



**The Corporation of the City of St. Catharines
CITY COUNCIL AGENDA
Twenty-Fifth Meeting, Regular, Monday, November 18, 2013
Council Chambers, City Hall, 6:30 PM**

His Worship Mayor Brian McMullan takes the Chair and opens the meeting

- 1. Invocation**
- 2. Opening Remarks, Mayor McMullan**
- 3. Presentations**
 - 3.1 Athletic Achievement Awards to Members of the St. Catharines Minor Mosquito AA Cobras Baseball Team, Winners of the Ontario Baseball Association's Provincial Championships held in London, August 30, 2013 to September 1, 2013
- 4. Adoption of the Agendas**
- 5. Declarations of Interest**
- 6. Public Meetings Pursuant to Planning Act (Commencing at 7:30 p.m.)**
 - 6.1 Zone Your St. Catharines - New City of St. Catharines Zoning By-law and Accompanying Official Plan Amendment Number 2. (See General Committee, November 4, 2013, Item 4.1) (COPY ATTACHED) File(s): 60.35.1 Vol. C and 60.30.317
- 7. Adoption of the Minutes**
 - 7.1 [Twenty-Fourth Meeting of Council held November 4, 2013](#)
 - 7.2 [Twenty-Fourth Meeting of General Committee held November 4, 2013](#)
- 8. Delegations**
- 9. Call for Notices of Motion**
- 10. Motions**
- 11. Resolve into General Committee**

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- 12. Motion Arising from In-Camera Session**
- 13. Motion to Ratify Forthwith Recommendations**
- 14. By-laws**
 - 14.1 Reading of the By-laws
- 15. Agencies, Boards, Committee Reports**
- 16. Adjournment**

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Corporate Report

Report from Planning and Development Services, Planning Services

Date of Report: October 21, 2013

Date of Meeting: November 4, 2013

Report Number: PDS-332-2013

File: 60.35.11 Vol. C, 60.30.317

Subject: Zone Your St. Catharines – New City of St. Catharines Zoning By-law and Accompanying Official Plan Amendment No. 2

Recommendation

That the report from the Planning and Development Services Department, dated October 21, 2013 concerning the proposed new City of St. Catharines Zoning By-law and accompanying Official Plan Amendment be referred to City Council for consideration of approval after the Public Meeting scheduled for November 18, 2013. FORTHWITH

Staff Recommendation

1. That Council approve the proposed new City of St. Catharines Zoning By-law, dated November 4, 2013 ([Appendix 1](#)).
2. That Council approve an amendment to the Garden City Plan (the Official Plan) to align the new Zoning By-law and the Official Plan ([Appendix 10](#)).
3. That Council direct that the Site Plan Control By-Law be amended to exempt residential buildings having less than four dwellings from the provisions of Site Plan Control.
4. That Legal Services be directed to initiate the process for the preparation of a new fence by-law.
5. That Council direct that staff initiate the process to amend the Sign By-Law to allow ground signs for home based businesses at the same size and height as currently allowed for professional offices.
6. That Council direct that the Transportation Master Plan project include a comprehensive review and public consultation on bicycle parking including design criteria; and

That staff be directed to make the necessary Notice of Decision required by the *Planning Act*, R.S.O, 1990, c.P.13, as amended; and

That the City Solicitor be directed to prepare the necessary By-laws to give effect to Council's decision; and

That upon expiration of the appeal period, staff be directed to forward an application to the Ontario Municipal Board for approval of the proposed zoning by-law and Official Plan amendment, if any appeals are received; and

Further, that the City Clerk be directed to make the necessary notifications. FORTHWITH

Summary

This report brings forward the proposed new City of St. Catharines Zoning By-law (the Zoning By-law) and an accompanying amendment to the Official Plan (The Garden City Plan) for Council's consideration for approval. Other matters related and incidental to the new zoning by-law are also being brought forward for Council direction, and include the preparation of a new fence by-law, direction for proposed amendments to the Sign By-law and the Site Plan Control By-law, and information regarding the return of City zoning control for Niagara Escarpment Plan urban areas.

Zoning By-law

The proposed new Zoning By-law, attached as [Appendix 1](#), is a significant departure from the City's existing zoning. Currently the City has 11 separate zoning by-laws which cover 11 different parts of the City. They all date from between 1958 and 1988. Additionally, there are another 1,400 site specific zoning by-laws establishing special provision zoning on approximately 4,500 properties, representing 10% of the City's parcel fabric. The requirements and provisions of the existing zoning by-laws are often archaic, cumbersome and convoluted, not consistent throughout the city, and amount to approximately 5,000 pages of zoning regulations scattered throughout innumerable files. As such, they are not easy to interpret or decipher, and are logistically inaccessible.

The proposed new Zoning By-law is just that – one zoning by-law covering the entire municipality. It is innovative, up to date, comprehensive, and applies consistent and uniform regulations and provisions across the city. It is presented in a completely new streamlined, definitive, transparent and user friendly format that will be readily available on-line as well as in traditional hard copy. The existing 5,000 pages of zoning regulations have been condensed into 160 pages, and the 1,400 site specific by-laws have been reduced to 123 and are now included in the parent by-law and not under separate cover.

The proposed new Zoning By-law conforms to the intent and purpose of the Official Plan and represents good planning.

Official Plan

The Official Plan establishes general policies and parameters for where, what and how land can be used and developed, and establishes the long term vision for what the City

will look like in the future. The Zoning By-law is the primary tool to implement the Official Plan, and sets out more specific regulations and provisions to carry out the policies established in the Plan. It is critically important that zoning by-law provisions are consistent with and aligned with Official Plan policies if to achieve the long term vision established in the Plan.

Staff is recommending minor revisions to the Official Plan through proposed Official Plan Amendment No. 2. Certain revisions are made to the Plan to more accurately reflect existing land use on approximately 40 properties in the municipality, in concert with proposed zoning for those sites. Other revisions serve to strengthen existing Plan goals and objectives, and to simplify and better clarify intent of existing policy so that it can be more clearly articulated through proposed new zoning regulations and provisions.

The proposed changes to the Official Plan enable greater alignment of the new zoning by-law with the Plan, are minor in nature, and in no way affect the intent and purpose of existing Official Plan policy. The new zoning by-law conforms with the Official Plan.

Consultation

Following on the heels of an extensive public participation process in preparing the City's new Official Plan (approved in July 2012), the process for preparing the new Zoning By-law also undertook an extensive public participation program. Information on proposed zoning regulations and solicitation for comment was extensively advertised through print and radio media, the City's web site, and the Zone Your St. Catharines Facebook page. Consultation on this project was broad and included a series of neighbourhood public open houses at various locations throughout the municipality, extensive input from citizen and community groups, Facebook users, the development industry, City committees and other departmental staff, and upper tier government and outside agencies.

Balance between Flexibility and Certainty

The new Zoning By-law strikes a balance between flexibility and certainty: 'flexibility' to support innovative and alternative design, a greater mix and integration of uses, and optimum development and redevelopment opportunities promoting the City's open for business approach; and, 'certainty' in establishing regulations respecting the character of St. Catharines' diverse neighbourhoods, and promoting enhanced streetscape character, site compatibility, and context sensitive urban design.

Over the course of the public participation process, staff received considerable support for the new Zoning By-law and the contents therein. Divergent views and interests on certain issues were also expressed. While the Zoning By-law does not, and cannot, accommodate all interests fully, it is staff's opinion that the Zoning By-law strikes a balance ensuring all interests are recognized and generally supported in a manner to ensure that the over-riding community interests and goals are maintained.

Other Related Matters

This report recommends direction for change concerning other matters related to land use, development and design, including fencing, signage, and site plan control; and provides information concerning Niagara Escarpment Plan Development Control.

Whereas existing zoning contains certain regulations for fencing and signage, the proposed new Zoning By-law does not. These matters should more appropriately be regulated and administered by separate by-laws under the *Municipal Act*, rather than through zoning control under the *Planning Act*. As such, this report recommends preparation of a new fence by-law and amendment to the City's Sign By-law incorporating additional regulations therein.

To support greater assurance for neighbourhood compatibility, this report also recommends amendment to the City's existing Site Plan Control By-law to require site plan approval for development of four or more residential dwelling units, rather than the current standard of five or more dwelling units.

Currently, the City's zoning regulations do not have any effect in the Niagara Escarpment Plan Development Control Area. The Niagara Escarpment Commission only uses the City's zoning as a guide, together with Niagara Escarpment Plan regulations, in assessing development approvals within the affected area. On urban area lands within the Development Control Area of the Niagara Escarpment Plan, the new Zoning By-law establishes regulations that are aligned with Niagara Escarpment Plan regulations. This will better enable staff to implement Council's direction of August 2010 to work with the Niagara Escarpment Commission to remove Development Control through the Niagara Escarpment Plan review scheduled for 2015.

Background

On July 31, 2012, the City of St. Catharines Official Plan (the Garden City Plan) received final approval by the Regional Municipality of Niagara. This set the zoning by-law review process in motion since the *Planning Act* requires that municipal zoning by-laws be brought into conformity with local Official Plans within three years of Plan approval.

The initial draft of the new Zoning By-law was released on March 18, 2013, followed by a presentation by Planning and Development Services staff to Council on March 25. Reports dated March 4, 2013 and March 12, 2013, are attached to this report as [Appendices 2 and 3](#), respectively.

After the release of the draft in March a comprehensive public consultation process was undertaken. There were 10 open houses hosted by staff throughout the City from March to June with locations and dates as follows:

- Seymour-Hannah Sports and Entertainment Centre , Lifestyle Home Show (March 28-30)
- Grantham Optimist Club (April 9)
- Club LaSalle (April 16)

- Port Dalhousie Lions Club (April 23)
- Seymour-Hannah Sports and Entertainment Centre (April 30)
- Pen Centre (May 7)
- Merritton Lions Community Centre (May 14)
- C.A.W. Hall (May 23)
- Bethany Church (May 29)
- Market Square (June 12)

Approximately 400 people attended these open houses.

Staff made presentations to a number of City committees as follows:

- The Downtown Development Revitalization Committee
- The Mayor's Development Review Committee
- Youth Committee
- Advisory Committee on Accessibility
- St. Catharines Heritage Committee
- Port Dalhousie Heritage District Committee
- Green Committee
- Culture Committee
- Sustainability Committee

In addition, presentations were made to the following community, industry development and special interest groups:

- The St. Catharines Downtown Association
- Niagara Association of Realtors
- Niagara Association of Architects
- Niagara Home Builders
- St. Catharines Chamber of Commerce
- Friends of Walker's Creek
- Rotary Club of St. Catharines

The final draft of the new Zoning By-law was released on August 23, 2013, followed by a second round of public consultation. This round of public consultation included the statutory open house required by The *Planning Act* held for the purpose of giving the public an opportunity to review and ask questions about the material" (i.e. the new Zoning By-law and details of the Official Plan amendment).

Notification of both the statutory open house and public meeting were sent out on September 5, 2013, in accordance with the requirements of the *Planning Act*.

Staff also hosted information booths to promote the open house sessions as follows:

- Market Square (August 29)
- Pen Centre (September 5)
- Fairview Mall (September 12)

Two open houses were held September 16 and 25, 2013, at Market Square. They were attended by a total of approximately 150 people. Although the *Planning Act* only requires that one open house be held, a second open house was held to engage as many people as possible.

With respect to public outreach a range of mediums and methods were used to engage the public at the outset and throughout this project. The City's website, online surveys and "Zone Your St. Catharines" Facebook page provided information and continuing opportunities for dialogue. Print (St. Catharines Standard and Niagara This Week) and radio (610 CKTB, 105.7 EZ Rock, and 97.7 HTZ-FM) media were used to promote the open houses. Notification was also provided by direct mailing on request as well as in water bills. Posters were distributed to libraries, community centres, and other venues in neighbourhoods (e.g. grocery stores).

Approximately 100 written submissions were received as part of the consultation process. Social media was also used to engage the public, resulting in over 450 Facebook comments. These comments and the results of the surveys are attached to this report as [Appendices 4, 5 and 6](#).

In addition to consultation with the public, Staff solicited input from, the Region of Niagara, agencies and Provincial Ministries and other municipal departments. Their comments are attached as [Appendix 7](#).

Report

Zoning By-law

The zoning by-law is the primary tool to implement the principles, policies, and land use designations of the Garden City Plan. The objective of the zoning by-law review was to create a new streamlined, up to date comprehensive zoning by-law that consolidated, and simplified regulations that are universally applied throughout the city.

The Zoning By-law collapses 42 existing zone categories into 24; the 15 residential zones into 4, the 9 commercial zones into 6, and the 7 industrial zones into 2 employment zones.

The Zoning By-law establishes a clear hierarchy of zones (residential, commercial, employment, mixed use, institutional, agriculture, and green space) which better clarifies and defines the purpose, function and intent of each zone, and the range and scale of uses permitted therein.

The approach used in developing the final Zoning By-law was to create an even handed set of regulations that reflects differing opinions, interests and objectives. The Zoning By-law is written in plain language. A deliberate attempt has been made to keep words, grammar and syntax used as simple as possible while meeting the legal requirement for clear and precise legislation.

The Zoning By-law broadly defines uses and creates provisions which allow flexibility for good urban design while ensuring neighbourhood character is respected. This strikes a balance between flexibility and certainty. The Zoning By-law embraces flexibility to support innovative and alternative urban design, with an overall greater mix of uses, and optimum development and redevelopment opportunities. This is balanced with certainty in establishing zoning permissions and regulations to support the integration of new uses in a context sensitive manner, to ensure that neighbourhood and streetscape character, and site compatibility are maintained and enhanced.

The Zoning By-law establishes a completely new format with up to date, succinct, definitive content. For municipal staff, the development industry and the general public the new user friendly format will enhance access to zoning regulations. For example the new Zoning By-law will be available online. The new Zoning By-law includes mapping that more clearly identifies where existing land uses are located, and what uses may be permitted in the future.

With few exceptions, where lawfully existing use and regulatory permissions on properties do not fit within the uniform standards established in the new Zoning By-law, the properties are recognized by special provision. Overall, the final zoning by-law provides a concise, streamlined and user friendly document, reducing over 5000 pages of existing zoning regulations to approximately 160 pages.

As a result of the public participation process many revisions were incorporated into the final zoning by-law. For example a number of property owners through public engagement requested a review of the zoning that had been proposed for their properties and / or neighbourhoods in the initial draft by-law released in March. Each request was reviewed and, where appropriate, the zoning was adjusted to more accurately reflect the lawful use or the character of those neighbourhoods.

In addition to the changes that were made because of public feedback, staff also made revisions to ensure clarity, ease of administration and readability. The matrix, "You Spoke. We Listened. Summary of Revisions to March 18, 2013 Draft Zoning By-law" [Appendix 8](#) attached to this report, details all of the revisions.

The following is an overview of the contents of the final new Zoning By-law:

General Provisions that Apply to All Zones

Bill 140 Strong Communities through Affordable Housing Act 2011

Provincial legislation passed in 2011 requires municipalities to permit accessory dwelling units in detached dwellings, semi-detached dwellings and townhouse dwellings. To comply with this legislation, the final Zoning By-law includes requirements for both interior accessory dwelling units and exterior accessory dwelling units. Interior accessory dwelling units will be permitted in detached dwellings, semi-detached dwellings and townhouses on public roads. These must be contained entirely with the principal building and are limited in size to maintain character and compatibility in established neighbourhoods.

Detached accessory dwelling units (garden suites), such as the conversion of a detached garage into a dwelling unit, will only be permitted by site specific zoning amendment.

No interior or detached accessory apartments which have being constructed without a building permit will be “grandfathered”. All of these dwelling units must comply with the requirements of the Ontario Building Code and Fire Code and all other applicable regulations of the zoning by-law.

During discussions with the public concerns were raised related to parking for these accessory dwelling units. The final Zoning By-law includes a parking requirement of one parking space per dwelling unit for both interior and detached accessory dwelling units.

Home Based Business

Home based businesses have been permitted in the urban area since 1993. The final Zoning By-law will continue to permit these small scale incubator businesses in the urban area. Under the current Zoning By-laws only a Bed and Breakfast home based business is permitted in the Agriculture zones. The new zoning by-law will also permit all home businesses in dwellings in the Agriculture zones. Through the consultation process, staff heard support for permitting non-resident employees. As a result the final Zoning By-law will allow one non-resident employee in association with a Home Based Business.

Parking

The parking provisions in the new Zoning By-law strike a balance by providing for adequate but not excessive amounts of parking. Supported by parking policies in the Official Plan and local parking studies, the new requirements seek to ensure large barren expanses of asphalt are not created and existing ones are reduced over time. New in the Zoning By-law are minimum parking space requirements for shopping centres as well as a cap on the total number parking spaces that can be provided for uses with the largest parking lots. The new parking space requirements will provide the opportunity for intensification of existing developments while balancing opportunities to fulfill urban design initiatives with improved landscaping, pedestrian links, greater accessibility and more sustainable site elements.

As a result of consultation with the public and development industry, parking requirements for a number of uses including private road developments, apartments, long term care facilities, and, as noted above, interior accessory dwelling units have been revised in the final Zoning By-law (see [Appendix 8](#)).

Recreation Vehicles

Council will recall that under the current zoning by-laws only Zone 8 had regulations regarding recreation vehicles. On November 26, 2012, Council passed the following motion:

“That Council endorse the removal of the present Zone 8 restrictions in this regard; and That Zone 8 be considered the same as all other current areas within the City.”

Following a public meeting on January 21, 2013, Council approved an amendment to Zone 8 Area By-law 6609 deleting in its entirety restrictions on recreation vehicles (R.V.s). This established a uniform approach for the storage of R.V.s across the city. The March 18 2013, draft Zoning By-law did not contain any regulations for recreation vehicles. Throughout the public engagement process during the spring, comments were received asking for some regulations for R.V.s, as well as comments opposing any regulation. Concerns raised included sightlines, and streetscape, and conversely problems with vandalism when R.V.s are stored elsewhere.

In discussing these issues with residents, there was consensus shared by both those in favour of regulations for R.V.s as well as those opposed on safety concerns related to sightlines. Therefore, the final Zoning By-law continues to permit R.V.s on all residential properties. The Zoning By-law includes regulations for where they can be parked. These regulations are intended to keep a balance that retains rights to park R.V.s on residential properties while addressing sight lines, streetscape and safety matters that were raised by keeping R.V.s away from the street.

Council should note that Zoning By-law 2013-23 which gave effect to Council's decision regarding removing regulations for R.V.s in Zone 8 was appealed. The appellant requested that the hearing of the matter by the Ontario Municipal Board (OMB) be deferred until the comprehensive new zoning by-law dealt with by Council.

Landscape Buffers for Parking Areas

The Zoning By-law contains universal landscape buffer requirements for all parking lots. The initial draft zoning by-law released in March contained requirements for 'pod parking' areas for larger parking areas. This has been deleted from the final Zoning By-law as it was perceived to limit parking layout and design options. Landscape buffer requirements within by-law achieve the same goal while maintaining flexibility for good design.

Bicycle Parking

The Zoning By-law also balances vehicle parking with other modes of transportation. In this regard, standards for bicycle parking are included. Bicycle parking advocates provided comments requesting an expansion of the uses that require bicycle parking and long term and short term parking requirements. In addition, a detailed submission was received from the Policy Task Force of the Regional Niagara Bicycling Committee Niagara which included location and design criteria as well as recommendations on bicycle parking rates. As a result of these comments, an expanded, more comprehensive list of uses requiring bicycle parking is included in the final by-law with parking rates that are in keeping with best practice short term parking rates and is seen as a step forward in expanding opportunities for cycling. Consideration of the other aspects of the Task Force's submission is beyond the scope and constraints of the zoning by-law review. A comprehensive review and public consultation on bicycle parking including design criteria should be completed in conjunction with the City's Transportation Master Plan project.

Drive Thrus

There are no regulations for drive thrus in the current Zoning By-laws. The new Zoning By-law contains regulations for drive thrus including:

- Buffering the street from the drive thru; and
- Establishing a minimum number of cars that are accommodated in the stacking lane.

The final Zoning By-law revises the regulations for drive thrus to clarify the intent and purpose of the provisions as a result of comments from restaurant industry representatives and the public (see [Appendix 8](#)).

Residential Zones

The new Zoning By-law mapping clearly identifies where low, medium and high density residential uses are located. For the first time, the Zoning By-law provides uniform requirements for residential uses. The Zoning By-law expands the range of dwelling types that are permitted in most neighbourhoods. For example, townhouses will be permitted in every residential zone, creating opportunities for intensification, where appropriate. Context sensitive regulations such as appropriate yard, building massing, and height requirements that reflect the character of different neighbourhoods balance maintaining neighbourhood stability while providing infilling opportunities. The zoning by-law implements the density requirements of the Official Plan through minimum and maximum lot areas for ease of understanding.

The zoning by-law includes two low density residential zones, which recognize the character of different neighbourhoods. The zoning regulations are in keeping with Council approved urban design guidelines.

Low Density Residential Zones

The two low density residential zones are:

- Low Density Residential-Suburban Neighbourhood Zone which recognizes the character of neighbourhoods like those near Club Roma and the north end of the City where lots are generally wide with deep front yards. This zone includes regulations to maintain that character; and
- Low Density Residential-Traditional Neighbourhood Zone which reflects older traditional neighbourhoods like those around Collegiate, and Central St. Catharines. This zone allows for narrower lots and houses to be closer to the street.

The existing zoning by-law restricts the height in most residential neighbourhoods to 11 metres. The maximum height in both Low Density Residential zones will remain at 11 metres. Some of the yard requirements were revised in the final Zoning By-law to reflect best practices and standards in recent development applications and to ensure compatibility in neighbourhoods (see [Appendix 8](#)).

Medium and High Density Residential Zones

The Medium Density Residential Zone and High Density Residential Zone are where the highest intensity of residential use is supported. These two zones will permit a wide range of residential uses including apartment buildings. The Medium and High Density Residential zones are generally located on or near transit routes and close to shopping and parks, and at the edges of neighbourhoods or at major intersections.

To maintain an appropriate distance separation from adjacent properties, as an apartment building becomes taller, more yard space will be required. Within neighbourhoods, the height of apartment buildings is limited to 20 m which is approximately 4-5 storeys. On arterial streets increased height is allowed.

Through the public participation process comments regarding the stacked townhouse use were received. Specifically, the height compatibility between stacked townhouses and ground oriented residential uses was raised as a concern. Staff agrees that the built form of stacked townhouses is, essentially, an apartment building and, therefore, it was redundant to include as a separate dwelling type. The final Zoning By-law has been amended to remove stacked townhouses as a dwelling type.

Commercial Zones

The final Zoning By-law condenses the nine existing commercial zones into six. These six new Commercial zones establish a framework that reflects the intended purpose, function, intensity and scale of different commercial lands.

The zones are:

- Local Convenience Commercial Zone for small scale uses within neighbourhoods such as a convenience store;
- Community Commercial Zone for community scale shopping plazas (e.g. Glenridge Plaza);
- Arterial Commercial Zone for commercial corridors (e.g. part of Ontario Street / Lake Street);
- Major Commercial Zone for the large Region servicing major shopping plazas (e.g. Pen Centre); and
- Two commercial zones in the Downtown, being Downtown Commercial Core Zone and Downtown Traditional Main Street Zone, which will be discussed in more detail below.

In the final Zoning By-law, the Commercial zones were revised, by streamlining and simplifying provisions to ensure they were clear and easy to understand and use.

Commercial uses are broadly defined to be more interpretive and all encompassing. For example, rather than specifically listing all types of retail or service commercial uses, retail is now defined as a premise 'where goods, wares, and new and used merchandise is offered for sale to the public'; service commercial is defined as 'a non-retail commercial use'. This approach allows the By-law to be more responsive to

market changes. As well, the final Zoning By-law supports more housing opportunities, with apartments permitted in most commercial zones.

Mixed Use Zones

Through the provision of three Mixed Use zones the final Zoning By-law provides enhanced opportunities for mixed use neighbourhoods resulting in an integration of smaller scale commercial, institutional and recreational uses together with medium to higher density residential uses. People will be able to work, live, and play in the same locale. All mixed use zones are located primarily on arterial roads and at established nodes identified in the Official Plan to support a higher intensity of activity and uses. The zoning will facilitate more walkable, interactive streetscapes, and transit supportive intensification development corridors at the periphery of established neighbourhoods. The final Zoning By-law recognizes and enhances existing mixed use areas (e.g. Facer Street, and parts of Ontario, Lake, Niagara, Queenston Streets), and evolving mixed use areas such as Hartzel Road, St. Paul Street West and Welland Avenue.

Two of the mixed use zones are within the Downtown and are explained in more detail below.

Downtown

The Downtown is intended to support the highest concentration and mix of uses in the city. The concentrated core was established in policies contained in the Garden City Plan. The current Zoning By-law allows for a mix of uses scattered over a large area in the Downtown. The new Zoning By-law provides residential and employment growth and intensification opportunities through more clearly defined commercial and mixed use areas which is consistent with the Official Plan.

In keeping with the Garden City Plan, the new Zoning By-law reduces the size of the commercial core area, concentrating commercial uses to support Downtown revitalization. The two new Downtown commercial zones permit the largest range of commercial uses and support the highest concentration of office use in the City. The Downtown Commercial Core Zone allows freestanding residential uses, whereas the Downtown Traditional Main Street Zone does not allow freestanding residential uses. Both zones create a more cohesive, contiguous, walkable core area to support a greater concentration and mix of transit supportive uses (commercial, office, civic, institutional, cultural, recreation and higher density residential). Also in keeping with the Downtown Urban Design Guidelines, minimum height requirements have been included in these two Commercial zones. In addition, the Zoning By-law regulates maximum heights at the street level to ensure development is at a pedestrian scale along the street front.

Two Mixed Use Zones apply to the transition area immediately outside the Downtown Commercial core area. The Medium / High Density Mixed Use Zone and High Density Mixed Use Zone support opportunities for development of medium and higher density housing permitting smaller scale commercial, and office uses. These zones provide opportunities for live work situations within the Downtown area, and support transition

from the Downtown Commercial Core Zone and Downtown Traditional Main Street Zone to the residential neighbourhoods beyond the Downtown.

The March 18, 2013 draft Zoning By-law proposed a commercial ground floor component in both Downtown Commercial Zones to maintain active streetscapes. Feedback for increased residential opportunities being provided for in the Downtown was received during the consultation process. The final Zoning By-law expands residential opportunities by allowing stand-alone apartment buildings in more areas. Ground floor commercial will still be required along a portion of St. Paul Street recognizing its “main street” function and presence, however in keeping with Official Plan policies, apartment buildings will be permitted north of Carlisle Street.

Institutional Zones

Most of the current Zoning By-laws do not contain institutional zones. The new Zoning By-law creates a hierarchy of three institutional zones based on scale and location as follows:

- Small local institutional uses including such uses as an elementary school, small place of worship are zoned Local Neighbourhood Institutional
- Wider Community serving institutions such as a secondary school, or large place of worship located on arterial roads are zoned Community Institutional.
- The third institutional zone identifies the Major Institutional uses such as Brock University and the new hospital.

Social service and long term care facilities are permitted in all institutional zones. To ensure the scale of the institutional use will be compatible with the neighbourhood the Institutional zones contain maximum lot areas. In the final Zoning By-law maximum lot areas were increased to address comments received from the school boards and to reflect the scale of existing institutions. Also in the final Zoning By-law uses such as a cultural facility and indoor and outdoor recreation facility were added to Institutional Zones to reflect the range of uses on existing institutional lands.

The Local Neighbourhood Institution Zone and Community Institution Zone also will permit the residential uses allowed in the surrounding neighbourhood. This will support existing places of worship with associated housing. For example, a Local Neighbourhood Institutional Zone located within a Low Density Residential – Suburban Zone will also permit the same uses in addition to institutional uses.

Employment Zones

Industrial areas are now called Employment zones to reflect the range and diversity of uses permitted in these areas. Currently, there are seven industrial zones, some of which are not clear and cause problems in their interpretation. For instance, in west St. Catharines there is a Service Industrial and an Industrial Service zone with only subtle differences between them. In the final Zoning by-law there are two new Employment Zones that are harmonized with the Official Plan. They are:

- Business Commercial Employment Zone (for example the Hannover Drive and Martindale Road area south of the QEW) which allows more office and retail permissions than in the current Zoning By-law.
- General Employment Zone (for example Cushman Road Area south of Welland Avenue) that focusses on more traditional industrial uses with less office and retail permissions.

A greater overall range of permitted uses recognizes the changing nature of employment, being a shift from traditional manufacturing to office / knowledge based uses. This flexibility promotes the City's open for business objectives.

Green Space Zones

The new Zoning By-law better defines the City's hierarchy of green spaces ranging from small neighbourhood parks and playgrounds to large district parks and playing fields while providing enhanced protection for environmentally sensitive lands. The three Green Space zones are:

- Conservation / Natural Area Zone for environmental areas such as valley lands and shorelines;
- Minor Open Space Zone for small neighbourhood parks and playgrounds;
- Major Green Space Zone applicable to larger city wide serving parks and open spaces such as Lakeside, Pearson, and Montebello parks.

The mapping in the new Zoning By-law clearly identifies all existing green space including trails, walkways and opportunities for connectivity between neighbourhoods such as walkways connecting schools and parks to local roads.

Revisions incorporated in the final Zoning By-law reflect comments regarding where dog parks, trails and playgrounds are permitted (e.g. playgrounds and trails are now an accessory use in all zones).

Agriculture Zones

The Zoning By-law continues to protect farming as the primary use in the Agricultural Area of the City in accordance with the Official Plan and the provincial Greenbelt Plan.

The new zoning by-law has three Agriculture zones:

- Agriculture Zone – permits agriculture farms and detached dwellings;
- Agriculture Only Zone- permits only agriculture farms;
- Agriculture Commercial / Industrial Zone supports farm related commercial or industrial uses such as dairies, farm implement sales and service, and processing of tender fruit crops.

The Zoning By-law further supports farmers with additional accessory uses permitted in the Agriculture Zone. These accessory uses are:

- Agri-Tourism uses which support, promote, and sustain the viability of agricultural operations. Among others, these uses include farm markets, restaurants associated with a winery, road side produce stands, and special events facilities;

- Wineries and home industries such as wood working in a barn or garage are allowed subject to certain conditions;
- Home Industry, which are small scale businesses which are secondary to the farm use on the same lot.

The new Zoning By-law recognizes existing land use permissions. Lands that are currently zoned only to permit agriculture will continue to be zoned Agriculture Only. The limited existing commercial uses outside of the urban area (e.g. motor vehicle gas stations, variety stores, etc.) are being recognized by the new Zoning By-law in the Agriculture Commercial / Industrial Zone.

Kennels have been removed as a stand-alone permitted use and added as a home based business in the Agriculture zones to more accurately reflect the scale and nature of the use. As well, a size limit was added to wineries to ensure that the scale of a winery remain secondary to the primary agriculture use and be in scale with the farm property. Existing places of worship have been recognized with a special provision.

Transition to the New Zoning By-law

To facilitate transition from the old zoning by-laws to the new Zoning By-law, regulations have been incorporated which address situations where a complete application for: building permits, Committee of Adjustment approvals, site plan control approval, part lot control approval, plan of subdivision / condominium approval or agreement was received between January 1 2011 and December 16, 2013. These applications will be processed under the provisions of the old zoning by-laws. These transition provisions will allow development applications currently in process to proceed without the necessity of a redesign or other planning application provided the development complies with the old zoning by-law requirements. The transition regulations will be in effect for three years (to December 16, 2016) to provide ample time for developments to be completed.

By-laws Currently Under Appeal

There are two by-laws currently under appeal, as follows:

- By-law 2013-23 was passed by Council on February 4, 2013. The by-law implements Council's decision to remove regulations for recreational vehicles in Zone 8. The appellant has requested that the Ontario Municipal Board defer a hearing of the matter until the review of the new zoning by-law is completed.
- By-laws 2013-138 and 2013-139 were passed by Council on June 10, 2013. The by-laws amend the Official Plan and By-law 62-86 (Zone 7) to implement Council's decision concerning a land use change at 88 Merritt Street. There was one appellant. An Ontario Municipal Board hearing is scheduled for November 19, 2013.

There are transition considerations for the new Zoning By-law as a result of these two appeals.

The new Zoning By-law contains provisions that will repeal all 11 existing zone area by-laws. The by-laws under appeal noted above amended the Zone 7 and 8 zone area by-laws. Once the new Zoning By-law is approved these zone area by-laws will no longer be in effect. The decisions of the Ontario Municipal Board on these appeals will be reflected in the new Zoning By-law.

Official Plan Amendment

The Official Plan establishes general policies and parameters for where, what and how land can be used and developed, and establishes the long term vision of what the City will look like in the future. The Zoning By-law is the primary tool to implement the Official Plan, and sets out more specific regulations and provisions to carry out the policies established in the Plan. Provincial legislation requires that the Zoning By-law comply with Official Plan policy. It is critically important that zoning by-law provisions are consistent with and aligned with Official Plan policies to achieve the long term vision established in the Plan.

In preparing the new Zoning By-law, a detailed examination of the entire City parcel fabric (approximately 43,000 properties) was undertaken. Through this process it was recognized that the existing land use on approximately 40 properties was not accurately depicted on Official Plan land use maps, or has changed since the approval of the Plan. Accordingly, revisions are proposed to Official Plan mapping to more accurately reflect the current lawful land use on these properties in concert with proposed zoning for those sites.

Other proposed revisions serve to strengthen the existing goals and objectives of the Plan, as well as simplify and better clarify intent of existing policy in a manner that such policy can be more clearly articulated through proposed new zoning regulations and provisions. These revisions include the following:

- Clarify locational criteria for Local Neighbourhood Convenience Commercial Centres, and that size restrictions for individual uses apply to all non-residential uses rather than just commercial uses.
- Minor expansion of the Downtown Commercial Core south of Ontario Street to reflect the existing parcel fabric and current land use and zoning.
- Expand residential development opportunities in the Downtown Core and on St. Paul Street north of Carlisle Street to support Urban Growth Centre initiatives and residential intensification in the Downtown.
- Remove the restriction for Hotels only permitted on arterial roads in the Downtown Core.
- Remove reference to 'personal service' uses as they will now fall under the definition of 'office' or 'service commercial' uses.
- Establish a size limit for wineries based on 5% of lot area where they are located.
- Clarify that warehouse and storage are permitted uses in Employment designations.

- Amend site plan control policies to facilitate application of site plan approval for residential development of four or more dwelling units, as opposed to the current standard of five.
- Clarify that public roads are to be excluded in calculating net site density.
- Revise shopping centre policies to better recognize that such centres are typically made up of a number of individual properties, and that the permissible scale and mix of uses be addressed both on a site basis, as well as on the overall scale of shopping centres.

The matrix, 'You Spoke. We Listened' Summary of Proposed Official Plan Amendment details all of the revisions and is attached as [Appendix 9](#).

Staff is recommending these minor revisions to the Official Plan through proposed Plan amendment No. 2. The proposed changes to the Official Plan enable greater alignment with the proposed zoning by-law, are minor in nature, and in no way affect the overall intent and purpose of existing Official Plan policy. The proposed changes have been vetted through the upper tier (Region of Niagara) approval agency for Official Plan Amendments. The Region has acknowledged the minor nature of proposed revisions, and has exempted Regional approval of proposed Plan Amendment 2. The amendment is attached as [Appendix 10](#).

It is staff's opinion that the new Zoning By-law conforms to the intent and purpose of the Official Plan and represents good planning. The Official Plan, which received final approval on July 31, 2012, complies with the Niagara Region Policy Plan and provincial plans and policies.

Fence By-Law

The City currently has two by-laws passed under the *Municipal Act* relating to fences, (By-law 5275) passed in May of 1948 and a By-law requiring the enclosure of privately-owned outdoor swimming pools (By-law 2006-26) passed in February of 2006.

The City's existing zoning by-laws regulate fencing to varying degrees. The provisions concerning fencing were introduced into the Zoning By-laws in the 1970s, for the most part, and have been amended from time to time since then. Typically, regulations set out fence location, materials, and height. There are inconsistencies in the requirements from zone to zone and redundancies. For example, there are references to hedges, which have posed enforcement challenges.

The new Zoning By-law does not contain any requirements for fencing because the *Planning Act* gives no authority to regulate fences. Section 11 of the *Municipal Act* provides the City with the authority to pass a by-law relating to fencing. Staff is recommending that a new fence by-law be passed under the *Municipal Act*. This is consistent with the approach being taken with the new Zoning By-law insofar as providing a universally applicable set of requirements for fencing in a modern, user friendly, accessible format. To this end, Legal Services has commenced preparation of

a new fence by-law, and Council direction is being sought in order to formalize this process.

Sign By-Law

The City currently has a comprehensive sign by-law (By-law 2012-154) which was passed in May of 2012. Existing zoning by-laws regulate signage in a limited capacity with most references having been removed in 1987. By-law 93-385 allowed home occupations (currently referred to as a home based business) in residentially zoned areas subject to a number of requirements, including a prohibition on signage.

The new Zoning By-law does not contain any requirements with respect to signage. By-law 2012-154 regulates signage in a comprehensive manner including allowances for a small sign not exceeding 0.20 square metres (2.15 square feet) identifying the occupant and / or use of a building, including signs for a home based business. By-law 2012-154 also allows a similar small ground sign at a height not exceeding 1.5 metres (4 feet 11 inches) for lands used as a professional office in residentially zoned areas. There was support throughout the public consultation process for the new zoning by-law to allow modest sized signage for home based businesses similar to that currently allowed for professionals. Consideration should be given for the Sign By-Law (By-law 2012-154) to be amended to allow ground signs for home based businesses on lands zoned for residential use at the same size and height as currently allowed for professional offices.

Niagara Escarpment Plan (NEP)

Within the most significant areas of the Niagara Escarpment Plan (NEP), a development control system requires the issuance of a development permit by the Niagara Escarpment Commission (NEC) for any development. This process replaces the City's zoning by-law for regulating development. This system was created to ensure that the objectives of the NEC are achieved. This means that a property owner must apply to the NEC for new building construction, building additions, or to undertake other work such as altering the grade of the land in addition to applying to the City for a building permit and, when applicable, site plan approval.

On August 23, 2010, Council approved the principle of returning lands designated Urban Area within the NEC jurisdiction to regulation by the City's Zoning By-law and that City staff work with NEC staff to implement proposed changes and report back to Council in due course. Lands designated Escarpment Natural Area would remain under the control of the NEC.

NEC staff has reviewed the proposed new Zoning By-law and provided extensive comments. NEC comments have been integrated into the new Zoning By-law. Matters of particular interest to the NEC include establishing height limits in accordance with NEP objectives as well as requiring visual impact assessment studies as a precursor for development in certain instances. The new Zoning By-law is consistent with the NEP with respect to zoning in anticipation of a major review of the NEP scheduled for 2015. Staff will continue to work with NEC staff leading up to and including the 2015 review to

ensure that Council's direction is implemented. No further direction is required at this time.

Site Plan Control By-law

By-Law 85-535 designates certain lands within the City of St. Catharines as being subject to site plan control with a number of exceptions. One of those exceptions is that residential buildings having less than five dwelling units are not subject to site plan control.

As noted previously in this report, the new Zoning By-law proposes to expand the range of residential uses permitted in most neighbourhoods. For example, townhouses and fourplex dwellings will be permitted in lower density residential neighbourhoods.

One of the common themes expressed throughout the public consultation process was that while the public is not opposed, for the most part, to the introduction of more residential uses into existing neighbourhoods, compatibility should be maintained and enhanced. Staff concur, and believe that it is prudent to ensure that new residential development and intensification is integrated sensitively. With this in mind, staff recommend that the Site Plan Control By-Law be amended to exempt residential buildings having less than four dwelling units from the provisions of site plan control rather than five which is currently the case. As a result, a row of four townhouses on a public road or a fourplex building would require a site plan approval to obtain a building permit. This requirement will provide increased certainty that matters related to compatibility (e.g. building massing, landscaping) are being achieved in conjunction with the new Zoning By-law requirements.

Public Notice

In accordance with established procedures the date for the public meeting is provided in the recommendation and notices for the public meeting have been circulated.

Second Planning Opinion Advisory

Should Council consider not supporting the Staff Recommendation, Council is advised to defer its decision until such time as a second planning opinion from an outside consultant can be obtained. In the event the second planning opinion is supported by Council, and Council makes a decision based on that second planning opinion, and if and when the matter should be heard before the Ontario Municipal Board, then the planner who has provided the second opinion shall be retained for the purpose of a hearing before the Ontario Municipal Board.

In accordance the *Planning Act*, R.S.O, 1990, c.P.13, as amended changes to the Zoning By-law directed by Council after the public meeting will require a motion as to whether further public notice is required.

Financial Implications

There are no financial implications.

Conclusion

Staff believes that the City is taking a leadership role in the future development of the city with its new Official Plan and proposed new Zoning By-law.

The new Zoning By-law represents a balance between flexibility and certainty that promotes the City's open for business opportunities while also respecting the established character of the city's diverse neighbourhoods. The concurrent amendment to the Official Plan ensures that the zoning by-law and Plan are implemented in harmony with one another in the future.

The new Zoning By-law conforms to the intent and purpose of the Official Plan and represents good planning. The Official Plan, which received final approval on July 31, 2012, complies with the Niagara Region Policy Plan and provincial plans and policies.

Notification

Notice shall be given in accordance with the requirements of the *Planning Act* and to everyone who submitted written comments and all persons making oral submissions at the public meeting.

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By-laws to be considered on November 18, 2013

- (a) A By-law to amend By-law No. 89-2000 entitled "A By-law regulating traffic and parking on City Roads". (Three readings – with respect to parking and loading zone by-laws on Garden Park, Kennedy Avenue, Belton Blvd and Gordon Place General Committee, November 4, 2013, Item Nos. 3.5, 3.6, 4.8 and 4.12.)
- (b) A By-law to authorize the acceptance of a conveyance of certain lands from Elisabeth Boen for the widening of Peel Street and Paxton Avenue. (Three readings – with respect to severance condition for 13 Paxton Avenue. Delegation By-law No. 2004-277, as amended.)
- (c) A By-law to authorize a Grant Application with the Department of Canadian Heritage. (Three readings – with respect to Canada Day Celebration in Market Square. . Delegation By-law No. 2004-277, as amended.)
- (d) A By-law to confirm the proceedings and decisions of the Council of The Corporation of the City of St. Catharines at its Meeting held on November 18, 2013. (Three readings – with respect to ratification and adoption of City Council Minutes of November 4, 2013, and General Committee Minutes of November 4, 2013.)