



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 19, 2019
SUBJECT/REPORT NO:	Durand Neighbourhood Character Study Review (PED19017) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Madeleine Giroux (905) 546-2424 ext. 2664
SUBMITTED BY:	Stephen Robichaud Director of Planning and Chief Planner Planning and Economic Development Division
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Appendix “A” attached to Report PED19017 respecting the Peer Review and Recommendations on Zoning: Durand Neighbourhood Character Study be **RECEIVED**;
- (b) That the recommendations of the Peer Review of the Durand Neighbourhood Character Study Final Report be referred to the new Residential Zoning project;
- (c) That staff be directed to use the Durand Neighbourhood Character Study Final Report as a tool for assessing character within *Planning Act* applications in the Durand Neighbourhood, until such time as a Durand Neighbourhood Secondary Plan and new zoning are adopted.

EXECUTIVE SUMMARY

The Durand Neighbourhood Association (DNA) has a strong interest in protecting and preserving neighbourhood character and has dedicated substantial resources to ensuring that there is community oversight in decisions that affect the neighbourhood. The DNA has conducted thorough background research on streetscape character preservation and the planning tools available, and through this exercise, their planning team has identified a number of streetscape character elements that Planning staff will weigh heavily in developing the new Residential Zones for Zoning By-law No. 05-200.

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Civicplan was retained by the DNA to prepare a report on zoning and neighbourhood character. The report is entitled “Durand Neighbourhood Character Study Final Report”. City of Hamilton Planning staff have retained GSP Group to conduct a Peer Review of Civicplan’s report to evaluate the applicability of the Ottawa SCA tool. The Peer Review focused on areas zoned “C” (Urban Protected Residential, Etc.) District, “D” (Urban Protected Residential – One and Two Family Dwellings) District, and “DE” (Low Density Multiple Dwellings) District and excluded review of areas zoned “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District, “E-1” (Multiple Dwellings, Lodges, Clubs, Etc.) District, and “E-3” (Multiple Dwellings) District, as well as any lands currently zoned under Zoning By-law No. 05-200. The purpose of these exclusions is related to meeting Provincial policy requirements for intensification, as discussed in greater detail in the Policy Implications and Legislated Requirements Section of this Report.

Through this Peer Review, it was determined that a Streetscape Character Analysis tool and zoning overlay similar to the City of Ottawa’s approach is not appropriate for the Durand Neighbourhood at this time.

However, it was determined that there is strong merit to a character-based zoning approach. There is significant opportunity to review established neighbourhood patterns, built form, and character, and to develop context-specific zone regulations which would guide appropriate infill development and redevelopment. This exercise would be undertaken through the development and implementation of Residential Zones in Zoning By-law No. 05-200 which is occurring at the present time. In addition, the work undertaken by the DNA through this process will be used to support staff evaluation of *Planning Act* applications within the Durand Neighbourhood in advance of the new Residential Zoning and the adoption of any other planned municipal policy documents (eg. a future Secondary Plan).

Alternatives for Consideration – See Page 13

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

Council Direction

At the Planning Committee meeting of September 5, 2017, members of the Durand Neighbourhood Association presented the “Durand Neighbourhood Character Study

Final Report”. The Study, prepared by Civicplan, is intended to identify the Durand Neighbourhood context and make recommendations for future policy to help maintain character through periods of change (see Appendix “B” to Report PED19017). The following Motion was approved by Planning Committee:

- “(a) That the Durand Neighbourhood Character Study prepared for the Durand Neighbourhood Association be received and referred to Planning staff to review and for inclusion as a resource associated with the pending Durand Neighbourhood Association Secondary Plan work plan;*
- (b) That after consultation with the Ward Councillor on the results of Planning staff’s review of the study, if immediate changes to Zoning By-law No. 6593 applicable to the Durand Neighbourhood are warranted to create a zoning overlay to maintain neighbourhood character, then Planning staff be directed and authorized to schedule a Public Meeting of the Planning Committee, no later than Q1/2018, to consider proposed Zoning By-law changes.”*

Planning staff subsequently commissioned a Peer Review of the Durand Neighbourhood Character Study Final Report. The Peer Review was conducted by GSP Group and the conclusions and recommendations are outlined below (see also Appendix “A” to Report PED19017).

Following completion of the Peer Review, the DNA opted not to pursue the implementation of a zoning overlay at this time. Instead, it requested that the Character Study be endorsed by Council and that Council direct staff to use the study as a tool to evaluate future planning applications in the Durand Neighbourhood as per the resolution below.

“That Durand Neighbourhood Association request that Councillor Farr (Ward 2) formally present the Durand Neighbourhood Character Project to Planning staff as a Planning tool for assessing all future City of Hamilton Planning applications in the Durand Neighbourhood effective immediately and until such time as the Durand Neighbourhood Secondary Plan be officially completed and ultimately adopted.”

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Policy Statement (PPS) 2014 and the Growth Plan for the Greater Golden Horseshoe 2017 do not expressly address infill development or redevelopment requirements. However, they contain policies that direct the City to accommodate more residential uses in existing urban areas (through intensification). Through Policies 1.4.3 e) and 1.7.1 c) and d), the PPS calls for a balance between meeting projected density

requirements and ensuring that new development contributes to the well-being of the area as a whole:

“1.4.3 Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the *regional market area* by:

- e) establishing development standards for *residential intensification, redevelopment* and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.

1.7.1 Long-term economic prosperity should be supported by:

- c) maintaining and, where possible, enhancing the vitality and viability of downtowns and main streets;
- 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*.”

More detailed policies regarding intensification are defined by the municipality through the Official Plan. Accordingly, the Urban Hamilton Official Plan contains specific policies to address the location and compatibility for how this intensification should occur.

Any proposed changes in zoning must be consistent with the PPS, 2014 and conform to the Growth Plan, 2017.

Urban Hamilton Official Plan (UHOP)

The Durand Neighbourhood is subject to the following designations on Schedule “E-1”:

- “Downtown Mixed Use Area” for the portion south of Main Street West, north of Hunter Street West, east of Queen Street South, and west of James Street South. This portion is also subject to the Downtown Hamilton Secondary Plan (DHSP);
- “Downtown Mixed Use Area” for the properties fronting James Street South between Hunter Street West and Charlton Avenue West. This portion is also now subject to the DHSP pursuant to the 2018 DHSP updates;
- “Neighbourhoods” for the remainder of the developed area.

This Peer Review focussed only on lands within the Neighbourhoods Designation; changes will not be made to the new zoning which was recently approved for the DHSP area.

When preparing new zones or amending existing zones, support for the changes can be derived from UHOP policies as follows:

Residential Intensification

“B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g) as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

- b) *compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;

- d) the consideration of transitions in height and density to adjacent residential buildings;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;"

Built Form

With respect to built form, the following policies are referenced:

"B.3.3.3.2 New *development* shall be designed to minimize the impact on neighbouring buildings and public spaces by:

- a) creating transitions in scale to neighbouring buildings;
- b) ensuring adequate privacy and sunlight to neighbouring properties; and,
- c) minimizing the impacts of shadows and wind conditions.

B.3.3.3.3 New *development* shall be massed to respect existing and planned street proportions.

B.3.3.3.4 New *development* shall define the street through consistent setbacks and building elevations."

The policies of the UHOP direct that new development is to be compatible with and complementary to established neighbourhood patterns, built form, and character. The UHOP defines "compatibility" to mean "land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. *Compatibility* or *compatible* should not be narrowly interpreted to mean 'the same as' or even as 'being similar to'".

The UHOP speaks to compatibility in terms of the building's location on the lot and integration of the building into the existing streetscape through use, scale, form and character (staff note that this should not be interpreted to mean that new built form should be identical to existing built form). Staff also note that the policies of the UHOP support diversity in building materials, landscaping, architectural design (eg. roof pitches), etc. as these features facilitate the use of innovative and creative urban design techniques.

There is significant opportunity to establish regulations in the implementing Zoning By-law to address the relationship between new and existing built form. This approach includes consideration of height, massing, scale, block lengths, setbacks, and

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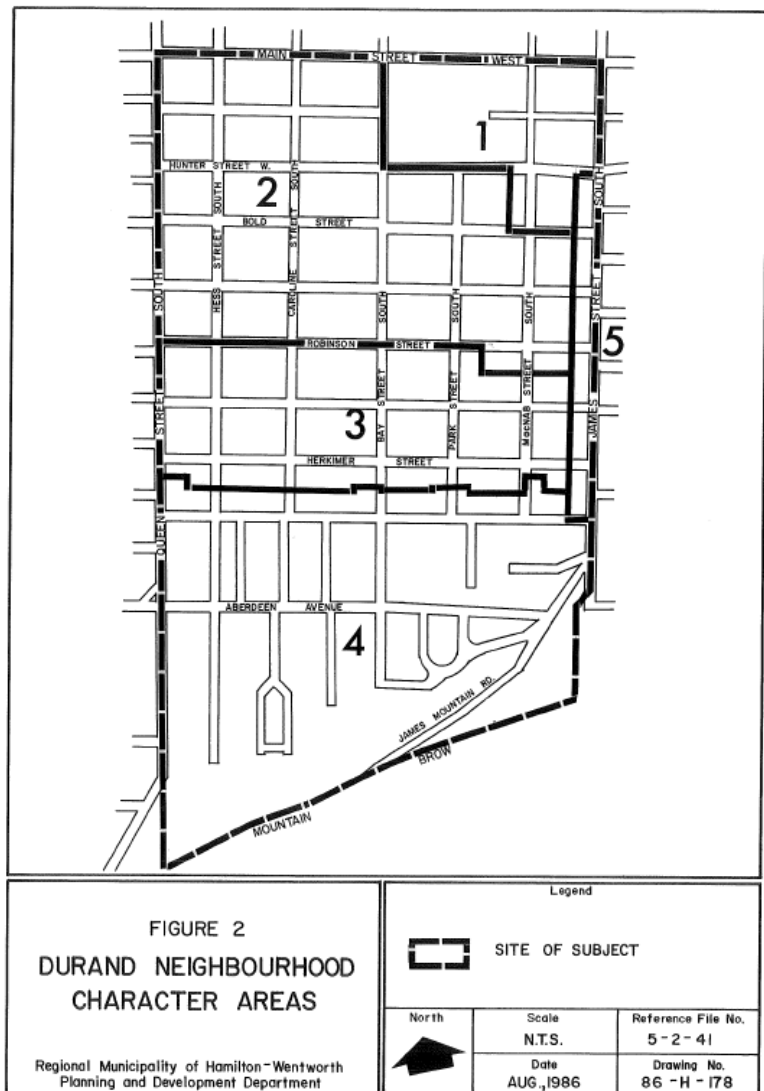
appropriate building separations. It also means that where higher-density land use permissions exist as-of-right adjacent to lower density built forms, an appropriate transition can be established between the two types of uses / built forms to ensure that infill development and redevelopment are compatible with the character of the neighbourhood.

It should be noted, however, that the Municipal policy framework implements Provincial direction in terms of density requirements (among other things). The Provincial policy framework establishes minimum density targets, and the UHOP establishes how and where intensification should occur (eg. low density uses should be directed to the interior of neighbourhoods (Policy E.3.4.1), medium density uses should be directed to the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads (Policy E.3.5.1), and high density uses should be directed to the periphery of neighbourhoods in proximity to major or minor arterial roads (Policy E.3.6.1)). Staff will develop new residential zones in the context of the UHOP.

The UHOP supports a character-based zoning approach. Accordingly, when developing the new Residential Zones in Zoning By-law No. 05-200, direction can be taken from the UHOP to create regulations that respond to established neighbourhood patterns, built form, and character.

Durand Neighbourhood Plan

The Durand Neighbourhood Plan sets out five distinct areas of land use and character (see Figure 2 below). Areas 1 and 5 consist predominantly of existing civic, commercial and institutional uses. Area 2 consists of high density residential uses constructed in the 1960s and 1970s (generally extending from Main Street south to Robinson Street). This



area is predominantly zoned “E” and “E-1” (Multiple Dwellings, Lodges, Clubs, etc.) Districts and “E-3” (High Density Multiple Dwellings) District in Zoning By-law No. 6593.

Area 3 consists of a transition area between Robinson Street and just south of Herkimer Street. This area is intended to serve as a medium density residential transition area between the high density area to the north and the low density area to the south. Lastly, Area 4 consists of a low density area, predominantly comprised of single detached, semi-detached and street townhouse dwellings. This area extends from south of Herkimer Street to the Niagara Escarpment and is predominantly zoned “C” (Urban Protected Residential, Etc.) District and “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District in Zoning By-law No. 6593.

The goals of the Neighbourhood Plan include providing a mix of housing types and densities to meet the needs of all components of housing demand, including providing high density residential opportunities and preserving low density residential uses in areas which are currently zoned for high density residential uses.

The Neighbourhood Plan further sets policies to achieve a variety of housing densities and types. These policies include encouraging higher densities to be located on the periphery of the neighbourhood (where possible), maintaining low density residential areas south of Charlton Avenue, promoting a variety of housing types including single detached, townhouse, and apartment units, and preserving the stability of existing residential neighbourhoods by ensuring that development proposals are compatible with the existing character of the neighbourhood.

Staff generally take direction from the Council-adopted Durand Neighbourhood Plan when evaluating proposals for development and redevelopment.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Durand Neighbourhood Character Study Final Report (Civicplan)

The Durand Neighbourhood Association (DNA) has a strong interest in protecting and preserving neighbourhood character. It has dedicated substantial resources (both financial and time) to ensuring that there is both community oversight in decisions that affect the neighbourhood, and a fair and objective way to avoid one-size-fits-all Zoning By-law regulations which detract from historic built form and development patterns. Planning staff commend the DNA for their background research on streetscape character preservation, and their familiarity with the planning tools available. The DNA and their planning team have identified a number of streetscape character elements that Planning staff will weigh heavily in the development of the new Residential Zones for Zoning By-law No. 05-200.

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Civicplan prepared the Durand Neighbourhood Character Study Final Report on behalf of the DNA (see appendix “B” to Report PED19017). The purpose of the report is to present a neighbourhood street audit and resident survey related to maintaining neighbourhood character.

The Civicplan Report recommends the following:

- Establishing a new Durand Neighbourhood Secondary Plan;
- Reviewing the existing zoning under Zoning By-law Nos. 6593 and 05-200 to determine whether any immediate amendments should occur; and.
- Evaluating the Ottawa Streetscape Character Analysis (SCA) tool (zoning overlay) with the intent of applying it in the Durand Neighbourhood’s context.

A primary neighbourhood concern was that some of the applicable zones within Zoning By-law No. 6593 permit heights that would significantly alter the character of neighbourhood streets (eg. the “E” and “E-1” (Multiple Dwellings, Lodges, Clubs, Etc.) Districts, “E-2” (Multiple Dwellings) District and “E-3” (High Density Multiple Dwellings) District which permit single detached dwellings at 2.5 storeys, but also permit multiple dwellings ranging from eight (8) to 18 storeys). The neighbourhood concern appears to relate primarily to where existing single detached dwellings could be demolished and the lands could be redeveloped as-of-right with multiple dwellings.

The Civicplan Report particularly focuses on Ottawa’s SCA tool and applies a modified version to portions of the Durand Neighbourhood to demonstrate how it would function in the local context. The SCA tool was accordingly the primary focus of GSP’s Peer Review, as discussed below.

Peer Review and Recommendations on Zoning (GSP Group)

GSP Group was retained by the City’s Planning staff to undertake a Peer Review of the Durand Neighbourhood Character Study Final Report (see Appendix “A” to Report PED19017). The purpose of the Peer Review is to critically evaluate the suitability of the Ottawa SCA tool (zoning overlay) within the Durand Neighbourhood context. The Peer Review uses modelling and graphics to visually demonstrate the function of the Ottawa SCA tool, as well as the weaknesses of the existing zoning with respect to character preservation. It provides the following conclusions on the applicability of Ottawa’s model to Durand:

- Ottawa’s SCA tool inherently offers many benefits. It offers a level of transparency and flexibility in the Zoning By-law because it does not provide a one-size-fits-all approach. Regulations would depend on existing prevailing landscape patterns surrounding the property (eg. “your street gives you your

rules”). It also provides a level of design control for development which would not otherwise be controlled through a *Planning Act* mechanism.

- The Peer Review perceives the Durand Neighbourhood’s primary concern to be the location and design of taller and more intense residential forms within the neighbourhood fabric rather than concerns related to inappropriate low-rise infill development. The latter is the focus of Ottawa’s SCA tool. The SCA tool only applies to low-rise residential buildings of four storeys or less, in any zone where residential uses are permitted. It does not apply to any part of a mid-rise or high-rise apartment dwelling that is four storeys (14.5 m) or less.
- There have not been levels of low-rise infill development similar to levels experienced in Ottawa. Therefore, a character-based zoning approach in Durand would be proactive rather than reactive. Character-based zoning does have benefits as a tool for directing low-rise infill development and redevelopment in Durand. However, an effective character-based zoning approach does not mean a recommendation for Ottawa’s overlay approach.
- The context of the Durand Neighbourhood and Ottawa’s overlay area are different:
 - The overlay targets specific low-rise infill development issues that were significantly out of character with the neighbourhood. Characteristics include garage-dominated facades and driveway-dominated front yards among other similar things (see pp 10-11 of Appendix “A” to Report PED19017). Similar infill developments have not been observed in Durand.
 - The Ottawa Overlay applies to a broad geographical extent (including the downtown core) and surrounding urban residential neighbourhoods). The overlay’s extent includes neighbourhoods with different compositions of housing age, forms and patterns. This diversity presents a logical application of an overlay because establishing neighbourhood-specific zoning regulations is difficult on such a scale.
 - The Ottawa overlay functions with a parking exemption for residential buildings with 12 units or less. This exemption was applied based on walkability, transit service levels, and car ownership rates. Hamilton’s Zoning By-law has higher parking rates than Ottawa’s Zoning By-law. If the predominant streetscape character prohibits a front driveway, Hamilton’s parking requirements (which range from 0.8 to 2.0 spaces or more per dwelling unit depending on location, type of dwelling unit, and number of habitable rooms) would preclude development on lots that do

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not abut rear lanes. This preclusion undermines the strengths of the SCA overlay approach.

- The Peer Review finds that given the above conditions, a zoning overlay and SCA tools is not appropriate for the Durand Neighbourhood. However, certain character-based zoning regulations are appropriate for the Durand Neighbourhood to ensure that streetscape character is maintained in future:
 - *Front Yard Setback:* pronounce differences in front yard setback between abutting properties can be detrimental to the streetscape. A degree of variation is positive; however, differences resulting from buildings setback considerably closer to or farther from the street can be undesirable.
 - *Front Yard Patterns:* maximum driveway widths and minimum front yard landscaping widths relative to the width of the lot are a strong tool to preserve streetscape character.
 - *Garage Orientation:* there is opportunity to investigate feasibility of garages only being accessed from the rear lot line for lots abutting a “travelled” rear lane. There is also merit to requiring that front-facing garages reduce prominence by being aligned with the front wall of the dwelling, or recessed further than the front wall of the dwelling.

It is important to note that the Ottawa SCA tool does not regulate architectural design, landscaping materials, or construction materials, as a Zoning By-law does not have authority to regulate these things under the *Planning Act*. All of these elements inform neighbourhood character but are outside the realm of what a municipality is permitted to control.

Residential Zones in Zoning By-law Nos. 6593 and 05-200

As discussed above, there is merit to establishing character-based zoning to protect existing streetscape character and to ensure that the future development is compatible and complementary to existing development within the Durand Neighbourhood.

Currently, the City of Hamilton Zoning By-law No. 6593 establishes provisions for building setbacks, parking location, and front yard landscaping, among other things. Required parking for a single detached, semi-detached or triplex dwelling constructed after December 1971 is not permitted in a required front yard. However, required parking for the same uses constructed prior to December 1971 is permitted within the front yard. In both cases, a minimum of 50 percent of the front yard shall be used for landscaping.

Additionally, the “C” (Urban Protected Residential, Etc.) and “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) Districts both require a minimum front yard depth of 6.0 metres. Section 18 (3) (iii) of the Zoning By-law facilitates some character-based performance standards by permitting infill development to take the average yard depth of the two adjacent properties to a maximum of 30 percent. This regulation would require a minimum front yard depth of 4.2 metres even if the adjacent properties had no front yard setback.

Further, as discussed above, Zoning By-law No. 6593 requires a minimum of 0.8 to 2.0 parking spaces per dwelling unit, depending on the location and type of residential use (more than 2.0 if a single detached dwelling has more than 8 habitable rooms). These parking rates require further investigation to determine whether they continue to meet the parking needs of the Durand Neighbourhood. Parking rates and the parking location requirements on the lot impact front yard setback and landscaping opportunities in the Zoning By-law because not all properties have rear lane access or even the ability to provide parking on-site.

Although it was determined that an SCA tool / zoning overlay similar to Ottawa’s approach is not considered appropriate for the Durand Neighbourhood, there is significant opportunity to review established neighbourhood patterns, built form, and character, and to develop context-specific zoning regulations which would guide appropriate infill development or redevelopment. This character-based zoning approach will be a key component of the Residential Zoning project in Zoning By-law No. 05-200, and significant direction can be taken from the work that the DNA has conducted to-date. Character-based zoning will ensure that development proposals will integrate better into the existing neighbourhood fabric than the current Zoning By-law No. 6593 regulations afford.

Staff are also concerned that developing an interim overlay in advance of the new residential zones will detract from staff’s time and resources that are set aside for the residential zoning project, and would ultimately duplicate the work that would be done.

In this regard, it is premature to facilitate a change to Zoning By-law No. 6593 specifically for the Durand Neighbourhood in the interim because the number of future residential zones, the format of the zones, and the regulations to be included in the zones are unknown. Part of the Residential Zoning project will evaluate what uses will be permitted in each zone category (eg. some zones will only permit certain types of dwellings). Significant consultation will occur as part of the Residential Zoning project and will afford neighbourhood residents the opportunity to actively participate in the zones’ development.

Durand Neighbourhood Character Study and Proposed Development

The Durand Neighbourhood Character Study Final Report provides a number of recommendations to address compatible infill development and character preservation. These principles can be codified through future Secondary Plan policies. However, in the current absence of a Secondary Plan, there is still opportunity for Planning staff to apply these general principles when reviewing development proposals within the neighbourhood until such time as a Secondary Plan is adopted. The Study included a neighbourhood audit to identify building stock and location with respect to building heights (1, 1.5, 2, 2.5, 3, 3.5 and 4-6 storeys), housing types (single detached, semi-detached, rowhouses / townhouses, multiple dwellings), façade material (brick, stone, stucco, wood, vinyl siding), front door orientation, landscaping and location of mature trees, and the impact of parking and garages on streetscapes. The Study also engaged citizens on their neighbourhood character perceptions related to the above-mentioned character features. The outcomes of these audits and the citizen survey can inform various development review and planning decisions.

Accordingly, it is recommended that Council direct staff to use the Character Study as a planning tool when evaluating *Planning Act* applications within the Durand Neighbourhood to ensure that a balance is struck between character preservation, Provincial policy direction, and resident interest.

ALTERNATIVES FOR CONSIDERATION

- Option 1: Planning Committee / City Council could recommend the development of a Zoning Overlay similar to the City of Ottawa's Streetscape Character Analysis for the existing City of Hamilton Zoning By-law No. 6593.
- Option 2: Planning Committee / Council could recommend that the existing zones that apply to the Durand Neighbourhood be amended directly to integrate character zoning.
- Option 3: Planning Committee / City Council could recommend that no changes be made to the existing zones. The existing zones contained within the City of Hamilton Zoning By-law No. 6593 would remain in effect.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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APPENDICES AND SCHEDULES ATTACHED

- Appendix “A” – Peer Review and Recommendations on Zoning: Durand Neighbourhood Character Study (Prepared by GSP Group)
- Appendix “B” – Durand Neighbourhood Character Study Final Report (Prepared by Civicplan)