



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 4, 2021
<b>SUBJECT/REPORT NO:</b>	City Initiative (CI) 18-A – Modifications to Site Plan Control By-law No. 15-176, as amended by By-law Nos. 18-104 and 19-026, in the Existing Residential “ER” Zone in the Town of Ancaster Zoning By-law No. 87-57 (PED21022) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Alana Fulford (905) 546-2424 Ext. 4771
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That City Initiative 18-A to amend Site Plan Control By-law No. 15-176 as amended by By-law Nos. 18-104 and 19-026, to make technical changes, to modify provisions for ease of interpretation and implementation of the Site Plan Control By-law, and to introduce a provision for detached Secondary Dwelling Units, as it pertains to the Existing Residential “ER” Zone in the Town of Ancaster Zoning B-law No. 87-57, be **APPROVED** on the following basis:

- (a) That the Draft By-law, attached as Appendix “B” to Report PED21022, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.
- (b) That the proposed changes to the Site Plan Control By-law are consistent with the Provincial Policy Statement (PPS) 2020, conforms with A Place to Grow Plan (2019, as amended), and complies with the Urban Hamilton Official Plan.

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**EXECUTIVE SUMMARY**

In 2018, a series of changes to the regulations of the Ancaster Existing Residential “ER” Zone were introduced as a pilot project, to address redevelopment in mature neighbourhoods (City Initiative 18-A (PED18036(a))). The geographic extent of the Ancaster “ER” Zone is shown as Appendix “A” to Report PED21022.

At the same time, staff were directed to include amendments to Site Plan Control By-law No. 15-176 (amending By-law No. 18-104), to incorporate the properties zoned Existing Residential “ER” Zone in the Town of Ancaster Zoning By-law No. 87-57 to address:

- Grading;
- Elevational changes of a property as it relates to grading; and,
- Tree preservation.

Subsequently in 2019, staff were directed to further amend the Site Plan Control By-law by introducing criteria for the provision of site plan control in the Ancaster “ER” Zone (By-law No. 19-026).

In conjunction with the ongoing monitoring of the Ancaster “ER” Zone Pilot Project, staff also continue to monitor Site Plan Control in the Ancaster “ER” Zone. Staff are evaluating the Site Plan Control By-law for ease of implementation and interpretation for staff and property owners, and the Site Plan Control process to assess whether it is having a positive impact on grading and tree preservation.

As a result of the monitoring, staff are proposing a further amendment to the Site Plan Control By-law to address items of a technical nature and to improve by-law interpretation and implementation. Further, with the introduction of regulations for Secondary Dwelling Units in the former municipal Zoning By-laws, this amendment will apply the provisions of the Site Plan Control By-law to detached Secondary Dwelling Units in the Ancaster “ER” Zone.

The purpose of this amendment to Site Plan Control By-law No. 15-176, as amended by By-law Nos. 18-104 and 19-026 is:

- To introduce technical changes to clarify by-law interpretation and ease of implementation in the Ancaster “ER” Zone for both city staff and property owners;
- To clarify that the “ER” Zone Site Plan Control provisions are intended for the geographic extent of the Ancaster “ER” Zone only;

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- To provide clear distinction between the types of development that would be subject to Site Plan Control. The Draft By-law distinguishes between construction, additions, and reconstructions, and further, introduces definitions for “additions” and “reconstructions”;
- To provide clarification on the features included in the calculation of ground floor area as it applies to Site Plan Control in the Ancaster “ER” Zone;
- To provide clarification on the calculation of ground floor area. The size of a proposed addition or reconstruction is to be measured against the dwelling that existed on February 14, 2019 (the date of passage of By-law No. 19-026) to determine whether site plan control is required; and,
- To introduce a provision for detached Secondary Dwelling Units in the Ancaster “ER” Zone.

**Alternatives for Consideration – See Page 10**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

In 2018, through City Initiative 18-A (PED18036(a)) which dealt with redevelopment in mature neighbourhoods, a series of changes to the regulations of the Existing Residential “ER” Zone were introduced as a pilot project. The pilot project was implemented to promote more compatible integration of new development within mature neighbourhoods in response to community concerns about the scale and massing of new development. The pilot project continues to be monitored to determine if the regulations are working as intended. Concurrently, staff also continue to monitor Site Plan Control in the Ancaster “ER” Zone to evaluate whether the implementation of Site Plan Control is achieving its desired effect in terms of ease of administration and desired outcomes with respect to grading and tree preservation.

Site Plan Control By-law No. 15-176 was amended by By-law No. 18-104 in conjunction with the introduction of the changes to the regulations of the Ancaster “ER” Zone. The

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by-law was subsequently further amended in early 2019 when staff were directed to prepare a draft by-law to amend the Site Plan Control By-law to introduce criteria for the application of site plan control in the “ER” Zone. Criteria was introduced through By-law No. 19-026 which applied site plan control to new dwellings and more substantial additions.

This City Initiative proposes a series of further modifications to the provisions of the Site Plan Control By-law as it applies to properties in the Ancaster “ER” Zone. The criteria established through By-law No. 19-026 have been modified and expanded on to improve clarity and consistency vis-à-vis the intent of site plan control, and to improve by-law interpretation and implementation for both staff and the public. The modifications to Site Plan Control By-law No. 15-176 since the introduction of Site Plan Control in the Ancaster “ER” Zone are tracked in Appendix “C” to Report PED21022. The changes are discussed in more detail in the Analysis and Rationale for Recommendation section of this report.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2020), the A Place to Grow: Growth Plan for the Greater Golden Horseshoe, and the Greenbelt Plan. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS and conform to the Growth Plan and the Greenbelt Plan, as applicable.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the Urban Hamilton Official Plan, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework.

The amendments to the Site Plan Control By-law do not conflict with the Provincial Policy framework. The proposed changes are not a matter of consistency with or conformity to the Provincial Policy framework but rather, are intended to improve the interpretation and implementation of the Site Plan Control By-law in the Ancaster “ER” Zone, and to ensure consistency with zoning regulations (Secondary Dwelling Units).

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Accordingly, it is staff’s opinion that the city-initiated site plan control amendments are:

- Consistent with the Provincial Policy Statement (2020); and,
- Conform to A Place to Grow Plan (2019, as amended).

### **Urban Hamilton Official Plan**

As per Volume 1, Chapter F, Section 1.7, Site Plan Control is an important means of encouraging well-designed, functional and universally accessible development in Hamilton.

“F.1.7.3 Council may establish the classes of *development* that are subject to site plan control, and those which are exempt, in a by-law.”

The proposed amendments to the Site Plan Control By-law are intended to provide clarification to improve interpretation and implementation, and thus comply with the Urban Hamilton Official Plan.

### **RELEVANT CONSULTATION**

Consultation has taken place with staff from the Building Division, Legal Services, Growth Management and Development Planning.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

In 2018, concurrent with the changes to the regulations of the Ancaster “ER” Zone, staff were directed to amend Site Plan Control By-law No. 15-176 to incorporate the properties zoned Existing Residential “ER” Zone in Ancaster (By-law No. 18-104).

The Site Plan Control By-law was subsequently amended through By-law No. 19-026 to introduce provisions for the application of site plan control in the Ancaster “ER” Zone. The following changes were made (**bolded text**):

- “9.3 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, for lands located:
- (i) east and west of Beach Boulevard, as shown on the maps attached to and forming part of this by-law as Schedules “B1” to “B3”;

- (ii) in certain residential areas of Ancaster, as shown on the maps attached to and forming part of this by-law as Schedules “C1” to “C13”, **subject to the provisions of Subsection 9.13.**

**9.13 Buildings or structures subject to the following:**

**9.13.1 any new single detached dwelling, duplex dwelling, and semi-detached dwelling;**

**9.13.2 an addition or alteration to an existing dwelling, if the ground floor area of the addition is greater than or equal to 50 percent of the ground floor area of the existing dwelling. For the purpose of this By-law, ground floor area shall include the area covered by ground floor balconies, porches, and stairs;**

**9.13.3 accessory buildings or structures, if greater than or equal to 40 square metres ground floor area; and,**

**9.13.4 on lots with a maximum lot coverage of 35 percent, an addition and / or accessory building or structure that results in a lot coverage that exceeds 35 percent.”**

Since that time, through the ongoing monitoring of site plan control in the Ancaster “ER” Zone, a series of further changes are proposed to the Site Plan Control By-law that affect its implementation in the “ER” Zone.

1. Relocating Subsection 9.13 to Subsection 9.3 (ii) and deleting existing Subsection 9.3 (ii) in its entirety;
2. Expanding on and clarifying the provisions of the new Subsection 9.3 (ii) to improve by-law interpretation and implementation; and,
3. Applying the provisions of the Site Plan Control By-law to detached Secondary Dwelling Units in the Ancaster “ER” Zone.

**1. Relocating Subsection 9.13 to Subsection 9.3 (ii)**

This subsection is to be relocated and replace the existing Subsection 9.3 (ii) to clarify the intended geographic extent that the provisions apply to – the Ancaster “ER” Zone only. As presently structured, Subsection 9.13 applies to the entirety of the City of

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Hamilton. Subsection 9.3 refers to Subsection 9.13 but not vice versa. As a result, Subsection 9.13 technically stands on its own.

By relocating Subsection 9.13 to Subsection 9.3 (ii), the provisions apply to the Ancaster “ER” Zone only, as intended.

**2. Expanding on and clarifying the provisions of the new Subsection 9.3 (ii)**

Subsection 9.3 (ii) a), b), c), i), and j):

These clauses distinguish between the types of development that are subject to site plan control in the Ancaster “ER” Zone. The Site Plan Control By-law now distinguishes between construction, additions, and reconstruction. To provide further clarity for implementation, the by-law defines additions and reconstructions.

An addition means:

“the expansion of a dwelling that has the effect of increasing the ground floor area of said dwelling, but shall not include the expansion of a reconstructed dwelling.”

Reconstruction means:

“a dwelling built on all or part of an existing foundation and any additions or alterations to said foundation, and may include existing ground floor walls as part of the reconstruction.”

An addition is intended to capture expansions of a dwelling that increase the ground floor area of the dwelling. Reconstructions are rebuilt dwellings that use at least some part of the existing foundation and that may include existing ground floor walls as part of the reconstruction. Any expansion of the building footprint that occurs as part of the rebuild are considered to be part of the reconstruction.

Finally, the term construction is intended to apply to new dwellings that are not deemed reconstructions. This could include a new dwelling on a vacant lot.

The intent of these modifications is to provide clear distinction between types of development which will improve consistency in the application of the by-law, and provide further clarification to ease by-law interpretation and implementation for the public as well as staff.

Subsection 9.3 (ii) d) and e):

Site plan control applies to additions and reconstructions if the ground floor area of the addition or reconstruction is greater than or equal to 50 percent of the ground floor area of the dwelling existing on February 14, 2019. However, if a dwelling was previously subject to site plan control in the Ancaster “ER” Zone under Subsection 9.3 (ii), then the ground floor area of the dwelling that was approved through the site plan control application is used to determine whether site plan control is required for the proposed addition or reconstruction.

Subsection 9.3 (ii) h):

This clause has been modified to provide additional clarity on the features that are included in the calculation of ground floor area. This modification is intended to improve by-law interpretation and implementation.

### **3. Applying the provisions of the Site Plan Control By-law to detached Secondary Dwelling Units in the Ancaster “ER” Zone.**

Subsection 9.3 (ii) f):

In addition to the provision of site plan control for Accessory Buildings, this clause now includes detached Secondary Dwelling Units. Through City Initiative 20-E (PED20093(a)), amendments to the six former municipal Zoning By-laws have introduced permissions for and provisions to regulate Secondary Dwelling Units. A detached secondary dwelling unit is a dwelling unit fully separate from the principal dwelling on a lot and located in the rear and / or side yard. A detached secondary dwelling unit is similar to an accessory building in that it is a building on a lot, separate from and secondary to the principal building (dwelling). Thus, it is recommended that the same site plan control criteria be applied to detached Secondary Dwelling Units and Accessory Buildings in the Ancaster “ER” Zone.

The draft amendments are as follows:

- **Subsection 9.3 (ii)**
  - To delete and replace with the following subsection:  
“in certain residential areas of Ancaster, as shown on the maps attached to and forming part of this by-law as Schedules “C1” to “C13”, in accordance with the following provisions:



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- a) The construction of a single detached dwelling, duplex dwelling or semi-detached dwelling that is not a reconstruction, as per Subsection 9.3 (ii) j).
- b) An addition to a single detached dwelling, duplex dwelling or semi-detached dwelling if the ground floor area of the addition is greater than or equal to 50 percent of the ground floor area of the dwelling existing on February 14, 2019.
- c) The reconstruction of a single detached dwelling, duplex, dwelling or semi-detached dwelling if the ground floor area of the reconstructed dwelling is greater than or equal to 50 percent of the ground floor area of the dwelling existing on February 14, 2019.
- d) Notwithstanding Subsection 9.3 (ii) b), if a dwelling was previously subject to the provisions of Subsection 9.3 (ii), the ground floor area of said addition shall be measured against the ground floor area of the dwelling as shown on the site plan approved on the date of Site Plan approval. If the provisions of Subsection 9.3 (ii) have been applied on more than one occasion, the most recent Site Plan approval date shall apply.
- e) Notwithstanding Subsection 9.3 (ii) c), if a dwelling was previously subject to the provisions of Subsection 9.3 (ii), the ground floor area of said reconstructed dwelling shall be measured against the ground floor area of the dwelling as shown on the site plan approved on the date of Site Plan approval. If the provisions of Subsection 9.3 (ii) have been applied on more than one occasion, the most recent Site Plan approval date shall apply.
- f) The following buildings or structures if greater than 40 square metres ground floor area:
  - 1) Accessory buildings; and,
  - 2) Detached Secondary Dwelling Units.

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- g) On lots with a maximum lot coverage of 35 percent, development that results in a lot coverage that exceeds the maximum permitted.
- h) For the purpose of Subsection 9.3 (ii), the ground floor area shall include the area covered by attached garages, attached carports, unenclosed porches, and stairs, but shall not include decks.
- i) For the purpose of Subsection 9.3 (ii) b), an addition shall mean the expansion of a dwelling that has the effect of increasing the ground floor area of said dwelling, but shall not include the expansion of a reconstructed dwelling.
- j) For the purpose of Subsection 9.3 (ii) c), reconstruction shall mean a dwelling built on all or part of an existing foundation and any additions or alterations to said foundation, and may include existing ground floor walls as part of the reconstruction.”

- **Subsection 9.13**
- Delete in its entirety.

## **ALTERNATIVES FOR CONSIDERATION**

If the proposed amendments to the Site Plan Control By-law are not approved, Site Plan Control By-law No. 15-176, as amended by By-law Nos. 18-104 and 19-026 will continue to be in effect for the Ancaster “ER” Zone.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

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

### **Built Environment and Infrastructure**

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

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**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - Location Map

Appendix “B” - Draft Amendment to Site Plan Control By-law No. 15-176, as amended by By-law Nos. 18-104 and 19-026

Appendix “C” - Tracked changes version of Site Plan Control By-law No. 15-176