



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 20, 2015
SUBJECT/REPORT NO:	Interim Control By-laws – Certain Lands along Main Street West, King Street West/East, Queenston Road, James Street North Light Rapid Transit (LRT) Corridor (PED15157) (Wards 1, 2, 3 and 4)
WARD(S) AFFECTED:	Wards 1, 2, 3 and 4
PREPARED BY:	Joanne Hickey-Evans (905) 546-2424 Ext. 1282 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- a) That Council directs that a planning review and study be undertaken to evaluate the Official Plan designations / policies and the Zoning By-law regulations, for the lands generally fronting on Main Street West between Thorndale Street and the 403 Interchange, King Street West between the 403 Interchange and the west side of Queen Street North, King Street East between Wellington Street North to west of Parkdale Avenue, and James Street North between Cannon Street and Strachan Street, to ensure the City’s planning documents:
 - i) support the residential and commercial intensification that is beneficial to transit investment, ridership, strengthening communities and long term prosperity of the City;
 - ii) do not impede the operation of the Light Rapid Transit (LRT) system;
 - iii) contribute to city building through the establishment of appropriate built form and urban design requirements;

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- b) That approval be given to City Initiative 15-F to establish an Interim Control By-law pursuant to the provisions of subsection 38(1) of the *Planning Act*, for certain lands subject to Zoning By-law No.6593, generally fronting on Main Street West between Thorndale Street and the 403 Interchange, King Street West between the 403 Interchange and the west side of Queen Street North, King Street East between Wellington Street North to west of Parkdale Avenue, and James Street North between Cannon Street and Strachan Street, on the following basis:
 - i) That the Draft By-law, attached as Appendix “A” to Report PED15157, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
 - ii) That the proposed Interim Control By-law conforms to the Urban Hamilton Official Plan (UHOP);
- c) That approval be given to City Initiative 15-F to establish an Interim Control By-law pursuant to the provisions of Section 38(1) of the *Planning Act*, for certain lands subject to Zoning By-law No.05-200, generally fronting on Main Street West between Cootes Drive / Leland Avenue and the 403 Interchange, King Street West between the 403 Interchange and the west side of Queen Street North, King Street East between Wellington Street North to west of Parkdale Avenue, and James Street North between Cannon Street and Strachan Street, on the following basis:
 - i) That the Draft By-law, attached as Appendix “B” to Report PED15157, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
 - ii) That the proposed Interim Control By-law conforms to the Urban Hamilton Official Plan (UHOP);
- d) That \$300,000 be transferred from the Aggregate Resources Strategy Capital Account 8140755700 to Zoning By-law Capital Account 8101355100 to finance this work.

EXECUTIVE SUMMARY

In May 2015, the Provincial government announced on major funding to design and build a light rail transit corridor along King Street between McMaster University and the Queenston traffic circle with a connection to the James Street North GO station.

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It is critical the City's planning documents:

- (i) support the residential and commercial intensification that is beneficial to transit investment, ridership, strengthening communities and long term prosperity of the City;
- (ii) do not impede the operation of the Light Rapid Transit (LRT) system; and,
- (iii) contribute to city building through the establishment of appropriate built form and urban design requirements.

As a result, additional planning work is required to evaluate areas on the corridor. An Interim Control By-law (ICBL) is proposed for the lands generally fronting on Main Street West between Thorndale Street and the 403 Interchange (643 to 1477 Main Street West); King Street West between the 403 Interchange and the west side of Queen Street North (354 to 676 King Street West); King Street East between Wellington Street North to west of Parkdale Avenue (372 to 1309 King Street East, 1101 to 1667 Main Street East and 10 to 185 Queenston Road); and, James Street North between Cannon Street to Strachan Street (165 to 351 James Street North). There are some smaller properties that have been captured that may have addresses on side streets and a few others that have been left out for specific planning reasons.

The effect of the Interim Control By-law is to temporarily freeze the lands for one year, with a potential to extend it for an additional year, until such time as the planning studies are completed. The Committee of Adjustment may authorize the approval of a variance application made on lands that are affected by the Interim Control By-law so long as the application meets the test as described in that section of the *Planning Act*. Additionally, once the Interim Control By-law is in effect (i.e. once it is passed and there are no appeals), amendments to the Interim Control By-law can occur through the Committee of Adjustment

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Additional funding will be required if this project has accelerated timelines which will include additional staff.

Additional funding can be allocated to the Zoning By-law Capital Project 8101355100 by transferring \$300,000 from the Aggregate Resources Strategy (8140755700) which has a balance of \$656,462. The funding was originally allocated for the preparation of aggregate resources mapping which was to be undertaken by the City. The Province has completed updated mapping for this area; as a result, this portion of the Capital fund is not required. The remainder of the funding has been

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allocated for other aggregate projects (e.g. Elfrida, Rural Official Plan (OP)).

Staffing: Additional staffing will be required.

Legal: Subsection 38(1) of the *Planning Act* states that where the council of a local municipality has directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area, the council of the municipality may pass an interim control by-law for a period of time not exceeding one year, prohibiting the use of land, buildings or structures within the municipality for such uses set out in the zoning by-law.

Subsection 38(2) allows council to extend the period of time of the interim control by-law so that the total time does not exceed two years from the date of the passing of the by-law.

It is noted that subsection 38(3) of the *Planning Act* states that no notice or hearing (public meeting) is required for an interim control by-law. However, the clerk is required to give notice of the decision within 30 days of passage of the by-law to the prescribed persons and public bodies. There is a 60-day appeal period associated with the passage of an interim control by-law.

Finally, it is noted that subsection 45 (1) of the *Planning Act* states that the Committee of Adjustment may authorize the approval of a variance application made on lands that are affected by a by-law passed under section 38 (Interim Control) so long as the application meets the test as described in that section of the *Planning Act*.

HISTORICAL BACKGROUND

One of the City's long term goals is to have a light rapid transit system along the Main / King / Queenston corridor, referred to as the B Line. A number of reports / studies have been undertaken to address such matters as the design, financing, planning etc. Two reports related to planning are noted below.

1.0 Main, King, Queenston (B-Line) Corridor Strategy Study, Phase 1 – Corridor Options (March 2012)

In 2012, the City prepared Main, King, Queenston (B-Line) Corridor Strategy Study, Phase 1 – Corridor Options (March 2012). City Council directed staff to use Option 2 Focused Reurbanization, as outlined within the Main King Queenston (B-Line) Corridor Strategy Study, Phase 1 – Corridor Options for further work along

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the corridor. No additional planning work has been undertaken since this time and the UHOP designations and zoning have not been updated to reflect Council's chosen land use option.

2.0 General Issues Committee Staff Report – Fostering the Light Rail Transit (LRT) Project August 2015

In July, 2015, the Provincial government announced major funding to design and build a light rail transit corridor along King Street between McMaster University and the Queenston traffic circle with a connection to the James Street North GO station.

In August, 2015, staff prepared a report outlining a series of tasks and steps for the implementation of the LRT. Included in this report was an explanation of some of the zoning issues that exist along the corridor as well as an overview of the comprehensive Zoning By-law work of the Commercial Mixed Use Zones.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Policy

The Growth Plan for the Greater Golden Horseshoe and the Provincial Policy Statement have policies to increase residential and employment densities along both intensification corridors and in major transit areas through a mixture of land uses.

2.0 Urban Hamilton Official Plan (UHOP)

The UHOP was adopted by City Council in July 2009 and came into effect through an Ontario Municipal Board (OMB) decision in August 2013.

The lands along the LRT corridor are identified as a primary corridor with a focus of higher order transit and intensification opportunities. Along the length of the corridor area, there are several designations including Mixed Use Medium Density, Neighbourhoods, Open Space and Institutional. There are two Secondary Plans – Strathcona and Ainslie Wood Westdale – that further articulate the land uses, densities, and design requirements. In addition, there are a number of policies that support the land use designations including urban design, transportation and cultural heritage among others.

A review of the applicable UHOP policies and designations, as well as the supporting policies, is necessary to encourage appropriate commercial and residential intensification, to ensure uses do not impede the operation of the LRT system and the design and built form of future buildings are supportive of an LRT system.

Policy F.1.1.10 permits the City:

1.10 Interim Control By-laws

Interim control by-laws are intended to be used, prior to the approval of any *Planning Act* applications, in areas where the City wishes to undertake a comprehensive study in an area that is experiencing development and / or redevelopment pressures. Matters related to land use, transportation, infrastructure, environment and other aspects of development may be addressed during the study period. Once the studies are complete, this Plan and the Zoning By-law shall be amended to reflect the recommendations determined by the study.

- 1.10.1 Council may enact an Interim Control By-law to allow the City to limit the use of land and buildings where Council has directed study(ies) be undertaken for land use planning purposes in a defined area of the City.

The Interim Control By-law (ICBL) conforms to the UHOP.

3.0 Zoning By-law No. 05-200

The Zoning By-law must conform to the Official Plan. As a result, the City has been developing a new Zoning By-law (Zoning By-law 05-200).

Along the corridor the only zones within Zoning By-law No. 05-200 are the Downtown Zones (D1 and D2), the Institutional Zones (I1, I2 and I3) and the Parks and Open Space Zones (P2 and P3).

3.1 Commercial and Mixed Use Zones

Currently staff is updating these zones to reflect the UHOP. Many of these zones will implement the Official Plan designations along the corridor; in particular the Mixed Use Medium Density and the local commercial areas within the Neighbourhoods Designation. However, any changes to the designations / policies will require a review of the zoning.

3.2 Downtown Zones (Expansion)

The existing Downtown Secondary Plan boundary will be expanded to incorporate the lands that are part of the Urban Growth Centre. Along the LRT corridor, these lands extend along Main / King between Wellington Street and Victoria Avenue and from Cannon Street to the new GO station. As part of the review of this Secondary Plan, staff will be reviewing the land use designations and policies in this area.

These areas would then be zoned using the appropriate Downtown Zone. The existing Downtown Zones, for the most part, are appropriate and are compatible with the Official Plan and the long term vision of the LRT corridor.

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3.3 Institutional Zones

There are 11 sites along the corridor zoned for institutional uses. The existing uses include long term care facilities, places of worship and high and elementary schools.

3.4 Park Zones

There are seven park zones along the corridor which are City Parks or recreation centres.

4.0 Zoning By-law No. 6593

A majority of the Zoning Districts along the corridor are still governed by Zoning By-law No. 6593. They include:

Commercial

- “G” (Neighbourhood Shopping Centre, etc.) District;
- “G-3” (Public Parking Lots) District;
- “H” (Community Shopping and Commercial, etc.) District;
- “HH” (Restricted Community Shopping and Commercial District; and,
- “CR-2” (Commercial - Residential Districts) District.

Industrial

- “K” (Heavy Industry, etc.) District.

Residential

- “C” (Urban Protected Residential, etc.) District;
- “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District;
- “DE” (Low Density Multiple Dwellings) District;
- “DE-2” (Multiple Dwellings) District;
- “DE-3” (Multiple Dwellings) District;
- “E” (Multiple Dwellings, Lodges, Clubs, etc.) District;
- “E-1” (Multiple Dwellings, Lodges, Clubs, etc.) District; and,
- “E-3” (High Density Multiple Dwellings) District.

Many of the Districts have site-specific exceptions. Most of these zones do not conform to the Official Plan, particularly the “H” District.

RELEVANT CONSULTATION

- Legal Services, Corporate Services Department;
- City Manager’s Office; and,
- Finance Division, Corporate Services Department.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1.0 Planning Study (UHOP and Zoning)

As noted, in the Background and Policy Implications and Legislated Requirements Sections of this Report, there are a number of factors that need to be considered when determining the need for additional land use studies. These factors include:

- the land use planning designations along the corridor have been developed over the last decade. The Ainslie Wood Westdale Plan was adopted in 2005 and the Strathcona Secondary Plan 2014;
- there are a number of City initiatives that are currently underway, at varying stages of completion; and,
- the Province has committed major funding for the LRT system.

Based on the above, from City building, and planning and economic development perspectives and goals, it is critical the land use designations, associate policies and zoning align to meet these goals. An Interim Control By-law is an appropriate planning tool to allow City staff time to undertake the necessary planning.

The study area includes lands generally fronting on Main Street West between Thorndale Street and the 403 Interchange, King Street West between the 403 Interchange and the west side of Queen street North, King Street East between Wellington Street North to west of Parkdale Avenue, and James Street North between Cannon Street and Strachan Street. As a result of these studies, OP and Zoning By-law changes may be introduced for all or some of the properties. Other lands that are adjacent to the study area which are not subject to the Interim Control By-law, may be included in the UHOP and the Zoning By-law amendments.

2.0 Purpose of ICBL

The purpose of the ICBL is to place a temporary freeze on lands which are undergoing a study. The City is and will be undertaking different City initiatives to study and zone lands along the proposed LRT corridors to permit land uses and their associated regulations that support residential and commercial intensification that is beneficial to transit investment, ridership, strengthening communities and long term prosperity of the City; that do not impede the operation of the LRT system and contribute to city building through the establishment of built form and urban design requirements.

The main focus of the Interim Control By-law will to allow uses within existing buildings with small expansions only. Uses within the building may change depending on the zoning. See Section 2.2 below.

2.1 Where ICBL Would Apply

Given the diversity of land uses designations and existing zones along the corridor, staff identified those lands appropriate for exclusion from the ICBL. The area bounded by Queen Street (east side) and Wellington (west side) are not included because these lands have up to date zoning appropriate for long term development along the corridor. These lands excluded from the Interim Control By-law are:

1. Sites that are zoned for parks and open spaces. These lands are the City's major parks and will not be redeveloped;
2. Sites that are in City ownership are part of a partnership with other agencies or are large public institutional land holdings. These sites include City Motor Hotel, and the Scott Park precinct, Armoury and McMaster University.
3. Sites that have had recent planning decisions (Shopper's Drug Mart at Dundurn and King) or recent rezonings to permit a specific use (St. Leonard's Society on Emerald Street South).

2.2 Special Provisions for ICBL

2.2.1 Uses permitted in the applicable Zone / District

Each of the zones allows some form of lower density residential uses as part of the base District. The Interim Control By-law, will allow for uses, as permitted by the zoning District, within the existing buildings only, except for the minor expansions noted below. Allowing a range of uses as permitted in the Zoning By-law will give the landowners the flexibility to change uses within their existing buildings. Any redevelopment of a site would not be permitted, regardless if the use is permitted.

2.2.2 Minor Expansion of Buildings

However, it is recognized there may be some small changes to existing uses during the period of the ICBL, therefore the By-law includes a provision that would allow for minor expansions to an existing building up to 10% provided it meets the regulations of the zone / district.

If a land owner wants to make other changes to a use or to regulations during the period of an ICBL and those regulations or use is permitted by the zone, then an application to the Committee of Adjustment is required. In this way it will allow staff to evaluate the potential changes.

2.3 Other Matters

Existing Planning Act Applications

At the time of writing this report, there were six *Planning Act* applications (three Site Plans and three Condominium Conversions) that have been submitted to the Planning Division for the lands which are included in the Interim Control By-law. These applications are at various stages of review.

The condominium conversion applications are not affected by the Interim Control By-law since they are a change on ownership. However, the site plan control applications will be. The applicant will be required to get a minor variance to allow for the building expansions.

Existing Building Permit Applications

There are three applications: two applications for extensions / expansions that exceed the 10% limit and one application for a new building. The two applications for extensions require variance for other aspects of the By-law so a variance to permit the building expansions can be included within those applications.

ALTERNATIVES FOR CONSIDERATION

Option 1 – These lands are not placed under the ICBL. The existing planning regulations would continue to apply.

Option 2 – Change the lands identified in the ICBL to either add or delete lands.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Zoning By-law No. 6593 Amendment

Appendix "B" - Zoning By-law No. 05-200 Amendment

JH-E/th