
TO: MAYOR J.R. LEHMAN AND MEMBERS OF COUNCIL

FROM: I. PETERS, DIRECTOR OF LEGAL SERVICES *DP*
S. NAYLOR, DIRECTOR OF PLANNING SERVICES *Steph Naylor*

NOTED: R. FORWARD, MBA, M.Sc., P. ENG. GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT *R Forward*
C. LADD, CHIEF ADMINISTRATIVE OFFICER *CL*

RE: REPEAL OF ZONING BY-LAW 2013-132

DATE: MARCH 21, 2016

The repeal of Zoning By-law 2013-132 is scheduled for Council's consideration on March 21, 2016.

Sam Cancilla Park, formerly known as Bayview Park, is located on the westerly portion of 155 Dunlop Street East. This property was initially zoned Open Space, but in 2002, changes to the format of the City's zoning map resulted in the zoning of the property being changed to Central Area Commercial. In 2011, the City received an unsolicited offer to purchase the property for development purposes. Members of the public objected to the potential sale.

As a result, in 2013, the City passed Zoning By-Law 2013-132, which re-zoned this property from Central Area Commercial to Open Space. The proposed Open Space zoning included "Bandstand" as a permitted use of the property. A City resident appealed the re-zoning to the Ontario Municipal Board, seeking to have "Bandstand" removed from the property's list of permitted uses.

A zoning by-law that has been appealed to the Ontario Municipal Board does not come into effect until the appeal has been disposed. The City has the authority to repeal a zoning by-law that is under appeal. The repeal of such a by-law is not subject to appeal.

Repealing the by-law under appeal is the most prudent course of action. Firstly, the proposed re-zoning is not necessary to ensure that the property is retained for public purposes. The property remains owned by the City, will not be declared surplus and will not be offered for sale. Secondly, repealing the by-law ends the Ontario Municipal Board appeal. Thirdly, the question of whether the "Bandstand" use should be permitted in Open Space zoning is an issue better addressed through the City's comprehensive zoning review, rather than through an Ontario Municipal Board hearing. This review is anticipated to occur following the update of the City's Official Plan.