



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division
and
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 17, 2017
SUBJECT/REPORT NO:	Amendments to City of Hamilton Zoning By-law No. 05-200 to Update and Clarify Zoning Permissions for Creative Cultural Industry Uses in Institutional and Industrial Zones (City Wide) (PED17174)
WARD(S) AFFECTED:	City Wide
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SUBMITTED BY:	Glen Norton Director, Economic Development Planning and Economic Development Department
SIGNATURE:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department

RECOMMENDATION

- (a) That approval be given to City Initiative CI-17-C (Creative Cultural Industry Zoning Review) for Amendments to City of Hamilton Zoning By-law No. 05-200 to update and clarify definitions and add additional permitted uses to the Institutional and Industrial Zone Districts;
- (b) That the attached draft By-law, marked as Appendix “A” to Report PED17174, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan.

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EXECUTIVE SUMMARY

The purpose of this Report is to continue the evolution and implementation of the Urban Hamilton Official Plan vision, through the comprehensive application of Zoning By-law 05-200. This Report marks one of the continued and on-going strategies to update and consolidate the former municipal zoning by-laws in effect within the City of Hamilton.

In particular, this Report seeks to provide clarity and clear direction within Zoning By-law 05-200 with respect to the treatment of certain creative cultural industries in Industrial Zones and allow for creative cultural events on a temporary basis to occur within existing Institutional Zones. The proposed Zoning Amendment is one approach to Creative Cultural Industries. Future work and reports may review in greater detail subsequent uses and potential further amendments to the Official Plan and Zoning By-law.

As part of the review of various uses, it was identified that some existing definitions within By-law 05-200 required amendments to ensure that the existing definitions did not overlap with other definitions, to improve clarity, and to implement the intent of the Official Plan.

The proposed by-law amendment:

- Clarifies the existing definition of Studio (Artist Studio), Commercial School, and Conference and Convention Centre;
- Adds a new definition of Production Studio and will permit the use in several industrial zones;
- Removes Commercial School from two Industrial zones as there is an overlap with trade school and the new definition of Commercial School would add uses that were not contemplated in industrial areas;
- Adds Craftsperson Shop and Artist Studio uses to certain industrial zones; and,
- Provides permissions for the creative cultural industries with respect to temporary performance events within the existing I2 and I3 Zones in By-law 05-200.

This Report concludes that additional education, promotion and facilitation (e.g. pamphlets) will be required to provide clarity and debunk perceived barriers to establishing creative cultural industries within the City of Hamilton.

A more detailed discussion of the specific amendments is provided in the Analysis / Rationale for Recommendations Section of this Report.

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Alternatives for Consideration – See Page 22

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: No staffing implications.

Legal: As required by the *Planning Act*, Council must hold at least one Public Meeting to consider an amendment to the Zoning By-law.

Public Notice as per the *Planning Act* has been provided in the Hamilton Spectator.

As this is a City-initiated Zoning By-law Amendment with City Wide effects, no notification by mail or sign on the property is required.

HISTORICAL BACKGROUND

Creative cultural industries are considered as industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property. They include but not limited to Architecture; Crafts; Design; Performing and Visual Arts, Broadcasting, I.T.; and publishing. The City of Hamilton has developed cultural plans and strategies to promote creative cultural industries, including economic action strategies, cultural plans, and industry specific strategies (Economic Development Action Plan 2016-2020, Urban Hamilton Official Plan, Music Strategy, Cultural Plan, etc.).

Collectively, these documents recognize creative cultural industries as a vital component of Hamilton's quality of life and economic development. These documents promote using creative cultural industries to revitalize neighbourhoods, diversify the economy, build tourism, increase non-residential taxes, provide jobs, and ultimately to increase the quality of life for residents.

However, the documents have also recognized real and perceived potential barriers to the creative cultural industry, such as a lack of adequate facilities and City by-laws and regulations. Staff retained SGL Planning and Design Inc., to examine planning policies and regulations for the music and performing arts, film, fashion, and digital media industries, and identify potential options that could be employed to support the creative cultural industry the City of Hamilton.

The purpose of the SGL Report attached as Appendix “B” was to identify barriers, if any, to establishing creative cultural industries in Industrial and Institutional zones and provide recommendations to amend the Zoning By-law to appropriately accommodate and support creative cultural industries in these zones.

This SGL Report explores all facets of these creative cultural industries including producing creative cultural materials such as performances or showings of cultural material, the sale and distribution of created goods, the education or training of creative individuals, and other ancillary uses that directly support a creative industry.

This SGL report also explores how the Urban / Rural Hamilton Official Plan and Zoning By-law No. 05-200 currently permits creative cultural industries, what components of the industries are and should be permitted and which accessory components may be appropriate in industrial and institutional zones.

As part of the review, a best practice review was undertaken by SGL of how other cities approach creative cultural industries within industrial and institutional zones. Eight cities were selected from across Canada and the United States, and their zoning by-laws were reviewed. Permitted uses within each zone were recorded, including if they were permitted by right or permitted with conditions, through a special permit, or as an accessory / ancillary use. Where accessory uses are permitted, any limitations of their use were discussed. Prohibited creative cultural uses are also identified.

The Report prepared by SGL outlines alternative options that the City may undertake to address the identified barriers. The Report concludes with a preferred recommendation on how the City of Hamilton could better implement the intent of the Official Plan and Zoning By-law to appropriately permit creative cultural industries in industrial and institutional zones.

These options are reviewed in detail later within this Report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Economic Development Strategy 2010-2015

The Economic Development Strategy 2010-2015 identified six major economic clusters, including advanced manufacturing, agriculture and agri-business, clean technology, goods movement, life science, and creative industries. The Report states that creative industries are “knowledge and labour-intensive, create employment and wealth and nurture creativity.” According to the Report, creative industries include music, design and digital media, film, video broadcasting, visual arts, performing arts, and festivals

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and events. This Report focuses on music and performing arts, film, and digital media, as well as fashion.

Economic Development Action Plan 2016-2020

The updated Economic Development Action Plan 2016-2020 reaffirms creative cultural industries as a key industry in the City of Hamilton. The plan states that creative cultural industries will help the City to:

- Grow non-residential tax assessment and increase the number of living-wage jobs;
- Be the most diversified economy in Canada;
- Have the best workforce in Ontario;
- Have a thriving entrepreneurship and innovation; and,
- Have vibrant commercial and cultural districts and places.

Major action items identified in the plan include the creation of a Creative Cultural Industry Sector Strategy and an Animation Strategy, the implementation of a Music Strategy and Cultural Plan and the review of zoning and other barriers to the establishment of creative cultural industries.

Cultural Plan, 2013

The Cultural Plan, 2013 promotes a broad definition of culture within the City of Hamilton. The plan provides transformational goals to reinvent the City as a cultural City.

The plan includes two relevant action items:

1. Identify municipal bylaws, licensing and zoning regulations that are barriers to cultural sector activities and remove impediments where possible; and,
2. Recognize artists and creative workers as entrepreneurs and develop and provide tools / services to support them in collaboration with the Hamilton Small Business Enterprise Centre (SBEC) and other arts / culture service organizations.

Music Strategy, 2013

The City of Hamilton has created an industry-specific strategy for music. The Music Strategy, 2013 establishes a goal to “strengthen the local music industry” with an objective to “remove barriers to live music presentation” by “(identifying) and

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(examining) City by-laws and regulations that are barriers to the local music industry and mitigate where possible.”

Provincial Policy Statement, 2014

The Provincial Policy Statement, 2014 (PPS) does not explicitly speak to creative cultural industries. However, it does contain policies that support those industries. The PPS promotes strong, livable and healthy communities that encourage and enhance human health and social wellbeing (1.1.1 a), and are economically and environmentally sound (1.1.1 b). A broad range of cultural and creative opportunities and venues promotes healthy and livable communities.

The PPS also promotes long-term economic development and competitiveness (1.3.1), as well as the protection and preservation of employment areas (1.3.2.1). Furthermore, the PPS states that long-term economic prosperity should be supported by promoting brownfield redevelopment and opportunities for sustainable tourism development (1.7.1 e, g). Facilitating the creative cultural industry will promote Hamilton’s economic development and competitiveness both locally and abroad. By appropriately permitting creative cultural industries in industrial areas it will protect and preserve employment areas.

Growth Plan of the Greater Golden Horseshoe, 2017

The Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan) provides direction on managing growth in the Greater Toronto and Hamilton Area. It directs growth to existing built-up areas through intensification, including the redevelopment of brownfields and greyfield sites, and encourages the development of compact and complete communities with a diverse mix of land uses and a range of and mix of employment types.

The Growth Plan also promotes economic development and competitiveness by providing for an appropriate mix of employment uses, including industrial, commercial and institutional uses, and providing opportunities for a diversified economic base, including maintaining a range and choice of sufficient land for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses (2.2.5). In particular, emphasis is placed on aligning land use planning and economic development goals and strategies to retain and attract investment and employment (2.2.5.d)).

The Growth Plan defines Employment Area as “those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.”

Although the Growth Plan supports business and economic activities, which would include creative cultural activities, it is silent on specific cultural industries that are not specifically a manufacturing or office use. However, it is considered that any creative cultural activity that comprises processing, assembly, production, or office would be considered a component of Employment Areas.

Urban Hamilton Official Plan

1.0 Strategic Policies

The City of Hamilton has established guiding principles, directions, and policies in the Urban Official Plan (UHOP) to promote development within the urban area. The UHOP is guided by seven principles (A1.4), four of which are relevant to the promotion of the creative cultural industries, including:

1. Compact and healthy urban communities that provide opportunities to live, work, play, and learn;
2. A growing, strong, prosperous and diverse economy;
3. Financial stability; and,
4. Strategic and wise use of infrastructure services and existing built environment.

The UHOP recognizes that creative cultural industries will help achieve these principles. Creative cultural industries are a vital part of healthy communities, because they provide entertainment and goods for residents and visitors as well as livable wage jobs. By promoting these industries, Hamilton is diversifying its economy. Furthermore, by supporting the development of creative cultural industries through infill, redevelopment, or adaptive reuse, existing built space and infrastructure will be effectively utilized.

In particular regard to Arts and Culture, the UHOP addresses the importance of creative industries in contributing to Hamilton Communities through the following policies:

- 3.1.11 The City recognizes that arts and culture bring many benefits to the City of Hamilton. Arts and culture contribute to the City’s economy, cultural landscape, quality of life, vibrancy, livability, *complete communities*, and sense of place and can play a significant role in the adaptive reuse of older buildings and the transformation of deteriorated neighbourhoods and commercial areas.

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3.1.12 Arts and culture are supported by many policy directions of this Plan: compact urban development; mixed uses; appropriate flexibility in land use while ensuring *compatibility* with existing neighbourhoods; focus on urban design to create vibrant, attractive and interesting places; emphasis on *pedestrian predominant streets*; conservation of *cultural heritage resources*; protection and enhancement of natural heritage resources; broad mix and range of housing forms and densities; and, creation of vibrant and well-designed public spaces that include public art. Arts and culture can also be supported by program initiatives and the ongoing development of a culture plan for the City.

It is considered that through providing more flexibility for creative cultural uses to be located in industrial areas, some of the more intensive uses could be appropriately buffered and separated from sensitive residential areas. Furthermore, this would provide the opportunity for existing vacant industrial buildings to be repurposed and adapted for new uses. In addition, as witnessed within several streets that have accommodated Creative Cultural uses (e.g. James Street North), the provision and accommodation of these uses can be considered positive to the vibrancy and interest of the area and character in general.

The support and facilitation of creative cultural industries as contained within the amending by-law (See Appendix “A”), would therefore secure the broader intent and vision of these policies.

2.0 Land Use Policies

2.1 Employment Designations and Policies

With particular reference to the Employment Lands designation, and subsequent designations contained within related employment lands of existing secondary plans (WHID, AEGD etc.) it is noted that the following policies amongst others (See Appendix “C” for a full unabridged copy of applicable policies) are applicable in consideration of defining and adding permitted uses to the zoning districts that exist within these designations.

2.7.3 Employment Areas shall provide for a diverse range of employment opportunities in proximity to the City’s major infrastructure including the Port, the Airport, and the highway and transit network. It is important to provide a range of opportunities in order to meet the varying locational and market requirements for businesses including regionally significant industries.

The clarification of uses and operations, as contained within the amending By-law (See Appendix “A”), would provide for the ‘diverse range’ of employment consistent with the intent of the UHOP Designation.

5.4.1 The range of employment uses allows for a wide variety of industrial activity and accommodates employment support uses, such as offices, that will foster the development of a prestige employment area. The Employment Area – Business Park designation applies to the City’s business parks, excluding the Airport Business Park, identified on Schedule E-1 – Urban Land Use Designations.

It is noted that the addition of ‘Craftpersons Shop’ and ‘Production Studio’ use within several zoning districts, in addition to permitting ‘cultural events’ within an existing convention centre applicable to lands designated ‘Employment’, would successfully implement the intent to encourage a wide variety of employment and employment supportive uses.

In order to provide greater clarity to the definition of the use ‘Studio’, and to ensure it is a use that is appropriate within the Employment Lands designation of the UHOP, changes have been recommended within the amending by-law (See Appendix “A”). Currently the use as defined by By-Law 05-200 encapsulates a number of other uses that are more appropriately considered a commercial school – such as a dance studio. These uses are not considered appropriate within the employment designation given their commercial nature, and is therefore recommended that it not form part of the re-defined ‘studio’ use. In turn, the revised studio definition will now be defined as an ‘Artist Studio’ which provides greater clarity and opportunity to CCI uses, and will be added to a number of existing Industrial Zones (See Appendix “A”).

5.4.3 The following uses shall be permitted on lands designated Employment Area – Business Park on Schedule E-1 – Urban Land Use Designations:

- a) manufacturing, warehousing, repair service, *building or contracting supply establishments*, building and lumber supply establishments, transportation terminals, research and development, office, communication establishment, and private power generation. Salvage yards and other uses which are unsightly or otherwise incompatible with the design policies and image for business parks shall be prohibited;
- b) uses which primarily support industry, including labour association halls, conference and convention centres, trade schools,

commercial motor vehicle and equipment sales, and commercial rental establishments; and,

- c) *ancillary* uses which primarily support businesses and employees within business parks, including hotels, health and recreational facilities, financial establishments, restaurants, personal services, motor vehicle service stations and washing, retail establishments, and commercial parking facilities.

It is considered that both Craftsperson's Shop and Production Studio are uses that are appropriate employment uses and moreover, are already permitted albeit through the application of other defined uses (e.g. warehousing / manufacturing and production). The provision of additional clarity through adopting these uses and new definition, given the nature of their operation and locational and spatial requirements, would be consistent with the above policy. Furthermore, consistent with the intent of Zoning By-law No. 05-200 to be "user friendly" and provide easy to read definitions and performance standards, by clarifying how and where these uses are permitted, the proposed changes will assist when responding to and working with proponents seeking to locate/relocate within the City.

As discussed previously, following the proposed modification to the 'Studio' definition, it is considered that it appropriately recognizes CCI uses (such as sculptor and photographer) as employment uses, while similarly, not permitting those uses (such as Dance Studio) considered inappropriate for the Industrial Zones.

2.2 Institutional Designations and Policies

With reference to the Neighbourhood and Institutional designations in which the institutional zoning districts apply, the following policies have been considered. Both the UHOP and RHOP policies for Community / Facilities state the following:

3.10.1 *Community facilities / services* uses include public and private uses serving the cultural, religious, health, welfare, and educational needs of a neighbourhood. *Community facilities / services* may include community and recreation centres, arenas, parks, healthcare and social service facilities, long term care facilities, day care centres, seniors' centres, emergency medical services, fire services, police services, *cultural facilities*, places of worship, museums, schools, universities and colleges, and libraries.

3.5.1.1 Create a vibrant, active and supportive City by providing *community facilities / services* that support a high quality of life for all residents.

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3.5.1.3 Provide *community facilities / services* in an efficient sustainable manner that optimizes their use, minimizes their environmental impacts, and promotes their flexibility to adapt to changing needs.

6.1.4 Support arts and *cultural facilities* in conjunction with institutional uses, as important components of quality of life.

It is considered that the intent to permit a Performing Arts Theatre on a temporary basis within existing Institutional uses (Places of Worship and Educational Establishments) is consistent with the above policy intent. It is noted that compatibility with respect to noise and parking related matters are reviewed within the Analysis and Rationale Section of this Report.

RELEVANT CONSULTATION

Consultation has been undertaken with the Building Services, Zoning and Official Plan, Sections of the Planning and Economic Development Department, to discuss any issues that have arisen in the implementation of Zoning By-law No. 05-200 with respect to Creative Cultural Industries.

A focus group of industry representatives was conducted to inform and determine the existing barriers and potential solutions.

Notice of the amendments has been posted in the Hamilton Spectator, as per the *Planning Act*.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1.0 Context

The Creative Cultural Industries have been an integral component of the economic and urban rejuvenation in Hamilton. The Arts and Culture scene has grown exponentially encompassing the whole spectrum of relatable industries. The importance of these industries have been recognized and encouraged through a number of strategic objectives and policy goals. The purpose of this report is to evaluate how best the City of Hamilton can maintain, encourage and support these industries in the long-term.

SGL was retained and directed to review the current land use and policy environment, provide a best practice assessment of similar approaches, and to formulate options and strategies for potential adoption.

The SGL report identifies that the City of Hamilton has numerous policies and directions that encourage Creative Cultural Industries (CCI) and validates current work to date. Of particular note is the work related to the comprehensive review and preparation of the new commercial zoning (Commercial Mixed Use / Transit Oriented Corridor), implementing greater permissions and flexibility throughout the commercial zones.

Once in force and effect, updated commercial zones will offer considerable options to those looking to establish CCI within commercial corridors and adjacent commercial areas.

Given the scope of zoning changes contemplated for the commercial zoning districts, the SGL report focused on the Institutional and Industrial zones within Zoning By-law 05-200 and their governing Official Plan policies, recognizing the role that CCI play with the employment sector and wider community. Similarly, the policy environment is considered supportive, with numerous policies (both directly and indirectly) encouraging the development of CCI. On this basis, there remains an option to proceed without amending the policy and land use regime and instead focus on providing additional guidance. While this was presented as an option, it was not the preferred outcome.

The concept of providing additional information and guidance only was raised at a focus group. The focus group consisted of industry representatives and staff who assist with the Business facilitation of these uses. The focus group took place on July 13, 2017 and was attended by seven individuals.

The intent of the focus group was to identify and evaluate the existing and perceived barriers faced by those Creative Cultural Industries operating in Hamilton, and explore potential solutions. As part of the discussion, the prospect of relying on the existing policy regime and land use permissions was considered insufficient. Notwithstanding the implicit permissions that exist today, concern was expressed over not clearly articulating these matters. It was identified that timing was a crucial component in securing available space within an increasingly active real estate market. In the absence of clarity any unnecessary delays would lead to loss of opportunity.

Alternatively, it was determined that the City approach the matter first through addressing the 'quick wins' within the existing Official Plan framework and supplement the information and guidance through this process through the generation of literature.

Secondarily, additional stakeholder review was recommended to supplement the opinions of the focus group and provide direction and suggestion for potentially larger official plan and zoning by-law amendments.

1.1 Conclusions of SGL Report and Initial Focus Group

This Report therefore seeks to secure continued improvements and clarity with respect to the comprehensive implementation of land uses throughout the City of Hamilton, as well as in part, achieve the objectives contained within the initial phase of the recommendations and certain outcomes of the focus group, in particular:

- Define and add Production Studio to the following Industrial Zones: Research and Development (M1) Zone; General Business Park (M2) Zone; Prestige Business Park (M3) Zone; Business Park Support (M4) Zone; General Industrial (M5) Zone; and, Light Industrial (M6) Zone;
- Add Craftsperson Shop and related limitations to the retail component to the list of permitted uses within the following Industrial Zones: Research and Development (M1) Zone; General Business Park (M2) Zone; Prestige Business Park (M3) Zone; Business Park Support (M4) Zone; General Industrial (M5) Zone; and, Light Industrial (M6) Zone;
- Modify and permit within certain Industrial Zones the 'Studio' definition to more closely identify appropriate CCI uses through renaming it 'Artist Studio' and restricting uses more appropriately defined as a commercial school (e.g. Dance Studio);
- Delete Commercial School use from all applicable Industrial Zones;
- Permit performance, fashion and art related shows within the 'Conference and Convention Centre' definition. This is to be achieved through permitting 'cultural events' in connection with a 'Conference and Convention Centre';
- Permit performance, fashion and art related shows within the following Institutional Zones: Community Institutional (I2) Zone, and Major Institutional (I3) Zone as a temporary use; and,
- Create literature to provide guidance and simplify the City of Hamilton's approach to CCI.

Each one of the above recommended actions will be reviewed independently:

2.0 Proposed Zoning By-law Changes

2.1 Definitions in Zoning By-law No. 05-200

Through the comprehensive approach to zoning that was initiated following the approval of the UHOP, By-law 05-200 has incrementally been applied throughout the City. Upon review of the range of uses associated with creative industries was undertaken, it was recognised that certain uses required modifications to ensure the policy intent of the UHOP were implemented. The review concluded the term 'Studio' requires modification.

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Currently Studio is defined as:

‘Studio Shall mean an establishment used for the study or instruction of a performing or visual art, such as but not limited to, dancing, singing, acting or modelling, or the workplace with accessory retail, of a painter, sculptor or photographer, or an establishment used for the making or transmission of motion pictures, radio or television programs.’

In reviewing the above definition, it was identified different uses were being described within the definition; one of the uses more closely aligns with the definition of commercial school and the second use is already permitted as part of a communications establishment.

Furthermore, certain CCI uses which could be appropriately located within industrial designations were being unwittingly excluded. This was in part because many employment appropriate CCI uses could be considered under the ‘studio’ definition (such as Sculptors or photographers), but were being excluded from the industrial zones because the definition included more general commercial school type uses. As such, the current definition of a studio, if permitted within employment lands would introduce unintended commercial uses. To rectify this situation and to provide a clearer and more consistent definition with other Zoning By-law 05-200 definitions, the definition was modified and renamed, separating out those uses more aligned with a commercial school and communications establishment, and in turn ensuring the term ‘Artist studio’ related wholly to uses that are appropriate in both commercial and industrial areas.

The revised definition is as follows:

‘Artist Studio Shall mean a workplace of an artist and shall include but not limited to a painter, sculptor or photographer.’

This revised definition and title allows the use to be included within the same industrial zones as a craftsperson’s shop and a tradesperson school. Collectively, it is considered that this provides significant opportunity for CCI uses to successfully and appropriately locate themselves within the relevant employment designated lands.

Whereas the accessory retail and showroom component of the studio use was detailed within the previous definition, within the industrial zones, the retail component of an Artist Studio will be regulated and restricted in accordance with other existing accessory retail permissions – that being 25% of the gross floor area of the principal use or 500 square metres of gross floor area – whichever is the lesser.

Conference and Convention Centre

Currently a Conference or Convention Centre is permitted in the following Industrial zones: M1, M3, M4, M6, M8 and M11.

It is defined as:

“Shall mean an establishment, which is not a hotel, where facilities are provided for meetings, seminars, workshops, social gatherings and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants.”

This Report seeks to reword this definition to recognize that convention centres are used for such events as fashion shows and performance arts. While arguably implicit within the definition, the ability for a ‘Conference and Convention Centre’ to permit these events is made explicit through amending the definition, as follows:

“Shall mean an establishment, which is not a hotel, where facilities are provided for such activities as, but not limited to, meetings, seminars, workshops, social gatherings cultural events and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants”

This change maintains the original intent of allowing ancillary uses such as Conference or Convention Centres and performance space, as uses that support the role of the principle uses permitted within the business parks.

2.2 Additional Uses to be Added to Certain Industrial Zones

The City of Hamilton’s Zoning By-law 05-200 establishes eleven industrial zones in the urban area, including a research and development (M1) zone, three business park zones (M2, M3, and M4), a general industrial (M5) zone, a light industrial (M6) zone, five zones related to the airport (M7 to M11).

2.2.1 Production Studio

Through the best practice review conducted by SGL, it was noted that many manufacturing related zones in similar Canadian and North American municipalities recognized film production and digital media as appropriate within Industrial / Employment designations. For the purposes of Hamilton’s context, it is important to differentiate between performing arts and production studios.

It is considered that the role of performance arts as a primary use within employment lands requires separate and detailed discussion, beyond the scope of this initial review. Instead, the focus within this report is to recognize, define and permit those production activities that are related to CCI and which are supported, albeit implicitly, within the existing policy regime.

On this basis, the following definition of Production Studio is intended to capture the range of CCI uses related to the production and creation of broadcasting and transmission of audio and video recordings, associated storage, set production and warehousing of props and equipment, as well as, clarify that this would not include commercial theatres.

The defined use is also intended to cover digital media aspects such as animation studio, and associated software development and processing. The definition is as follows:

“Production Studio

Shall mean the use of land, building or structure or part thereof,

- a) used for creation and production of motion pictures or audio or video recordings and the associated warehousing, prop and set design and storage; and,
- b) Digital media uses such as animation studio, and associated software development and processing.

But shall not include the mass reproduction of film”

Given the spatial requirements, manufacturing and warehousing related elements to this use, the use is recommended to be permitted within several Industrial zones, consistent with existing relatable uses such as ‘Communications Establishment’. With regard to parking requirements, similar to the rationale provided above, it is considered appropriate to require a rate of parking commensurate to the 1 space per 200 square metres of Gross Floor area assigned to manufacturing uses.

On this basis, it is considered that this defined use would resolve existing reliance upon broader definitions existing within the existing zoning by-law.

2.2.2 Craftsperson's Shop

A Craftsperson's Shop is defined as:

“Craftsperson's Shop Shall mean an establishment used for the creation, finishing, refinishing or similar production of custom or hand-made commodities, together with the retailing of such commodities.”

However, “Craftsperson's Shop” is not permitted in any industrial zone; they are permitted in every downtown commercial zone and most future commercial zones.

However, a “Tradesperson's Shop” is a permitted in more than half of the industrial zones and is defined as:

“Tradesperson's Shops Shall mean the use of the land, building or structure, or part thereof, in which is provided to the public a non-personal service or trade, and shall include but not be limited to, a carpenter's shop, contractor's shop, electrician shop, painter's shop, plumber's shop or other shops that provide an installation service.”

Not permitting “craftsperson's shops” would appear to restrict a range of creative cultural industries from industrial zones, particularly those that are small industries. It is considered that “craftsperson's shops” should be permitted in those zones that permit “Tradesperson's shops”. These uses would cover an umbrella of creative uses that could include artists working with larger materials which require the spatial and locational requirements provided and protected by the Employment Lands designation, such as welders and furniture makers.

Importantly, and similar to the rationale contained with respect to ‘Production Studio’, it is noted that whereas the definition of Craftsperson's Shop would cover a broad range of supportable creative uses, uses not considered appropriate as primary employment uses (such as dance studio / yoga studio) would not be permitted through the inclusion of this definition as it is not considered or related to that of a craftsperson.

These Craftsperson uses maintain the intent of the Employment Lands designation, and would be consistent with the Growth Plan provided limitations are placed upon the retail element of these uses. Consistent with other retail uses and accessory uses it is proposed that combined GFA for accessory retail and show room area to 25% of the principal use or 500 sq. m. gross floor area, whichever is the lesser. These requirements are standard restrictions contained with the regulations of each Industrial

Zone that will permit the use. The use will be added to the following zones: Research and Development (M1) Zone; General Business Park (M2) Zone; Prestige Business Park (M3) Zone; Business Park Support (M4) Zone; General Industrial (M5) Zone, and Light Industrial (M6) Zone.

2.3 Temporary Use Permission for I2 and I3 Zones

The potential of existing Institutional buildings to accommodate CCI uses was considered both within the SGL Report, as well as, discussed in detail during the focus group. In particular, the ability of former schools to be readily converted to art studios was identified as an important opportunity that currently does not exist due to restrictions in the official plan and zoning by-law. Given the scope of this initial Report to focus on minor zoning changes, such an option while worthy of review, is to be considered through subsequent phases of this comprehensive approach to supporting CCI.

Through discussions with the focus group, it was also determined that performance space was a significant limitation in the evolution of creative performances. It was noted that there existed performance space at the entry level size, such as Mills Hardware on King Street East. Spaces such as these are integral in the development of fledgling artists, to initiate their careers. However, once more experienced and seasoned performers seek to transition into paid performances; Hamilton event space was limited with respect to moderately sized venues, with typically only small or very large venues available.

It was considered that Education Establishments and Places of Worship not only provided the opportunity of readily available space at the right scale, but also had times of operation that could accommodate sporadic performances with little interference to the primary use. It was considered that through limiting the 'Performing Arts Theatre' use to existing churches and educational establishments, and further to limit the duration of events through applying temporary use provisions, the permission would provide a meaningful and appropriate opportunity for the CCI.

In reviewing this as an option, staff first reviewed the mapping and location of institutionally zoned properties. Consistent with the hierarchical intent of the zoning by-law, I1 uses were typically smaller sites centralised within existing neighbourhoods, whereas I2 and I3 zoned sites were typically larger and located more towards the periphery of neighbourhoods, closer to higher order road networks and transit services.

Staff also reviewed the range of uses within the Institutional zones and noted that for the proposed use, it was appropriate to restrict it to existing Places of Worship and Educational Establishments, in order to avoid stand-alone performance space, which

would not be consistent with the current direction and intent of the Official Plan policies regarding the institutional designation in the Rural and Urban areas.

Furthermore, from a building code perspective, both existing uses are considered places of assembly which would allow the introduction of the proposed Performing Arts Theatre without significant cost implications. In order to accommodate the use, the owner and / or proposed event co-ordinator would have to apply for a Temporary Use Permit through the city, which would allow relevant licensing and building code review matters to be addressed in full.

In terms of compatibility and related performance standards, parking, noise and licensing were considered material implementation considerations. These have been addressed as follows:

2.4 Summary of Zoning By-law Changes

3.0 Issues

3.1 Parking

As per the proposed implementing By-law (See Appendix “A”), parking would not be required for the temporary use, understanding that the limitation of the use to existing Educational Establishments and Places of Worship provide parking associated with the primary use. Current parking for existing Places of Worship, require one for every ten square metres, and Education Establishments require one for each seven seat capacity in the auditorium plus three for each classroom (Secondary School). It is noted that Places of Worship that existed prior to being brought into By-law 05-200 did not require parking and therefore may have little to no parking existing on site. In these circumstances, given the temporary nature of the use, and the fact the intensity of the use would be similar to that experienced by the primary use, it is not considered that a detrimental impact would occur.

3.2 Noise

With respect to the potential impact on noise, it is considered that the venues likely to accommodate the performances are often well suited for noise attenuation, with Education Establishments and Places of Worship in particular, considered most likely to accommodate these uses when otherwise not being utilized for its primary use.

Similar to the rationale provided in support of entertainment on commercial patios, noise impacts will be governed through the noise by-law and enforced as and when necessary.

Temporary Use Permit / Licensing

Licensing will be required and subject to full OBC, Fire and Liquor Licensing Board review. It is noted that matters regarding these requirements may need to be addressed on a case by case basis through the required review of a Temporary Use permit.

4.0 Literature

As recommended in the Report prepared by SGL, given the implicit permissions available, it is a recommendation of this report that additional guidance literature be established to assist the CCI. Discussions, process mapping and literature will be created to guide those representatives of the CCI seeking to operate CCI within Hamilton.

5.0 Incentives

Many of the focus group attendees raised the opportunity of incentives and other measures such as expediting review process, in order to demonstrate and provide support for the CCI. Given the need to comprehensively review these matters in detail, it fell beyond the scope of this Report and instead will become a consideration within future work.

6.0 Scattered Sites

As detailed in previous Report PED12114 and raised through the focus group discussions, it was recognised that a number of buildings exist throughout Hamilton that would be suitable and attractive to the CCI community. These buildings are former 'Brick and Beam' buildings previously used for industrial purposes. They are often located in the transitional areas between existing Industrial areas and commercial and more sensitive uses. They are zoned remnant industrial designations, not updated through previous City Wide industrial zoning updates as they were not considered necessary to form part of the protected industrial designated lands within Hamilton's industrial sector. Given the constraints upon these properties, including but not limited to Zoning, Heritage, contamination and configuration, there exists an opportunity to pre-zone the buildings for CCI related uses. This would hopefully stimulate and rejuvenate both the buildings and surrounding area, while similarly providing additional, less financially risky opportunities to the CCI community.

It is considered that an inventory of these buildings should be made, reviewed and assessed and if appropriate, assigned CCI related uses. This discussion and review will form part of any subsequent CCI related review.

7.0 Next Steps

Through the research, focus groups and literature review conducted to date, it has been identified that opportunity exists to expand Hamilton's support to the CCI. This includes contemplating the inclusion of ancillary uses that support the primary employment use function of the industrial designations, review of the Institutional designations and applicable zoning categories, as well as, exploring the potential and justification for providing incentives to CCI with regard to the planning process and permit issuance of proposals.

In addition, an inventory of appropriate scattered sites and cultural asset mapping will be generated to determine areas / buildings that are suitable and well positioned to take advantage of CCI related uses. Staff will consider providing requisite zoning to capture and encourage CCI occupation and investment within these buildings.

On this basis, staff will look to build upon the recommendations and outcome of this report, to ensure the City of Hamilton becomes a leader in attracting and supporting CCI. This review will consist of wider stakeholder discussions, Building, zoning, fire and licensing representatives.

ALTERNATIVES FOR CONSIDERATION

If the proposed By-law amendments are not approved, interpretation and application of City of Hamilton Zoning By-law No. 05-200 with regard to supporting Creative Cultural Industries will remain unchanged.

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.

Culture and Diversity

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

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Amendments to City of Hamilton Zoning By-law No. 05-200 to Update and Clarify Zoning Permissions for Creative Cultural Industry Uses in Institutional and Industrial Zones (City Wide) (PED17174) - Page 23 of 23

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Draft Zoning By-law Amendment to Zoning By-law No. 05-200

Appendix "B" - Creative Cultural Industry in Industrial and Institutional Zones, Prepared by SGL Planning and Design Inc. April 2017

Appendix "C" - Official Plan Policy Summary Document

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