



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 4, 2016
SUBJECT/REPORT NO:	City of Hamilton Comprehensive Zoning By-law: Proposed Transit Oriented Corridor Zones (PED16100(a)) (Wards 1 - 4)
WARD(S) AFFECTED:	Wards 1, 2, 3 and 4
PREPARED BY:	Shannon McKie Senior Planner (905) 546-2424 Ext. 1288 Diana Yakhni Planner (905) 546-2424 Ext. 7582 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to Official Plan Amendment (OPA) No. XX to the Urban Hamilton Official Plan (UHOP) to amend policies, schedules and maps, to implement up-to-date mapping and policies on the Transit Oriented Corridor located along Main Street from McMaster University to Hwy. 403, King Street from Hwy 403 to the Delta and along Main Street East to the Queenston Traffic Circle on the following basis:
- (i) That the Draft Official Plan Amendment, attached as Appendix "A" to Report PED16100(a), be adopted by Council; and,
- (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (PPS) 2014, conforms to Growth Plan for the Greater Golden Horseshoe, 2006 (P2G).

- (b) That approval be given to City Initiative CI-15-F to add three new zones to Zoning By-law 05-200, to add special exceptions, to add and amend definitions, and parking provisions and to amend general provisions, and other administrative sections of the By-law to implement the new zones, on the following basis:
- (i) That the Draft By-law, attached as Appendix “B” to Report PED16100(a) which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council; and,
 - (ii) That the proposed changes in zoning will be in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. .

EXECUTIVE SUMMARY

To implement the policies of the City’s Urban Hamilton Official Plan (UHOP) as well as prepare for the development of the Light Rail Transit (LRT) system, staff have prepared Draft Transit Oriented Corridor (TOC) Zones for the Urban Area (see Appendix “B” to Report PED16100(a)) to be incorporated into Zoning By-law 05-200. The Mixed Use (TOC1), Local Commercial (TOC2), and Multiple Residential (TOC3) Zones, have undergone extensive public consultation and achieve the goals of the Neighbourhoods and Commercial and Mixed Use Designations found in the UHOP as well as the goals established by the Interim Control By-law (ICBL) passed by Council in October 2015.

The Draft TOC Zones support residential and commercial intensification that is beneficial to transit investment, establish regulations that do not impede the operation of the LRT System, contribute to city building, and remove regulatory barriers for new investment and/or redevelopment opportunities in accordance with the City’s Open for Business mandate.

Alternatives for Consideration – See Page 21

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: The *Planning Act* requires that a statutory open house be held at least seven days prior to Council considering the comprehensive Zoning By-law for the LRT Corridor. The meetings held in May and June 2016 constitute the statutory open houses.

A new section has been added to this By-law to assist with the application of the by-law by staff should the By-law be subject to appeals. Currently, the

Planning Act provides for a possible retroactive application of an appealed by-law should any appeals be withdrawn or dismissed. Furthermore, it is possible that an appealed by-law could be amended or repealed, in which case those amended or repealed portions are in force as of the date of the decision of the Ontario Municipal Board. However, during the time an appeal is outstanding, any Building Permit applications made require the Building Department to review the applications against any zoning by-law “made” which includes the new and former zoning by-law. As a result, this causes dual-compliance issues as well as general confusion for both staff and the public about the interpretation of the by-laws while appeals are outstanding. The intention of Section 2.6 Interpretation of Force and Effect included in Appendix “B” to Report PED16100(a) is to clarify that until the new by-law is actually in force, not possibly theoretically in force due to retroactive effect, the new By-law is not “made” and does not apply to Building Permit applications.

HISTORICAL BACKGROUND

1.0 Zoning By-law 05-200

The City of Hamilton’s new Comprehensive Zoning By-law 05-200 came into effect on May 25, 2005, and is being implemented in phases. The Comprehensive Zoning By-law Project has introduced new zones in phases by geographic area or land use type.

- Downtown (2005);
- Parks and Open Space (2006);
- Institutional (2007);
- Industrial (2010); and,
- Rural (2015).

Subsequent to the adoption of Zoning By-law 05-200, housekeeping amendments have been brought forward to address administration and interpretation issues that arise through the use of the regulations in an effort to keep Zoning By-law 05-200 up-to-date.

The Draft TOC Zones represent the current phase and addresses zoning for properties along the LRT Corridor including Main and King Streets, which is currently subject to the ICBL approved by Council in October 2015. Public consultation on the Draft TOC Zones as well as the Draft Commercial and Mixed Use (CMU) Zones for Wards 1 – 4 took place in May and June of 2016. The Draft CMU Zones will be brought forward for a second round of public consultation for Wards 5-13 and 15 in the Fall of 2016 and a Recommendation Report will be brought forward in Winter 2017. The final phase which includes the Residential Zones and any remaining lands not already captured by Zoning By-law 05-200 will commence in 2017.

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2.0 Interim Control By-law

On October 28, 2015, City Council passed an ICBL (By-laws 15-245 and 15-246) applying to the majority of the lands fronting onto the LRT Corridor. The Corridor includes Main Street from McMaster University to the west, King Street to the Queenston Traffic Circle to the east, and James Street North from Cannon Street to Murray Street. The purpose of the ICBL is to restrict new development on the LRT corridor to allow staff the opportunity to conduct the necessary planning studies to ensure the City's planning documents support residential and commercial intensification, does not impede the operation of the LRT system and incorporates the appropriate built form and urban design regulations. The by-law will expire on October 28, 2016, Council may extend the ICBL for one year. Should the TOC Zones be appealed to the Ontario Municipal Board the ICBL will remain in effect until the appeals have been dealt with.

Staff have reviewed and analysed the lands included in the ICBL, the applicable policies and the existing Zoning By-law regulations and determined that:

- lands located along James Street North and King Street West between Wellington Street and Victoria Avenue, that were included in the ICBL and form part of the Urban Grown Centre identified on Schedule E – Urban Structure, are not included in the Draft TOC Zoning process. The Downtown Secondary Plan review process is occurring concurrently and these lands will form part of the amended Secondary Plan boundary area. Policies and implementing zoning, including revisions to the parking requirements, will be proposed for these areas through the Secondary Plan review process;
- lands that are currently zoned for and developed as high density residential will not be included in Draft TOC Zones as it is not anticipated that these lands will be redeveloped in the short-medium time horizon. These lands will be zoned through the future Residential Zoning process;
- proposed amendments to the UHOP designations for lands located at major intersections along the LRT Corridor will provide greater opportunities for residential and commercial intensification;
- stable residential areas along the corridor have been protected by allowing for the continuation of existing uses and built form as well as plan for the future development of stand-alone residential uses;
- residential permissions for lands zoned Neighbourhood Institutional (I1) Zone and Community Institutional (I2) Zone along the corridor will maintain the medium to high density nature of the corridor by removing the permission for low density uses;
- some lands that were not incorporated in the ICBL, but may contribute to the comprehensive development of the corridor have been included in the Draft TOC Zones;

- minimum building height requirements have been applied along the corridor to encourage higher density development while maintaining the height restrictions established in the UHOP;
- built form standards include restrictions that will create an active ground floor façade, allow for a mixture of uses and establish an animated street line; and,
- additional planning processes may be required as the implementation of the LRT system progresses to address density requirements that may be a result of amendments to the Growth Plan for the Greater Golden Horseshoe.

3.0 Public Consultation and Communication Process

Following the approval of the ICBL staff initiated a planning review of the LRT Corridor. Staff determined that the LRT Corridor would be addressed by creating a separate section in Zoning By-law 05-200 to accommodate Transit Oriented Zones. On May 3, 2016 the Draft TOC Zones were presented to Planning Committee as a part of Report PED16100, and staff was authorized to consult with the communities and stakeholders on the proposed zoning.

The public consultation strategy for the Draft TOC Zones included coordinating public meetings for Wards 1 - 4 with the Draft Commercial and Mixed Use (CMU) Zones in an effort to reduce duplicate information being presented to the public. Statutory Public Open Houses were held at the end of May and beginning of June 2016. An afternoon and an evening session held in each Ward. Staff was available to discuss the Draft Zones with the public and provided a 30 minute presentation which was followed by a question/answer period. These Open Houses were advertised in the Hamilton Spectator and the Hamilton Community News and a postcard was mailed to every property owner with property located within the Draft CMU and TOC Zones in Wards 1 - 4. A comment form was available at the Open Houses which could be provided to staff at the meeting or sent in at a later date.

In addition to the Open Houses, a dedicated website for the Draft TOC Zones was created and the Draft TOC Zones and zone mapping were made available for public review on the website. An online comment form was also available.

All comments and the effect of the comments on the outcome of the final Draft TOC Zones have been summarized and included as Appendix "C" and "C1" to Report PED16100(a).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Policy

1.1 Provincial Policy Statement, 2014

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest related to land use planning and development. These policy documents provide detailed direction regarding the goals related to land use, scale, compatibility, and design, which the UHOP has implemented. The Draft TOC Zones have been developed in accordance with the policy direction and goals of the following policies, amongst others,

- “1.1 Healthy, liveable and safe communities are sustained by:
 - 1.1.1 b) accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs.
- 1.6.7.5 Transportation and land use considerations shall be integrated at all stages of the planning process.
- 1.7.1 Long-term economic prosperity should be supported by:
 - 1.7.1 d) encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including *built heritage resources* and *cultural heritage landscapes*;
- 1.8.1 Planning authorities shall support energy conservation and efficiency, improved air quality, reduced greenhouse gas emissions, and climate change adaptation through land use and development patterns which:
 - 1.8.1 a) promote compact form and a structure of nodes and corridors;
 - 1.8.1 c) focus major employment, commercial and other travel-intensive land uses on sites which are well served by transit where this exists or is to be developed, or designing these to facilitate the establishment of transit in the future;”

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1.2 Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The Growth Plan directs municipalities to accommodate intensification in a manner that encourages complete communities, connected and transit supportive urban areas. The Draft TOC Zones achieve these goals through the implementation of flexible permitted uses, pedestrian oriented built form standards and higher density development opportunities.

The Draft TOC Zones have been applied in a manner that connects the City's nodes, and will encourage comprehensive development along the corridor. Development along the corridor in conjunction with the implementation of an LRT system will effectively connect the City's major nodes by way of its primary corridor. Specifically, the Draft TOC Zones conform to the following policies:

"2.2.2 Managing Growth

2.2.2.1 a) directing a significant portion of new growth to the *built-up* areas of the community through intensification

2.2.2.1 d) reducing dependence on the automobile through the development of mixed-use, transit-supportive, pedestrian-friendly urban environments

3.2.3 Moving People

3.2.3.2 a) Using transit infrastructure to shape growth, and planning for high residential and employment densities that ensure the efficiency and viability of existing and planned transit service levels;"

Given the forgoing the Draft TOC Zones consistent to the PPS and conform to the policies of the Growth Plan.

2.0 Urban Hamilton Official Plan (UHOP):

The Draft TOC Zones implement the policies of the UHOP.

2.1 Urban Structure (Volume 1)

The LRT corridor is identified as a primary corridor on Schedule "E" – Urban Structure. The following policies apply:

- urban corridors (includes both primary and secondary corridors) location of higher density uses (Policy E.2.4.2);

- The built form is low to mid rise; however, there are some areas that may be able to accommodate higher densities; (Policy E.2.4.10);
- Primary corridors have a greater proportion of retail and mixed use forms along its length (Policy E.2.4.10); and,
- Primary corridors are served by higher order transit (Policy E.2.4.8).

2.2 Land Use Designations (Volume 1)

The following land use designations are implemented by the specific zones noted below:

Designation (UHOP)

Draft Zone (Zoning By-law 05-200)

Neighbourhoods Designation

Local Commercial (TOC2) Zone
Multiple Residential (TOC3) Zone

Mixed Use – Medium Density Designation Mixed Use (TOC1) Zone

2.2.1 Neighbourhoods Designation

The Neighbourhoods Designation policies allow for the development of complete communities. It is an all-encompassing designation providing for a range and mixture of low, medium and high-density residential, local commercial, institutional and park areas. The LRT Corridor is, in part, designated Neighbourhoods and requires the implementing Zones to acknowledge the neighbourhood form and scale.

For local commercial areas, the Draft TOC2 Zone allows for a range of commercial uses to provide for the daily and weekly needs of the neighbourhood. Residential permissions are also included in the Draft TOC2 Zone; however, residential has been restricted to maintain the planned retail and service commercial function set out in the Neighbourhoods Designation.

The LRT Corridor also includes stable residential areas. While allowing for a mixture of uses along the corridor is important, recognition and maintenance of stable residential areas is equally significant. The Draft TOC3 Zone will acknowledge these areas by allowing existing residential buildings and planning for medium density residential redevelopment in the future. Existing commercial uses are recognized, however, to maintain the residential area, new commercial development will not be permitted.

2.2.2 Commercial and Mixed Use Designations

Schedule “E-1” – Urban Land Use Designations of the UHOP designates the majority of the LRT Corridor as Mixed Use – Medium Density. The policies of the Mixed Use –

Medium Density Designation allow for the diverse development of the City's corridors. A range of permitted uses, including, service commercial, retail, restaurant, office, and residential uses and a variety of design standards provide for a pedestrian oriented, mixed-use area. While the intent is to accommodate intensification where appropriate, it is important to recognize the medium density nature of the designation. The policies allow for six storey development and an additional two storeys with the submission of additional studies and a rezoning application. The focus for high density development is in the Urban Growth Centre and at the Mixed Use – High Density nodes. The corridors and the lands designated Mixed Use – Medium Density are meant to link these areas.

The regulations of the Draft Mixed Use (TOC 1) Zone (included within Appendix "B" to Report PED16100(a)) implement the policies of the Mixed Use – Medium Designation by:

- permitting a range of service commercial, retail, office, restaurant and residential uses;
- prohibiting motor vehicle related uses;
- establishing minimum and maximum setbacks from a street;
- creating design standards to focus on pedestrian access to developments;
- restricting parking locations to the rear of lots;
- implementing a minimum 11.0 m building height; and,
- limiting building heights to 22 m.

2.3 Volume 2: Secondary Plans

The LRT Corridor includes properties that are included in the Ainslie Wood Westdale and Strathcona Secondary Plans. The policies of these plans reflect the planned growth for the neighbourhood and implement the goals and vision of the community. Development of the Draft TOC Zones included review and implementation of the Secondary Plan policies. Area and site specific policies have been recognized through this process through the application of special exceptions as noted within Appendix "B" to Report PED16100(a). Portions of the Secondary Plans require amendments to reflect the implementation of the LRT system. These amendments are noted under Section 2.0 Urban Hamilton Official Plan (UHOP) above.

Based on the foregoing, the Draft TOC Zones conform to the policies of the UHOP.

2.4 Proposed Amendments

While the UHOP planned for a higher order transit system, the implementation of an LRT System requires an additional analysis of both the mapping and the policies that apply for the corridor and the planned station locations. The amendments reflect proactive planning in response to the proposed Growth Plan changes and reflect good planning. A summary of the proposed amendments is provided below and a more

detailed analysis of each of the proposed amendments is outlined in Appendix “A-1” to Report PED16100(a).

2.4.1 Volume 1

Amendments to Volume 1 are required to:

- amend Policy E.2.4 Urban Corridors to add a new policy to prepare Station Area plans for certain stops along the LRT corridor;
- amend Schedule E-1 – Urban Land Use Designations to redesignate lands at proposed Station Area Locations along the LRT corridor from Neighbourhoods to Mixed Use – Medium Density;
- amend Appendix B – Major Transportation Facilities and Routes to identify the LRT Corridor; and,
- add a new Appendix B-1 – LRT Corridor Proposed Station Area Locations to identify proposed Station Area Locations.

2.4.2 Volume 2

Amendments to Volume 2 are required to:

- amend the policies of Section B.6 Ainslie Wood Westdale Secondary Plan to implement new policy directions for lands along Main Street West. This plan was originally adopted in 2005 and was not planned with higher order transit as a transportation option;
- amend Map B.6.2-1 Ainslie Wood Westdale – Land Use Plan (included in Appendix “A” to Report PED16100(a)) to redesignate lands from:
 - Low Density Residential 2 to Mixed Use – Medium Density
 - North East Corner of Leland Street and Sussex Street
 - South side of Treymore Avenue between Forsyth Avenue South and Dalewood Avenue
 - 65-71 Dow Avenue
 - North side of Main Street West between Newton Avenue and Paisley Avenue South
 - 127-131 and 150-158 Bond Street South
 - Institutional to Mixed Use – Medium Density
 - 1190 Main Street West
 - Low Density Residential 2 to Institutional
 - Portion of 38 Emerson Street
 - Local Commercial to Mixed Use – Medium Density
 - 690 Main Street West
- add a new Area Specific policy to the Ainslie Wood Westdale and Strathcona Secondary Plans to prohibit drive-through facilities, gas bars, car washes and motor

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vehicle service stations and provide a special policy for drive-through facilities to be permitted if they could meet certain criteria.

2.4.3 Volume 3

An amendment to Volume 3 is required to:

- add a new Area Specific policy for lands east of Victoria to the Queenston traffic circle to prohibit drive through facilities, gas bars, car washes and motor vehicle service stations and provide a special policy for drive through facilities to be permitted if they could meet certain criteria.

The proposed amendments are consistent with the PPS and conform to the Growth Plan for the Greater Golden Horseshoe and align the policies of the UHOP with the implementation of the LRT system. The Draft TOC Zones, described in the next section, implement the land use policies for each of the designations. It is important to note the Zoning By-law may be more restrictive than the policies of the UHOP, but it may not be more permissive.

3.0 Design Guidelines

3.1 Transit Oriented Development (TOD) Guidelines:

The TOD Guidelines apply to lands located along transit corridors and include Main Street, and King Street. Adopted by Council in August 2010, the purpose of the TOD Guidelines is to support and facilitate current and future transit use while further guiding the implementation of the City's Official Plan goals and policies and Zoning By-law provisions. The TOD Guidelines encourage transit supportive land uses with the intent of providing more balanced transportation choices so travelling by transit or active transportation (e.g. walking, cycling, etc.) can be as viable an option as driving.

3.2 Citywide Corridor Planning Principles and Design Guidelines:

This design guideline was approved in 2012, and provides planning and design directions for Primary and Secondary Corridors as identified by the UHOP, which includes the Main Street / King Street corridor, amongst other corridors. Generally the main elements of a Corridor are street-oriented uses which incorporate a mix of retail, employment, and residential uses developed at greater densities. Corridors typically are located along arterial roads serving as major transit corridors.

The principles of both the TOD Guidelines and the Citywide Corridor Planning Principles and Design Guidelines have been incorporated into the development of the Draft TOC zones by:

- prohibiting motor vehicle related uses such as gas stations, motor vehicle service stations, and car washes as these uses do not attract pedestrian activity, and increase pedestrian/motor vehicle conflicts;
- permitting a wide range of residential, service commercial, retail, restaurant and office uses. Providing the opportunity for a mixture of uses will allow for the development of an active, pedestrian oriented street which can accommodate both daytime and evening activities;
- implementing built form regulations that require buildings to be brought closer to the street, establishing a minimum three storey building height; restricting parking locations and access; and,
- reducing required parking and establishing maximum parking requirements for residential development.

Based on the foregoing, the Draft TOC Zones meet the general intent and principles of the TOD Guidelines and the Citywide Corridor Planning Principles and Design Guidelines.

RELEVANT CONSULTATION

Staff from the Planning and Economic Development Department (Development Planning, Community Planning, Building, Urban Renewal), Public Works Department, the LRT Project Coordination Office, and HSR have been consulted and have reviewed the attached Draft TOC Zones. Comments have been provided to further refine the Draft TOC Zones prior to releasing them for public review and feedback. Through various meetings, suggested changes were made by staff to add clarity to the proposed zone regulations and definitions, and the appropriate changes were made to the Draft TOC Zones. These changes have been incorporated into Appendices “B” of Report PED16100 (a).

1.0 Statutory Public Open Houses:

In May of 2016 a mail out was prepared and sent out to all property owners with lands within the Draft CMU Zones and the Draft TOC Zones within Wards 1-4. The two projects coordinated the Statutory Public Open Houses to minimize duplicate information going out to the public. This mail out, sent out to over 2,000 properties, consisted of a postcard with details of the dates and locations of the Statutory Public Open Houses as well as contact information for staff working on the Draft CMU and TOC Zones. All relevant information was made available on the Draft TOC Zoning webpage: www.hamilton.ca/LRTzoning, including the Draft TOC Zones, Draft mapping, definitions, general provisions and parking regulations.

An afternoon and evening session was held for each of the four Statutory Open Houses (as required under the *Planning Act*). The Statutory Public Open Houses were held on:

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Monday May 30, 2016
St. Columba Presbyterian Church (Ward 4)
1540 Main Street East

Thursday June 2, 2016
McMaster Innovation Park (Ward 1)
175 Longwood Road South

Wednesday June 1, 2016
Tim Horton's Field (Ward 3)
64 Melrose Avenue North

Monday June 6, 2016
Sheraton Hotel (Ward 2)
116 King Street West

In addition to the individual property owner mail out, a notice for the Statutory Public Open Houses was published in the Hamilton Spectator on May 5, 2016 and in the Hamilton Community News on May 13, 2016. In addition, a supplementary email notice was also sent to all parties who had requested to be a part of the Draft CMU Zones or Draft TOC Zones mailing list. Approximately 135 people attended over the four meeting dates. The format of the Statutory Open House allowed for attendees to review mapping and information prior to a 30 minute staff presentation. The presentation was followed by a question/answer period. Attendees were interested in the flexibility of uses, impacts of a maximum building height of 22.0 m along the corridor and existing uses. A summary of all written comments received throughout the consultation process and staff's response can be found attached as Appendix "C" to Report PED16100(a).

2.0 Stakeholder Workshop:

A stakeholder workshop was held on June 16, 2016 to engage specific stakeholders on the Draft CMU Zones and TOC Zones. Prior to the stakeholder session taking place a survey was emailed out to stakeholders asking them what aspects (i.e. permitted uses, parking, etc.) of the Draft Zones they wanted to discuss. Groups invited to this session included the Real Estate Board, commercial land owners, HBSA, Hamilton Chamber of Commerce, Hamilton-Halton Home Builders' Association, Culture and Arts Groups, Neighbourhood Associations, and Business Improvement Area (BIA) Associations. The purpose of this forum was to inform the various stakeholders on the Draft CMU and TOC Zones, and to receive feedback on the proposed uses and regulations. A presentation was provided by staff at the beginning of the workshop to provide an overview of the Draft Zones. In addition, to encourage feedback and dialogue, Sue Cumming (Cumming+Company) was retained and facilitated the stakeholder workshop.

2.1 Feedback from the Stakeholder Workshop:

In total, there were 19 participants for the stakeholder workshop and this forum allowed staff received valuable feedback with regards to the Draft Zones. The Stakeholder Workshop Feedback Report prepared by Sue Cumming is attached as Appendix "E" to Report PED16100(a) and includes all of the comment received with regard to the Draft CMU and TOC Zones. Staff note that some of the aspects of the new zoning that the stakeholder participants liked included the following:

- support for focus on encouraging development in older parts of the City;
- consolidation into one by-law which is easier to follow;
- changes to both existing definitions and the introduction of new definitions; and,
- provisions for new uses – e.g. microbrewery.

Further details can be found within Appendix “E” to Report PED16100(a).

The input received through this workshop was relevant to both the Draft CMU Zones and the Draft TOC Zones. The feedback has been reviewed relevant to the Draft TOC Zones at this time. During the finalization of the Draft CMU Zones, the feedback from this workshop will be used to inform any required revisions. The comments received through the stakeholder workshop specific to the Draft TOC Zones are included in Appendix “E1” to Report PED16100(a) which includes a summary of the stakeholder workshop comments received regarding the TOC Zones as well as staff’s response to those comments. Some of the comments or suggested changes pertaining to the Draft TOC Zones that have been reflected as part of the implementing Zoning By-law Amendment include the following changes:

- overall reduced parking requirements for commercial uses and a reduced parking ratio for Multiple Dwellings in the TOC Zones; and,
- definition of Laboratory has been added.

3.0 Staff Presentations:

Staff met with and made presentations to various Advisory Committees and Stakeholder Groups. These meetings allowed staff to obtain further feedback on the Draft TOC Zones and informed the Draft Zones. Details of the various Advisory Committees and Stakeholder Groups staff consulted with are outlined in Appendix “D” to Report PED16100(a).

4.0 One-on-one Councillor Meetings:

Prior to the Statutory Open Houses taking place, staff also met with Councillors for Wards 1-4 individually to provide them with an overview of the proposed Draft CMU and Draft TOC Zones mapping for their individual wards as well as an overview of the Draft Zones.

5.0 Agencies:

A number of agencies were circulated with the Draft TOC Zones, with the majority not providing any comments back to staff. Appendix “C2” to Report PED16100(a) identifies the various agencies circulated.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Draft TOC Zones take their direction from the PPS and Growth Plan for the Greater Golden Horseshoe, and implement the policies of the UHOP. The Draft TOC Zones provide for a range of commercial and residential uses that support a diverse and active corridor.

1.0 Draft Transit Oriented Corridor Zones:

There are three new Draft TOC Zones:

- Mixed Use (TOC 1) Zone;
- Local Commercial (TOC 2) Zone; and,
- Multiple Residential (TOC 3) Zone.

These Draft TOC Zones are included in Appendix “B” to Report PED16100(a).

1.1 Mixed Use (TOC1) Zone:

The purpose of the Draft TOC1 Zone is to implement the policies of the Mixed Use – Medium Density Designation and the Primary Corridor Policies of the UHOP. The Draft TOC1 Zone applies to the majority of the LRT Corridor and allows for the development of a mixed-use area that encourages an active, pedestrian oriented ground floor, and provides the opportunity for additional residential density. To achieve these goals, the Draft TOC1 Zone allows for a mixture of uses but does not restrict the location or quantity of uses. The flexibility will allow uses to be established more organically and allow the market to determine the best locations for stand-alone uses and mixed-use buildings. To create a consistent street wall and additional density the Draft TOC1 Zone requires that new development be built at a minimum building height of 11.0 m (three storeys) and allows for a maximum building height of 22.0 m (six storeys). Additional built form regulations include:

- maximum building setbacks of 4.5 m;
- King Street/Main Street orientation of buildings;
- restrictions to the number and location of driveway accesses;
- parking lot restrictions to the rear of properties;
- minimum building setbacks from residential and institutional zones; and,
- building height step back requirements when abutting residential or institutional zones.

The intent of the Draft TOC1 Zone is to enhance the pedestrian experience, provide for a mixture of uses that will contribute to a lively street and encourage transit ridership by

creating live, work and play opportunities. As such, drive-through facilities and motor vehicle related uses are identified as prohibited uses within this Zone.

1.2 Local Commercial (TOC2) Zone:

The Ainslie Wood Westdale Secondary Plan designates a small portion of the LRT Corridor as Local Commercial. The Draft TOC2 Zone applies to these lands and includes the following uses, day nurseries, retail, studio, offices, personal service, financial establishment, and restaurants. The primary purpose of this zone is to provide the commercial uses to serve the local neighbourhood, therefore residential uses are permitted and are required to be located above the ground floor commercial uses. In an effort to maintain the commercial nature of these areas, residential uses are restricted to locate above ground floor commercial. The scale of the commercial building will be in keeping with surrounding neighbourhood and drive-through facilities and motor vehicle related uses have been identified as prohibited uses.

1.3 Multiple Residential (TOC3):

The Draft TOC3 Zone has been applied to the areas of the corridor that are designated Neighbourhoods. During the review of existing land uses and the impacts of the LRT System staff acknowledged it was appropriate to preserve the stable residential nature of portions of the corridor. The Draft TOC3 Zone applies to properties along King Street East between Sanford Avenue and the Delta and a small portion of land within the Ainslie Wood Westdale Secondary Plan. The intent of the Draft TOC3 Zone is to acknowledge the low-density residential uses and commercial uses that exist, while allowing for medium-density residential redevelopment in the future. Regulations include:

- restricting new development to stand alone residential uses;
- establishing a minimum building height of three storeys for new development; and,
- requiring a 7.5 m rear yard setback to create transition between new development and existing low density residential.

2.0 Proposed Additions to the General Provisions:

In addition to the above Draft Zones, amendments to the General Provisions are proposed to reflect the inclusion of the Draft TOC Zones to Zoning By-law 05-200. The proposed amendments to Section 4: General Provisions are found in Appendix “B” to Report PED16100(a) and include the following:

2.1 Yard Encroachments

An amendment is required to Section 4.6 to allow additional projections into a required yard such as ductwork, venting, and other appurtenances reflect

development requirements by certain commercial uses. These projections are typically found in restaurants and cafes.

2.2 Accessory Buildings and Structures

Subsection 4.8.1 will be amended to include TOC Zones in addition to Residential Zones, Institutional Zones, and Downtown Zones.

2.3 Vacuum Clause

Additional reference required in Section 4.12 to include the TOC Zones to recognize that existing setbacks, front yard, flankage yard, rear yard, lot width, lot area and building height are deemed to comply to the regulations.

2.4 Temporary Uses

Section is revised to include the sale of fireworks for a maximum of period of two days as a temporary use within the TOC Zones. Furthermore, additional regulations are proposed for seasonal garden centres.

3.0 Proposed Additions to the Definitions:

Amendments to Section 3: Definitions of Zoning By-law 05-200 can be found in Appendix “B” to Report PED16100(a). The implementation of the Draft TOC Zones requires that a definition for Microbrewery and Place of Assembly be included. The explanation for each of these changes is as follows:

3.1 Laboratory

Comments received indicated that a definition for a Laboratory would reduce issues with implementation and review of development applications. The proposed definition will add clarity to the form and function related to scientific or technical research, testing, evaluation or development.

3.2 Microbrewery

The emergence of small scale breweries has become a trend in commercial areas. In order to address this trend staff has looked at the distinction between the large format breweries, currently only permitted in the Industrial Zones of Zoning By-law 05-200, and microbreweries. Many municipalities have identified the new use and have created a definition for microbrewery to recognize the difference in scale and operation and acknowledge the commercial function. A Microbrewery will allow for the manufacture and retail sale of beer, cider wine or spirits, which may

be consumed on or off site. In addition, the use may be operated in conjunction with a restaurant.

3.3 Dwelling Unit

During consultation staff identified that there may be an interpretation issue with the definition of Dwelling Units. The intent of the existing definition is to allow for dwelling units that would not fall under another definition (e.g. one unit above a commercial use). The interpretation could be that a Dwelling Unit could be a Single Detached Dwelling, Duplex Dwelling or Semi-Detached Dwelling. To clarify the intent, the proposed amendment will indicate that a Dwelling Unit shall not include a Single Detached Dwelling, Duplex Dwelling or Semi-Detached Dwelling.

3.4 Place of Assembly

Private Club or Lodge is currently a defined term in Zoning By-law 05-200. A Private Club or Lodge is not open to the public and typically require a membership to utilize its facilities. Hamilton Zoning By-law No. 6593 includes the terms Public Hall and Private Hall. The distinction between public and private halls has gradually blurred as private halls have begun open up to the general public without a membership to hold functions for a fee. These halls are used for private receptions (e.g. weddings), event space such as workshops and education sessions, and small gatherings such as hobby shows. Therefore, the two uses have generally begun to operate in the same fashion and with similar parking requirements. As part of the implementing Zoning By-law for the TOC Zones, the term Place of Assembly is proposed to be added to Zoning By-law 05-200 and will include buildings to be used for social, literary, cultural, political, educational, or recreational purposes, but does not include a Conference or Convention Centre or a Labour Association Hall which are separately defined terms already included in Section 3: Definitions of Zoning By-law 05-200.

Staff advise that the term *Place of Assembly* will eventually replace the term Private Club or Lodge in Zoning By-law 05-200. However, this will be done through a future amendment as this change will have implications on existing Zones.

4.0 Proposed Additions to the Parking Provisions:

4.1 Motor Vehicle Parking

Commercial and Residential parking standards have been introduced into Zoning By-law 05-200 during each stage of implementation. The existing parking regulations do not reflect the LRT system implementation and the direct effect on parking that higher order transit system will have on future development. During both internal and external

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consultation, comments indicated that the parking requirements for new development along the corridor should reflect the impact that the LRT system will have on public transit ridership, active transportation and the development of complete communities. Staff have done a comparison of the parking standards for other municipalities that have or are implementing an LRT system. Each municipality has implemented a reduction in required parking, relative to proximity to stations, by Zone, or by use. The review also showed that most municipalities also implemented maximum parking standards for residential uses. The proposed parking standards included in Appendix “B” to Report PED16100(a) have reflected these findings by:

- establishing a sliding scale for Residential developments by unit count;
- increasing the minimum parking space size within an attached garage for a Street Townhouse Dwelling to 2.7 m by 6.0 m;
- implementing a maximum parking requirement of 1.25 spaces per unit;
- requiring zero spaces for any commercial use under 450 sq m;
- generalizing commercial uses into one parking standard of one space per 50 sq m in excess of 450 sq m;
- not requiring any loading spaces;
- establishing that where a parking requirement results in a numeric fraction, fractions shall be rounded down to the nearest whole number; and,
- continuing parking exemptions where a change of use is proposed within an existing building, with the exception of a medical clinic (i.e. no new spaces will be required for a change of use unless additional gross floor area is being proposed).

As discussed earlier, the parking standards for the Downtown area will be reviewed during the Downtown Secondary Plan review process. Any changes will be included in the implementing Zoning By-law amendment.

4.2 Bicycle Parking

In addition, Draft Parking Requirements include short term and long term bicycle parking provisions. Included in Appendix “B” of Report PED16100(a), long term bicycle parking shall be located in a secure enclosed parking area to ensure bicycles are stored in a safe and weatherproof location. Short term bicycle parking shall be located in a parking area at grade to ensure quick and easy storage of bicycles.

Short-term bicycle parking for the Draft TOC Zones is provided based on land use as shown in Section 5.7 Bicycle Parking, Subsection (c). This requirement ensures visitors will be able to ride their bike to their destinations and be able to store they bicycles at the parking racks. Long-term bicycle parking as shown in Section 5.7 e) will be required for residential and commercial uses for TOC Zones. As these zones will be typically located along the proposed LRT corridor, long-term bicycle parking requirements will

enable residents and employees to utilize their bicycle along with the higher order transit network. No bicycle parking space shall be required for any office, personal services, restaurant, or retail establishment less than 450 square metres.

5.0 Special Exceptions:

Following the development of the Draft TOC Zones and associated performance standards, a comprehensive review was conducted of all existing and recently approved site specific exceptions within Zoning By-law 6593. Each site specific was evaluated against the new Zones, and a series of criteria were established which helped provide the rationale for which site specific permissions would be carried forward and which would not. Where a site specific was adding additional use(s) or amending existing regulations, staff compared the use and regulations against the Draft Zone regulations. Staff evaluated whether the use was permitted within the new broader definitions and whether the site specific regulations were required to continue. In some cases, new Special Exceptions were created in order to recognize specific uses which are no longer permitted as-of-right through the Draft TOC Zones, but for which there is merit in recognizing the use. In some cases, where a use was previously permitted as of right through the existing zoning and is no longer permitted through the Draft TOC Zones that existing use was either recognized through a Special Exception or was left to become a legal non-conforming use. In total, eight Special Exceptions are proposed and are included in Appendix “B” of Report PED16100(a).

A Special Exception has been applied to lands within the Ainslewood Westdale Secondary Plan to carry forward the regulations of the Monster Home By-law for Single Detached Dwellings.

A legal non-conforming use is a use that is not permitted under the Zoning By-law, but which lawfully existed prior to the new Zoning By-law being approved. Under the *Planning Act*, these uses have a right to continue and cannot be “zoned” out of existence. The *Planning Act* also contains provisions for expansion to or change of use under legal non-conforming status. However, the long term intent is for that legal non-conforming use to cease and be replaced by a use that conforms to UHOP and the Zoning By-law.

6.0 Holding Provisions:

In areas where the Draft TOC Zones apply to lands located adjacent to but not fronting onto the LRT Corridor, a Holding Provision will apply to ensure consolidated land development. As discussed above, a Special Exception will also apply to these lands to permit the existing uses e.g. Single Detached Dwellings. The intent is to require land assembly to create sufficient depth for the development fronting onto the corridor by restricting individual development of these lots. To develop these lands, applicants

would be required to prove to the City that the development will occur in a comprehensive manner and will mitigate impacts on the surrounding area.

7.0 Other Matters:

7.1 Illegal Uses

It is important to note that by virtue of the implementing Zoning By-law for the Draft TOC Zones, staff cannot legalize currently illegal uses. Unless the use has outgrown the current zoning which may be more restrictive than the proposed zoning (i.e. a home occupation in Zoning By-law 6593 prohibits off site employees whereas Zoning By-law 05-200 permits one employee). In addition, in order for a use to be recognized by the City, a change of use permit and/or a municipal license is required. Existing uses that are currently legal have either been recognized through a Special Exception or will be considered a legal non-conforming use.

7.2 Residential Care Facilities

A review of Residential Care Facilities is currently underway on a City wide basis. The Draft TOC Zones have maintained the regulations that have been previously established for Residential Care Facilities to maintain consistency throughout Zoning By-law 05-200. Any changes that come as a result of a future Council decision will be amended into all of the Municipal Zoning By-laws, including Zoning By-law 05-200.

ALTERNATIVES FOR CONSIDERATION

City Council not adopt the OPA and Zoning By-law amendment. The existing UHOP policies will remain in effect and Hamilton Zoning By-law No. 6593 will remain in effect for the lands along the LRT Corridor.

Furthermore, the ICBL along the proposed LRT Corridor between McMaster University and the Queenston Traffic Circle on Main Street and King Street will expire on October 28, 2016. Council can extend the ICBL for an additional 12-month period. Alternatively, the ICBL will expire and development can occur in accordance with the applicable zones.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Official Plan Amendment
- Appendix “A1”: Explanation of Official Plan Amendment Changes
- Appendix “B”: Zoning By-law Amendment
- Appendix “C”: Written Comments Summary
- Appendix “C1”: Advisory Committee and Stakeholder Group Comments Summary
- Appendix “C2”: Agencies Circulated for Comments
- Appendix “D”: Consultation Summary
- Appendix “E”: Stakeholder Workshop Feedback Report (Sue Cumming)
- Appendix “E1”: Summary of Stakeholder Workshop Comments

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