting regarding 155 Dunlop Street East. The memo is structured into 2 sections; the first provides information related to the potential for ownership options on the 155 Dunlop Street East parcel (the Lands). The second provides further planning related information with regard to Official Plan policy and zoning procedures. In addition, staff provided information on how the Lands are regulated by the Conservation Authority and what approvals are required for their redevelopment.

**1. Options to Convey Underground Parking while Retaining Public Open Space**

It is theoretically possible to register a strata plan (a three dimensional reference plan) and convey ownership of underground levels to a third party while retaining ownership of the surface and airspace. Staff investigated this option and, given the slope of the lands and the requirements of the underground parking structure, such an arrangement is not feasible in this instance.

There are, however, two options which would be both legally and practically effective in permitting the developer to build underground parking on the site while retaining open space for use by the public. A cross section of how the open space and parking structure could co-exist is attached as Appendix "A".

Appendix "A" includes both the park and the structured parking. The cross section depicts the existing grade situation where the site slopes downward from Dunlop Street to the North Shore Trail. If a park were developed on top of a parking structure, the slope of the lands would no longer be pronounced as in the existing situation.

**i. Transfer and Easement**

The City could sell and transfer a fee simple interest in the Lands to the developer at the fair market value of \$600,000 and then have the developer transfer an easement over the surface and airspace of the underground parking structure back to the City. The easement would grant a public right of use for open space in perpetuity.

Under this option, the developer initially, and then the condominium corporation, would be responsible for the creation and maintenance of the public open space. There would be no cost to the City other than ensuring that the City's insurance included the easement lands. The developer would merge in title the Lands with the lands it already owns at 149-153 Dunlop Street East. The agreement of purchase and



sale would be conditional on the developer receiving acceptable planning approvals with respect to the entire development.

ii. Ground Lease

The City could enter into a 99 year ground lease with the developer with respect to the underground volume of space required for the parking garage. The City would retain ownership of the Lands and have a right of reversion after the 99 year term of the lease. Again, the City would have a right of use for open space for the term of the lease.

Under this model, the developer would prepay the fair market value of \$600,000 as its lease payment, and would be responsible for the creation and maintenance of the public open space. Since the City would retain ownership of the Lands, the developer would require the City's consent to make planning applications with respect to the Lands provided such applications would not affect the surface open space. The obligation to enter into the lease would also be conditional on the developer receiving acceptable planning approvals with respect to the entire development.

2. Planning Related Information

There was discussion at the Council meeting concerning Official Plan policies and zoning of the subject Lands. The following provides further information and clarification.

i. Official Plan Policy Interpretation

The Official Plan is a long range planning document intended to be a public statement by the Council of the City of Barrie setting out land use and development goals, objectives and policies for the guidance of public and private development decisions within the City.

The Official Plan, since at least 1985 and up until 2006, designated the 149-153 Dunlop Street East (Hooters) property, all of Bayview Park, including the westerly 23m (75'), and all lands easterly to Berczy Street, as City Centre. In 2006, the City undertook an Official Plan update which redesignated the majority of Bayview Park as Open Space, but maintained the westerly 75' of Bayview Park as City Centre.

Section 4.6 of the Official Plan sets out land use policies specific to lands designated Open Space. Section 4.6.2.5, The Waterfront, is a subsection of Section 4.6, Open Space. Parts (a) and (b) state:

- (a) "Where lands are designated Open Space along the waterfront within the Lakeshore, South Shore, Bayshore, Innis-Shore and Little Lake Planning Areas, permitted uses may incorporate public and private recreational uses and ancillary uses, which include but are not restricted to public and private boat docking, public picnicking, trails and bikeways and ancillary commercial uses provided such uses clearly serve the major recreational function.
- (b) The City shall promote the development of the waterfront lands along Kempenfelt Bay and Little Lake as a continuous major public open space system. No City owned land will be disposed of or leased in these areas and Council will endeavour to acquire privately owned lands."

In Planning staff's opinion, subsection 4.6.2.5 (b) does not restrict the sale of the subject parcel as it is not designated Open Space in accordance with 4.6.2.5 (a). The Official Plan is structured such that policies applying to all lands across the City are located in Section 3.0 General Policies and policies applying to specific land use designation are located in Section 4.0 Land Use Policies.

It is Planning staff's opinion that the Official Plan policies contained in 4.6.2.5 (b) only apply to those lands designated Open Space. The 75' portion of Bayview Park is not designated Open Space but rather is designated City Centre and was recognized as such through the 2006 Official Plan update.

ii. Zoning of the Subject Parcel (the Lands) being the westerly 75 feet of Bayview Park

The Zoning By-law is a regulatory document which prescribes permitted land uses in various zone categories and sets out performance standards and requirements to be adhered to when developing a parcel of land. The Zoning By-law regulates standards and uses at the site specific level.

The subject lands are zoned Central Area Commercial C1-1 by Comprehensive Zoning By-law 2009-141. The notification process for comprehensive updates to municipal zoning by-laws typically consists of general notices posted in local newspapers given the scale of the process. This is common practice across Ontario municipalities and in accordance with the statutory provisions of the Planning Act. Several public meetings and open houses were held for this update.

iii. Rezoning of the Lands from Central Area Commercial C1-1 to Open Space OS

If the subject parcel were proposed to be rezoned from C1-1 to OS, a public process would be required in accordance with the Planning Act. A decision of Council on any Planning Act application is subject to appeal.

If the Lands were rezoned to Open Space, the structured parking would not be permitted as of right, as parking within an Open Space zone must be accessory to the main use as a park. The Rezoning of the Lands to Open Space would require the addition of a site specific Special Provision (SP) to allow for a structured parking lot.

Conservation Authority Regulations

The subject 75' portion of Bayview Park and the adjacent property (Hooters building) are regulated by the Lake Simcoe Region Conservation Authority. Staff met with Conservation Authority staff who advised that a permit would be required for redevelopment on the combined lands. Conservation Authority staff have confirmed that the high water mark from the wave uprush does not extend onto or adversely affect the subject lands. A Coastal Engineering study would be required at the site plan stage to demonstrate that the lands would not be subject to long term erosion.

Further Information

There has been a considerable amount of public comment at the October 1, 2012 Council meeting and by way of written correspondence, some of which was only received late last week. If the Council decision is to refer the matter back to staff for a report back to General Committee, staff will take the opportunity to address the comments from the public when reporting back.

Appendix "A" - Cross Section of the Lands – Park and Parking Structure

APPENDIX "A"

Cross Section of the Lands – Park and Parking Structure

