



**The Corporation of the City of St. Catharines  
CITY COUNCIL AGENDA  
Thirteenth Meeting, Regular, June 23, 2014  
City Hall, Council Chambers, 6:30 p.m.**

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

Page

- 1. Invocation**
- 2. Opening Remarks, Mayor McMullan**
- 3. Presentations**
- 4. Adoption of the Agendas**
- 5. Declarations of Interest**
- 6. Public Meetings Pursuant to Planning Act (Commencing at 7:30 p.m.)**

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- 6.1 Planning and Development Services, Planning Services  
Application for Draft Plan of Subdivision Approval for Residential Development - 26 Oakdale Avenue; Merritton Mills Redevelopment Corp., Owner (For the consideration of Council, see Report PDS-162-2014 Attached)

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- 6.2 Proposed Amendments to Official Plan and District 5 Zoning By-law for the Creation of a Downtown Entertainment District; File: 60.35.44 Vol. 3 (See General Committee Minutes, September 12, 2011, Item 440; General Committee Minutes, November 21, 2011, Item Number 586, and Council Minutes November 28, 2011, Item 425 (Attachment 1) PUBLIC MEETING ADJOURNED) (For the consideration of Council, see Report PDS-097-2014 Attached)

- 7. Adoption of the Minutes (Council and General Committee)**

- 7.1 Twelfth Meeting of [Council, June 9, 2014](#)
- 7.2 Twelfth Meeting of [General Committee, June 9, 2014](#)

- 8. Delegations**

- 8.1 Ray and Liz Kowalik; Re: Lifting of Deferral to City Official Plan (Garden City Plan) for 1406 Third Street Louth (see [General Committee Agenda](#),

June 23, 2014, Item 4.1)

8.2 Representative of Grey Forest Homes Ltd.; Re: Heritage Designation of 57 Lakeshore Road

8.3 **Public Meeting (Pursuant to Notice By-law)**

Request for Approval under Funeral, Burial and Cremation Services Act for Existing Columbarium - Church of the Transfiguration (see [General Committee Agenda](#), June 23, 2014, Item 3.1)

**9. Call for Notices of Motion**

**10. Motions**

**10.1 Event of Municipal Significance - Niagara Wine Festival**

That Council of the City of St. Catharines declares the Niagara Wine Festival, to be held September 19, 2014 to September 28, 2014, to be an event of Municipal Significance with respect to obtaining liquor permits in accordance with the Alcohol and Gaming Commission of Ontario requirements; and

That the Office of the City Clerk make the necessary notifications.

**10.2 Increase Taxi Service in the Downtown Core**

Presented by Councillor Siscoe

Whereas the Downtown Licensed Establishment Committee has spent three years working to enhance the downtown business area as a sub-committee of the Downtown Development and Revitalization Committee; and

Whereas the committee has made a number of recommendations to help improve the business climate for all different types of business, including but not limited to entertainment, retails, and professional offices; and

Whereas the changes implemented to date have led to an overall improvement in the climate downtown, including a reduction in disturbances to businesses related to late-night entertainment activities; and

Whereas the situation related to late-night transportation has still not been resolved; and

Whereas a possible solution to the late-night transportation issue would be to allow more taxi cabs into the downtown on Thursday, Friday and Saturday nights; and

Whereas this can be accomplished without issuing new licenses by allowing licenses from other jurisdictions to enter into the downtown and pick up fares on Friday and Saturday nights;

Therefore Be it Resolved that St. Catharines City Council request that the Niagara Regional Police Services Board allow licensed taxis from within Niagara to enter into the downtown core and pick-up fares on Friday and Saturday nights after midnight.

**10.3 Urban Boundary - 1406 Third Street Louth**

Presented by Councillor Secord

That the City of St. Catharines support the concept of extending the urban boundary to include 1406 Third Street Louth.

**11. Resolve into General Committee**

**12. Motion Arising from In-Camera Session**

**13. Motion to Ratify Forthwith Recommendations**

**14. By-laws**

14.1 Reading of By-laws

**15. Agencies, Boards, Committee Reports**

15.1 Committee Minutes to Receive: Mayor's Advisory Committee for Black History - [March 20, 2014](#); Culture Committee - [April 1, 2014](#)

**16. Adjournment**



CITY OF  
ST. CATHARINES

## Corporate Report

**Report from** Planning and Development Services, Planning Services

**Date of Report:** June 2, 2014

**Date of Meeting:** June 23, 2014

**Report Number:** PDS-162-2014

**File:** 60.46.400

**Subject:** Application for Draft Plan of Subdivision Approval for Residential Development – 26 Oakdale Avenue; Merritton Mills Redevelopment Corp., Owner

### Recommendation

That approval be granted for a draft plan of subdivision, as outlined in Appendix '2', for the lands described as Lots 157, 158, 159, 167 and Part of Lot 160, and Part of the Lane lying north of Lots 167-174, and Part of Clark Street, Corporation Plan No. 6, municipally known as 26 Oakdale Avenue, subject to the conditions of draft plan of subdivision approval, as outlined in Appendix '6' of this report; and

That Blocks 1, 2, 4, 5, 6 and 7, as shown in Appendix '2', be exempted from site plan approval; and

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

That after notice of Council's decision has been given, the City Clerk be authorized to endorse the plan as "draft approved" on the day after the appeal period has expired, in accordance with the Planning Act, provided that no appeals have been lodged; and

That upon expiration of the appeal period, staff be directed to forward any appeals to the Ontario Municipal Board for consideration and final decision; and

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

### Summary

The above-noted application proposes development of the subject lands for a mix of residential uses with a minimum density of 25 units per hectare. Specifically, the draft plan proposes six semi-detached units, 37 townhouse units, and one block for a private road development, which is to include a minimum of 37 dwelling units with the potential for a variety of dwelling types, including block townhouses and apartment buildings.

The plan proposes a new public street accessed from the north side of Oakdale Avenue linking to the easterly terminus of Abbot Street. The plan has been red-lined to account for a pedestrian connection through the subdivision. Other red-line revisions include the

addition of a block to be municipally owned, which will provide secondary access to the private road development block and ensure flexibility for future street connections; and the exclusion of a small portion of the lands from the draft plan to ensure that the remaining additional lands owned by the applicant will have frontage on a public road. The proposed draft plan of subdivision is attached as Appendix '2'. Staff are recommending approval of this draft plan of subdivision subject to the conditions outlined in Appendix '6'.

## Report

### Location and Site Description

The site is located in the Merritton neighbourhood, in the City's East Planning District. More specifically, it is oriented north of Oakdale Avenue, east of Abbot Street, and west of the Merritton fire hall and active Trillium Railway spur line. A location map is attached as Appendix '1'.

The subject lands are irregular in shape and 3.83 hectares in size, fronting onto both Oakdale Avenue and Abbot Street. Additional lands owned by the applicant totaling 1.42 hectares, as illustrated on the attached red-lined draft plan, are not the subject of this application for draft plan of subdivision approval.

The subject lands are vacant with sparse vegetation. Previous uses included the former Domtar steam plant facility and a stretch of Trillium Railway's spur line. The industrial building has been demolished and all rails, ties, and bridges associated with the former spur line, including the elevated crossing over Oakdale Avenue, have been removed.

Surrounding land uses include:

North:	Vacant residential lands (decommissioned Trillium Railway spur line; additional lands owned by the applicant) Natural open space (Clifford's Creek watershed; municipal stormwater outlet)
South:	Residential (single-detached dwellings) Institutional (church)
East:	Active Trillium Railway spur line Commercial uses along the Merritt Street-Hartzel Road corridor Institutional (Merritton fire hall)
West:	Vacant lands which were previously industrial (glass recycling facility on the south side of Oakdale Avenue) and now zoned for residential use Commercial (motor vehicle sales and repair garage at Oakdale Avenue and Abbot Street)

### Official Plan Designation

The Garden City Plan designates the majority of the lands as Neighbourhood Residential, providing for a range of housing opportunities, types, forms and densities. Schedule E9 (refer to Appendix '4') provides additional direction for the East Planning

District and designates the majority of the lands Medium Density Residential, permitting detached, semi-detached, duplex, triplex, quadruplex, fourplex, townhouse and apartment dwellings at a density range between 25 and 99 units per hectare of land. Height of buildings will generally not exceed 20 metres.

A very small portion of the property, approximately 300 square metres in size and located closest to the Merritt Street-Hartzel Road corridor, is designated Mixed Use in the Plan. The Mixed Use Designation permits a broad array and mix of medium and higher density housing, work live accommodation, commercial, local office, institutional, indoor recreation and cultural uses intended to primarily serve the immediate neighbourhood and community population. Stand-alone residential uses are permitted. Height of buildings will generally not exceed 20 metres.

An official plan amendment is not required in order to facilitate the proposal under consideration.

## **Zoning**

By-law 2013-283 zones the lands Medium Density Residential with a Holding Provision for environmental considerations (R3-H1) (refer to Appendix '5'). The R3 zone permits a range of residential uses, including detached, semi-detached, duplex, triplex, fourplex, quadruplex, and townhouse dwelling units, apartment buildings, long term care facilities, as well as private road developments.

The residential uses proposed for this development are all permitted. The proposal substantially complies with the provisions of the zoning by-law, however the applicant will be required to seek a minor variance from the Committee of Adjustment to address deficiencies for lot frontage and lot area on certain lots and blocks. These variances are discussed in greater detail in the Planning Analysis section of this report.

## **Proposed Development**

The draft plan of subdivision proposes three lots for six semi-detached dwelling units, seven blocks for 37 townhouse units, and one block for a private road development with a minimum of 37 dwelling units, which may include various dwelling types, such as block townhouses and apartment buildings. Also proposed is a new public street accessed from the north side of Oakdale Avenue linking to the easterly terminus of Abbot Street.

A red-line revision has been made to accommodate a pedestrian connection, identified as Block 9 on the attached draft plan, running east-west along the northerly limit of the subdivision. In the future, this pedestrian connection will extend east beyond the Trillium Railway spur line through the unopened portion of the Rockwood Avenue road allowance, thereby providing direct access from Abbot Street to Merritt Street.

A further red-line revision includes the addition of one block (Block 10), to be dedicated to the City, ensures flexibility for future street connections to the north and provides a secondary access to the private road development block (Block 8).

The third and final red-line revision excludes a small portion of the subject lands, tucked north of Abbot Street and west of Block 10. This revision will ensure that additional lands owned by the applicant, directly north of the excluded area, will have frontage on a public road, being Abbot Street.

The applicant has provided a concept plan which illustrates how Block 8 could be developed. This is attached as Appendix '3'.

## **Circulation Comments**

This application for draft plan of subdivision approval was circulated to all appropriate departments and agencies for their comments and requirements. There were no objections received. The conditions of draft plan approval reflect the requirements of those commenting agencies and departments.

## **Niagara Region**

In light of the property's proximity to potential noise generators (Trillium Railway spur line to the immediate east; commercial uses to the east along the Merritt Street-Hartzel Road corridor and to the west at Abbot Street and Oakdale Avenue; CN Railway principal main line to the south; Highway 406 further west), and in accordance with Ministry of the Environment (MOE) guidelines, a Noise Feasibility Study was prepared by HGC Engineering and circulated with the draft plan application. The study includes a number of mitigation measures for specific lots and blocks (e.g. acoustic barrier, warning clauses, forced air ventilation systems sized for future central air conditioning, masonry exterior walls and upgraded window glazing). Although the study, dated August 15, 2012, generally demonstrates the feasibility of mitigating noise impacts, it is outdated with respect to road and rail traffic forecasts. Additionally, the study is based on a previous preliminary draft plan and therefore lot and block references do not reflect the current proposed draft plan. An updated detailed noise feasibility study is required.

Due to the proposed change of use to residential, the site has undergone remediation work to address contaminated soils resulting from the previous industrial use. The change in land use from industrial to residential requires the filing of a Record of Site Condition (RSC) on the Ministry of the Environment (MOE) Brownfield Environmental Site Registry, in accordance with the Provincial brownfields regulation (Ontario Regulation 153/04, as amended). Based on an existing RSC for a portion of the subject lands that comprised the former Domtar steam plant facility, it appears that the property could not meet the residential standards for a few specific contaminants. The applicant's agent has advised that a risk assessment is currently underway in order to obtain the necessary RSC for the residential use.

## **Trillium Railway**

Through review of the site plan agreement for Block 8, the applicant will be required to meet Trillium Railway's standard requirements for developments abutting a secondary branch line. These include, but are not limited to, preparation of a noise study, building setbacks, fencing, warning clauses, and an environmental easement for operational

noise and vibration emissions, registered against the subject property in favour of the rail line operator.

## **CN Railway**

The applicant will be required to meet CN Railway's standard requirements for developments in proximity to its principal main line. These include preparation of a noise study, warning clauses, and an environmental easement, similar to that required by Trillium Railway.

## **Development Section, Planning and Development Services**

A Geotechnical Investigation was conducted by exp Services Inc. (June 11, 2012) and circulated with this draft plan application. The report submitted for review is based on a previous preliminary draft plan and Development staff notes that topographic information provided in the report is not consistent with that provided on the draft plan submitted with this application. Additionally, the report references the locations of five boreholes; three of which are located outside of the northerly limited of the lands proposed to be developed. A revised geotechnical investigation will be required.

The Garden City Plan designates Oakdale Avenue as an arterial road with an ultimate right-of-way width of 26.2 metres. The applicant will be required to convey to the City a road widening along the Oakdale Avenue frontage of the subject lands.

The site is subject to an existing easement in favour of the City for a combined sanitary and storm sewer and access thereto. The easement runs north-south through the subject lands, parallel to the Trillium Railway spur line, and directly impacts Block 8 of the draft plan. Buildings and other structures are not permitted within the easement.

The applicant will be required to provide detailed servicing information for the development, including water, sanitary and storm sewer service designs which meet municipal standards. This information will be required at the time of application for subdivision agreement.

## **Urban Design**

In the absence of plans which demonstrate how the subdivision will connect with vacant lands to the north also owned by the applicant, the draft plan must be modified to ensure those vacant lands will have frontage on a public street. The modifications must also ensure flexibility for future street connections, including the potential extension of Street 'A' to the north.

The Noise Feasibility Study, prepared by HGC Engineering and dated August 15, 2012, recommends the use of a noise wall on Lot 1 (referred to as Block 1 in the study) adjacent to Oakdale Avenue. Noise walls adjacent to a public street are not appropriate. An addendum to the study that provides recommendations on how buildings on Lot 1 can be constructed and/or oriented to avoid the need for such a noise wall is required before final approval of the plan.



A public pedestrian connection, which links Abbot Street to Merritt Street via the subject lands and the unopened Rockwood Avenue road allowance, is needed. This can be achieved by the applicant dedicating to the City a swath of land, approximately 3.9 metres in width, paralleling the northerly property line of the subject lands. The applicant will be responsible for the cost of constructing the connection within the block to municipal standards.

A streetscape plan must be submitted for review and approval through the subdivision agreement process. The plan must identify the location of all roadways, driveways, sidewalks, street trees, hydrants, street lights, hydro transformers, utility pedestals, community mailboxes, and on-street parking.

### **Recreation and Community Services**

Recreation and Community Services also noted that the subdivision should include an east-west pedestrian connection to Merritt Street, providing access to the mix of uses along the Merritt Street-Hartzel Road corridor for both the residents of this subdivision and those on Oakdale Avenue.

### **Other Comments**

Standard comments received from all other departments and agencies have been incorporated into the draft plan conditions (Appendix '6').

### **Open House**

A public open house was hosted by the Planning and Development Services Department on March 25, 2014, as required by the Planning Act. The purpose of the open house was to present the applicant's proposal and afford an opportunity for attendees to ask questions and provide comments before decisions are made by City staff. There were eight persons in attendance: six local residents and business owners; the applicant's agent; and the builder.

Generally, attendees were supportive of the development, noting that it will have a positive impact on the neighbourhood. The following matters were discussed:

- Traffic - Merritt Street and Hartzel Road currently experience traffic congestion. How will this be addressed?
- Market - Is the development proposed to be geared-to-income?
- Nuisance - How will dust from construction activities be mitigated?
- Land use - Why aren't employment generating uses being accommodated on these lands?
- Compatibility – There is an existing motor vehicle sales and repair garage located at Abbot Street and Oakdale Avenue. How will compatibility be achieved between this and the more sensitive land use?

The above matters are addressed in the Planning Analysis section of this report.

## Planning Analysis

### Provincial Policy Context

The subject lands are located within a settlement area under the Provincial Policy Statement (2014) and within the built-up area as delineated by the Provincial Growth Plan for the Greater Golden Horseshoe (2006). These documents contain policies that direct major growth and development to settlement areas; encourage the development of complete communities; support intensification and the redevelopment of brownfield sites; and require the provision of an appropriate range of housing types and densities. The Provincial Policy Statement requires that land use patterns within settlement areas be based on densities and a mix of land uses which support active transportation, and which efficiently use land, resources, infrastructure and public service facilities which may be planned or are already available.

This development provides for the efficient reuse of a brownfield site with access to existing infrastructure and services and opportunities for active transportation links. Public transit is available in close proximity (along Oakdale Avenue and Merritt Street). A mix of housing types at a minimum density of 25 units per hectare is proposed. The proposal meets the spirit and intent of the applicable Provincial policies.

### Regional Official Plan

According to the Regional Official Plan, the subject lands are located within the Urban Area for the City of St. Catharines and within a Built-up Area under Amendment 2-2009 (Niagara 2031/conformity amendment), which will be the focus of residential and employment intensification and redevelopment, including the reuse of brownfield sites, within the Region over the long term. Municipalities are encouraged to provide a full range of housing types to serve a variety of people as they age through the life cycle.

This development provides for a variety of housing types and densities which add to the range of housing types available in this neighbourhood to meet the needs of various household and income groups. The proposal makes efficient use of designated urban lands and existing infrastructure. As a brownfield site, the proposed redevelopment will assist the City in reaching its residential intensification targets. Active transportation opportunities are provided with connections to the adjacent residential neighbourhood as well as nearby commercial and community facilities, such as Clifford's Creek Park to the north. The proposal complies with the policies of the Regional Official Plan.

### Official Plan

The Garden City Plan provides that the City shall support sustainable development through land use and development patterns that promote compact form and directs development, redevelopment and intensification primarily to the Downtown Urban Growth Centre and Intensification Areas. The subject lands are located within an Intensification Area as delineated by the Garden City Plan thereby meeting the spirit and intent of these sustainability policies.

The Plan designates the majority of the lands as Neighbourhood Residential, providing for a range of housing opportunities, types, forms and density. Schedule E9 (refer to

Appendix '4') provides additional direction for the East Planning District and designates the majority of the lands Medium Density Residential, permitting detached, semi-detached, duplex, triplex, quadruplex, fourplex, townhouse and apartment dwellings at a density range between 25 and 99 units per hectare of land. Height of buildings will generally not exceed 20 metres.

A very small portion of the property, approximately 300 square metres in size and located closest to the Merritt Street-Hartzel Road corridor, is designated Mixed Use in the Plan. The Mixed Use Designation permits a broad array and mix of medium and higher density housing, work live accommodation, commercial, local office, institutional, indoor recreation and cultural uses intended to primarily serve the immediate neighbourhood and community population. Stand-alone residential uses are permitted. Height of buildings will generally not exceed 20 metres.

At a minimum density of 25 units per hectare and with a variety of dwelling types and forms proposed, this development complies with the land use policies of the Garden City Plan.

### **Zoning By-law**

By-law 2013-283 zones the lands Medium Density Residential with a Holding Provision for environmental considerations (R3-H1) (Refer to Appendix '5'). Upon registration of a Record of Site Condition, the holding condition will be removed by Council without further public notice, with the exception of the owner, as required by the Planning Act.

The R3 zone permits a range of residential uses, including detached, semi-detached, duplex, triplex, fourplex, quadruplex, and townhouse dwelling units, apartment buildings, long term care facilities, as well as private road developments. The proposal complies with the zoning by-law in this regard.

The general provisions of the zoning by-law stipulate that no person shall develop or construct a building or structure or otherwise use any lot unless the lot fronts on a public road. The draft plan of subdivision circulated with this application proposed the division of land at the northerly limit of the subdivision that would result in the isolation of additional lands also owned by the applicant. The plan has been red-lined to exclude a small portion of the lands, tucked north of Abbot Street and west of Block 10, thereby ensuring that additional lands to the north, also owned by the applicant, will have frontage on Abbot Street.

While the proposal substantially complies with the provisions of the R3 zone, deficiencies have been flagged for Lots 1, 2 and 3. The applicant will be required to seek minor variances from the Committee of Adjustment to address the deficiencies outlined below.

The zoning by-law requires a minimum lot frontage of 7.5 metres for each semi-detached dwelling unit, while the draft plan submitted provides for a total lot frontage (based on 2 dwelling units) of 13.3 metres and 13.2 metres for Lots 2 and 3 respectively. Additionally, these two lots appear to exceed the maximum lot area per

dwelling unit of 370 square metres permitted by the by-law. Due to their location on a bend of the new public street, the lots are pie-shaped. This irregular shape proves more difficult when designing for compliance with all of the provisions of the zoning by-law.

It appears that Lot 1 may also exceed the maximum lot area per dwelling unit of 370 square metres, even after conveyance of the required road widening along Oakdale Avenue. This new lot is flanked by existing lots to the west along the north side of Oakdale Avenue and the proposed new public street to the east, the location of which was set by virtue of the construction of an access to the new Merritton fire hall. It is evident that these existing conditions make compliance with all of the provisions of the R3 zone more difficult.

As a condition of this draft plan, approval of all necessary minor variances by the Committee of Adjustment will be required.

### **Draft Plan of Subdivision**

Section 51(24) of the Planning Act guides staff in considering a draft plan of subdivision. Staff is satisfied that the proposal satisfies these criteria, subject to the conditions of draft plan approval in Appendix '6' and minor revisions to the draft plan outlined below.

Lands beyond the northerly limit of the new public street have been identified as a new block (Block 10) for municipal ownership. This block will provide an opportunity to extend the new public street further north should the additional lands owned by the applicant ever be developed. Further, the block will provide secondary access from the northerly limit of the new public street to the private road development block (Block 8). Requirements for the construction and maintenance of this access can be stipulated in the future site plan agreement.

A red-line revision related to the dedication of a pedestrian connection block is explained in the Active Transportation and Pedestrian Connections section of the Planning Analysis.

A red-line revision related to providing additional lands to the north with frontage on a public street is explained in the Zoning By-law section of the Planning Analysis.

### **Active Transportation and Pedestrian Connections**

The General Policies of the Garden City Plan provide that development of St. Catharines will be based on sustainable design principles, including a compact, walkable, bikeable and well-connected community. The City will encourage and facilitate alternative forms of transportation that promote energy conservation and a healthy lifestyle. Further, the City will ensure that the transportation system will be designed to provide continuous and direct access by sidewalks and walkways to schools, recreation and cultural destinations, community services, major activity centres, and other high volume pedestrian centres.

Public consultation for *Reclaiming Ground – In the Queenston Neighbourhood and Hartzel Road* highlighted the need for improved connectivity between Merritt Street/Hartzel Road and the local neighbourhoods. The study specifically identified the subject lands as a potential location for improving east-west connections.

In keeping with the policies of the Garden City Plan and in consideration of public input received through *Reclaiming Ground – In the Queenston Neighbourhood and Hartzel Road*, a pedestrian connection should be provided through the subdivision to access the mixed used lands along Hartzel Road and Merritt Street for both the residents of this subdivision and those on Oakdale Avenue.

Although it is apparent from an existing beaten path that pedestrians currently cross the rail line, the formalization of the east-west connection would likely necessitate upgrades to the crossing. It is noted that the land over which the rail line crosses is, in fact, a portion of the Rockwood Avenue road allowance which has not been stopped up and closed. The City of St. Catharines is therefore 'senior' at this crossing; that is to say that the City owns the lands and we may exercise the right to formalize a pedestrian crossing, subject to Trillium Railway's requirements. The requirements for this crossing warrant more discussion between the applicant, City staff and Trillium Railway, but may include signage, surface upgrades, signals, whistles, etc. City staff will be instrumental in facilitating negotiations with Trillium Railway in this regard.

The draft plan has been red-lined to include a block (Block 9), approximately 3.9 metres in width, along the northerly limit of the subject lands to facilitate this east-west pedestrian connection. Staff is recommending that these lands be dedicated to the City as a condition of draft plan approval and that the applicant be responsible for the costs associated with implementing rail crossing upgrades to the satisfaction of Trillium Railway and the City.

### **Site Plan Control**

In addition to fulfilling conditions of draft plan approval, the applicant will be required to enter into a site plan agreement with the City prior to the issuance of a building permit for the private road development block (Block 8). The site plan agreement will address issues related to access and parking, lighting, fencing, landscaping, grading and servicing, architecture, noise mitigation, existing easements for access and servicing, and adjacency to the Trillium Railway spur line.

The applicant has provided a concept plan, attached as Appendix '3', which demonstrates how Block 8 could be developed. Council is advised that this plan is considered preliminary and conceptual and will be subject to changes as a result of a more detailed site plan review process.

A recent amendment to the City's site plan control by-law requires that residential developments of three units or more will be subject to site plan control. The purpose of this amendment was to ensure the compatibility of infill development in established neighbourhoods. To that end, Blocks 1 thru 7, as shown in Appendix '2', would be subject to site plan control. Typically site plan agreements for freehold townhouse

blocks would be scoped, with minimal requirements; perhaps boulevard trees and elevation plans.

As a condition of draft plan approval, the applicant will be required to submit a streetscape plan identifying the location of all roadways, driveways, sidewalks, street trees, hydrants, street lights, hydro transformers, utility pedestals, community mailboxes, and on-street parking. Due to the location of the proposed development, tucked behind Oakdale Avenue and Abbot Street, ensuring compatibility with the established neighbourhood is less of a concern than if the development were proposed in line with existing uses on Oakdale Avenue. It is for these reasons that staff is recommending that Blocks 1, 2, 4, 5, 6 and 7 be exempted from site plan control. It is noted that Block 3 should not be exempted from site plan control because of the requirements for noise mitigation on this block.

## **Open House Comments**

### **Traffic**

Residents commented that Merritt Street and Hartzel Road currently experience traffic congestion. The Traffic Section of Transportation and Environmental Services was circulated this application and had no comments or concerns to provide. The proposed residential uses are permitted by the zoning by-law and therefore a traffic impact study is not warranted.

### **Market**

Residents inquired as to would be living in the new subdivision and whether it would be geared-to-income. Staff explained that the municipality has no authority to regulate where people live. The applicant has retained a builder to construct the semi-detached and townhouse units within the development. The builder was in attendance and provided attendees with concept elevations plans. The applicant's agent was also in attendance and confirmed that the development is not geared-to-income. The applicant's agent reiterated that plans for the private road development, Block 8, have not yet been finalized.

### **Nuisance**

A concern was raised with respect to potential dust generation from construction activities. Staff explained that should there be such a nuisance, the City can require the developer to clean area roads that may be impacted and dampen dirt to control dust. The builder explained that dirt and fill will not be required to be trucked in or out of the development.

### **Land Use**

A local business owner attended the open house and raised concerns that development of the subject lands will not include employment generating uses. Staff explained that the Garden City Plan and zoning by-law established the residential use prior to this development proposal and that other areas of the City have been designated for employment uses in accordance with Provincial policies. The applicant's agent noted

that the overall redevelopment of the Domtar paper manufacturing operation includes commercial uses along Oakdale Avenue, including the Mountain Locks Plaza.

### **Compatibility**

There is an existing motor vehicle sales and repair garage located at Abbot Street and Oakdale Avenue. A concern was raised with respect to compatibility between this use and the more sensitive residential use proposed. Staff explained that the zoning by-law establishes building setbacks and landscape buffering requirements to ensure compatibility with neighbouring uses. Additionally, the applicant has been required to provide a noise study to assess the feasibility of mitigating noise generated by surrounding land uses. The recommendations of that study will be addressed prior to final approval of the plan of subdivision. Staff also noted that noise complaints are handled by the City's Legal Services Department, who coordinates enforcement of the noise by-law.

### **Public Notice**

In accordance with established procedures, notices for the public meeting have been circulated.

### **Second Planning Opinion Advisory**

Should Council consider not supporting the staff Recommendation provided in this report, 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.

### **Financial Implications**

Not applicable.

### **Conclusion**

In summary, staff is satisfied that the proposal submitted makes efficient use of these brownfield lands and is compatible with the surrounding neighbourhood. The proposal is consistent with provincial, regional and municipal policies, providing for intensification within an established neighbourhood to help meet the current and future housing needs of the City's residents. The conditions of draft plan of subdivision approval are considered appropriate for the successful development of this proposal.

### **Notification**

It is in order to advise Tim Kenny, the owner's agent.

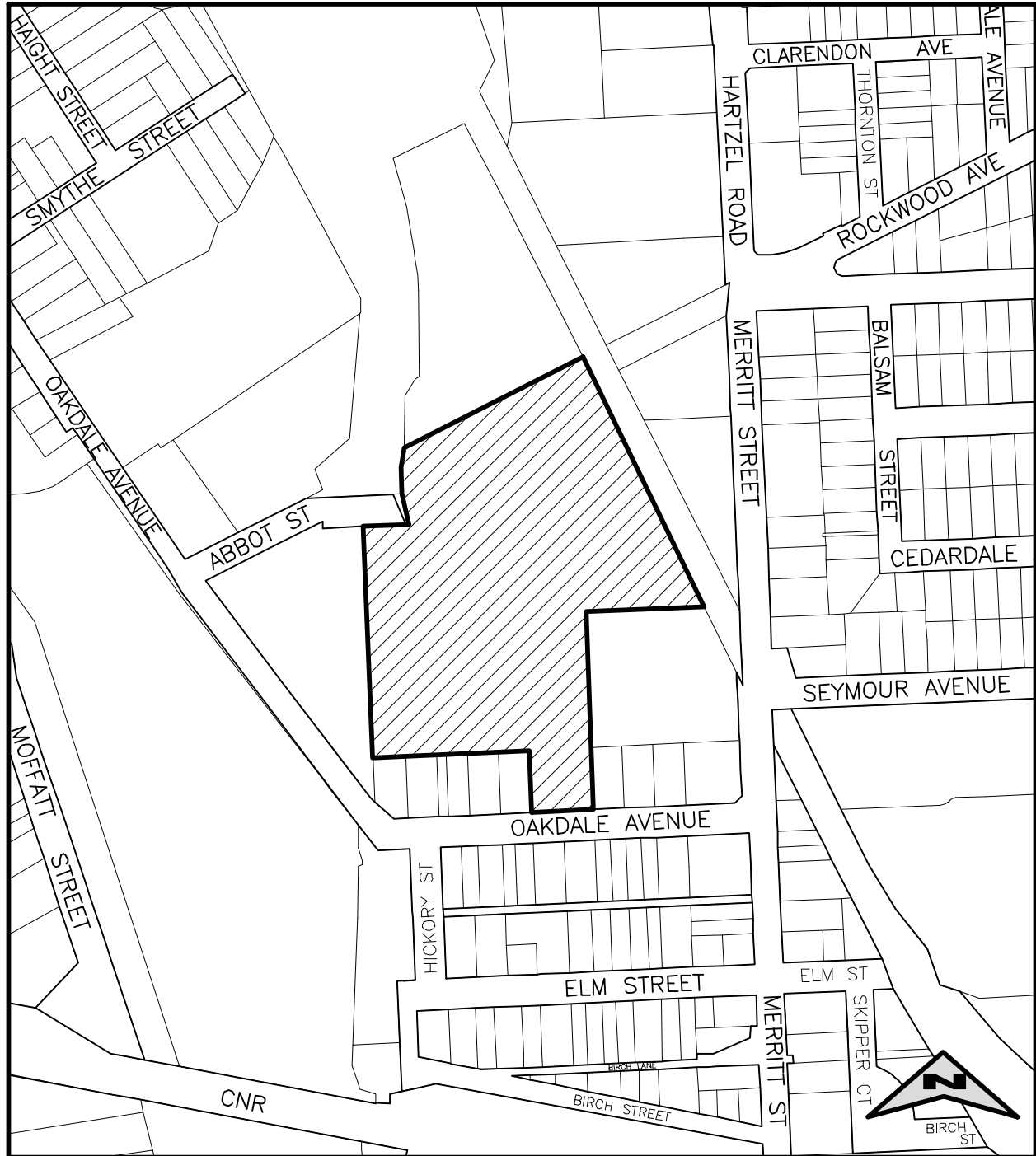
#### **Prepared by:**


Amanda Knutson, Planner I

#### **Submitted and Approved by:**

James N. Riddell, M.P.L., M.C.I.P., R.P.P.  
Director of Planning and Development Services

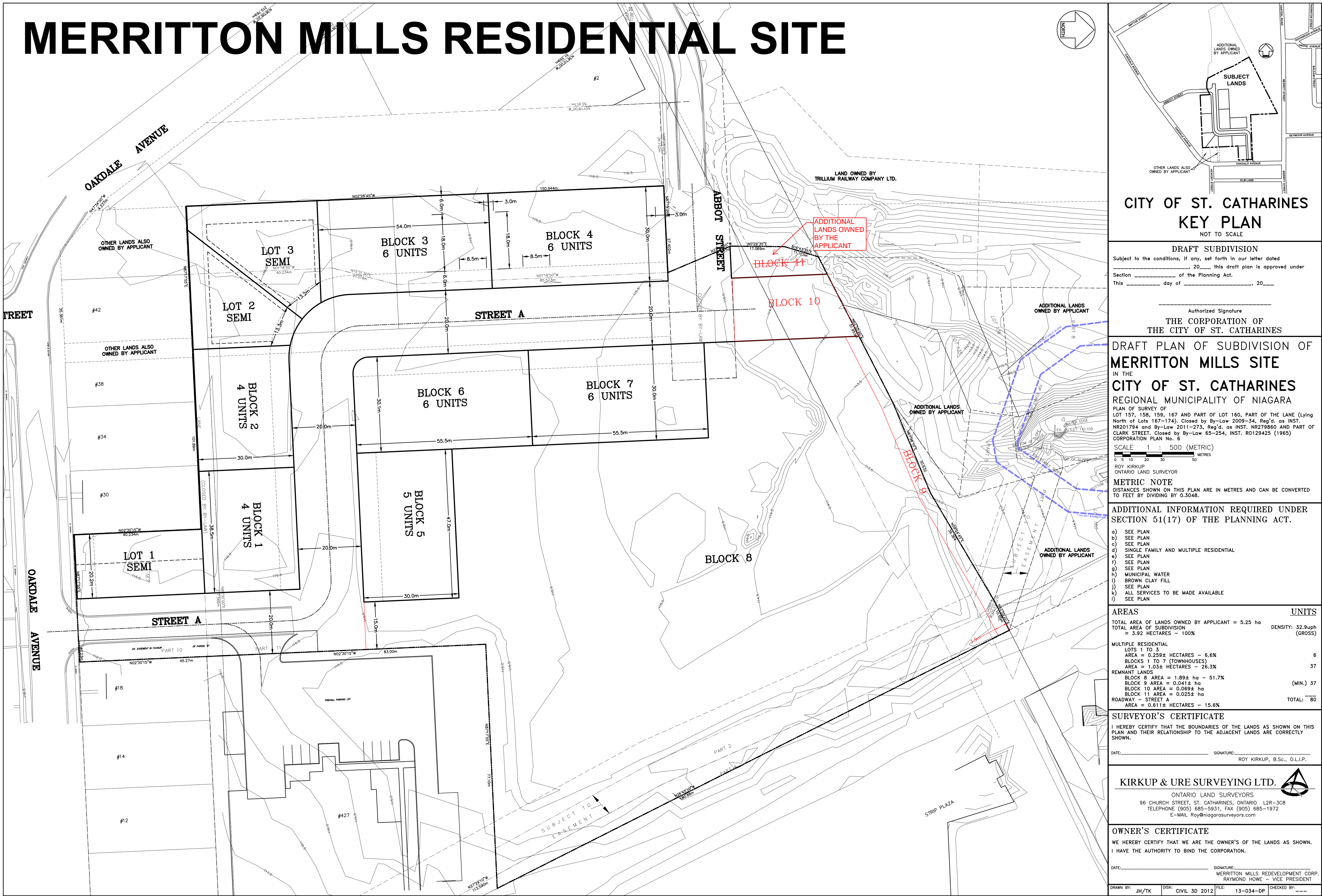
# Location Map



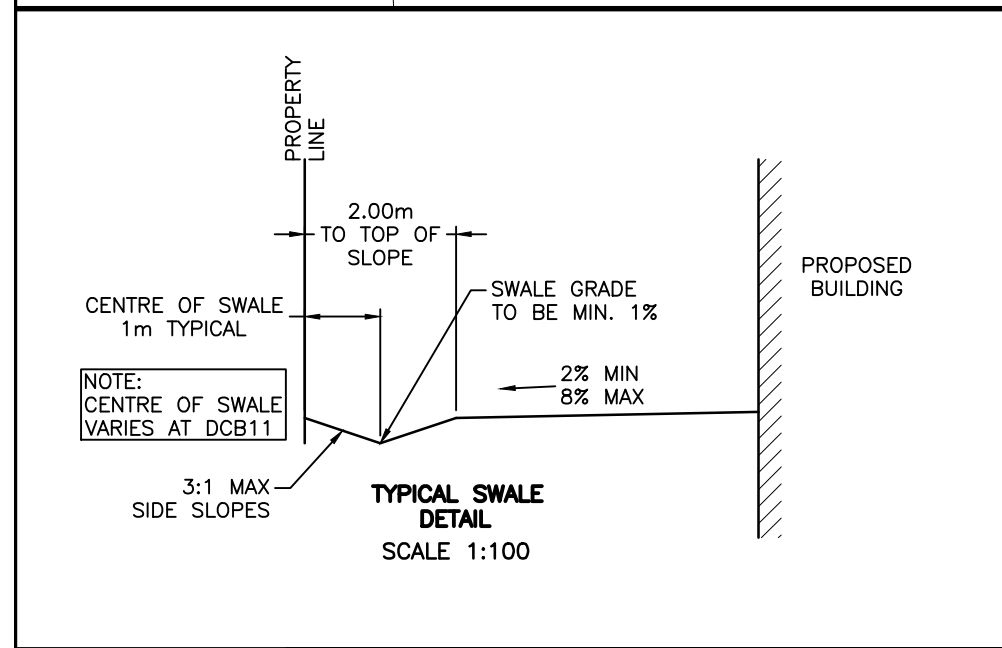
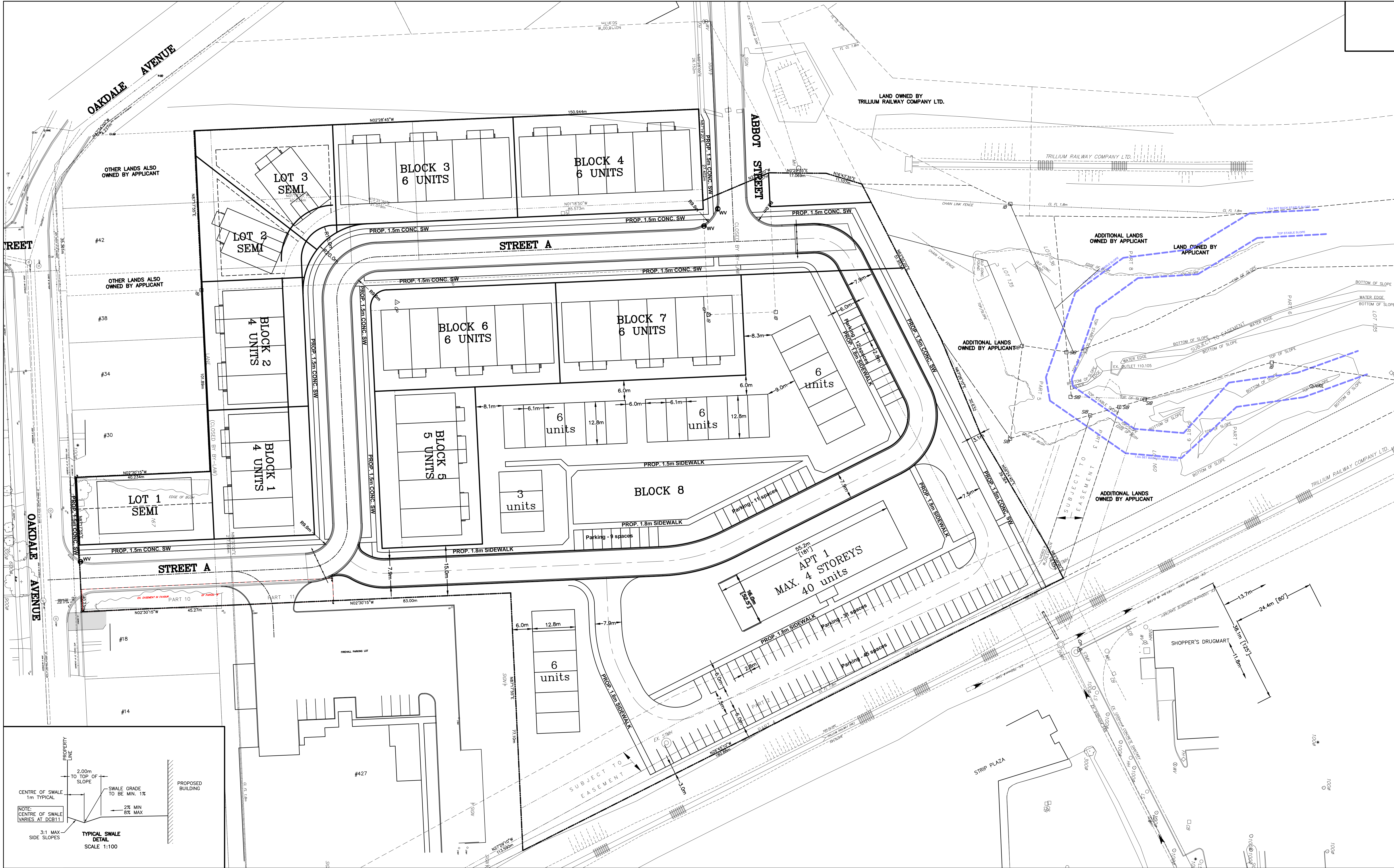
 Subject Lands  
 26 Oakdale Avenue  
 File: 60.46.400



# MERRITTON MILLS RESIDENTIAL SITE

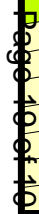


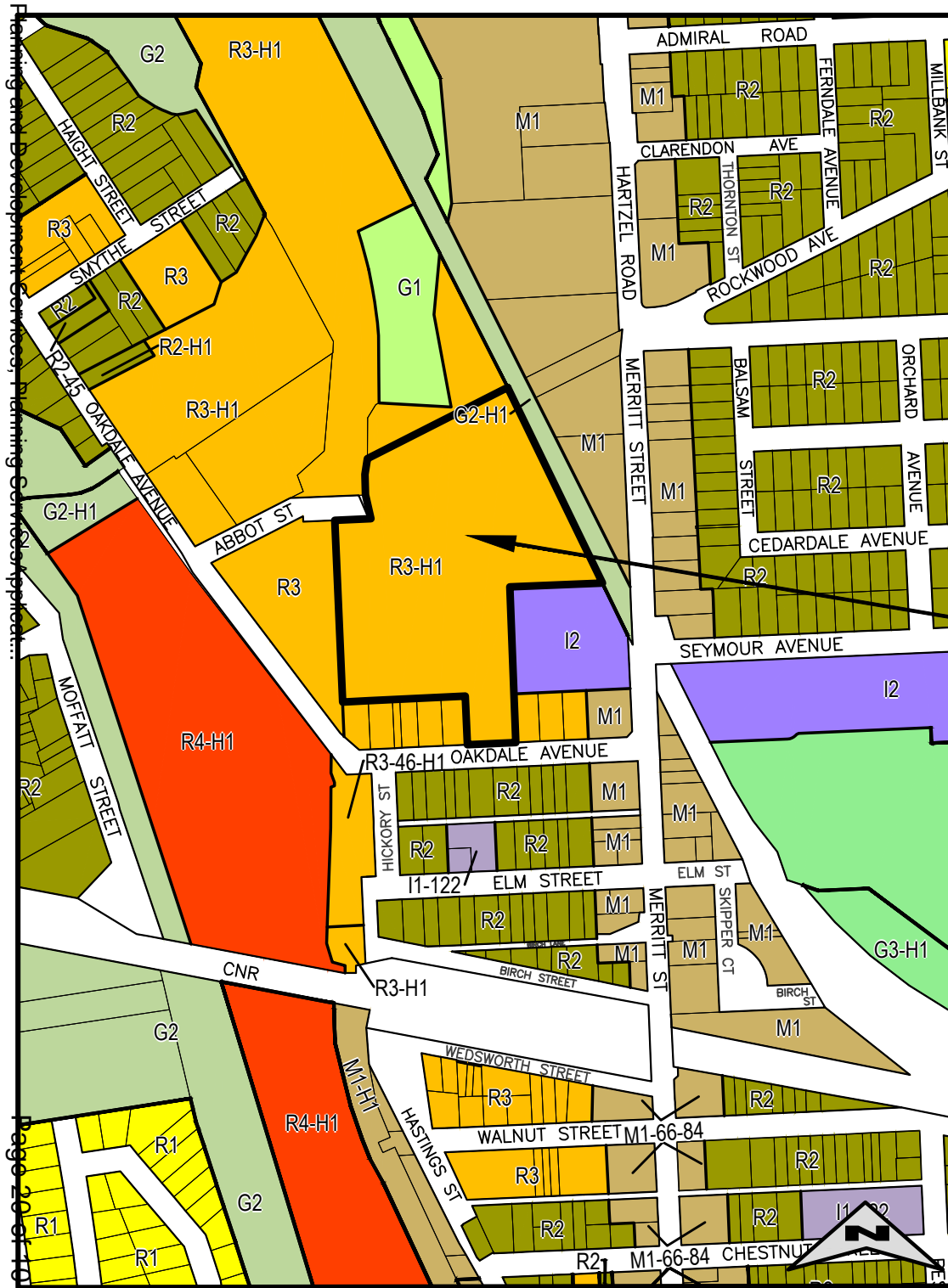




NOTES		LEGEND		DRAFTING		KERRY T. HOWE ENGINEERING LTD.		BENCH MARK DATUM		MERRITTON MILLS RESIDENTIAL SITE		FIELD NOTES	
1) THE POSITION OF POLE LINES, CONDUITS, WATERMANS, SEWERS AND OTHER UNDERGROUND AND OVERGROUND UTILITIES AND STRUCTURES IS NOT NECESSARILY SHOWN ON THE CONSTRUCTION DRAWINGS AND WHERE SHOWN THE ACCURACY OF THE POSITION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED.		EXISTING SYMBOLS		DESIGN		CONSULTING ENGINEERS		MON # 8738021		IN THE		PLOT DATE	
2) BEFORE STARTING THE WORK THE CONTRACTOR SHALL INFORM HIMSELF OF THE EXACT LOCATION OF SUCH UTILITIES AND STRUCTURES AND SHALL ASSUME ALL LIABILITY FOR DAMAGE TO THEM.		PROPOSED SYMBOLS		D.I.		98 Church Street		ON THE NE. CORNER OF		CITY OF ST. CATHARINES		December 9, 2013	
3) HYDRO AND BELL POLES ARE TO BE ANCHORED TO THE GROUND WHERE REQUIRED SO AS TO ENSURE THE STABILITY OF THE POLE LINES.		STANDARD IRON BAR		CHECKED BY		St. Catharines, Ontario		ROCKWOOD AVE. & HARTZEL		BLOCK 8 - PRELIMINARY		SCALE	
4) THE CONTRACTOR IS TO CHECK WITH ALL THE UTILITIES INVOLVED.		ROUND IRON BAR		PROJ. SUPVR.		(905) 688-6550		RD., 0.16m N. OF S. EDGE,		EXCLUDING RAILWAY LANDS		1:500	
5) ALL MANHOLE FRAMES, CATCH BASIN FRAMES, WATER VALVES AND GAS VALVES TO BE ADJUSTED TO FINISH GRADE.		MANHOLE		KERRY T. HOWE ENGINEERING LTD.				0.27m E. OF W. EDGE, 14.4m				DWG. No. 13-034-BL8	
6) EXISTING TREES AND VEGETATION OUTSIDE OF CONSTRUCTION AREAS TO REMAIN UNDISTURBED.		WATER VALVE						W. OF SW. CORNER OF PLAZA				CAD FILE: 13-034-Work.dwg	
		CATCHBASIN						ELEV. 115.683				REV. 1	
		FIRE HYDRANT											
		UTILITY POLE											
		SANITARY											
		WATERMAIN											
		GASMAIN											
		BURIED HYDRO											







*SUBJECT LANDS*

## *Zoning By-Law 2013-283 Zones*

- R1 Low Density Residential  
- Suburban Neighbourhood
- R2 Low Density Residential  
- Traditional Neighbourhood
- R3 Medium Density Residential
- R4 High Density Residential
- G1 Conservation / Natural Area
- G2 Minor Green Space
- G3 Major Green Space
- M1 Medium Density Mixed Use
- I2 Community Institutional

**Conditions of Draft Approval  
Merritton Mills Plan of Subdivision  
26 Oakdale Avenue  
File No. 60.46.400  
Submission No. 26T—10-14001**

**General Approval**

1. That this approval applies to the red-lined Draft Plan of Subdivision of the lands described as Lots 157, 158, 159, 167 and Part of Lot 160, and Part of the Lane lying north of Lots 167-174, and Part of Clark Street, Corporation Plan No. 6, City of St. Catharines, municipally known as 26 Oakdale Avenue, prepared by Kirkup & Ure Surveying Ltd., dated June 4, 2014, and thereafter red-lined by staff on June 9, 2014, showing three lots for semi-detached dwellings (Lots 1-3), seven blocks for street townhouse units (Blocks 1-7), one block for a private road development with a minimum of 37 units (Block 8), one block for a pedestrian connection (Block 9), one block for municipally-owned lands (Block 10), and one public road (Street "A").

**Zoning**

2. That prior to approval of the final plan, the lands within the draft plan be zoned in accordance with the intended use, pursuant to the provisions of the Planning Act.  
*(City of St. Catharines)*
3. That prior to approval of the final plan, any necessary minor variances be approved and finalized by the Committee of Adjustment.  
*(City of St. Catharines)*

**5% for Parks**

4. That the owner pay an amount equal to 5% of the appraised value of the subject lands in lieu of parkland dedication in accordance with the Planning Act, and that the owner submit a report prepared by a qualified real estate appraiser to establish this amount.  
*(City of St. Catharines)*

**Archaeological Resources**

5. That the subdivision agreement include the following clauses:  

“Should deeply buried archaeological material be found on the property during construction activities, construction shall cease and the Ministry of Tourism, Culture and Sport in London shall be notified immediately.”

“As on virtually any property in southern Ontario, it is possible that Aboriginal or Euro-Canadian burials could be present within the development area. In the event that human remains are encountered during construction activities, construction shall cease and the proponent shall immediately contact the Ministry of Tourism,

Culture and Sport in London and the Cemeteries Regulation Unit of the Ontario Ministry of Consumer Services in Toronto as well as the Niagara Regional Police and the local coroner.”

*(Region of Niagara)*

### **Brownfield Site Remediation**

6. That the subject property be remediated for residential use and that a Record of Site Condition (RSC) be filed on the Ministry of the Environment's Brownfields Environmental Site Registry in accordance with Ontario Regulation 153/04, as amended, and that the owner provide the Region of Niagara and City of St. Catharines with any environmental site assessment, risk assessment or remediation reports, as well as a copy of the Ministry of the Environment's written acknowledgement of the filing of the RSC.

*(Region of Niagara)*

7. That no disturbances of the site, other than work necessary to obtain a Record of Site Condition shall occur until the Record of Site Condition has been filed as required in Condition 6 above.

*(Region of Niagara)*

### **Adequacy of Soils**

8. That prior to final approval of the plan, the owner submit to the City of St. Catharines a geotechnical study, prepared by a qualified professional engineer, that verifies the soil bearing capacity, assesses bedrock elevations and groundwater conditions and recommends appropriate sewer pipe design, pipe bedding, backfill and roadway designs and appropriate mitigation measures to address groundwater issues encountered.

*(City of St. Catharines)*

### **Land Use Compatibility / Noise Impacts**

9. That prior to approval of the final plan, the owner submit to the Region of Niagara and City of St. Catharines for review and approval a detailed noise impact study assessing potential noise impacts on the proposed development and recommending mitigation measures to meet the applicable Ministry of the Environment noise guidelines.

*(Region of Niagara, City of St. Catharines)*

10. That the subdivision agreement contain provisions whereby the owner agrees to implement the approved mitigation measures recommended by the noise study referred to in Condition 9 and, further, that any mitigation measures recommended for Block 8, the private road development block, be included in the future site plan agreement.

*(Region of Niagara, City of St. Catharines)*

## Servicing, Grading, and Stormwater Management

11. That prior to any on-site grading or construction of primary services, the owner submit a detailed stormwater management plan for the subdivision and the following plans, designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment documents entitled “Stormwater Management Planning and Design Manual” (March 2003) and “Stormwater Quality Guidelines for New Development” (May 1991), or their successors, to the City of St. Catharines and the Niagara Peninsula Conservation Authority for review and approval, with a copy provided to the Region of Niagara:

- a. Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby over land flows will be accommodated across the site; and
- b. Detailed erosion and sedimentation control plans.

Note: The Region of Niagara may request the Niagara Peninsula Conservation Authority to review the detailed lot grading and drainage plan as well as the detailed sediment and erosion control plan on the Region’s behalf and to submit comments to the Region of Niagara regarding the approval of these plans and the subsequent clearance of related conditions by the Region of Niagara.

*(City of St. Catharines, Region of Niagara/Niagara Peninsula Conservation Authority)*

12. That the subdivision agreement contain provisions whereby the owner agrees to implement the approved plan(s) required in accordance with Condition 11.

*(City of St. Catharines, Region of Niagara/Niagara Peninsula Conservation Authority)*

13. That the owner provide a letter of credit, or an acceptable alternative, and enter into a legal agreement with the Region of Niagara for the water and wastewater portion of the Regional Development Charges within 12 months of draft plan approval, unless evidence of a complete Ministry of the Environment application for servicing has been received by the Region within this time.

*(Region of Niagara)*

14. That the design of the water distribution system be prepared by a professional engineer in compliance with municipal standards and be submitted for review and approval by the City of St. Catharines.

*(City of St. Catharines)*

15. That the design of the sanitary sewer system be prepared by a professional engineer in accordance with the Ministry of the Environment’s document entitled “Design Guidelines for Sewage Works” (2008) and municipal standards and be submitted for review and approval by the City of St. Catharines.

*(City of St. Catharines)*

16. That prior to final approval of the plan, the owner submit to the Region of Niagara the design drawings (with calculations) for the sanitary and storm drainage systems required to service this development and obtain Ministry of the Environment Environmental Compliance Approval under the Transfer of Review Program to the satisfaction of the Region of Niagara.

Note: Any stormwater management scheme or new storm outlet will require the direct approval of the Ministry of the Environment (Toronto Office).

*(Region of Niagara)*

17. That a master lot grading plan be prepared by a professional engineer to municipal standards and be submitted for review and approval by the City of St. Catharines.

*(City of St. Catharines)*

### **Roads**

18. That the design for all roads within the development be prepared by a professional engineer to municipal standards and be submitted for review and approval by the City of St. Catharines.

*(City of St. Catharines)*

19. That the owner grant to the City of St. Catharines a road widening dedication along the Oakdale Avenue frontage of the lands to achieve the ultimate right-of-way width of 26.2 metres.

*(City of St. Catharines)*

### **Subdivision Design**

20. That the final design of the internal public rights-of-way, including on street parking, lighting, road width, parking restrictions, among other matters, be to the satisfaction of the City of St. Catharines.

*(City of St. Catharines)*

### **Streetscape Plan**

21. That the owner prepare, to the satisfaction of the City of St. Catharines, a streetscape plan, which identifies the location of all roadways, driveways, sidewalks, boulevard trees, street trees, fencing, hydrants, on street parking, street lights, utility boxes, community mailboxes, hydro transformers, telephone pedestals and cable television pedestals.

*(City of St. Catharines)*

22. That the subdivision agreement include a clause requiring the owner to communicate the approved streetscape plan to the public by both including the plan on the subdivision sign to be posted on site and by attaching a copy of the plan to each agreement of purchase and sale.

*(City of St. Catharines)*



### **Boulevard Trees**

23. That the owner provide boulevard tree plantings along both sides of the new street and the portion of Abbot Street to be reconstructed, in accordance with the approved streetscape plan, to the satisfaction of the City of St. Catharines.

*(City of St. Catharines)*

### **Sidewalks**

24. That the owner install 1.5 metre wide concrete sidewalks along the south side of Abbot Street, both sides of the new Street 'A', the east side of Block 10, and along the entire length of Block 9. The design and construction of all municipal sidewalks shall be completed to the satisfaction of the City of St. Catharines.

*(City of St. Catharines)*

### **Fencing**

25. That a 1.5 metre high chain link fence be installed along the northerly boundary of Block 9.

*(City of St. Catharines)*

### **Easements**

26. That all easements required for water, sanitary and sewers, utilities, and drainage purposes be granted by the owner to the appropriate authority.

*(City of St. Catharines)*

### **Dedication of Lands**

27. That the proposed streets be dedicated as public road with a minimum width of 20.0 metres and named to the satisfaction of the City of St. Catharines.

*(City of St. Catharines)*

28. That Block 10 be dedicated to the City of St. Catharines to facilitate future road connections.

*(City of St. Catharines)*

29. That Block 9, approximately 3.9 metres in width, be dedicated to the City of St. Catharines for a pedestrian connection for future public access from Abbot Street to Merritt Street.

*(City of St. Catharines)*

### **Additional Lands**

30. That the owner be responsible for contributing to the cost of upgrading the existing informal pedestrian crossing over the abutting rail line to the satisfaction of Trillium Railway and the City of St. Catharines.

*(Trillium Railway, City of St. Catharines)*

## Waste Collection

31. That the subdivision agreement include the following clauses:

“Should the owner fail to conform to the Niagara Regional Waste Collection Policy for Block 8, the owner shall provide a written undertaking to the Region of Niagara acknowledging that because the site design does not the applicable Regional policy, garbage and recycling pick-up for Block 8 will not be provided by the Region.”

“The owner agrees to insert the following warning clauses into all agreements of purchase and sale or lease for units within Block 8 the following clause:

‘Purchasers/Tenants are advised that due to the site layout, garbage and recycling pick-up for the development will be provided by the condominium corporation through a private contractor and not the Region of Niagara.’”

*(Region of Niagara)*

## Railways

32. That prior to approval of the final plan, the owner shall engage a qualified consultant to undertake an analysis of noise and that any recommended mitigation measures be to the satisfaction of Canadian National Railway Company.

*(Canadian National Railway Company)*

33. That the subdivision agreement include the following clause:

“The owner agrees to insert into all development agreements, offers to purchase, and agreements of purchase and sale or lease of each dwelling unit within 30 metres of the Canadian National Railway Company’s right-of-way the following warning clause:

‘Warning: Canadian National Railway Company or its assigns or successors in interest has or have right-of-ways within 300 metres from the land subject hereof. There may be alterations to or expansions of the railway facilities on such right-of-ways in the future, including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings. Canadian National Railway Company will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-ways.’”

*(Canadian National Railway Company)*

34. That the owner grant to the Canadian National Railway Company an environmental easement for operational noise and vibration emissions to be registered against the subject property.

*(Canadian National Railway Company)*

35. That the subdivision agreement include provisions for the review and approval by Trillium Railway Co. Ltd. of any plans, studies or noise and vibration mitigation measures that may be required through the site plan approval process for Block 8.

*(Trillium Railway Co. Ltd.)*

### **Utilities**

36. That the owner satisfy all utility companies with respect to the feasibility of and design for providing wire-line communication/telecommunication service, natural gas and electrical distribution services, street lighting, etc., and that the owner enter into any necessary agreements with those private utility companies for the provision of their respective services.

*(Bell Canada or comparable utility, Enbridge Gas Distribution, Horizon Utilities)*

37. That the owner grant any easements necessary for the provision of services to the development by private utility companies.

*(Bell Canada or comparable utility, Enbridge Gas Distribution, Horizon Utilities)*

38. That the owner confirm that sufficient wire-line communication/telecommunication infrastructure is currently or will be available within the development to provide, at a minimum, communication/telecommunication service for emergency management services (ie: 911 emergency services).

*(Bell Canada or comparable utility)*

### **Administration**

39. That the owner enter into one or more agreements with the City of St. Catharines agreeing to satisfy all requirements, financial or otherwise, as the City of St. Catharines may consider necessary, including the provision of municipal services, roads, sidewalks, landscaping, grading, drainage, fencing, and all other matters pertaining to the development of the site.

*(City of St. Catharines)*

40. That the subdivision agreement between the owner and the City of St. Catharines be registered by the municipality against the lands to which it applies as provided for under the Planning Act.

*(City of St. Catharines)*

41. That if final approval is not given within three years of the approval date, and no extension has been granted, draft approval shall lapse. If the owner wishes to request an extension to the draft approval period, a written explanation with reasons why the extension is required must be received by the City prior to the lapsing date. An updated review and revisions to the conditions of approval may be necessary at that time.

*(City of St. Catharines)*

Prior to granting approval to the final plan, the City of St. Catharines, Planning and Development Services Department will require written notification from the following agencies that their respective conditions have been met satisfactorily:

The City of St. Catharines for conditions: 2, 3, 4, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 39, 40, 41

The Region of Niagara for conditions: 5, 6, 7, 9, 10, 11, 12, 13, 16, 31

The Niagara Peninsula Conservation Authority for conditions: 11, 12

Canadian National Railway Company for conditions: 32, 33, 34

Trillium Railway Co. Ltd. for conditions: 30, 35

Bell Canada or comparable utility for conditions: 36, 37, 38

Horizon Utilities Corporation for conditions: 36, 37

Enbridge Gas Distribution Inc. for conditions: 36, 37



CITY OF  
ST. CATHARINES

## Corporate Report

**Report from** Planning and Development Services, Planning Services

**Date of Report:** March 31, 2014

**Date of Meeting:** June 23, 2014

**Report Number:** PDS-097-2014

**File:** 60.35.44 Vol. 3

**Subject:** Proposed Amendments to Official Plan and Zoning By-law to Establish Downtown Entertainment District (Supplementary Report - Resumption of Public Meeting Adjourned from November 28, 2011)

### Recommendation

That Council direct the Downtown Development and Revitalization Committee (DDRC), in partnership with City staff, Niagara Regional Police (NRP), Alcohol and Gaming Commission of Ontario (AGCO), the Downtown Business Improvement Association (BIA) and similar stakeholders, to form a task force to establish a number of baseline performance metrics, including but not limited to incidences of vandalism, noise, disturbances, property damage, street cleaning and that these metrics be monitored on an annual basis; and

That an annual report summarizing the downtown performance metrics be submitted by the DDRC to Council with recommendations for continuous improvement in providing a safe, secure and healthy environment for downtown patrons, residents, businesses, property owners and visitors; and

That staff pursue additional improvements to the late night transportation options including taxi increases, improved street cleanup and improved NRP presence and/or response to complaints; and

That Council directs the Downtown Licensed Establishment Committee (DLEC), a subcommittee of the DDRC, to possess a mandate that promotes, educates and supports responsible management of downtown licensed establishments as an integral component of a vibrant downtown, through education campaigns, best practices, and taking on a self-policing role; and

That Council not approve, at this time, the amendment proposed in 2009 to establish a "Downtown Entertainment District" (DED); and

Further, that Council close the public meeting regarding the proposed planning applications to establish a Downtown Entertainment District. FORTHWITH

## Summary

In the mid 2000's, St. Catharines' downtown experienced an escalating incidence of vandalism, property damage, noise, crime, unsafe and unhealthy streets which threatened the safety, security and vitality of the downtown as a place to live, work, visit or own a business or property. These problems were largely attributed to certain licensed establishments in downtown. Council directed staff to initiate applications to amend the Zoning By-law, and later the Official Plan, to establish a Downtown Entertainment District (DED) to regulate licensed establishments, with the intent that such regulation would diminish the incidences of vandalism, property damage, noise, and similar behaviour creating a negative impact on the downtown. On November 28, 2011, Council considered a recommendation from staff on the establishment of a DED but deferred its decision and adjourned the public meeting on the applications. This report serves to update Council on the initiatives implemented since 2008 to improve the downtown environment and to now recommend that a DED not be established.

## Background

The following is provided to Council as a chronology of events, issues and accomplishments relating to the proposed DED:

- April 2007- Council adopted an interim control by-law for a period of one year, to prohibit new licensed establishments from opening for a period of one year, and also directed that a study be undertaken to review the impacts of downtown licensed establishments and to make recommendations to mitigate negative impacts.
- April 2008 - Council extended the interim control by-law for a second year prohibiting any new licensed establishments until April of 2009.
- September 2008 - Council directed staff to initiate the process to amend the Zoning By-law to establish a DED, in accordance with the recommendations of the Downtown Licensed Establishments Study. One of the recommendations of the study was to establish a DED in the Zoning by-law and to define and regulate large occupancy entertainment establishments and nightclubs including the number, size and concentration of establishments.
- April 2009 - Council held a Public Meeting to hear input on the matter of a designated DED. Council considered a report from Planning Services recommending an amendment to the zoning by-law to establish a DED and related regulations (see Appendix 5). Council deferred a decision, adjourned the Public Meeting and directed that the DLEC be established based on representation by various stakeholders, and report back to Council. Council also directed staff to consider an amendment to the Official Plan to establish policies relating to new high occupancy licensed establishments, in addition to the proposed zoning amendment.

- November 2010 - The DLEC presented a report to Council, with the support of the DDRC which addressed the proposed amendments as well as a number of matters extending beyond the scope of the planning amendments, as follows:
  1. Regulations as part of business licenses, liquor licenses, taxi permits, etc.
  2. Behavior issues relating to safety and security
    - street lighting, surveillance cameras, additional policing
  3. Inadequate transportation
    - need for late night bus service and additional taxis
  4. Business recruitment
    - economic development initiatives
  5. Aesthetics
    - public realm improvements, downtown urban design standards

Council addressed many of the matters outlined by the DLEC and DDRC and directed that a further public meeting be scheduled to consider the proposed amendments.

- November 2011 - Council resumed the Public Meeting to hear input on the matter of a designated DED. Council did not make a decision and again adjourned the Public Meeting regarding amendments to create a DED. Council directed the DLEC to provide recommendations, subject to review and comment from the DDRC, for Council's consideration on the following matters:
  1. Planning alternatives to protect areas of the downtown for future residential development;
  2. The implementation of a privately operated transit service for late night patrons of licensed establishments in the Downtown;
  3. The need for additional policing in the Downtown and how this cost could be recouped;
  4. An alternative classification system of licensed establishments that could be used for licensing purposes and potentially for recouping additional policing costs if that option is implemented; and
  5. Other matters related to the issues associated with Licensed Establishments or an Entertainment District in the Downtown.
- June 18, 2012 - Council further deferred the decision of the proposed amendments to create a DED, to a meeting of Council to be scheduled for January 2013. Council instructed the Director of Transportation and Environmental Services to review and recommend locations for new taxi stands in the Downtown and directed the DDRC through the DLEC to provide information about these changes in the orientation package for Brock University students. Council also directed the DDRC through the DLEC subcommittee to pursue transportation options.

- August 13, 2012 - Council approved a recommendation to establish three additional taxi stands in the downtown from 10:00 p.m. to 4:00 a.m. daily to help disperse late night patrons of the downtown.
- June 2013 - The DLEC presented a report to Council, with the support of the DDRC which addressed the implementation of a late night private transit initiative. The report identified late night transportation as one of the most important challenges in improving the downtown area “after hours.” Council continued to defer its decision until a late night transportation pilot project had been fully investigated.
- March 2014 - The DLEC and the DDRC considered and endorsed a revised recommendation from staff (the recommendation of this report) regarding the establishment of a DED. The revised recommendation suggests more effective tools and initiatives be pursued to ensure a safe and secure environment downtown and that the establishment of a DED not be pursued at this time.

## **Report**

There have been many changes to the downtown environment since the mid 2000’s when the original Downtown Licensed Establishments Study was initiated. Over the past several years a number of initiatives have been implemented through coordinated efforts of many stakeholders contributing to positive changes. A number of development interests from both public and private sectors demonstrate renewed interest in investing in the downtown. Improved partnerships with the NRP and AGCO have contributed to continuous improvement initiatives. The culmination of all efforts and continuous vigilance for the future suggests that the establishment of a DED is no longer the most effective tool to preserve the vitality of downtown and that more effective tools be the focus for the future.

The following comments provide a summary of the initiatives and positive changes that have occurred in recent years and identify issues that require ongoing attention for the future to ensure a strong and vibrant downtown.

## **Initiatives to Create Positive Downtown Change**

### **Late Night Food Vendors**

One issue relating to licensed establishments was the inability to move patrons out of the downtown area quickly after closing time. The availability of street food after hours encouraged patrons to remain downtown after closing time, which increased the potential of vandalism, assaults, and similar negative behaviors. Amendments to the Hawkers and Peddlers By-law limiting the number of food vendors, their location and hours of operation serves to decrease the incentive to linger past the bars’ closing time, and accordingly diminish the incidence to vandalism, assaults etc.



### **Taxi Stands / Operational changes**

Additional taxi stands have been put in place in the downtown. These taxi stands have helped to disperse late night patrons in the Downtown reducing potential for conflict. Staff have been advised that Coventry Connections (Taxi Co.) made a number of changes to create more efficient service that has helped to eliminate some of the challenges in transporting people out of the downtown after hours. Although there has been no licensing of additional taxis, drivers have been incentivized through these changes to work more night shifts.

### **Public and Private Development**

The public investment in the Performing Arts Centre (PAC), Brock's Marilyn I. Walker School of Fine and Performing Arts and the Meridian Centre in the downtown area not only demonstrates an improved confidence in the downtown, but also has the potential of changing the dynamics of downtown as it relates to late night activities. These developments will generate a different clientele for downtown businesses and may serve to decrease the number of large occupancy, late night licensed establishments in favour of licensed establishments catering to a clientele going to and from these entertainment venues. It is too early to confirm this anticipated change in downtown clientele but it certainly is a factor that should be monitored and included in performance measures for the future.

In addition to these public investments in the downtown, private development interests are apparent as well. There are a number of residential infill projects which are under construction (26 Wellington Street) or in the approval stages (136 James Street and 51 Lake Street). Additionally, Council should be aware that there is a significant interest in various sites downtown from private developers recognizing the opportunity provided by the public investments downtown.

These changes demonstrate renewed interest and confidence from private investors that downtown now provides an opportunity for investment.

### **Safety and Security Initiatives**

A number of safety and security measures have been implemented in the downtown which contributes to the perception that it is a safer place. Improved street lighting and surveillance cameras at defined locations have assisted police in apprehending and achieving successful convictions regarding criminal behaviours.

### **Planning Initiatives Leading to Positive Changes Downtown**

#### **The Garden City Plan**

The Garden City Plan was approved in August 2010, and establishes a land use framework which highlights the downtown as the only provincially designated Urban Growth Centre in Niagara Region. The focus emphasizes residential intensification, and employment growth, in downtown, as well as its importance of as the hub for civic and public services and the heart of the community for cultural and entertainment uses. The City has and will continue to benefit from that policy direction in the future by providing a land use framework that is attractive to both private and public investment.

Council should be aware that throughout the extensive public consultation regarding the new official plan, there was no discussion in favour of, or in opposition to the designation of a DED, nor was there any concern raised regarding additional land use policies in the official plan for the establishment of new large occupancy licensed establishments, as directed by Council in April of 2009.

### **The New Zoning By-law**

In December 2013, Council adopted a new zoning by-law for the City which has now been approved by the Ontario Municipal Board, save and except for one outstanding appeal. Therefore, with one exception the by-law is now in full force and effect. The zoning for downtown properties implements the land use direction for the downtown established by the Garden City Plan.

### **Community Improvement Program**

The City's Community Improvement Programs (CIP) were subject to a comprehensive review in 2013. The review concluded that downtown should be a priority in terms of providing financial incentives to encourage development and redevelopment and recommended a number of Urban Growth Centre Incentives to convert vacant or underutilized space to office or residential uses, and to upgrade street façades for downtown buildings. These recommendations, approved by Council, will be implemented in 2014. Downtown already shows signs of the positive impact of community improvement incentives under the former CIP incentives, namely through the conversion of space for residential uses and the improvement of various properties' façades.

### **Urban Design Guidelines**

Urban Design Guidelines for downtown were approved by Council in January of 2012. The Downtown Urban Design Guidelines provide direction and standards for quality development and redevelopment downtown. The guidelines ensure development and redevelopment "fit" within the established character of existing streets and buildings.

The culmination of these various planning tools contributes to a new direction for downtown for the future. Staff consider the downtown to be in transition as these new planning tools direct the form of land use and land development in the downtown. The establishment of a DED should not be pursued at this time given the multitude of positive changes occurring downtown.

### **A Downtown Entertainment District Offers Minimal Benefit**

There has been significant change to downtown St. Catharines over the last several years. The DLEC is not supportive of a DED as it is viewed to create a negative impact on business owners without providing proven significant benefits to improving the downtown environment.

### **Negative Financial Impact on Licensed Establishments**

The DLEC's position is that the DED designation impacts licensed establishments financially. DLEC cites Hamilton's, Hess Village as a case where the financial impact

has been so pronounced that the licensed establishments are taking legal action to remove the DED designation. Owners are unable to pay the additional fees generated by a DED designation which may take the form of an increased tax levy to pay for increased policing costs, potential additional costs to cover late night transportation options, and additional insurance costs. The DLEC advises that the establishment of a DED will have direct and indirect financial costs to the “bottom-line” of licensed establishments. The Greater Niagara Chamber of Commerce took a random sampling of members in the insurance industry, and 86% indicated that a business with ‘downtown entertainment district’ designation would increase rates based on current pricing models and associated factors. This will affect those ‘bottom-line’ businesses if a DED is established.

### **Financial Implications**

There are minimal direct financial costs for the City to establish a DED. The reputation of the City’s Downtown with respect to safety and security of patrons, business operators and property owners, does have an impact on investment decisions for Downtown, and accordingly, continued vigilance addressing the negative impacts of late night patrons of licensed establishments in the downtown is warranted.

### **Future Directions**

In discussion with the DLEC and other stakeholders staff have identified a number of areas where ongoing vigilance is necessary to ensure the downtown continues to improve, as follows:

### **Late Night Transportation Options**

- This element continues to be a challenge for the downtown. Despite best efforts, a public or private bus transportation service has not been successful mainly because of prohibitive insurance and liability costs. Staff recommend continuing to investigate the option of the licensing by the NRP of additional taxis for late night weekend and special event nights. That option had not been pursued aggressively in the past due to suggestions that a private bus service might be possible, although that option now appears unlikely.

### **Waste Collection**

- The cleanliness of downtown continues to be a priority concern, and not necessarily exclusively associated with licensed establishments. The DLEC notes that the frequency of waste collection has decreased from what it was several years ago, and there may be some benefit to increasing the frequency of waste collection. In addition to the Region of Niagara’s waste collection schedule, City work crews undertake a daily sidewalk clean-up and a weekly street cleaning sweep, weather permitting. It is recommended that this issue be investigated with the Region of Niagara and City Operations in order to address the issue of cleanliness in the downtown, especially during weekend hours.

## **Education**

- The BIA actively involves NRP and AGCO in existing education efforts for both bar owners and their patrons; however, the BIA, in partnership with the NRP and AGCO should collaborate more to educate students as part of orientation week events. Similarly, the BIA, in partnership with the AGCO, should take an active role in promoting educational opportunities for licensed establishments to ensure that they are operating in accordance with all legislative requirements and best practices. Consideration should be given to the AGCO's "Best Bar None" accreditation program that is currently being piloted in Toronto. Essentially this program is an industry led accreditation and awards program for liquor licenses. Accredited businesses maintain the highest standards for their customers and staff, manage the sale and service of alcohol responsibly and have good relationships with the community and business partners.

## **Increased NRP Enforcement and Incident Reporting**

- Greater NRP enforcement has been discussed on a number of occasions over the past several years and continues to be a priority. Greater communication between the BIA, downtown businesses and the NRP is recommended to effectively allocate NRP staff for key events such as Orientation Week, Halloween, New Year's, St Patrick's Day and similar times where increased patronage of licensed establishments can be anticipated.

Greater NRP awareness of incident reporting is also cited by the DLEC as an area for improvement.

## **Business Licensing By-Law**

- In addition to changes to the city's Hawkers and Peddlers By-law, the City is in the process of revising its Business Licensing By-law which is governed by the Municipal Act. One aspect that can be controlled under this licensing by-law is hours of operation. The results of this review will be reported to Council later this year.

## **By-law Enforcement Downtown**

- On July 8, 2013, Council approved a motion by Councillor Siscoe directing staff to report on the feasibility of providing additional By-law enforcement downtown. City forces enforce property standards and the licensing by-laws for downtown. NRP enforces the nuisance by-law and noise by-law. Staff recommend that each of their areas of responsibility be considered as part of an ongoing review and report back to Council through the DLEC and DDRC. Council should be aware that any increases in staffing to support increased City enforcement or an increase in level of service will have financial implications. Current levels of service are budgeted for in the 2014 budget.

## **Performance Measures as an Ongoing Monitoring of the Downtown**

- Staff are recommending that continuous vigilance of the health of the downtown be formally monitored on an annual basis so that problem areas can be detected

early and addressed before more serious problems emerge. Statistical data from the NRP, BIA, AGCO and similar stakeholders are provided in Appendices 1, 2 and 3 respectively. The appendices provide examples of the type of performance measures that should be reviewed on an annual basis. These benchmarks should be fully vetted with the city, DLEC, DDRC, the BIA, NRP and AGCO and used as the basis for an annual report to Council on the health of downtown. This ongoing monitoring will assist in a proactive approach to potential issues rather than waiting for problems to escalate to a point where they are significant.

### **NRP Observances**

The NRP offers the following observations based on its data outlined in Appendix 1. The number of complaint calls in 2012 was down 12% from 2011. The number of calls had decreased in every category with the exception of disturbances, which was slightly higher. The NRP notes that there was a substantial drop in the number of calls related to property damage and assaults. Data received from 2013 indicates that the number of calls had again dropped in cases of assaults, disturbances, noise complaints, and public intoxication. These results have indicated that there has been improvement over the past two years. Property damage calls increased minimally, and there were increases in calls pertaining to unwanted persons, and drug calls. Establishing a strong and ongoing connection with the NRP will help to focus on priority issues identified by the DLEC and the NRP.

### **BIA Survey Results**

Appendix 2 outlines BIA survey data that will contribute to a measure of the health and welfare of the downtown, going forward. A survey conducted by the downtown BIA in 2012 indicated that between 22-34% of the respondents consider the downtown to be doing better in safety and security, and late night street clean-up efforts than it was in 2011. It should be noted that while not statistically valid, the survey does provide a snapshot of the state of the downtown situation in 2012. The same survey was conducted in February of 2014, providing another snapshot. The survey indicates that between 35-66% of respondents consider downtown to have improved in the areas mentioned above. Some comments received included safety concerns regarding the homeless, feeling unsafe around 10pm -11pm (quiet as the late night bar crowd is not yet out), dirty streets because of takeout containers and pre-drinking, less nighttime business, and overflowing garbage receptacles, and concerns about the insufficient number of taxis around last call. Upon hearing feedback from downtown business owners, increased frequency of waste collection is recognized as a priority, and transportation options for late night patrons continues to be an important area to monitor and improve. While the late night transportation issue has been recognized as relating to the licensed establishments, the other issues raised extend beyond the licensed establishments issue.

The AGCO data is identified in Appendix 3, and is useful in establishing performance measures for downtown.

### **Formation of a Downtown Task Force**

The importance of Downtown St. Catharines has been recognized for a number of years by Municipal, Regional and Provincial levels of government. Given the unprecedented civic investment in this area, it is imperative that the overall management of all municipal activities and operations in the Downtown be managed in a cohesive and coordinated manner. To this end, recently, Senior Staff have explored business models whereby this coordination can be conducted in an efficient and cost effective way in the form of a City Team who would coordinate city interests with downtown stakeholders. Essentially, the City Team will be a small core group consisting of a representative from TES, PDS, Economic Development and Financial Management who will instill a climate of cooperation and partnership amongst all team participants. The functions of the City Team include working with other appropriate staff on pertinent activities associated with the Downtown. Working groups will be struck depending on the issue. It is intended that this City Team will couple with Downtown stakeholders including the DDRC / DLEC, NRP, AGCO, and the BIA to form an overall Downtown Task Force to provide a more direct and organized connection to city staff when dealing with downtown issues. The mandate of the Task Force will be to:

- Participate jointly to improve strategies for the regulation and enforcement of by-laws pertaining to the downtown;
- Monitor downtown activities, particularly related to licensed establishments and produce an annual report for Council;
- Mitigate and reduce downtown issues particularly related to licensed establishments that may arise;
- Foster coordination between regulatory agencies and downtown stakeholders; and
- Strengthen communication between all downtown stakeholders.

Additionally, this coordinated Task Force will be better able to address issues related to:

- Development proposals
- Policy matters
- Operational issues
- Regulation / enforcement concerns

Further to the Task Force, a revised mandate for the DLEC would be one of education, and promotion of best practices so as to fulfill the municipal goals of revitalization and vibrancy for the downtown. Licensed establishment members must be active representatives of this Committee and help self-monitor business practices and activities. The cooperation of all business owners of the Downtown will help to further improve this area's reputation as a desirable destination as well as an excellent place to live and work. Appendix 4 contains a draft matrix of the issues which this Committee should monitor on an annual basis.

## Conclusion

Staff continue to advise Council that the establishment of a DED is only one action of many potential actions to create improvements to the downtown. It would appear that the proposed amendments to the Official Plan and Zoning By-law are not the most effective means to resolve the issues in the Downtown, and they are not supported by the owners and operators of the licensed establishments. The DLEC has initiated various initiatives over the past few years, and other new developments and changes to the downtown have changed the area significantly since the DLEC was formed in 2008.

Staff now recommend that Council not approve amendments to the Official Plan and Zoning By-law to establish a DED. The continuing changes to the downtown need time to take full effect. Rather, staff recommend the formation of a Task Force composed of the City Team, DDRC / DLEC, NRP, AGCO and the BIA that coordinate issues in the downtown. The DDRC should be directed to monitor the health and wellness of downtown and identify continuing problems or new areas of concern, in an annual report to Council. To this end, staff recommends that the mandate of the DLEC be redirected towards support, education, and promotion of responsible licensed establishments as a vital component of the downtown.

## Notification

It is in order to advise Tisha Polocko, Downtown BIA, 12 Ontario Street, St. Catharines, ON L2R 7M3; Sgt Brett Flynn, NRP, 68 Church Street, St. Catharines, ON L2R 3C6, and Brian Sharpe, AGCO, 4<sup>th</sup> Floor, 4342 Queen Street, Niagara Falls, ON L2E 7J7.

### Submitted by:

Judy Pihach, MCIP, RPP  
Manager of Planning Services

### Prepared by:

Charlotte McEwan,  
Planning Student

### Approved by:

James N. Riddell, MPI, MCIP, RPP  
Director of Planning and Development Services

**NRP Update in Previous Report**

The Niagara Regional Police (NRP) have indicated that the number of complaint calls in 2012 was down 12% from 2011. The number of calls has decreased in every category with the exception of disturbances, which was slightly higher. The NRP noted that there was a substantial drop in the number of calls related to property damage and assaults. These results have indicated that there has been improvement over the past year likely due to a number of the initiatives supported through the DLEC

**NRP – Downtown Statistics 2013**

Incident Type	2012	2013	Notes:
Assistance	44	43	
Assaults	68	59	
Disturbances	203	189	
Drug Call	12	24	
Liquor Licence Act including Public Intoxication	108	93	
Noise Complaint	96	56	
Unwanted Persons	133	177	
Property Damage	50	54	
Robberies	8	15*	7 of the reported robberies were cleared as another call type.
<b>Totals</b>	<b>722</b>	<b>710</b>	



## 2012 BIA SURVEY

**Question 1:** In the past year, would you say the state of Downtown St. Catharines after the weekend has gotten:

Better – 29%  
Same – 64.5%  
Worse – 6.5%

**Question 2:** Do you think Downtown St. Catharines is safer in the evenings than it was over a year ago?

Better – 21.9%  
Same – 65.6%  
Worse – 12.5%

**Question 3:** Do you think Downtown St. Catharines is cleaner after the weekend than it was over a year ago?

Better – 34.4%  
Same – 56.3%

## 2014 BIA SURVEY – 35 Responses

**Question 1:** Would you say the state of the Downtown after the weekend in the past several years has gotten:

better – 60%  
same – 37%  
worse – 3%

**Question 2:** Do you think our Downtown is safer in the evenings than it was several years ago? Is it:

better – 43%  
same – 57%  
worse – 0%

- Customers still feel unsafe from beggars and homeless
- Some feel unsafe around 10 – 11 p.m. time frame (quite as late bar crowd not out yet)

**Question 3:** Have you seen the Downtown NRPS Foot Patrol out in the last several years?

Yes – 66%  
No – 34%

- Good friendly and personable officers
- Only in good weather
- Only during the daytime and not every day

**Question 4:** Do you think our Downtown is cleaner now than it used to be after the weekend than it was several years ago? Is it:

better – 35%  
same – 54%  
worse – 11%

- Still urine and food wrappers in storefront doorways after the weekend
- Streets are dirty from take-out containers and pre-drinking

**General Comments:**

- Dog owners not picking up after their dogs
- Always great to see presence of police walking or biking
- We need public washrooms especially with the new facilities that are being built
- Garbage cans needs to be emptied more often
- Police need to watch from the public parking garages and building rooftops for burglars & trespassers
- Business is slower than it used to be, less nighttime traffic
- Not enough taxis - late night transportation is a big problem, especially after last call
- Downtown is a lot quieter than it used to be, needs to be much more lively
- Downtown isn't as busy as it used to be
- Student do not have as much money to spend as they use to and therefore the downtown is not as busy
- Best city to live and work in
- While I'm impressed with how quickly the mess gets cleaned up cannot compare to previous years
- Still occasional poops/urine/vomit in doorway

## AGCO Statistics

### St. Catharines Entertainment District – 2012-2013 Alleged “Big 5” Infractions

#### 1. 2012

Infraction Type	Total
Sell/serve to Intoxicated Patron / Permit Drunkenness / Promote Immoderate Consumption	1
Permit Disorderly Behaviour / Permit Use of Narcotics on Premises / Fail to Maintain Control in Premises / Fail Reasonable Efforts – Disorderly Conduct	0
Allow Service to Minor / Sell/Serve to Minor / Fail to Verify Identification of Minor	0
Sell/Serve Outside Prescribed hours / Fail to Remove Evidence of Service	0
Exceed lawful Capacity of Premises	3
Total “Big 5” Infractions for Entertainment District (there were 19 in the entire city)	4

#### 2. 2013

Infraction Type	Total
Sell/serve to Intoxicated Patron / Permit Drunkenness / Promote Immoderate Consumption	2
Permit Disorderly Behaviour / Permit Use of Narcotics on Premises / Fail to Maintain Control in Premises / Fail Reasonable Efforts – Disorderly Conduct / Permit Unlawful Gambling	1
Allow Service to Minor / Sell/Serve to Minor / Fail to Verify Identification of Minor	3
Sell/Serve Outside Prescribed hours / Fail to Remove Evidence of Service	1
Exceed lawful Capacity of Premises	3
Total “Big 5” Infractions for Entertainment District (there were 24 in the entire city)	10

**Proposed Downtown Performance Measures**

Total Number of licensed seats

AGCO Statistics - Big 5 Infractions (see Appendix 3)

NRP Statistics

- Calls for assistance
- Assaults
- Disturbances
- Drug calls
- Public intoxication
- Noise complaints
- Unwanted persons
- Property damage
- robberies

NRP response rate to complaints

BIA Survey

Number of licensed taxis available during peak late night hours

Number of taxi stand locations

Frequency of waste collection

Frequency of sidewalk cleanup and street sweeping

Others in discussion with DDRC and DDLEC



EXCERPT OF THE MINUTES OF THE	
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DATE MARCH 23/09	ITEM NO. 166
RATIFIED BY COUNCIL March 30 / 09	

an active downtown if they meet the definition of an entertainment establishment/nightclub. Although not part of this process, it is suggested that staff develop Official Plan policies to guide the evaluation of such requests. Criteria for evaluation could include the nature of the daytime use, the type of building façade, and any additional measures proposed to manage crowds and noise.

The input received at the Open House has raised a number of significant issues. The definition of entertainment facilities/nightclub is designed to identify a specific type of use. All of the establishments that are considered problematic would not fit within the definition e.g. they do not have a dance floor. The by-law would be an improvement, but can only address new establishments and not be applied retroactively to existing operations.

Based upon a review of the 2008 history of noise complaints, only 2 out of over 60 complaints lodged with the Legal Department came from the downtown area. Neither of those complaints was related to the operation of a licenced establishment.

The issue related to the impact on the regeneration of the retail sector was not previously identified. However, the proposal to provide a separation distance prevents the creation of a continuous frontage of new entertainment establishments/nightclubs. It does not prevent the opening of restaurants and other licenced establishments and cannot prevent the continuing operation of existing entertainment establishments/nightclubs.

Licenced establishments owners should be aware that any commercial property in the downtown is eligible under the Façade Improvement Program to apply for a grant of up to \$10,000 to improve their building façade in accordance with approved plans.

The issues around the operation of licenced establishments in the downtown are not primarily planning related. The primary issues related to enforcement and transportation. However, the introduction of an entertainment district and the definition of entertainment establishments/nightclubs does achieve a number of planning objectives including ensuring that areas where new residential development are proposed to the east of Garden Park have a different character than the areas west of Garden Park.

#### **Staff Recommendation**

That the following amendments to By-law 6756 (Zone 5) be approved:

- (i) That the definition of “entertainment establishments/nightclubs” be added to the definition section of the By-law. An entertainment establishment/nightclub is defined as “a building or structure or part thereof including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of patrons beyond 11:00 p.m. and where food and/or beverage services may be offered for sale as an ancillary use”;
- (ii) That entertainment establishments/nightclubs be only permitted on the lands include on the plan in Appendix “L”;
- (iii) That entertainment establishments/nightclubs be restricted to a maximum size of 350 square metres;
- (iv) That a minimum separation distance between entertainment establishments/nightclubs on the same side of the street be 75 metres.



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EXCERPT OF THE MINUTES AGENDA ITEM #6.2

GENERAL COMMITTEE

DATE MARCH 23/09 ITEM NO. 166

RATIFIED BY COUNCIL March 30 / 09

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

and that the Notice of Decision required by the Planning Act, R.S.O. 1990, c.P. 13, as amended, be processed by the City Clerk;

and further, that upon expiration of the appeal period, the City Clerk be directed to forward an application to the Ontario Municipal Board for approval of the proposed Zoning By-law if any appeals are received;

and further, that a Downtown Licenced Establishment Committee be created and report back to Council with further recommendations within 9 months;

and further that Planning Services be directed to develop proposed policies for inclusion in the Official Plan to guide requests for new entertainment establishments/nightclubs and the expansion of existing licenced establishments defined as entertainment establishments/ nightclubs.

RECOMMENDATION:

That the report from the Planning Services Department dated March 17, 2009, regarding proposed amendments to By-law 6756 (Zone 5) regarding entertainment establishments/nightclubs, be referred to City Council for consideration after the public meeting scheduled for April 6, 2009.

MOVED BY COUNCILLOR ELLIOTT:

That the recommendation contained in the report from the Planning Services Department, Item Number 166 of the General Committee Minutes, March 23, 2009, be approved.

CARRIED.



CITY OF  
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EXCERPT OF THE MINUTES OF THE  
Council COMMITTEE  
DATE Nov 28/11 ITEM NO. 425  
RATIFIED BY COUNCIL Nov 28/11

**PUBLIC MEETINGS**  
(Pursuant to the Planning Act)

**Item No. 425**

**Public Meeting**

**File: 60.35.44 Vol. 3**

**Re: Amendment to Official Plan and District Five Downtown Zoning By-law for the Creation of an Entertainment District (See General Committee Minutes, September 12, 2011, Item Number 440, and November 21, 2011, Item Number 586) (COPIES ATTACHED)**

*COUNCILLOR KUSHNER DECLARED A CONFLICT OF INTEREST (Pecuniary) to the public meeting for the creation of an entertainment district. Councillor Kushner declared himself as a restaurant owner and left the room.*

**MOVED BY COUNCILLOR SISCOE**

**SECONDED BY COUNCILLOR ELLIOTT**

That Council adjourn the Public Meeting regarding an amendment to the Official Plan and Zoning By-law to create a Downtown Entertainment District; and

That the Downtown Licenced Establishment Committee be directed to provide recommendations, subject to review by the Downtown Development and Revitalization Committee, to be presented to City Council by June 18, 2012 at the latest on the following matters:

1. Planning alternatives to protect areas of the downtown for future residential development
2. The implementation of a privately operated transit service for late night patrons of licenced establishments in the downtown
3. The need for additional policing in the downtown and how this cost could be recouped
4. Alternative classification systems of licenced establishments that could be used for licencing purposes and potentially for recouping additional policing costs if that option is implemented; and
5. Other matters related to the issues associated with Licenced Establishments or an Entertainment District in the downtown.

**YEAS** Councillors Harris, Phillips, Secord, Siscoe, Stack, Stevens, Washuta, Williamson, Burch, Dodge, Elliott and Mayor McMullan

**NAYS**

**MOTION TO ADJOURN CARRIED**

The Mayor advised that the public meetings are now closed. There being no further business, the Mayor reminded those present that if they wished to receive formal notice of Council's decision on these matters, they must advise the City Clerk in writing of this fact. He advised that a form letter for this purpose was included in the information package made available to the public. Alternatively, a person could send a letter directly to the Clerk's office indicating their wish to receive notice.



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EXCERPT OF THE MINUTES OF THE  
General COMMITTEE  
DATE Nov. 21, 2011 ITEM NO. 586  
RATIFIED BY COUNCIL November 21, 2011

**Item No.** 586

**Report from** Planning Services, Policy

**Date of Report:** November 14, 2011

**File:** 60.35.44 Vol. 3

**Subject:** Licenced Establishments in the Downtown – Additional Information

*COUNCILLOR KUSHNER DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 586 of the General Committee Minutes November 21, 2011. He left the room.*

### MOVED BY COUNCILLOR SISCOE

That Council refer the report from Planning Services, Policy dated November 14, 2011 regarding licenced establishments in the downtown for consideration after the public meeting scheduled for November 28, 2011; and

That staff be directed to remove the correspondence from Mr. Greg Stewart from the report; and further

That staff be directed to review correspondence to be presented to the Mayor and Members of Council for defamatory comments. If necessary, contact the author to request a replacement of the document whereby comments will be confined to the subject matter. FORTHWITH

YEAS Councillors Stevens, Washuta, Williamson, Burch, Dodge, Elliott, Harris, Phillips, Secord, Siscoe, Stack and Mayor McMullan

NAYS

**CARRIED FORTHWITH**

### RECOMMENDATION

That Council refer the report from Planning Services, Policy dated November 14, 2011 regarding licenced establishments in the downtown for consideration after the public meeting scheduled for November 28, 2011.

### SUMMARY

The 2010 report from the Downtown Development and Revitalization Committee (DDRC) addressed the issues associated with licenced establishments in the downtown. There were a total of 13 recommendations adopted by City Council; most of these have been implemented at least in part. Based on comments received, recommendations for the by-law amendment and changes to the Licensing By-law have not been completed. There remain issues with the implementation of a cost recovery system for additional policing within the entertainment district and matters related to adequate transportation from the downtown at closing times.

The Downtown Licenced Establishment Committee (DLEC) is meeting on November 22, 2011 and may have recommendations for Council's consideration.





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EXCERPT OF THE MINUTES OF THE

General COMMITTEE

DATE Nov. 21, 2011 ITEM NO. 586

RATIFIED BY COUNCIL November 21, 2011

## BACKGROUND

In 2007, City Council directed that a study be conducted on licensed establishments in the downtown and passed an Interim Control By-law to restrict the creation of new licensed establishments with specific characteristics. In April of 2008, City Council extended the interim control by-law for another year, with expiration on May 7, 2009.

The Downtown Licensed Establishment Study (DLES) was initiated to examine the nature and extent of the issues associated with the City's downtown licensed establishments (entertainment establishments/nightclubs). The DLES was undertaken as a result of concerns related to the concentration of licensed establishments in the downtown area. Specifically, issues such as noise, hours of operation, garbage, inadequate enforcement/lack of inter-agency co-operation, overserving by licenced establishments, inadequate transportation and patron behaviour were a growing concern. Additionally, the displacement of retail was both a perceived and real threat to the revitalization of the downtown. The goal of the study was to identify primary issues and potential solutions by way of a set of recommendations that would assist current and future revitalization efforts.

The DLES recognized that this is a complex problem and that there is not just one solution. A multi-faceted approach was proposed. This is not primarily a planning problem. The DLES identified ongoing initiatives underway by the City and the Province, and new measures the City could use to better manage and regulate existing and future licensed establishments within the downtown. A number of recommendations of the study have already been implemented, including: the Nuisance By-law; more coordinated enforcement by the City, Police, Fire, and Provincial licensing staff; and the establishment of a taxi zone on William Street. Other non-planning recommendations that have not been addressed include: charging for parking in the evening hours; re-instituting late evening bus service from downtown to Brock University; changes to the Licensing By-law; and requesting the Province to make changes to the Liquor License Act.

The study was presented to Council on September 22, 2008, at which time Council directed Planning Services Staff to amend the zoning by-law to implement the following recommendations of the study:

1. Add a definition for a new use known as "entertainment establishment/nightclub";
2. Introduce regulations to control the number, size and concentration of such establishments in the downtown; and
3. Provide a separation distance between entertainment establishments/night clubs.

The purpose of the proposed new definition was to ensure that entertainment establishments/nightclubs as defined would only be permitted in the proposed entertainment district. (Appendix "A") Licensed establishments that did not meet the definition of an entertainment establishment/nightclub would be permitted in any area of the downtown that permits commercial uses. In order to allow the use, but to prevent such establishments from overwhelming the area, a separation distance of 75 metres on the same side of the street was also proposed. This distance would provide the opportunity for other businesses that are open during normal business hours to form the majority of the block face. The proposed 75 metre separation distance required a spatial separation of six average frontage properties and was intended to create a balance between new investment opportunities for entertainment establishments/nightclubs and the desire to ensure a continuous frontage of retail and related services along the street. The proposed 75 metre separation was a judgement of the appropriate balance as a planning standard does not exist.

These recommendations were presented by Planning Services during an open house on March 3, 2009 and a public meeting on April 6, 2009. The vast majority of the public were opposed to the proposal for a variety of reasons. As a result of these concerns,



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EXCERPT OF THE MINUTES OF THE

General COMMITTEE

DATE Nov. 21, 2011 ITEM NO. 586

RATIFIED BY COUNCIL November 21, 2011

Council deferred consideration of the amendments and established the Downtown Licenced Establishment Committee (DLEC), a sub-committee of the Downtown Development and Revitalization Committee (DDRC). The DLEC was comprised of various stakeholders, including representatives of the Alcohol and Gaming Commission of Ontario (AGCO), Brock University, Niagara Region Police Services (NRPS), the St. Catharines-Thorold Chamber of Commerce, and licenced establishment owners, business owners, and residents.

Subsequently, the DLEC identified the following list of issues for further investigation:

- Regulations
  - Creation of an entertainment district
  - Inadequate police resources
  - Class based municipal licenses
  - Cleanliness
  - Property Standards
  - Temporary food vendors
  - Over serving
- Behavioural issues
  - Public safety and illicit behaviour
  - Lighting
  - Vandalism
  - Noise
- Transportation
  - Inadequate transportation
- Aesthetics
- Business Recruitment

Based on the issues identified by the DLES and subsequently by the DLEC, the Committee formed a set of recommendations that address both the planning and non-planning issues. These recommendations were subsequently reviewed by the DDRC, who made one amendment to add recommendations 6d under 'Regulations'. More detailed information is attached to the September 12, 2011 report from Planning Services which is part of the public meeting package.

The recommendations work together to address the issues in a co-ordinated and comprehensive manner. It is important to note that the recommendations form a framework for implementation. For instance, in order to address issues of inadequate policing, the NRPS requires that a Downtown Entertainment District be identified to focus additional enforcement resources. A differentiation between license types requires that the City review the current licensing system, and how the creation of a class-based system may affect current procedures and costs.

In November of 2010, the DLEC's report was presented to Council after having been considered by the DDRC. The proposed recommendations included establishing an entertainment district, adding a definition for "entertainment establishments / nightclubs", and a 45 metre separation distance between nightclubs as proposed by the DLEC. Council deferred a decision and requested additional information for consideration.

On September 12, 2011 Council directed Planning Services to continue discussions with stakeholders and report on possible planning measures, including recommendations on the number of licenced establishments and consideration of maximum capacities. A public meeting regarding the creation of an entertainment district through an amendment to the Zoning By-law and Official Plan is scheduled for November 28, 2011.



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EXCERPT OF THE MINUTES OF THE
General COMMITTEE
DATE <u>Nov. 21, 2011</u> ITEM NO. <u>586</u>
RATIFIED BY COUNCIL <u>November 21, 2011</u>

## REPORT

### The Proposal

The proposed amendments to the Official Plan and zoning by-law have not been prepared. The proposed Official Plan amendment will include policies to:

- Demarcate the extent of the entertainment district
- Restrict the location of nightclubs/entertainment facilities to the entertainment district through the zoning by-law
- Direction to amend other municipal regulatory documents to be compatible with the entertainment district
- Provide guidance related to the conversion of space over commercial uses

The proposed zoning amendment will include the following:

- A definition of nightclub/entertainment facilities
- Allow nightclub/entertainment facilities to be located only within the proposed entertainment district
- Requirements for separation distance of 45 metres between new nightclubs/entertainment facilities on the same side of the street.

### Public Open House

An open house was hosted by the Planning Services Department on October 19, 2011. The purpose of the open house was to receive comments from the public on the proposed amendments to the Official Plan and Zoning By-law, which included the establishment of an Entertainment District, providing policy direction for the Entertainment District, introducing a new definition for entertainment establishments / nightclubs, and establishing a minimum separation distance of 45 metres between new entertainment establishments on the same side of the street. The proposed definition of an entertainment establishment / nightclub was "... defined as a building or structure or part thereof including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of patrons beyond 11:00 pm and where food and / or beverage services may be offered for sale as an ancillary use."

There were 19 members of the public in attendance, including representatives from the St. Catharines Downtown Association (SCDA) and the St. Catharines-Thorold Chamber of Commerce. Many licenced establishment operators were also in attendance. All who spoke were opposed to the proposal, specifically the possibility of the collection of fees to provide for additional policing. The majority of the discussion centered around the recent improvements in the downtown since 2007, including the approval of a Public Nuisance By-law and co-ordinated enforcement and regulations by the Alcohol and Gaming Commission of Ontario (AGCO) and the City (Fire and Building). As such, there was a general sentiment that the proposed regulations were no longer warranted. Bar owners/operators also expressed concerns that additional fees would be prohibitive. Additional transportation on weekends to service patrons of licenced establishments was identified as a major problem that needs to be addressed.

Nine submissions were received by Planning Services staff which are included in Appendix "B". In addition to the above, revitalization efforts by owners of licenced establishments and financial strain from taxes, AGCO requirements, new requirements for security guards and impacts of the recession were also discussed. It was also noted that licenced establishments rarely reach maximum capacity.

### Planning Considerations

The goal of downtown revitalization is to have a downtown that is active over the entire day and meets the needs of a variety of stakeholders; landowners, business owners and operators, residents and users of the downtown. There is a need to strike a balance



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between the lively entertainment industry and the need for space for future businesses and future residential development. Downtown should be a place for all citizens so there is a need for a variety of facilities/venues but it must also be an area where citizens feel safe. It would appear that for some who are now downtown that safety is not an issue but that for many, there is perception that downtown is not safe. This image in part is fed by reports in the media that report an incident as having occurred in the downtown when it actually occurred on Page Street or York Street and also to comments from civic representatives that reinforce the negative image.

The purpose of the proposed amendments is threefold:

1. To provide a definition of the a specific type of licenced establishment and allow them to be located only within the proposed entertainment district.
2. To protect the area east of Carlisle Street from that use and therefore create an area where additional residential development can occur.
3. To create a mechanism to allow the Niagara Regional Police Services Board to collect additional fees to defer the cost of additional policing in the downtown area.

What the proposed amendments do not do is restrict all licenced establishments. Only those establishments that meet the definition of nightclub/entertainment facilities would be restricted.

As previously mentioned, as part of the review of the recommendations from the DLEC, the DDRC choose to include a recommendation requesting guidance from the AGCO on the limitation of the number and capacity of each type of licensed establishment under a class-based system.

If changes to the zoning by-law are approved, Corporate Support Service will be reporting on changes to the City's Licensing By-law to align it with the zoning by-law and AGCO classifications.

## APPROACHES IN OTHER DISTRICTS

### Hess Village (Hamilton)

Hamilton's Hess Village is a popular entertainment destination with a high concentration of nightclubs. In 2009, there was a total capacity of 4,761 patrons in 17 licenced establishments. Hess Village is comparable to the capacity to St. Catharine's downtown which has a bar capacity of 4,248, though it is noticeably smaller, with only 45 total properties within the district (17 of which are licenced establishments). As such, Hess Village has a much higher concentration of licenced establishments than St. Catharines. Hamilton is home to McMaster University with 24,000 full time students and Mohawk College with approximately 10,000 full time students (Brock University has 17,000 full time students and Niagara College has 8,000). Buses in Hess Village run until midnight or 12:30 a.m., depending on the direction. Hamilton has 422 taxi cabs (St. Catharines has 103). From 2002 to 2009, the capacity of Hess Village increased by 62%, from 2,945 to 4,761. The licenced capacity in the proposed entertainment district in St. Catharines is 7,681.

In 2001 and 2002 Hess Village became noted for a number of issues associated with patrons of licenced establishments including physical assaults, sexual assaults, noise complaints and large scale breaches of the peace.

As a response, the City of Hamilton designated Hess Village as an entertainment district in 2003. This allowed the City to regulate the district and collect additional fees for policing. This additional fee is applicable to all owners of licenced establishments within the Hess Village Entertainment District and is used to cover the cost of eight special duty police officers every Thursday, Friday, and Saturday from 11:00 p.m. to 4:00 a.m. From 2003 to 2009, the cost for these officers was shared 50/50 between the licenced



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establishments in Hess Village and Hamilton Police Services (HPS). After 2009, the number of special duty police officers increased to ten. It was also decided that the licenced establishments would be responsible for paying for eight officers, with the HPS covering the cost of the additional two officers.

This fee is attached to business licences and is capacity-based. In 2003, the cost of seven Constables and 1 Sergeant was \$1,825.75 for five hours of police service. This amounted to \$5,477.25 for each three day weekend (Thursday, Friday, and Saturday).

The cost for bar owners is based on capacity. In 2003, this amounted to \$36.86 per person, based on liquor licence capacity. In 2003, the fee per licenced establishment ranged from \$1,105.98 (capacity of 30) to \$17,142.74 (capacity of 465) for each season (21 weekends from Victoria Day weekend to Thanksgiving Day weekend). While HPS has been contacted for updated information regarding fees for more recent years, they were unable to reply in time for this report.

In 2006, Hamilton restricted the capacity of outdoor patios to 50% of the total seating accommodation permitted under the Liquor Licence Act or 50 patrons, whichever is greater (By-law 06-324). Outdoor patios were also limited to locations that did not abut certain uses, including residential zones. Music and dance facilities were also restricted from outdoor patios.

In 2009, Hamilton revisited the district and implemented a Nuisance By-law (By-law 09-110).

In 2010, Council changed their Licensing By-law to establish a new category for "Bars and Nightclubs". Hamilton adopted the following definition: "... a food premises which does not provide seating for more than 65% of customers who are served food or drink or where the primary purpose of the food premises is any one or more of the following: serving alcohol to customers, entertaining customers by playing live or recorded music, accommodating dancing by customers." Owners of bars and nightclubs within Hess Village are also responsible for submitting a crowd control plan and noise control plan.

In 2010, consideration was given to expanding the boundaries of the Hess Village entertainment district to include businesses outside the district that directly benefitted from proximity to Hess Village. Expanding the boundaries would allow for fees to be collected from these businesses to help share the cost of providing Special Duty Police Officers. When reviewed by Council and staff, it was decided that an expansion of the entertainment district was not warranted at the time.

Council also directed the creation of the Hess Village Community Liaison Committee (CLC) to monitor Hess Village strategies and provide a forum for stakeholders to discuss issues related to Hess Village. This committee is similar to the City of St. Catharine's Downtown Licenced Establishment Committee (DLEC).

### Guelph

The City of Guelph has addressed the problem of the licenced capacity in their downtown in a different manner. Based on background research done in conjunction with the local police, they were able to demonstrate a relationship between the size of a licenced establishment and the number of police calls to the establishment. Based upon this research, the City passed a zoning by-law amendment to restrict the maximum floor area of a licenced establishment and a maximum capacity of a licenced establishment. There is no overall cap on the number of seats in their downtown. Without comparable research, to determine a similar approach in St. Catharines would not be defensible if a zoning by-law amendment were initiated. In Guelph, they did not institute a special charge for extra policing based upon information in the reports. Local transit operates later into the evening to help address the problem of the dispersal of patrons at closing time. There is one other advantage that Guelph has for patrons, the distance to the university from downtown is significantly less than in St. Catharines.



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### Defined Entertainment District

An entertainment district would restrict the location of businesses with specific characteristics, such as seating capacity, and contain them in a more manageable area. The proposed area is bounded by St. Paul Street, Ontario Street, King Street (both sides) and Carlisle Street. (Appendix "A").

By containing entertainment establishments within one area, public resources like additional police officers can be more efficiently managed, thus ensuring their services are effectively utilized. Because there is already a large concentration of licensed establishments within the downtown boundaries, containing this growth in one district will limit the area impacted by both the planning and non-planning issues. The creation of the entertainment district also allows new residential construction to be focused north and east of Carlisle Street. This is consistent with the Creative Cluster Master Plan and new Garden City Official Plan, adopted by Council on August 23, 2010 by By-law 2010-242 and pending final approval by the Region.

### Entertainment/Nightclub Definition and Separation Distance

The DDRC recommended using the definition for entertainment establishment /nightclub uses as outlined in the report from Planning Services, dated March 17, 2009:

"An entertainment establishment/nightclub is defined as a building or structure or part thereof including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of patrons beyond 11:00 pm and where food and/or beverage services may be offered for sale as an ancillary use."

This definition allows for other licensed establishments, such as restaurants and cafes, to locate anywhere within the downtown, as the sale of alcohol is not their primary service and seating is provided for the majority of patrons. The definition is imperfect but a better definition has not been found.

The creation of a separation distance between entertainment establishments/ nightclubs will ensure that this use does not overwhelm the entertainment district. Staff had previously proposed a separation distance of 75 metres on the same side of a street (Report from the General Committee Minutes, Item No. 166, March 23, 2009, dated March 17, 2009). This distance would provide the opportunity for other businesses in the area to form the majority of the block face. The 75 metre separation distance would require a spatial separation of approximately six average frontage properties; however, such a distance would not provide many opportunities for additional licensed establishments and may discourage potential development opportunities.

The DLEC considered a reduced separation distance of 45 metres on the same side of the street, from lot line to lot line, between entertainment establishments/nightclubs. This distance would require a spatial separation of approximately 3-4 average frontage properties, which would allow other businesses to form the majority of the streetscape, including other licensed establishments like restaurants and cafes. This distance would provide opportunity for new entertainment establishments/nightclubs to locate within the entertainment district, but will ensure limitations to avoid saturation within the entertainment district.

## NEW INFORMATION

### Effectiveness of the Public Nuisance By-law

In 2008, the City issued a Public Nuisance By-law to prohibit public urination, throwing bottles, fighting, knocking over mailboxes/garbage cans, loitering, graffiti, vomiting, and spitting. In 2008, the NRP issued 185 citations (Appendix "C"). These statistics include both Port Dalhousie and the Downtown. This number decreased by 47 in 2010, where 138 citations were issued. To date, 2011 shows the sharpest decline in citations issued.



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From January to October 2011, only 100 citations have been issued, resulting in a decline of 85 citations from 2008 to 2011(to date).

There is a general perception that downtown St. Catharines is unsafe at night due to violent offences. The data collected by the NPS does not support this. From 2008 to 2010, there was a 64.5% decline in citations issued for fighting and a 50% decline in citations issued for throwing bottles. The only citations that increased from 2008 to 2011 as of yet have been loitering (+1), vomiting (+3), and spitting (+3).

These statistics suggest a significant change is occurring. However, it is unknown if this is actually occurring or there is a different approach to policing. As the knowledge of the \$365 fine continues to spread, this may be another deterrent to the behavioural issues.

Statistics on calls for service by the NRPS are shown in Appendix "D". For their downtown area, there has been about a 6% decline in calls for assistance. There have been declines in calls related to assault, disturbance, noise complaints and property damage. There have been increases in calls for intoxication, unwanted persons and drugs.

#### **Transportation (Taxis)**

The issue of taxi licencing is currently being considered by the licencing unit of the NRPS.

#### **Transportation (Bus Service)**

While the St. Catharines Transit Commission is not prepared to provide late night service for patrons of the downtown at this time, they have provided staff with an estimated cost for the provision of a bus. The estimated cost assumed a private operator were to operate bus service for 4 hours (11:00 p.m. to 3:00 a.m.) twice a week (Fridays and Saturdays) on a 15 minute basis from downtown to the south end of St. Catharines. Using these assumptions, the St. Catharines Transit Commission estimated that private bus service could cost about \$1,700 per weekend. This number is based on the City's breakeven cost for providing this service. Staff emphasize that this is a cost estimate only. The actual cost of a private operator may be significantly different. This estimation is provided for Council's information and is not an indication of actual costs.

#### **Updated Capacities**

In 2011 the proposed entertainment district had a total capacity of 7,681 patrons in 46 licenced establishments (Appendix "E"). Proportionately, bars accounted for 55% of the total capacity (4,248), hybrids accounted for 21% (1,592), and restaurants accounted for the remaining 24% (3,338). Since 2008, the licenced capacity in the proposed entertainment district has decreased by 930 seats, or just under 11%.

The numbers demonstrate a decline in licenced capacity in the entertainment district.

It is important to also note that currently the former Honest Lawyer (Gord's Place) is not licenced and could be re-licenced. There is also uncertainty as to what will happen if the licenced capacity in Port Dalhousie is significantly reduced. This may lead to more licenced capacity in the downtown or simply new operating patterns for some of the existing establishments downtown.

#### **57 Carlisle Street (Coco Cabana's)**

57 Carlisle Street is located within the proposed entertainment district. Therefore, if the entertainment district were created and the zoning by-law amended as proposed, the property at 57 Carlisle could be used for any form of licenced establishment subject to meeting the normal Building, Zoning, Fire and Health requirements. It is noted that the location between the proposed downtown Arts Centre and the new parking garage would be on a main pedestrian linkage. As such, it would be a location that would be appropriate for a wide range of uses including a licenced establishment.



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### **Cost Estimates from Niagara Regional Police Services**

Based on the NRPS recommendation of one Sergeant and six Constables for six hours every Thursday, Friday, and Saturday from September 1 to April 30, the estimated cost for additional special duty police officers would be \$322,080.

(Appendix "F").

The cost on business owners varies greatly and depends on a number of variables that have not yet been determined. For example, the fee could be levied on all licenced establishments or only those that are defined as "entertainment establishments / nightclubs" through the proposed Zoning By-law amendment. In addition, the NRPS has not commented on any monetary contribution. As such, it is premature to determine what the cost of added police services may be. The decision on how costs are to be allocated would be made by NRPS Board.

### **FINANCIAL IMPLICATIONS**

There are no financial implications for the City except as specifically noted in the body of the report.

### **CONCLUSION**

Information has been provided that demonstrates there have been changes since the DLES was completed in 2008 in terms of co-ordinated enforcement by ACGO, NRP and City staff including Fire Services; the introduction and enforcement of the Nuisance By-law; and a reduction in licenced capacity in the downtown area.

There has been no resolution of the transportation problem after closing time in terms of either some form of bus transit or additional taxis.

There are three significant questions on which there is not a consensus based upon the feedback received:

1. The creation of the entertainment district and the associated planning changes;
2. The payment from at least some segment of the licenced establishments for extra police services; and,
3. The solution to the movement of people from the downtown after closing time.

Some have suggested that additional discussion is necessary and that the DLEC should be re-convened. There has not been a forum for the discussion of the transportation issue and the information on policing costs has just become available. The rationale to create the entertainment district and restrict the location of entertainment facilities/nightclubs is rooted in the City's basic vision of the downtown. That is to concentrate commercial activities in the area "west" of Carlisle Street and "east" of Carlisle Street have mixed use and residential development. These amendments could proceed independently of the resolution of questions concerning extra policing and the movement of people from the downtown after closing time.

It has been acknowledged from the beginning of this process, the definition of entertainment/nightclub facilities is imperfect. Also, 'problem' establishments in the past would not all have fit into the definition of entertainment/nightclub facilities. There are numerous enforcement tools available including licencing by the Province, law enforcement by the NRPS, health requirements from a regional agency and the building and fire codes from a municipal perspective to address 'problem' establishments.

There are numerous options that are open to Council. The following four represent the range of choice:

1. Proceed as envisioned in the report of September 12, 2011 and direct changes to the Official Plan and zoning by-law; request the NRPS Board to establish a licensing fee for the payment for extra police services in the downtown area; and the City to amend its licencing by-law and regulations for outdoor vendors;





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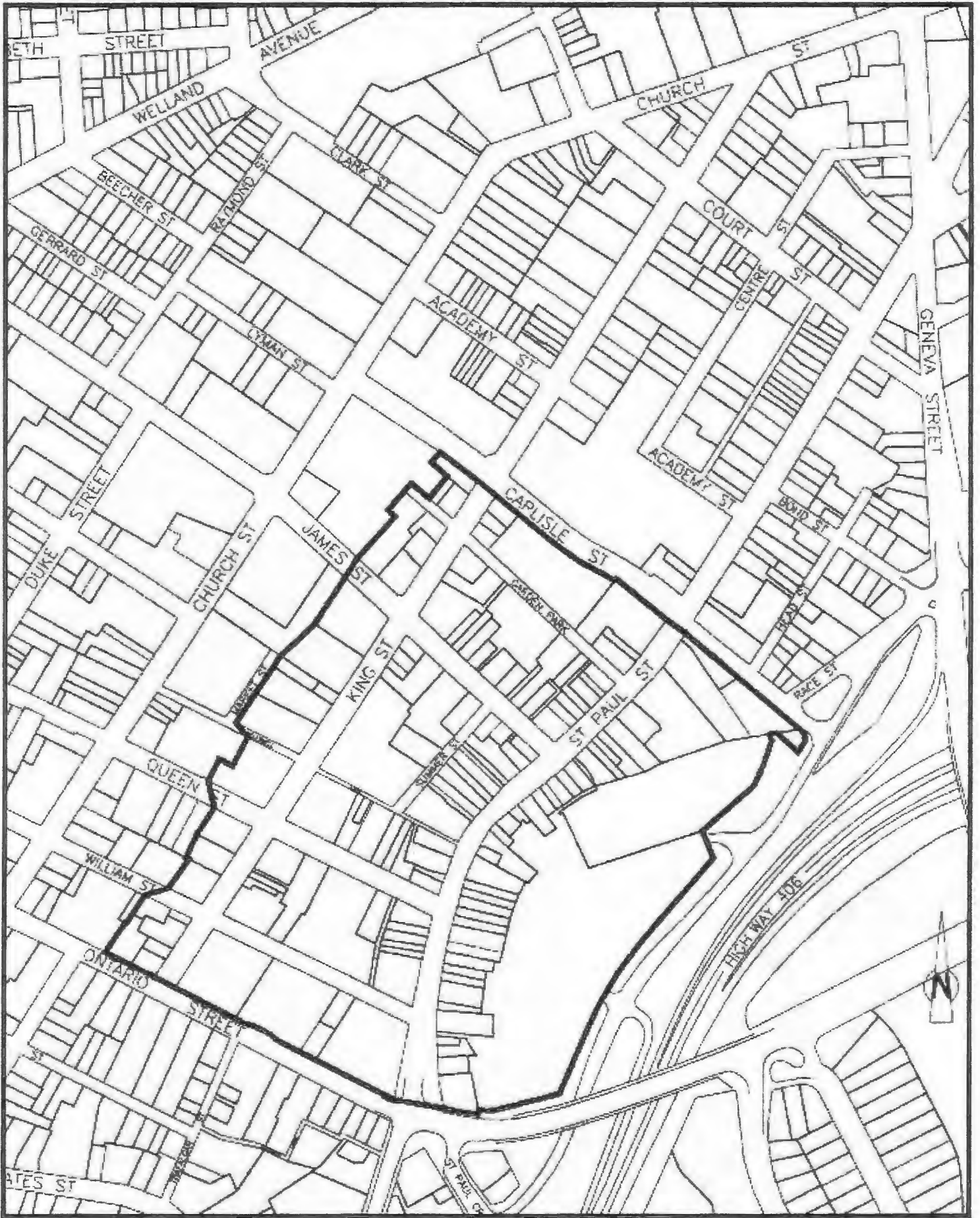
2. Proceed only with the changes to the Official Plan and Zoning By-law and re-establish the DLEC to provide a forum for further discussion of the policing and transportation matters. Changes to municipal licencing by-laws and other regulations would await the outcome of the DLEC's deliberation.
3. Defer the entire matter and refer the entire package to the DLEC.
4. Decide not to proceed with any additional action.

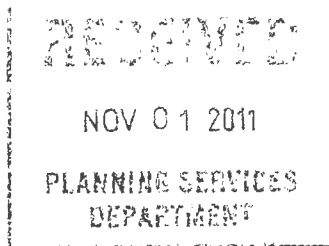
There are clearly more choices and combinations but these appear to be the four main choices. Many of these issues are not technical planning issues but rather political choices in terms of the need for action on the downtown. It should be noted that Council has debated this matter in the past and that alternative 1 is in essence the last decision of Council.

### NOTIFICATION

It is in order to advise St. Catharines Downtown Association, 12 Ontario Street, St. Catharines, ON L2R 7M3; St. Catharines-Thorold Chamber of Commerce, One St. Paul Street, Suite 103, P. O. Box 940, St. Catharines, ON L2R 6Z4; Niagara Regional Police Services, 110 James Street, St. Catharines, ON L2R 7M3 and Mr. Tom Richardson, Sullivan Mahoney LLP, 40 Queen Street, P.O. Box 1360, St. Catharines, ON L2R 6Z2.

A





Greg Pearson

**B**

St. Catharines ON

26 October, 2011

Brian McMullan, Mayor  
 Paul Chapman, Director Planning Services  
 Members of St. Catharines City Council

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Greetings,

Thank you for the opportunity to express my thoughts on this pressing issue. My name is Greg Pearson and I am the co-proprietor of The Office, Tap & Grill, and the former founder/proprietor of Pow Wow, New World Grill. The Office, has been open for seven years and I owned and operated Pow Wow for twelve years before selling the business two and half years ago however I am still the property owner. In total, I have been operating restaurants in the downtown core for fifteen years.

Let me begin by saying that in my fifteen years of business, I have never been more optimistic about the future of downtown than I am presently. May I offer my support and congratulations to the previous and present council for making decisions that have led to the new parking garage, the downtown performing arts centre, the Ontario wine route on St. Paul Street in the future and hopefully, a new spectator facility in downtown St. Catharines.

We finally have a viable road map for the future, and along with these projects comes the hope that retail and residential growth will soon follow. The Façade Improvement Program and the Urban Design Guidelines are a step in the right direction in assisting the course of this growth.

The proposition of creating an Entertainment District and therefore having the power to implement a levy on businesses in the designated area is a complex issue. While I feel the future is very bright for downtown St. Catharines, we are still very much in the early stages of revitalization and must proceed with extreme caution when making decisions that will have an impact on the continued growth of retail and residential components in the downtown core.

While extra police presence may alleviate some issues on weekend nights, I feel the real problems present themselves when patrons are trying to get themselves home. The sheer lack of taxis and the fact that the bus to Brock is no longer viable are contributing factors to the kinds of activities that takes place after two am.

PLANNING SERVICE  
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ACTION:

I feel that money for policing and/or better late night transportation options out of downtown could be found in other budgets. Given that property owners are already levied extra money to support The St. Catharines Downtown Association, is there a way to allocate more funds from that budget and augment the sums the Association already contributes for extra police presence in the core?

I am not in support of a designation for an Entertainment District because I believe it will stagnate growth and depending on how it is implemented, could have a dramatic negative effect on retail and residential growth. I also believe that this designation could have an adverse effect on future restaurant development which would be impaired by extra taxes and rising insurance premiums simply because of location. The other side of the coin is that this designation could make existing operators resort to illegal activities in order to make extra money to pay for new levies.

If there is a designation made for an Entertainment District, I feel very strongly that the levies have to come from the night clubs that are creating the majority of the problems. It is unfair to tax any other business or property owner, they are generally the victims of the vandalism and disorder caused by an excess of people on the street.

I feel that the proposed Entertainment District designation has more questions than answers:

How much money is required in total?

Which businesses are going to be taxed?

How is the money going to be allocated and for what services exactly?

How do we gauge the success or failure of this program?

My primary concern is that typically the Niagara Regional Police will not divulge the specifics on how the money will be spent, they simply want more money! This will lead to funds being funneled into the police budget with little or no accountability of how the money is being spent and a lack of understanding of the impact the program is having on the situation as a whole.

I urge you to proceed with caution with this issue as it could be one of the most important decisions that council will make.

Sincerely yours,

Greg Pearson

To: Mayor McMullen, City Council, Paul Chapman

My name is Joyce Corrigan and I am writing to you in response to the information I received about the Open House regarding the proposed Official plan and zoning by-law amendment affecting Downtown Licensed establishments. My husband and I run L3 nightclub and own our property on James Street and we have been part of the Downtown Business community for 16 years. We have invested into the Downtown as business owners and as property owners.

We are a family run business. We enjoy being downtown and love being part of the downtown community which we have seen flourish since opening 16 years ago. We have a great staff that is part of a well trained and licensed team that ensures our patrons are looked after and enjoying themselves in a safe, fun environment. Everyone works as a team and we haven't had any problems with any of the enforcement agencies. As part of the Downtown community I feel that there is a lot of quality, responsible bar owners and a great variety of bars/restaurants Downtown making Downtown St. Catharines an entertainment destination for a great diversity of patrons. We are stakeholders in the success of a diversified Downtown and part of the revitalization of our neighbourhood, where we ply our trade.

I don't have a large business and we are not a corporation, so we take pride in our business. We are only open a couple nights a week and are already paying the increase in utility bills, taxes and a number of licensing fees, insurance, etc. This is stressful enough and we work extremely hard to stay afloat and succeed, especially with the continuing difficulties in the economy. Now we are presented with the notion that you want us to pay for extra policing to add to our high bills?

I understand the concern with the influx of people seeking transportation after the bars close but perhaps you can consider allowing more cabs into Downtown and remove any band on outside cabs, allowing them to come only on Saturdays- that might help clear up the congestion. I am aware of how terrible it is trying to flag down or even call a cab on Saturday. My experience has confirmed that they don't answer the phone after midnight and there are simply not enough cabs available to accommodate the need of patrons. In the case of seeking more financial aid for extra staffing, maybe having a by-law officer come out after 11pm and ticket people for urinating in public and having the Police enforce the nuisance by-laws would generate more money that could be applied to any required extra policing. Where does the money collected for these by-laws go?

It is my experience that it is only busy on Saturdays nights and any proposed by-laws or proposed regulations should be reconsidered in a fair and informed manner. Every bar downtown is different and we shouldn't all be lumped into the same category. We take care of our patrons inside and out at all times and run a safe, respectable business. I do not feel the proposed extra costs that will be incurred by us is right or just, we are all trying to make a living.

Thanks for consideration  
Joyce Corrigan  
L3 Nightclub



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Red Hot Chili Pepper Bar & Grille  
1 St. Paul Street  
St. Catharines, Ont L2R 7L2

Attention: Paul Chapman



I am Felix Biancaniello owner of The Red Hot Chili Pepper Bar & Grille since 2001. It's been our family business run by myself, my father Amato Biancaniello and brothers Steve and Ralph. Since we took over in 2001, every year this industry has been harder and harder to survive.

Between all the governing bodies we deal with like the AGCO, Police, Heath Inspectors, Building Department Government Departments and Smoking Enforcement it makes it very hard for us to run our business. I've been told by all my suppliers and reps that our price points are the lowest across Ontario, Which I I have also seen for my own eyes.

By you guys making us a designated bar district and trying to make us pay for extra policing and other costs will only hurt this industry even more. People think we make all this crazy money which is a joke, they don't see all the hidden taxes we pay and the crazy overhead prices to run this kind of business. Policing is not the problem, the Police do a great job our problem is getting people out of downtown.

From my experience, when you guys use to have the late bus runs worked out perfect, which I know there were some problems but the concept worked. It got people down here early and left downtown early. My place would be cleared out by 2:15am so people could catch the bus back home. Another solution is the fact that there aren't enough taxies. The shortage of taxies is ridiculous in this city especially on the weekend. Is there anyway to get extra cabs in for the weekend?

We have a short lived season as downtown is only busy from September to April. From May to the end of August there is

tumble weeds rolling around downtown. It's making nearly impossible for business to stay open downtown. As you can see for yourself how many businesses have come and gone in the years of downtown. If we have anymore costs due to this bar district or changes that they are implying will hurt a ton of places and also cost some to shutdown.

I'm not sure by making our city and designated bar district will accomplish anything but actually hurt our downtown businesses. The problem we are having is the hundreds of people that are being left downtown at the end of the night because of no transportation. I've been downtown many years now and I haven't seen many serious issues compared to other cities. The Police are doing a great job in our city and maybe we can have them more walking or biking on the weekends to help patrol downtown. I've never had a problem with the Police they have done more than enough where my establishment is located. I personally think and most places probably agree the problem is getting people out of downtown quicker.

If we can come up with that solution, being with the buses running late, more taxis or separate private companys coming in to help out during the weekends will solve a lot of the problems. I've seen it with my own eyes the bus system worked we just need to make the buses a safe way of transportation. Charging the bars and other businesses more fees won't solve anything, it will just hurt our businesses and we can't afford to do that.

Kind Regards,  
Felix Biancaniello  
Owner Red Hot Chili Pepper Bar&Grille



“An entertainment establishment / nightclub is defined as a building or structure or part thereof including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of patrons beyond 11:00 pm and where food and / or beverage services may be offered for sale as an ancillary use.”

### Concerns

The Chamber participated as one of the stakeholders on the Downtown Licensed Establishment Committee (DLEC) which included other stakeholders in the business community. It was determined at this committee that a significant number of the issues raised were non-planning matters. These included:

- Safety
- Noise
- Cleanliness & Vandalism
- Inadequate transportation
- Over-serving practices
- Inadequate Enforcement and Coordination between regulating agencies

These issues were raised in 2007 when the downtown licensed establishment framework was under-review. Since 2007 the following policies and procedures have been put in place with notable success:

- Joint enforcements that include Niagara Regional Police Service, St. Catharines Fire Services, St. Catharines Building By-Law Enforcement, Inspectors from the Alcohol and Gaming Commission of Ontario. Since 2010 these joint enforcements have increased their frequency.
- Introduction of Nuisance By-Law
- Introduction and full implementation of the Private Security and Investigative Services Act – an Ontario law regulating the training of private security which includes licensed establishment security.

All of these changes have yielded positive results in terms of addressing the issues previously raised. However they have significantly increased compliance costs for licensed establishments. Downtown licensed establishments have participated as community partners to be part of the solution to the issues that have been raised. The planning regulations and associated fees as proposed are unduly punitive and costly. They hinder opportunities for businesses to fully participate in St. Catharines urban growth. The definition as proposed does not recognize the innovative business models which licensed establishments have implemented in downtown St. Catharines. These business models allow these establishments to serve a wider variety of clientele from a range of demographics. The Chamber is therefore concerned with the new planning regulations and definition as proposed.





### Recommendation

1. Rather than establish more regulation, solidify a forum where initiatives and actions can be discussed more consultatively on an ongoing basis. The Chamber recommends that the City of St. Catharines permanently establish the Downtown Licensed Establishment Committee:
  - a. Include the business community, members of City Council and City Staff, Niagara Regional Police Services, Alcohol and Gaming Corporation of Ontario
  - b. Discuss issues and best practices for downtown establishments
  - c. Identify partners in resolving issues and develop proposal
  - d. Conduct a periodic review of initiatives and regulations.

We would like to thank you for your consideration on this critical issue for the downtown and the business community. We look forward to hearing from you soon. If you require any further information please direct your staff to contact Kithio Mwanzia, St. Catharines – Thorold Chamber of Commerce Director of Policy and Government Relations at (905) 684 2362 ext 222 or via email at [policy@stetchamber.com](mailto:policy@stetchamber.com).

Best regards,

Walter Sendzik  
CEO  
St. Catharines – Thorold Chamber of Commerce

CC: Mr. Paul Chapman – Director of Planning Services

Anna and Rick Kasowski  
 Kaz's Pub  
 107 St.Paul St  
 St.Catharines, L2R 3M4

PLANNING SERVICES
RECEIVED:
RECEIVED: 10/3/11
ACTION:

OCT 3 1 2011  
 PLANNING SERVICES  
 DEPARTMENT

To Mayor and City Councilors

Re: Proposed Downtown Entertainment District

Hello,

My name is Anna Kasowski, and together with my husband Rick, we own buildings of 105-115 St.Paul St. For last 16 years we have been operating Kaz's Pub without any infractions. Also we used to live downtown above Kaz's for 5 years. We love our downtown that has a mix of daytime businesses and vibrant nightlife. I don't understand the perception of downtown as dangerous, unsafe, and full of drunk and abnocsious students. I feel safe walking to my car at 3 am in the morning!

The bar business is not the same as 10 years ago. The recession of 2009 hit our business big time. Weekdays are on slower note, and on weekends only Saturday seems to be busy. Our capacity is 290, but only on special occasion like Grape and Wine or St.Patrick's Day, we reach that number. We try to run our Pub by following all the rules and regulations implemented by AGCO, we train all our staff to be responsible servers, we don't promote any drink specials, and all our door staff has valid security Guard license ( even myself obtained that license and completed 40 hours training to be more responsible bar owner). I think that creating Downtown Entertainment District will only make more difficult for us to run our business, and imply more fees, taxes and regulations on us. We are against this idea!! We think it is not fair to us!!

The publications in St.Catharines Standard and City of St.Catharines literature are showing that on weekends there are 10 thousand people downtown. This is not true: based on data provided by Downtown Association total capacity for all the bars is under 5,500!! If at 2 am in the morning there are a lot of intoxicated people on our streets, we have to use all already available tools like nuisance by-law, to handle it!! I personally asked police officer on duty, why they don't issue any by-law tickets for urinating, vomiting, being loud etc. (over \$300 is a lot for student); I was told that would be too much work and is not worth it!! So can the proposed extra policing do any good if the present police force is not active enough?

I think our priority should be to provide extra taxis or other transportation to help bar patrons to get safety home at 2 am.

Also we cannot forget about all the jobs that are created by all bars, and a lot of other businesses (like pizza, pita and sub shops) are profiting of hungry bar patrons.

So please take into consideration bar owner's point of view, and I believe that together we can build better, safer, more vibrant downtown a place to live and play for everybody.

Responsible bar owners

Anna & Rick Kasowski

Chapman, Paul SERVICES

From: Homebrew <jtiffin@gmail.com>  
 Sent: Monday, October 31, 2011 11:39 PM  
 To: Chapman, Paul  
 Cc: McMullan, Brian; Burch, Jeff; Stevens, Jennifer; Elliott, Mark; Harris, Matthew; Siscoe, Mathew; Secord, Peter; Washuta, Greg; Kushner, Joe; Dodge, Dawn; bphilips@stcatharines.ca; Stack, Len; Williamson, Bruce  
 Subject: ACTION: Official Plan and Zoning By-law Amendment concerning Downtown Licensed Liquor Establishments

RECEIVED  
 OCT 31 2011  
 PLANNING & DEVELOPMENT  
 DEPARTMENT

Dear Paul Chapman and St Catharines City Council,

My name is John Tiffin. I am the owner of The Merchant Ale House in downtown St Catharines and I am concerned about the ***The Official Plan and Zoning By-Law Amendment Concerning Downtown Licensed Liquor Establishments***

Having been downtown since April of 1999 I have had nothing but positive experiences at my establishment. I feel that it is necessary to let you know that the perceived level of problems seems rather exaggerated. In my own experience we haven't had to call the police to deal with any problems caused by patrons in our restaurant. We are already a very regulated industry in regards to how we deal with the public and have undergone many changes in regards to how we operate since the beginning of this debate. We are now in an Ontario Risk Based Licensed area and while there have been no special amendments that have been set on us it is within the Alcohol and Gaming Commission of Ontario's (AGCO) discretion to add them. We have also had very strict requirements applied to our selection of doormen and security which has greatly raised the ability of everyone to better control their patrons both inside and around our establishments. It has also greatly increased the number of trained eyes on the street leading to, in my opinion a much more well behaved presence of patrons both inside and outside establishments.

It would seem to me that the changes which have already been established by other levels of government have addressed many of the issues that were being looked at by council 4 years ago and that imposing further restrictions to our already heavily regulated industry is aggressively punitive to any of us that are running establishments in a lawful and controlled manner. Any establishments that are running with a disregard to the current laws can be assessed by the AGCO with special requirements to address problems specific to their circumstances.

The number one concern that my patrons and I have is the inability to effectively move people out at the end of the night. Taxis are not using the taxi stands that already exist and there seems to be a major disparity in the amount of taxis required to properly service the numbers on the weekends.

The creation of an entertainment district that would lead to increased costs and controls on doing business will not have any effect on the ability for people to get home at the end of the night. Without changing that situation you are still left with large amounts of people stuck in a situation that raises the possibility of fighting and other sorts of behaviour associated with crowds. The creation of more temporary taxi licenses for weekend evening use could be one method to help this situation and perhaps a look at how transit works in other university towns for late night use. Removing the crowds effectively will go a long way in reducing the perceived problems in the downtown core.

The second concern seems to be litter. There are not enough garbage cans available for this. I don't think there

is one garbage can on Queen Street's east side for the block from St Paul St to King Street. We put out extra garbage cans for Grape and Wine week why not leave them out permanently? I had a garbage can located directly in front of my property at 98 St Paul St and it disappeared in 2003. Attempts were made by both myself and the downtown association to have it replaced, however, it never was and I have long since given up on the idea that it will ever be.

The Official Plan and Zoning By Law Amendment Concerning Downtown Licensed Liquor Establishments in its present form appears to be based on a situation that has in many ways been addressed. It also seems to be based on licensed seat capacity that includes many restaurants that are closed at the time the perceived problem exists. We have made many changes to the downtown including two way traffic to secure the Wine route and the Brock Center for the Arts, this seems to be a very backward step to stop restaurants to open in an area that the free market will already dictate which will succeed. It would also restrict me personally if I was to increase the size of my own establishment which I would consider the type of establishment which is a welcome addition to our downtown. Fixing the transportation problem and increasing the opportunity for people to put waste in its place will greatly change the concerns of council. This coupled with the changes that have already happened at the other levels of government will eliminate the need to make any by-law adjustments to achieve what we almost already have.

Thank you for taking the time to read

John Tiffin

Owner and Operator

The Merchant Ale House  
98 St Paul St.  
St Catharines, Ontario  
L2R 3M2

Click [here](#) to report this email as spam.

<b>PLANNING SERVICES</b> RECEIVED: REFERRED TO:  ACTION:	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <i>seven</i>  <b>2</b>  <i>hospitalities</i> </div> <div style="text-align: center;"> <i>Stella's</i>  <i>gord's</i>  <i>amici's</i>  <i>THE MOOSE &amp; GOOSE</i> </div> <div style="text-align: center;"> </div> </div>	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>RECEIVED</b>          OCT 31 2011          PLANNING SERVICES          DEPARTMENT       </div>
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We are submitting this letter opposing the recent proposal from council for an Official Plan and Zoning By-Law Concerning Downtown Licensed Liquor Establishments. We have many concerns/objections with this proposal as a family run hospitality business with over 60 years of experience.

The concept of developing a nightclub district and charging the included parties for policing is extremely concerning for us in many ways, the obvious concern is the financial impact this will have on our business. An additional fee charge to every establishment based on capacity for policing on an annual basis, whether added to your taxes or other means would cripple our industry. This fee would obviously be unreflective of our business profits or sales and would more than likely increase every year as per the NRP requests. Currently we are in the worst economy in the past 10 years, a global economy crisis with constant financial uncertainty. Our industry struggles the same if not more in these times due to the fact we are a luxury expense that has to be cut when times are tough.

The illusion and description by councilors that downtown is a "concern" or "unsafe" is an unfair statement that creates a snowball effect of negative views of our downtown. Over the years our downtown has had a problem of emptiness, referring to store fronts, The words "unsafe" are simply untrue. The perception of downtown varies in different people, different people have different views, ask 100 people get 100 different answers. These views vary from age group, status, culture and economic stand point, instead of promoting positivity we are encouraging negativity when our leaders use these words.

The fact that the very businesses that we criticize and want to segregate are the places that have helped develop downtown to where we are today, restaurants, lounges and nightclubs have made our downtown an alluring and vibrant place to be. Asking this industry to pay for policing is like saying we are the problem, which isn't true. All licensed establishment have strict rules to follow by the Alcohol and Gaming Commission of Ontario, any infractions are dealt with and repeated infractions result in the loss of your licence. Recently the AGCO has created a security licensing program, all security must be trained and licensed by AGCO approved companies, this has created a higher standard for security throughout our industry and have made licences more accountable for the patrons safety.

Like all communities there are problematic areas where police have to focus more attention to, in these cases, do we charge the homes in that area more taxes for policing, of course not that would be absurd.

Why is that as an industry which already operates with a governing body monitoring our business conduct and maintaining ethical practices should we be treated any different. It is easy to say that addition policing is required because there are additional people downtown, people downtown is a good thing for all it encourages downtown financial growth.

If there are nuisance issues then there is a nuisance by-law which allows police to ticket rowdies for the inappropriate behaviour anywhere. One bad apple shouldn't ruin the bunch and a poor business operator shouldn't tarnish an entire industries community perception. If the statistics are looked at regarding ticketing under the nuisance by-law you will see that numbers of instances have dramatically reduces showing obvious improvement.

Licences in our downtown are not a concern, the perception of our downtown by our community leaders in local media outlets are. Forgetting the importance of an industry that pays hundreds of thousands in taxes, employs thousands of people, and contributes millions to our local economy in my eyes is a bigger concern. This is why I am committed to organising a downtown program called "Raising the Bar, Downtown Restaurant and Bar Association. This program will be run by myself and other hospitality volunteers from our downtown core focusing on bringing to the forefront the good that is done by our industry, helping create a better downtown perception and most of all giving our industry a voice and a visible presence.

An example of the positive that our downtown has to offer is hearing the story from Rahat Chungtai that was at the last meeting when he told the story of living downtown on James St for the past 5 years raising his family of 4 children. He spoke out on how safe he feels raising his family downtown and enjoy the life downtown has to offer.

My family would be interesting in furthering these discussions with council to help create a positive business plan for our downtown or lend a hand to a different view,

Paul Angelo De Divitiis

Nuisance By-law Comparison (Southend + Port Dalhousie)

Citation	2008	2009	2010	2011*	Change ('08-'10)	Change ('08- Oct. 2011)
Public Urination	110	63	103	53	-7	-57
Throwing a Bottle	16	4	8	7	-8	-9
Fighting	31	24	11	12	-20	-19
Knocking over Mailbox/Garbage	9	2	0	4	-9	-5
Loitering	10	4	4	11	-6	1
Graffiti	3	0	0	1	-3	-2
Vomiting	0	2	3	3	3	3
Spitting	6	10	9	9	3	3
Total	185	109	138	100	-47	-85
Money Generated (x*\$365)	\$67,525.00	\$39,785.00	\$50,370.00	\$36,500.00	-\$17,155.00	-\$31,025.00

Source: Niagara Regional Police Services 2011

\* Note: The 2011 statistics are from January - October.



D

Calls for Service (Downtown)				
Incident Type	2008	2009	2010	Change ('08-'10)
Assistance	104	66	70	-34
Assault	99	113	97	-2
Disturbances	264	317	258	-6
Drug Call	36	37	45	9
LLA/Public Intoxication	187	203	201	14
Noise Complaint	108	74	96	-12
Unwanted Persons	181	202	197	16
Property Damage	140	96	88	-52
Totals	1119	1108	1052	-67

Source: Niagara Regional Police Services 2011

Entertainment District Licenced Capacity from 2008 - 2011					
Type	Establishment	Address	Cap. '08	Cap. '11	Change
Bar	Barracuda Pretty (formerly Big Buck)	30 Ontario Street	968	1028	60
Bar	Brown Sugar	247 St. Paul Street	96	Closed	-96
Bar	Canton Café (formerly Hypnotic)	210 St. Paul Street	30	30	0
Bar	Coco Cabana's (formerly Farenheit)	57 Carlisle Street	298	298	0
Bar	Eighty 1 Degrees (formerly Zig Zag)	241-245 St. Paul St.	30	Closed	-30
Bar	Karma Lounge (formerly Club Excess)	55 St. Paul Street	912	787	-125
Bar	Kaz's	105-107 St. Paul St.	322	322	0
Bar	L3 Night Club	6 James Street	360	360	0
Bar	Lava Nightclub Lounge	149 St. Paul Street	99	Closed	-99
Bar	Lucky's (formerly Average Joe's/Pig & Poacher)	26 Ontario Street	194	194	0
Bar	Mansion House	5 William Street	210	210	0
Bar	Mikado Café	7-9 Helliwell Lane	141	156	15
Bar	On 81	101 King Street	297	Closed	-297
Bar	Red Hot Chili Pepper	1 St. Paul Street	583	583	0
Bar	Rockford's	88 St. Paul Street	140	140	0
Bar	Sutra (formerly Red Square)	231-245 St. Paul St.	140	140	0
			<b>4820</b>	<b>4248</b>	<b>-572</b>
Hybrid	Cache (formerly Great Canadian/Whitehaut)	42-44 James Street	210	170	-40
Hybrid	Citylight's Restaurant (formerly Nigroni's)	67 St. Paul Street	84	86	2
Hybrid	Honest Lawyer Restaurant	84 James Street	579	Closed	-579
Hybrid	Merchant Ale House	98 St. Paul Street	150	150	0
Hybrid	Mink Cocktail Lounge	149 St. Paul Street	New	99	99
Hybrid	Patrick Sheehan's	101 St. Paul Street	120	145	25
Hybrid	Stella's Restaurant & Bar	45-41 James Street	725	811	86
Hybrid	Strega	19 King Street	50	50	0
Hybrid	The Office Tap & Grill	22 James Street	81	81	0
			<b>1999</b>	<b>1592</b>	<b>-407</b>
Rest.	Al's House	21 King Street	330	Closed	-330
Rest.	Blue Mermaid	10 Market Square	281	281	0
Rest.	Carlo's Cantina	204 St. Paul Street	40	40	0
Rest.	Christina's Eatery	24 St. Paul Street	56	79	23
Rest.	Dani's Bistro (formerly Cask 22)	176 St. Paul Street	New	80	80
Rest.	East	127-129 St. Paul St.	New	85	85
Rest.	Jumpin' Jacks	12 King Street	40	Cancelled	-40
Rest.	Knights of Damascus Restaurant and Bar	132 King Street	New	180	180
Rest.	Li Restaurant	104 King Street	New	77	77
Rest.	Mai Vi	55 St. Paul Street	40	40	0
Rest.	Oasis	170-174 St. Paul St.	77	77	0
Rest.	Pan Café	120 St. Paul Street	New	Closed	0
Rest.	Pow Wow New World Grill	165 St. Paul Street	87	87	0
Rest.	St. Catharines Club	77 Ontario Street	374	374	0
Rest.	Sushi Ai	75 St. Paul Street	New	90	90
Rest.	Sushi Jade	219 St. Paul Street	44	Closed	-44
Rest.	The City House	131 King Street	180	Closed	-180
Rest.	The Spotted Calf (Formerly Astoria)	102 King Street	77	Closed	-77
Rest.	Toi Restaurant	12 Queen Street	New	215	215
Rest.	Touch of India Restaurant	126 St. Paul Street	60	60	0
Rest.	Vaughan's International Cuisine	249 St. Paul Street	30	0	-30
Rest.	Zhuang Yuan Hong (formerly Sunset)	180 St. Paul Street	76	76	0
			<b>1792</b>	<b>1841</b>	<b>49</b>
		<b>Total</b>	<b>8611</b>	<b>7681</b>	<b>-930</b>
		<b>Percent Change</b>			<b>-10.80</b>

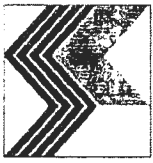
Source: AGCO 2011 plus City information.

F

Estimated Police Costs

Title	Quantity	Hourly Rate	Hours	Per Night
Constable	6	\$78.50	6	\$2,826.00
Sergeant	1	\$88.17	6	\$529.00
Total Per Night				\$3,355.00
Total Per Weekend (Thursday, Friday, Saturday)				\$10,065.00
Total Per Year (8 Months: September to April)				\$322,080.00

Source: Niagara Regional Police Services, 2011



CITY OF  
ST. CATHARINES

EXCERPT OF THE MINUTES OF THE	
General	COMMITTEE
DATE Sept. 12/11	ITEM NO. 440
RATIFIED BY COUNCIL Sept. 19, 2011	

**Item No.** 440

**Report from** Planning Services, Policy

**Date of Report:** August 31, 2011

**File:** 60.35.44.Vol 3

**Subject:** Downtown Licenced Establishments

**COUNCILLOR KUSHNER DECLARED A CONFLICT OF INTEREST** (Pecuniary) to Item Number 440 of the General Committee Minutes dated September 12, 2011, stating that he owns a similar business and left Council Chambers for consideration of the matter.

**MOVED BY COUNCILLOR ELLIOTT**

That Council direct staff to continue discussions with the Niagara Regional Police Services, the Downtown Association, the Chamber of Commerce, the Alcohol and Gaming Commission of Ontario (AGCO), the Downtown Development and Revitalization Committee, and other stakeholders respecting licenced establishments in the downtown; and

That Council direct Corporate Support Services to report on amending the licencing by-law to create classes of business licences for establishments that are licenced by the Alcohol and Gaming Commission of Ontario (AGCO) that are compatible with the proposed zoning by-law amendments; and

That Council direct Planning Services to report back to Council for the November 28, 2011 meeting on the method for determining the maximum number of establishments of a particular classification, or a maximum capacity of a licenced classification within the proposed entertainment district; and

That November 28, 2011, be set as the date for a public meeting under the Planning Act to create an entertainment district through an amendment to the Official Plan and to the District Five Downtown Zoning By-law; and

That Council direct staff to continue to work towards implementation of the other recommendations of the Downtown Development and Revitalization Committee that have been previously adopted; and further

That the Downtown Development and Revitalization Committee be restruck in the early Fall of 2011, with the purpose of addressing issues surrounding livability and commercial and cultural vitality within the Downtown Core. FORTHWITH.

YEAS Councillors Harris, Phillips, Secord, Siscoe, Stack, Stevens, Washuta, Williamson, Burch, Dodge, Elliott, and Mayor McMullan

NAYS

**CARRIED UNANIMOUSLY FORTHWITH**



CITY OF  
ST. CATHARINES

EXCERPT OF THE MINUTES OF THE	
General	COMMITTEE
DATE Sept. 12/11	ITEM NO. 440
RATIFIED BY COUNCIL Sept. 19, 2011	

## RECOMMENDATION

That Council direct staff to continue discussions with the Niagara Regional Police Services, the Downtown Association, the Chamber of Commerce and other stakeholders respecting licenced establishments in the downtown; and

That Council direct Corporate Support Services to report on amending the licencing by-law to create classes of business licences for establishments that are licenced by the Alcohol and Gaming Commission of Ontario (AGCO) that are compatible with the proposed zoning by-law amendments; and

That Council direct Corporate Support Services to report on amending the licencing by-law and any other by-laws related to food vendors; and

That November 28, 2011, be set as the date for a public meeting under the Planning Act to create an entertainment district through an amendment to the Official Plan and to the District Five Downtown Zoning By-law; and

That Council direct staff to continue to follow up on other recommendations previously adopted.

## SUMMARY

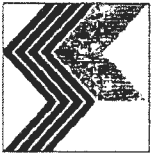
The 2010 report from the Downtown Development and Revitalization Committee (DDRC) addressed the issues associated with licenced establishments in the downtown. The report was undertaken to address a growing concern regarding noise, hours of operation, garbage and patron behavior. There were a total of 13 recommendations adopted by City Council; most of these have been implemented at least in part. Based on comments received, recommendations for the by-law amendment and changes to the licencing by-law have not been completed. There remain issues with the implementation of a cost recovery system for additional policing within the entertainment district. Additional discussion is required with key stakeholders before proceeding to a public meeting.

The amendments to the licencing by-law should not be undertaken until the amendments to the planning documents recommended in the report are adopted by City Council after the required public meeting.

This report is being presented directly to General Committee as the DDRC has not been re-established.

## BACKGROUND

In 2007, City Council directed that a study be conducted of licenced establishments in the downtown and passed an Interim Control By-law. Council authorized retaining a consultant to complete a study. In April of 2008, this by-law was extended for one year. In September of 2008 the study recommendations were presented to City Council. Planning staff was authorized to amend the zoning by-law for downtown to add a definition of "entertainment establishment/nightclub" and to create a regulation for the separation of such uses. After a public meeting was held in April of 2009, City Council directed that the Downtown Licenced Establishment Committee (DLEC) with representatives from various stakeholders interested in the issue be created and report back to City Council. In November of 2010, the DLEC's report was presented to City Council after having been considered by the Downtown Development and Revitalization Committee (DDRC).



CITY OF  
ST. CATHARINES

EXCERPT OF THE MINUTES OF THE	
General	COMMITTEE
DATE Sept. 12/11	ITEM NO. 440
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## REPORT

The recommendations were grouped around five categories:

- Regulations
- Behavioral issues
- Transportation
- Business recruitment
- Aesthetics

The current status and future direction for each of the categories will be reviewed. The actual recommendations approved by City Council are included in Appendix "F".

### Regulations

- 1) Funding for additional police  
The Niagara Regional Police Service (NRPS) has considered this recommendation. The NRPS is supportive of a model that would provide additional funding to pay for additional police services within a defined area. Their response is attached as Appendix "G".
- 2) City Business Licencing By-law  
No action has been taken on this matter. It would have been premature to start this process unless the NRPS Board was prepared to proceed.
- 3) Licencing Fees  
The response from the NRPS indicates that the City establish classes of licences that the NRP Board could compel payment for special duty officers. This is the Hess Village Model applied in Niagara. The NRPS response also indicated that another option would be to require the payment for enhanced level of police service through the City's licencing by-law. The City Solicitor has advised that this is not an option that is possible with our two tiered municipal structure.
- 4) Downtown Cleanup by the Downtown Association  
The Downtown Association has a part time staff person who is responsible for graffiti removal, street clean-up and other related activities.
- 5) Late Night Food Vendors Licencing  
Changes to the licencing by-law have not been made as they would have been premature.
- 6) Creation of Entertainment District in Planning Documents  
The public meeting for the proposed zoning by-law amendments has not been initiated and is pending on Council's consideration of this report. In order to strengthen the City's position, it is now recommended that both an official plan amendment and zoning by-law be processed concurrently. Having clear policy support in the Official Plan will be useful should the zoning by-law be challenged. Recommendation 6 d) was to contact the Alcohol and Gaming Commission of Ontario (AGCO). The AGCO has provided no comments that are of assistance in determining a maximum number of establishments or a maximum capacity of a licenced establishment within a downtown area.

### Behavioral Issues

- 1) Closed Circuit Television  
The matter of the use of the Closed-Circuit Television (CCTV) is being actively investigated by the Niagara Regional Police Services Board and further information will be forthcoming.



CITY OF  
ST. CATHARINES

EXCERPT OF THE MINUTES OF THE	
General	COMMITTEE
DATE Sept. 12/11	ITEM NO. 440
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- 2) Municipal Lighting  
Transportation and Environmental Services is in the process of converting all of the downtown decorative lights from High Pressure Sodium (yellow light) to newer LED lamps (white light). All of the fixtures are to be replaced by the fall of 2011.
- 3) Secondary Lighting  
No funds were included in the 2011 budget for secondary lighting within the proposed entertainment district as the district had not been created.

#### **Inadequate Transportation**

- 1) Additional Taxis  
The Niagara Regional Police Services Board is considering this recommendation but there has been no decision.
- 2) Committee to Consider Late Night Special Bus Service  
No action has been taken on creating a committee to look at a late night transportation service.

#### **Business Recruitment**

- 1) There have been discussions between staff and the Downtown Association (DA) concerning a recruitment program. The DA has concerns regarding their ability to participate in this process given budget limitation of their organization. However, in discussion, a role as ambassador and spokesman for the downtown is possible. From a business development perspective, additional economic background work may be required to make this process effective. The promotion should be started soon but is unlikely to bear much fruit until the actual construction of the arts centre is started.

#### **Aesthetics**

- 1) Downtown Urban Design Guidelines  
Urban Design Guidelines for downtown are in process. The report on these with recommendations for future action is for consideration of the General Committee, September 12, 2011.
- 2) Communications Strategy  
The proactive communication strategy will be implemented after the urban design guidelines are approved by City Council. The new urban design guidelines will include additional specific criteria for evaluation of applications for facades. Staff wishes to include this information in any material that is distributed.

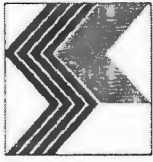
#### **Proposed Official Plan and Zoning By-law Amendment**

The proposed amendments to the Official Plan and zoning by-law have not been prepared. The proposed Official Plan amendment will include policies to:

- demarcate the extent of the entertainment district
- restrict the location of nightclubs/entertainment facilities to the entertainment district through the zoning by-law
- direction to amend other municipal regulatory documents to be compatible with the entertainment district; and
- provide guidance related to the conversion of space over commercial uses

The proposed zoning amendment will include the following:

- a definition of nightclub/entertainment facilities
- requirements for separation distances between new nightclubs/entertainment facilities on the same side of the street



CITY OF  
ST. CATHARINES

EXCERPT OF THE MINUTES OF THE

General COMMITTEE

DATE Sept. 12/11 ITEM NO. 440

RATIFIED BY COUNCIL Sept. 19, 2011

This outline is being provided so Council and the public are generally aware of the direction. There may be additional items addressed in both the Official Plan and zoning by-law when the report is presented to General Committee before the public meeting is held.

Council is aware there was an application for a liquor licence for 57 Carlisle Street. Council was concerned with the application and passed a motion on December 13, 2010, opposing the issuance of a liquor licence for the site. The lawyer for the owner of the property wrote a letter dated June 15, 2011, concerning the City's position. City Staff sent a standard clearance letter to the Alcohol and Gaming Commission of Ontario (AGCO) based on receiving appropriate letters from the City Clerk, Transportation and Environmental Services, Fire Services and Regional Health. After a hearing on the matter, a liquor licence was issued for this property. For Council's information the 57 Carlisle Street property would be included in the entertainment district and therefore, all classes of licenced establishments would be permitted on the site if the official plan and zoning by-law amendments are approved as proposed.

### FINANCIAL IMPLICATIONS

There are no financial implications for the City except as specifically noted in the body of the report.

### NOTIFICATION

It is in order to advise Mr. Tom Richardson, Sullivan Mahoney, Barristers & Solicitors, 40 Queen Street, St. Catharines, Ontario, L2R 6Z2.





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**ITEM NO. 498**  
**Report from the Planning Services Department**  
**Dated: October 22, 2010**  
**Re: Recommendations of the Downtown Licensed Establishment Committee**  
**File(s): 60.35.44**

COUNCILLOR FOSS DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 498 of the General Committee Minutes, November 1, 2010, for matters relating to façade improvements in the report and stated she was a past recipient of the program.

COUNCILLOR GILL DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 498 of the General Committee Minutes, November 1, 2010, for matters relating to Fire Services portion of the report and stated his spouse is employed by St. Catharines Fire Services.

COUNCILLOR KUSHNER DECLARED A CONFLICT OF INTEREST (Pecuniary) to Item Number 498 of the General Committee Minutes, November 1, 2010 for matters relating to Brock University.

### **Background**

In 2007, City Council directed that a study be conducted on licensed establishments in the downtown and passed an interim control by-law to restrict the creation of new licensed establishments with specific characteristics. In April of 2008, City Council extended the interim control by-law for another year, with expiration on May 7, 2009.

The Downtown Licensed Establishment Study (DLES) was initiated to examine the nature and extent of the issues associated with the City's downtown licensed establishments (entertainment establishments/nightclubs). The DLES was undertaken as a result of concerns related to the concentration of licensed establishments in the downtown area. Specifically, issues such as noise, hours of operation, garbage and patron behaviour were a growing concern. Additionally, the displacement of retail was both a perceived and real threat to the revitalization of the downtown. The goal of the study was to identify primary issues and potential solutions by way of a set of recommendations that would assist current and future revitalization efforts.

The DLES recognized that this is a complex problem and that there is not just one solution. A multi-faceted approach was proposed, as this is not primarily a planning problem. The DLES identified ongoing initiatives underway by the City and the Province, and new measures the City could use to better manage and regulate existing and future licensed establishments within the downtown. A number of recommendations of the study have already been implemented, including: the nuisance by-law; more co-ordinated enforcement by the City, Police, Fire, and provincial licensing staff; and the establishment of a taxi zone on William Street. Other non-planning recommendations that have not been addressed include: charging for parking in the evening hours; re-instituting late evening bus service from downtown to Brock University; improvements to lighting; changes to the licensing by-law; and requesting the Province to make changes to the Liquor License Act.

The study was presented to Council on September 22, 2008, at which time Council directed Planning Services Staff to amend the zoning by-law to implement the following recommendations of the study:

1. Add a definition for a new use known as "entertainment establishment/nightclub";
2. Introduce regulations to control the number, size and concentration of such establishments in the downtown; and
3. Provide a separation distance between entertainment establishments/night clubs.



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The purpose of the proposed new definition was to ensure that entertainment establishments/nightclubs as defined would only be permitted in the proposed entertainment district (Appendix "A"). Licensed establishments that did not meet the definition of an entertainment establishment/nightclub would be permitted in any area of the downtown that permits commercial uses. In order to allow the use, but to prevent such establishments from overwhelming the area, a separation distance of 75 metres on the same side of the street was also proposed. This distance would provide the opportunity for other businesses that are open during normal business hours to form the majority of the block face. The proposed 75 metre separation distance required a spatial separation of six average frontage properties, and was intended to create a balance between new investment opportunities for entertainment establishments/nightclubs and the desire to ensure a continuous frontage of retail and related services along the street. The proposed 75 metre separation was a judgement of the appropriate balance, as a planning standard does not exist.

### **Public Consultation**

An open house was hosted by the Planning Services Department on March 3, 2009. The purpose of the open house was to provide an opportunity for questions to be asked and comments to be received by City staff before decisions are made. There were 19 members of the public in attendance, including representatives from the St. Catharines Downtown Association (SCDA), the St. Catharines-Thorold Chamber of Commerce (STCC) and the Niagara Regional Police (NRPS). The vast majority of the public present were opposed to the proposal for a variety of reasons.

Subsequently, a public meeting was held for the proposed zoning amendment on April 6, 2009. Representatives from the SCDA and STCC were present and expressed concerns, including: discrepancies in the DLES respecting the number and capacities of establishments; public consultation prior to the undertaking of the DLES; statistics relating to charges under the Nuisance By-law in 2008; non-planning related considerations related to alcohol and fire; and, the creation of a Downtown Entertainment District Advisory panel to consider issues of planning and non-planning nature. As a result of these concerns, Council deferred consideration of the zoning by-law amendments until further consideration could be given to all relevant issues. Council also authorized the creation of the Downtown Licensed Establishment Committee, as a sub-committee of the Downtown Development and Revitalization Committee, which would report to Council with recommendations early in 2010.

Membership for the Committee was advertised and the Downtown Licensed Establishment Committee (DLEC) began meeting in October 2009. The Committee is comprised of various stakeholders in the downtown, including licensed establishment owners, business owners and residents. Additionally, representatives from the Alcohol and Gaming Commission of Ontario (AGCO), Brock University, NRPS, SCDA, St. Catharines Transit, STCC, City councillors and representatives of City departments also sit as resources to the Committee (Appendix "B"). At the time of formation, there were issues surrounding lack of representation of licensed establishment owners from the downtown. Although several bar and restaurant owners were appointed to the Committee after formation, these members were frequently unavailable for regular meetings, and so were not included in discussions on the final recommendations.

### **Issues Identified by Downtown Licensed Establishment Committee**

In 2008, the DLES identified the following list of issues related to licensed establishments:

- Safety
- Noise
- Cleanliness/vandalism
- Inadequate enforcement/lack of inter-agency coordination
- Inadequate transportation
- Over-serving practices



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Subsequently, the DLEC identified the following list of issues for further investigation:

- Regulations
  - Creation of an entertainment district
  - Inadequate police resources
  - Class based municipal licenses
  - Cleanliness
  - Property Standards
  - Temporary food vendors
  - Over serving
- Behavioural issues
  - Public safety and illicit behaviour
  - Lighting
  - Vandalism
  - Noise
- Transportation
  - Inadequate transportation
- Aesthetics
- Business Recruitment

Based on the issues identified by the DLES and subsequently by the DLEC, the Committee formed a set of recommendations that address both the planning and non-planning issues (Appendix “C”). These recommendations were subsequently reviewed by the DDRC, who made one amendment to add recommendations 6d under ‘Regulations’ (Appendix “D”).

The recommendations work together to address the issues in a co-ordinated and comprehensive manner. It is important to note that the recommendations form a framework for implementation. For instance, in order to address issues of inadequate policing, the NRPS required that an area (Downtown Entertainment District) be identified to focus additional enforcement resources. Similarly, funding for additional policing requires a differentiation between types of establishments to ensure that those types that require additional enforcement (entertainment uses/nightclubs) will also be responsible for paying some of the costs associated with this service. Finally, the differentiation between license types requires that the City review the current licensing system, and how the creation of a class-based system may affect current procedures and costs.

### **Planning Amendments**

#### **A. Zoning**

There are currently 46 licensed establishments within the downtown area, with a combined capacity of more than 8,500 patrons. The majority of these establishments are located within a four-block radius, which further compounds those non-planning related issues identified by the DLES and by the DLEC. Additionally, with no clear definition of an entertainment establishment/nightclub or separation distance, confusion regarding establishment type and the risk of over saturation is evident. These issues can be addressed through zoning regulations targeting specific aims, including: 1) the creation of an Entertainment District, 2) the introduction of a new definition for entertainment establishments/nightclub uses, and 3) the provision of a separation distance.

#### *Defined Entertainment District*

An entertainment district would restrict the location of businesses with specific characteristics, such as seating capacity, and contain them in a more manageable area. The proposed area is bounded by St. Paul Street, Ontario Street, King Street (both sides) and



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Carlisle Street (Appendix "A"). This area includes 34 active licensed establishments, with a combined capacity of 6,949<sup>1</sup> (Appendix "E").

By containing entertainment establishments within one area, public resources like additional police officers can be more efficiently managed, thus ensuring their services are effectively utilized. Because there is already a large concentration of licensed establishments within the downtown boundaries, containing this growth in one district will limit the area impacted by both the planning and non-planning issues. The creation of the entertainment district also allows new residential construction to be focused north and east of Carlisle Street. This is consistent with the Creative Cluster Master Plan and new Garden City Official Plan, adopted by Council on August 23, 2010, by By-law 2010-242 and pending final approval by the Region.

#### *Entertainment/Nightclub Definition and Separation Distance*

The Committee recommends using the definition for entertainment establishment/nightclub uses as outlined in the report from Planning Services, dated March 17, 2009:

*"An entertainment establishment/nightclub is defined as a building or structure or part thereof including but not limited to a dance hall or disco, used to provide dance facilities for patrons, where seating is not provided for the majority of patrons beyond 11:00 pm and where food and/or beverage services may be offered for sale as an ancillary use."*

This definition allows for other licensed establishments, such as restaurants and cafes, to locate anywhere within the downtown, as the sale of alcohol is not their primary service and seating is provided for the majority of patrons. The definition is imperfect but a better definition has not been found.

The creation of a separation distance between entertainment establishments/nightclubs will ensure that this use does not overwhelm the entertainment district. Staff had previously proposed a separation distance of 75 metres on the same side of a street (report to General Committee dated March 17, 2009, General Committee Minutes of March 23, 2009, Item No. 166). This distance would provide the opportunity for other businesses in the area to form the majority of the block face. The 75 metre separation distance would require a spatial separation of approximately six average frontage properties; however, such a distance would not provide many opportunities for additional licensed establishments and may discourage potential development opportunities.

The DLEC has considered a reduced separation distance of 45 metres on the same side of the street, from lot line to lot line, between entertainment establishments/nightclubs. This distance would require a spatial separation of approximately 3-4 average frontage properties, which would allow other businesses to form the majority of the streetscape, including other licensed establishments like restaurants and cafes. This distance would provide opportunity for new entertainment establishments/nightclubs to locate within the entertainment district, but will ensure limitations to avoid saturation within the entertainment district.

As previously mentioned, as part of the review of the recommendations from the DLEC, the DDRC choose to include a recommendation requesting guidance from the AGCO on the limitation of the number and capacity of each type of licensed establishment under a class-based system. This recommendation was originally considered by the DLEC; however, the Committee was of the opinion that the limitation of number or capacity of licensed establishments would result in a closed market. The DDRC chose to include the original recommendation, stating that this consideration would ensure a balance of uses within the downtown. The DDRC believes that a request for guidance does not mean that a strict limitation would be placed on licensed establishments; however, given the vast experience

<sup>1</sup> based on data collected by the AGCO, updated as of 2010



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that the AGCO has with other entertainment districts, the DDRC was of the opinion that this advice was necessary in order to consider all potential solutions to the non-planning issues.

If changes to the zoning by-law are approved, Corporate Support Service will be reporting on changes to the City's Licensing By-law to align it with the zoning by-law and AGCO classifications. Also, changes to the zoning by-law do not eliminate or force existing establishments to close.

### **Enforcement Considerations**

The following considerations related to the non-planning issues associated with licensed establishments are necessary in achieving a co-ordinated approach to zoning, license and enforcement for licensed establishments. It is important to recognize that there are not any simple solutions, and that this is a complex and multi-faceted problem that requires a unique set of solutions.

#### **A. Regulations**

##### ***Inadequate Police Resources***

The issue of inadequate enforcement or coordination between agencies was largely based upon the views of local stakeholders. Inadequate enforcement stems from the limited number of police officers devoted to the downtown and therefore, lack of visible presence. It is recommended that further investigations be made with regard to funding of additional police in the downtown. The Hamilton model for Hess Village is seen as a positive precedent in this regard. The Regional Municipality of Niagara Police Services Board should be requested to investigate a model to obtain funding to pay for additional police resources within the proposed entertainment district. There will be consultation between the Police Services Board and the municipality on the implementation of the system.

##### ***Class Based Municipal Licenses***

Currently, the licensing system does not differentiate between restaurants, cafes or entertainment establishments/nightclubs, and as a result, each establishment pays the same fee. Establishments that primarily serve alcohol typically require more attention from police because they promote large crowds and the consumption of alcohol. Additionally, these patrons are often responsible for issues related to cleanliness, vandalism and safety. In general, the price for obtaining a business license should recover the costs associated with licensed establishments, including enforcement and clean up, and thus the price for a business license should be updated to reflect a class-based system. These classes should be reflective of the AGCO's risk-based licensing system<sup>2</sup>, as the downtown may be labeled a high-risk area by the AGCO. Risk-based licensing, which began in specific cities in 2008 and across Ontario in March 2010, applies to all new license applications, transfers, changes and renewals of liquor licenses. Risk-based licensing began as a method to focus AGCO resources on establishments that pose a greater risk to public safety, public interests or non-compliance with liquor laws because of their business type, location, past history or experience.

Risk levels are assigned based on a number of factors, such as occupancy and premise type. The local municipality has the opportunity to provide information and comments regarding the application, which can affect the assigned level of risk. Additionally, through this program, the AGCO can attach conditions to the liquor license to help minimize the risks identified during the application process. The conditions include restrictions on hours of

<sup>2</sup> Current, the AGCO classifies licensed establishments under three categories: restaurants, bars and hybrid restaurant-bars. In downtown, there are 34 establishments of which 14 are restaurants, 13 are bars, and 7 are hybrids. Generally, restaurants pose the least risk.





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operation, regulations regarding site cleanliness, and the submission of plans outlining measures aimed at eliminating violence or disorderly conduct. The DLEC considers the model currently implemented in the City of Hamilton as a positive precedent.

### *Cleanliness*

As a solution to the issue of cleanliness and waste related to licensed establishments, temporary food vendors and other fast food style restaurants, a public nuisance by-law was enacted in 2007 to allow law enforcement the ability to ticket individuals found leaving, throwing or depositing bottles or other materials on private or public property. Police have adopted a zero-tolerance policy; therefore, increased enforcement of the nuisance by-law has helped to solve the problem. While beneficial, this by-law is considered reactionary instead of preventative, and does not address the clean up of discarded materials.

While measures currently exist in regards to enforcement, the actual clean up is an outstanding issue. The cost of requiring City staff to clean up extensive amounts of trash, bodily fluids and vandalism directly related to the patrons of licensed establishments puts a large burden on staff. These forms of litter are above the reasonable level and, depending on the establishment, require excessive municipal resources. As the St. Catharines Downtown Association (SCDA) already plays a role in contributing to clean-up related to patrons of licensed establishments, it is recommended that they take on an increased role in order to provide a higher standard of cleanliness, with costs recuperated directly by those benefiting from this service. Although the SCDA already employs maintenance persons responsible for clean-up in the downtown, it is recommended that additional measures be implemented, as needed, utilizing monies secured through membership fees. This will place the onus on those establishments that not only contribute to the problem of litter, but who also benefit from a clean environment.

### *Temporary Food Vendors*

The current rules regulating temporary food vendors are limited to the initial business license application and resulting inspection process. The business license is for a specific location identified by the applicant and approved by Council. Currently there are four hawkers and peddlers licenses operating in the downtown: one during the day and three during evening hours. The locations for the evening operators are 60 James Street, 1 St. Paul Street (rear parking lot), and 89 St. Paul Street. The presence of after hours food vendors provides an opportunity for patrons to congregate after leaving licensed establishments at closing time. These vendors also detract potential patrons from the permanent food establishments who choose to stay open to serve patrons of entertainment establishments/nightclubs.

Fire Services confirmed that the certification of the mobile food cart is reviewed according to the Technical Standards and Safety Authority (TSSA), and so the current licensing system should be reviewed to ensure compliance with these regulations. Fire Services has identified issues related to the vendors not remaining in the location they are licensed, making them difficult to track and inspect. Increased enforcement and restriction should be associated with the attainment of a hawkers and peddlers license to limit the location and hours of operation. The NRPS have also reported instances of vandalism in the areas immediately surrounding the vendors, as these are areas where crowds of patrons tend to congregate.

By limiting the location and the hours of operation, there will be limited opportunity for secondary socializing locations, thus reducing noise, safety and vandalism issues associated with the presence of these vendors. This will also ensure that those permanent businesses that are open to provide food during the late evening are able to capitalize on after-hours sales, as well. The DLEC recommends that temporary food vendors not be permitted to operate in the downtown past 8:00 p.m. In order to provide an equitable solution, further



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investigation relating to waste related to temporary food vendors and licensed establishments is also recommended.

## **B. Behavioural Issues**

### ***Public Safety and Illicit Behaviour***

The issue of safety, both perceived and real, can be attributed to the history of violent acts and other unlawful activities associated with crowds of patrons loitering in the downtown at closing time. Illicit behaviour ultimately poses a threat to the safety of patrons, residents, employees and other individuals in the downtown.

Many proactive measures have already been initiated to improve safety and reduce illicit behaviour. Increased enforcement through fining, in conjunction with education campaigns, has acted as a deterrent to illicit behaviour, as reports of incidences have decreased. Additionally, the NRPS regularly close a portion of St. Paul Street to vehicular traffic at closing time, so that patrons leaving licensed establishments are safer.

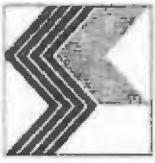
In an effort to increase safety further, it is recommended that the use of Closed-Circuit Television (CCTV) video cameras be investigated. CCTV is in use in Hamilton's Hess Village and Toronto's entertainment district as a crime deterrent and aid in identifying suspects. The DLEC recommends action similar to Hess Village, in which Hamilton Police are responsible for the cameras and report to Council on their strategies. Management of the system by a single independent body will ensure consistent monitoring and availability of footage for criminal investigations. While CCTV is controversial, it has been successful in Hess Village and could increase safety and deter illicit behaviour in the downtown core.

### ***Lighting***

Inadequate lighting affects the safety of individuals in the downtown, as darkened alleyways and poorly lit walkways provide an ideal location for illicit behaviour. Additionally, the current yellow glow streetlights do not provide adequate lighting for pedestrians. In general, sidewalks are not well lit, creating a hazard for pedestrians and an ideal environment for vandalism and other unlawful behaviour.

As a proactive initiative, the yellow glow streetlights along King Street are currently being replaced with brighter, white glow lights. These lights will better illuminate streets, sidewalks and alleyways, thus improving safety and deterring illicit behaviour. It is recommended that this model of lighting or its equivalent be fully implemented for the entire downtown. The replacement of lights will take approximately three years and is considered a positive measure by the DLEC. Furthermore, dark spots within the downtown are being investigated to determine if these areas are conducive to supplementary street lighting. As many buildings have commercial uses on the ground floor and residential uses on upper floors, the placement of lights will be carefully reviewed so that residents are not negatively impacted.

A secondary lighting system with greater intensity lights is also recommended by the DLEC for use at bar closing time. Secondary lighting systems, which rely on flood light style lighting, are currently used in entertainment districts in Toronto and Hamilton. The brighter lights help to disperse crowds and illuminate streets and sidewalks. As loitering crowds compound issues such as safety, cleanliness, vandalism and noise, the introduction of floodlights would help disperse crowds, further reducing the impact of many issues outlined in this report.



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## **Transportation Considerations**

### **A. Inadequate Transportation**

Lack of transportation is focused around a shortage of taxis and an absence of public transportation after 11:45 p.m., which causes patrons to remain in the downtown long after licensed establishments close, thus increasing the risk of illicit behaviour. Additionally, the limited supply of taxis has resulted in a number of illegal cab companies operating out of the downtown to help meet the transportation needs of patrons.

#### *Taxis*

As recommended in the DLES, to help eliminate the unstable situation created by competing patrons, a taxi stand has been created on William Street. The stand directs taxis to one location and essentially acts as crowd control by helping to create an order among individuals waiting for a ride. Additionally, the taxi stand has helped to reduce the presence of illegal cabs, as they do not openly advertise as taxi companies; therefore, they cannot wait at the taxi stand. This has helped protect riders from uninsured and potentially unsafe transportation and has ensured that only legal taxis operate in the downtown.

Presently, the taxicab quota for St. Catharines is 90 regular and 13 para transit cabs. The quotas for the Region of Niagara are 297 regular and 46 para transit. Each municipality has a specific quota and companies are not allowed to operate outside of the municipality they are licensed within. As the licensing of taxis is conducted by the Regional Municipality of Niagara Police Services Board Bylaw/Licensing Unit through By-law 285-2008, the DLEC recommends that current licensing procedures be reviewed to determine if there is a greater demand for taxis within St. Catharines, specifically at peak evening hours, to determine if the number of licensed taxis sufficiently meets the demand for the area.

### **B. Public Transportation**

Public transit from the downtown terminal to Brock University ceases after 11:15 p.m. on Friday and Saturday nights, and after 11:45 p.m. to other locations within the City. Licensed establishments can remain open until 2:00 a.m., leaving patrons in the downtown with no public transportation at closing time.

Late night public transportation within the downtown was available between 2002 and 2004, whereby late night busses transferred riders from Downtown to Brock University or St. David's Road (outside of Thorold). While widely used, issues regarding the rider's behaviour quickly emerged, as riders would not pay fares, and unwanted behaviour such as swarming and fighting were prevalent. Police were brought onboard the buses, the costs of which were paid for by the Brock University Students Union (BUSU) and SCDA; however, the unwanted behaviour continued. Because of the continued behaviour, in conjunction with BUSU and SCDA withdrawing their fiscal support, the late night bus services ended. While the busses are an ideal solution, St. Catharines Transit will not investigate the possibility of reinstating late night busses based on previous experience; however, St. Catharines Transit is willing to assist in advising a private operator, if one would be interested in providing the service. In this regard, the DLEC recommends that a committee be formed to investigate the possibility of a private operator re-instating the late night service. The evenings the service would be provided should be determined in consultation with potential providers and potential users.





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### **Aesthetics**

Planning policies related to urban design and façade improvements will assist in addressing the non-planning issues related to derelict or abandoned properties, like perception of public safety or illicit behaviour.

#### *Urban Design Guidelines*

Council authorized that specific Urban Design guidelines be created for the downtown, on June 21, 2010, to be developed by October 2011. These guidelines would allow the improvement of derelict or abandoned properties to proceed in a way that is conducive to an improved image for the downtown, as regulated by the Guidelines.

#### *Updating Façades*

Funding for improvements to building façades is available through the Façade Improvement Program. On May 17, 2010, Council approved changes to the Façade Improvement Program to include improvements to the rear of buildings on the south side of St. Paul Street, as well. Grants are available for half of the cost of improvements, to a maximum of \$10,000, and application must be made before any work commences. Since the approval of the changes to the program, any property owner on St. Paul Street may make application for a grant for both the front and rear façades, for a maximum of \$20,000 combined. Grants are for commercial buildings and commercial/residential mixed- use buildings. In taking advantage of this funding, building façades can be updated, making a building aesthetically appealing and more attractive to potential tenants. To optimize the utilization of the program, greater efforts must be made to advise both tenants and owners of this program.

### **Business Recruitment**

Filling vacant spaces with diversified uses can limit the saturation of licensed establishments within the downtown, and affects the overall aesthetic appeal of the streetscape. Through property standards enforcement and façade improvements, the visual appeal of the downtown will improve, creating an environment more conducive to economic development. Additionally, increased coordination between the Economic Development Department and the SCDA is recommended to recruit new uses to fill vacant spaces.

### **RECOMMENDATION:**

That the report from the Planning Services Department, dated October 22, 2010, concerning the recommendations of the Downtown Licensed Establishment Committee, be received;

and that Council adopt the recommendations of the Downtown Development and Revitalization Committee (Appendix "D") related to licensed establishments;

and that the proposed changes to planning regulations, as recommended by the Downtown Licensed Establishment Committee and Downtown Development and Revitalization Committee, related to licensed establishments be referred to a public meeting to be scheduled early in 2011;

and that Staff be directed to implement the recommendations under municipal control and that the external agencies be advised of Council's request on other matters;

and that Staff report back to Council on the response of external agencies;

and further, that a copy of this report be provided to the Downtown Association, the Downtown Development and Revitalization Committee and the Downtown Licensed Establishment Committee.



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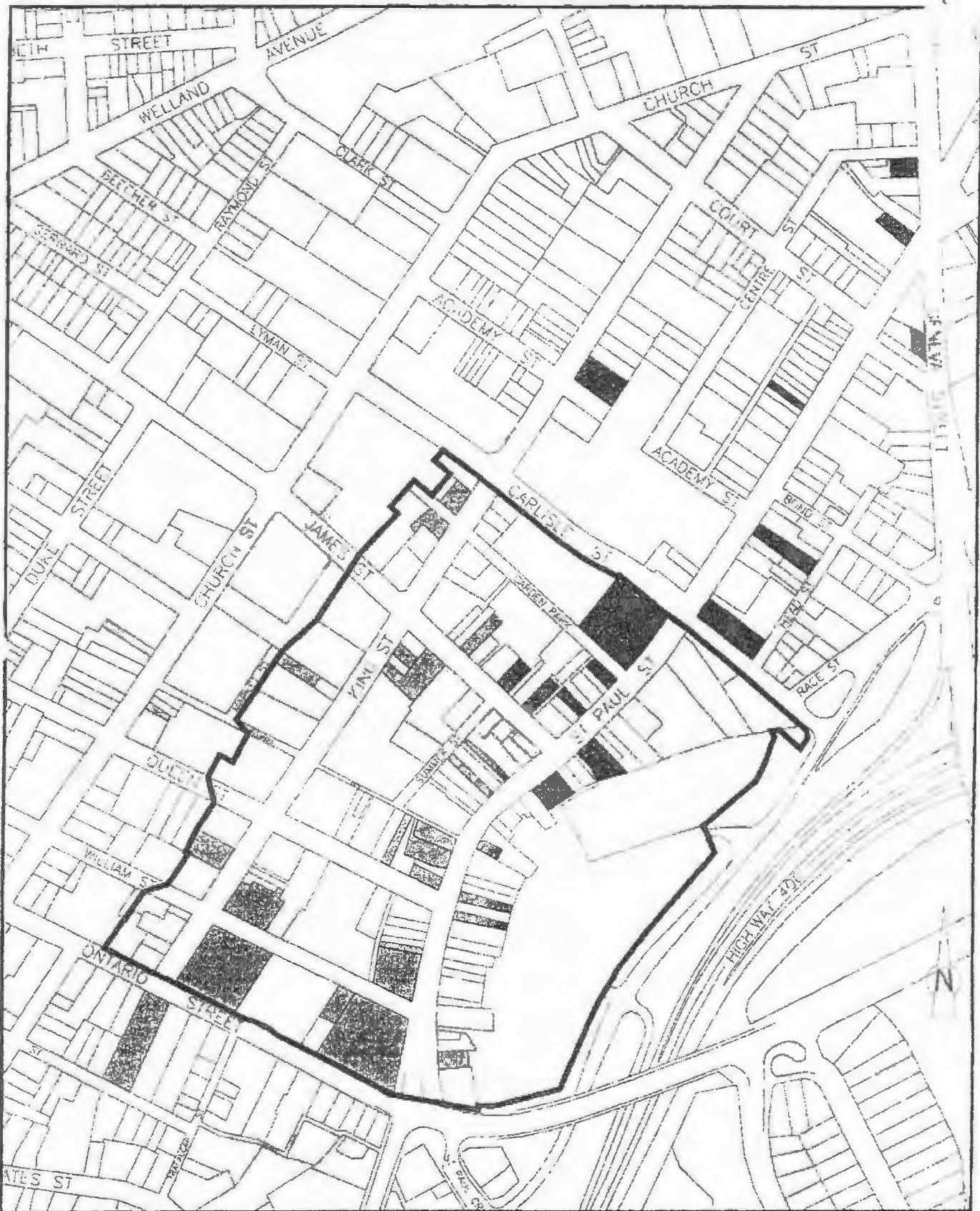
RATIFIED BY COUNCIL Nov. 8, 2010

MOVED BY COUNCILLOR KUSHNER:

That the report from the Planning Services Department dated October 22, 2010, respecting proposed changes to downtown licensed establishments, as recommended by the Downtown Licensed Establishment Committee and the Downtown Development and Revitalization Committee, be referred to Council for consideration after the public meeting to be scheduled in early 2011.

MOTION TO REFER CARRIED.

(A)



## LEGEND

 EXISTING LICENSED ESTABLISHMENTS

 STUDY AREA BOUNDARY

(B)

<b>Members of the Downtown Licensed Establishment Committee</b>
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Name	Association
Sohail Ahmed	Brock University Students Union President (2010 term)
Jennifer Anderson	St. Catharines Downtown Association
Lianne Bradley	Brock University Students Union President (2009 term)
Paul Chapman	Director of Planning Services
Hector DeDivitiis	Stella's Restaurant
Paul DeDivitiis	Stella's Restaurant
Susan Dods	Acting Deputy Clerk
Mark Elliott	City Councillor
Heather Foss	City Councillor
Brad Foster	Alcohol and Gaming Commission of Ontario (2010)
Brendan McMahon	Cask 22
Brian McMullan	City Mayor
Kithio Mwanzia	Policy Coordinator, St. Catharines-Thorold Chamber of Commerce
Greg Pearson	The Office Tap and Grill
Tisha Polocko	St. Catharines Downtown Association
Carl Scott	Niagara Regional Police Services Superintendent
Brian Sharpe	Alcohol and Gaming Commission of Ontario (2009)
Dave Sherlock	St. Catharines Transit
Maria Sleight	Verity
Jim Somerville	City Building Inspector
John Tiffin	Merchant Ale House
Jim Waycik	Fire Services



## Recommendations from the DLEC

### Regulations

1. That the Regional Municipality of Niagara Police Service Board and City investigate the Hamilton model for funding additional police in the downtown.
2. That City staff review the current business license system and investigate the possibility of creating a class based license to differentiate between licensed establishments that would be assessed/required to provide compensation of identified costs associated with the Downtown Entertainment District.
3. That the Regional Municipality of Niagara Police Service Board and City investigate the Hess Village (Hamilton) model for licensing fees, including the provision of a pro-rated share program based on license class and/or capacity.
4. That the St. Catharines Downtown Association be requested to investigate additional measures for clean-up in downtown, including educational campaigns and preventative measures.
5. That with respect to late night food establishments, including temporary food vendors:
  - a. That the approval and licensing process be reviewed to ensure that temporary food vendors operate at a specific site and in compliance with TSSA and the Propane Handling Code.
  - b. That changes be made to the hawkers and peddlers license to include greater restrictions on location and hours of operation. Specifically, vendors that change locations should have their license suspended to deter such actions and ensure they remain in their assigned location;
  - c. That temporary food vendors not be permitted to operate in the downtown past 8:00pm;
  - d. That issues relating to waste and late night establishments be further investigated to provide an equitable solution.
6. That with respect to an entertainment district:
  - a. That an entertainment district be identified within an area bounded by St. Paul Street, Ontario Street, King Street and Carlisle Street;
  - b. That a new definition be added to the City's zoning by-law for entertainment-nightclub use and that such uses be restricted to the entertainment district;
  - c. That a separation distance of 45 metres on the same side of the street, from lot line to lot line, between licensed establishments be required within the entertainment district.

### Behavioural Issues

1. That the use of Closed-Circuit Television (CCTV) video cameras be investigated for the Entertainment District to increase safety and that the control of such cameras be through the NRPS.
2. That the current lighting model along King Street or its equivalent be fully implemented.
3. That staff investigate a secondary lighting system with greater intensity lights to be used at closing time to help disperse crowds and deter illicit behaviour.

**Transportation**

1. That with respect to the issue of inadequate transportation:
  - a. That the Regional Municipality of Niagara Police Services Board be requested to review the current demand for taxicabs to determine if the current quota for St. Catharines should be increased;
  - b. That a committee comprised of stakeholders including but not limited to local entertainment establishments, St. Catharines Transit, St. Catharines Downtown Association, Brock University, Brock University students, Niagara College, Niagara College students, and City staff be created to investigate the possibility of introducing a late night transportation service on high demand nights using private operators and/or a contracted charter service.

**Business Recruitment**

1. That the St. Catharines Downtown Association, in partnership with the City's Economic Development Department, be requested to take the lead in recruiting new uses to fill in vacant buildings.

**Aesthetics**

1. That specific Urban Design Guidelines for downtown, as authorized by Council on June 21, 2010, be developed by June 2011 for consideration by Council.
2. That City staff create proactive communication strategies to inform property owners and businesses within the downtown of the Façade Improvement Program.



## Recommendations from the DDRC

### Regulations

1. That the Regional Municipality of Niagara Police Service Board and City investigate the Hamilton model for funding additional police in the downtown.
2. That City staff review the current business license system and investigate the possibility of creating a class based license to differentiate between licensed establishments that would be assessed/required to provide compensation of identified costs associated with the Downtown Entertainment District.
3. That the Regional Municipality of Niagara Police Service Board and City investigate the Hess Village (Hamilton) model for licensing fees, including the provision of a pro-rated share program based on license class and/or capacity.
4. That the St. Catharines Downtown Association be requested to investigate additional measures for clean-up in downtown, including educational campaigns and preventative measures.
5. That with respect to late night food establishments, including temporary food vendors:
  - a. That the approval and licensing process be reviewed to ensure that temporary food vendors operate at a specific site and in compliance with TSSA and the Propane Handling Code;
  - b. That changes be made to the hawkers and peddlers license to include greater restrictions on location and hours of operation. Specifically, vendors that change locations should have their license suspended to deter such actions and ensure they remain in their assigned location;
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  - b. That a new definition be added to the City's zoning by-law for entertainment/nightclub use and that such uses be restricted to the entertainment district;
  - c. That a separation distance of 45 metres on the same side of the street, from lot line to lot line, between entertainment/nightclub facilities, as defined by the City's zoning by-law, be required within the entertainment district;
  - d. That the AGCO be requested to provide guidance on the limitation of the number and capacity of each type of licensed establishment under a class-based system

### Behavioural Issues

1. That the use of Closed-Circuit Television (CCTV) video cameras be investigated for the Entertainment District to increase safety and that the control of such cameras be through the NRPS.



2. That the current lighting model along King Street or its equivalent be fully implemented.
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**Transportation**

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1. That the St. Catharines Downtown Association, in partnership with the City's Economic Development Department, be requested to take the lead in recruiting new uses to fill in vacant buildings.

**Aesthetics**

1. That specific Urban Design Guidelines for downtown, as authorized by Council on June 21, 2010, be developed by June 2011 for consideration by Council.
2. That City staff create proactive communication strategies to inform property owners and businesses within the downtown of the Façade Improvement Program.

(E)

<b>Licensed Establishments in Downtown</b>
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Bar/Restaurant	Establishment	Address	Capacity
Bar	Mikado Café	7-9 Helliwell Lane	156
Bar	L3 Night Club	6 James Street	360
Bar	Whitehaut Social Club	12-44 James Street	210
Bar	Barracuda Pretty	30 Ontario Street	1028
Bar	Mansion House	5 William Street	210
Bar	Brown Sugar	247 St. Paul Street	146
Bar	Canton Café	210 St. Paul Street	30
Bar	Karma Lounge	55 St. Paul Street	787
Bar	Lava Nightclub Lounge	149 St. Paul Street	99
Bar	Eighty 1 Degrees	241-245 St. Paul Street	140
Bar	Rockford's	88 St. Paul Street	140
Bar	Red Hot Chili Pepper	1 St. Paul Street	583
Bar	Kaz's	105-107 St. Paul Street	322
Bar/Restaurant	The Office Tap and Grill	22 James Street	81
Bar/Restaurant	Stella's Restaurant and Bar	45-41 James Street	811
Bar/Restaurant	The Spotted Calf	104 King Street	77
Bar/Restaurant	Merchant Ale House	98 St. Paul Street	150
Bar/Restaurant	Patrick Sheehan's	101 St. Paul Street	120
Bar/Restaurant	Strega	19 King Street	50
Bar/Restaurant	Citylights Restaurant	67 St. Paul Street	86
Restaurant	Pow Wow New World Grill	165 St. Paul Street	87
Restaurant	Christinas Eatery	24 St. Paul Street	56
Restaurant	Oasis	170-174 St. Paul Street	77
Restaurant	Real Sushi	259 St. Paul Street	182
Restaurant	Zhuang Yuan Hong China Bar	180 St. Paul Street	76
Restaurant	Sushi Jade	219 St. Paul Street	44
Restaurant	Touch of India Restaurant	126 St. Paul Street	60
Restaurant	Carlo's Cantina	204 St. Paul Street	40
Restaurant	Toi Restaurant	12 Queen St.	215
Restaurant	Mai Vi	55 St. Paul Street	40
Restaurant	East	127-129 King Street	85
Restaurant	Jumpin Jacks	12 King Street	40
Restaurant	Cask 22	176 St. Paul Street	80
Restaurant	Blue Mermaid	10 Market Square	281

(Source: AGCO, 2010)

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## Niagara Regional Police Service

Chief of Police Wendy E. Southall

March 18, 2011

City of St. Catharines  
50 Church Street  
St. Catharines, ON L2R 7C2

Attention: Dan Carnegie

Mr. Carnegie.

Thank you for the opportunity to comment on the recommendations respecting the proposed Downtown Licenced Establishment Committee. I will confine my comments to Appendix C (Recommendations from the DLEC).

*That the Regional Municipality of Niagara Police Services Board and the City investigate the Hamilton model for funding additional police in the downtown.*

The present demographics and potential growth of licenced establishments in the proposed Downtown Entertainment District presents challenges to the Niagara Regional Police Service due to the environment created in this planning model. I would suggest that the impact on the community and the police were not foreseen in dealing with 34 active licenced establishments with a capacity of 6,949 seats when this model was allowed to grow. The Niagara Regional Police is responsible for policing not only the downtown of St. Catharines, but also the remainder of the City. Response to occurrences downtown are primarily investigated through occurrences reported to the police by complainants. As with any request for service occurring throughout the City, staff is assigned from the on-duty compliment of officers.

The City of Hamilton (Hess Village model) was the result of a desire to devote officers to the environment resulting from the numbers of licenced establishments in a confined area known as Hess Village. The Hamilton Police Service was not in a position to remove officers from routine service to the City of Hamilton in order to exclusively patrol Hess Village. A pattern of increasing levels of anti-social behavior, specifically violence, mischief, public intoxication and noise emerged in this area.<sup>1</sup>

The use of additional police resources dedicated to the proposed Downtown Entertainment District is an option for the Council of the City of St. Catharines to consider in conjunction with all other options presented. The Niagara Regional Police Service will respond to calls for service regardless, as part of our mandate as the police service of jurisdiction. Additionally, we will continue to work in cooperation with

<sup>1</sup> S/Sgt. Mark Cox (Hamilton Police Service, Hess Village Paid Duties Hamilton, Ontario Apr-October 2010)

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the City, St. Catharines Fire Service and the Alcohol & Gaming Commission in a multi-agency approach to monitor the compliance of bar owners/management to appropriate legislation.

The use of officers exclusively assigned to the Downtown Entertainment District will allow the community (of which the Niagara Regional Police is a part) to attempt to manage the issues associated with bar patrons in a proactive way. The objective will be to provide officer presence in sufficient numbers, under the direction of a sergeant, to provide a deterrent effect before and during bar closing. Additionally, proactive deployment measures can address incidents of pre-drinking, vandalism (including graffiti), disturbances, noise from bars and patrons as well as those behaviours previously described. Funding the cost for dedicated policing in the Hess Village of Hamilton is derived from the businesses within Hess Village. This is achieved through a licencing by-law that compels certain businesses within a defined class of establishments to contribute to the costs. Further, the cost to the businesses is based on the seating capacity as well as the class of business. Should Council elect to approve the use of dedicated patrols for the Downtown Entertainment District the officers will be assigned from off-duty staff. The officers will be paid Special Duty rates. This is similar to the Hess Village model.

*That the Regional Municipality of Niagara Police Services Board and the City investigate the Hess Village (Hamilton) model for licensing fees, including the provision of a pro-rated share program based on licence class and/or capacity.*

The Hess Village Entertainment District By-law was passed in response to public safety and nuisance concerns associated with the growth of licenced establishments in the Village. The by-law requires the operators of establishments licensed under the City of Hamilton's Licencing Code By-law No. 07-170 to retain a number of Special Duty Police Officers to patrol each Thursday, Friday and Saturday night from 11:00 p.m. to 4:00 a.m. beginning April 15 and ending October 31 each calendar year. The operators of the Hess Village Entertainment District establishments contribute a pro-rated share, based on the capacity of their establishment under their liquor licence to the cost of the Special Duty Officers. Their business licence is conditional on this contribution being paid in full in a timely fashion.

The City of Hamilton is able to directly compel contributions for the extra policing within its by-laws because the police service is a function of municipal government in Hamilton. The situation is different in St. Catharines because the Niagara Regional Police Service (NRPS) is a function of the Regional of Niagara and a municipal by-law cannot compel direct compensation to the NRPS for the costs of Special Duty Police Officers. It is my understanding, as a result of consultation with counsel representing the NRPS and the City of St. Catharines that the Regional Municipality of Niagara Police Services Board (the Board) would be required to create a by-law that required business owners to pay for the costs of dedicated policing to the Downtown Entertainment District, and that such by-law would then require Regional approval.

It is my respectful opinion that the City should be responsible for creating the classes of businesses that they intend the Board by-law to compel payment from (for the Special Duty Officers). Ideally, the classes and definitions would be contained in a municipal by-law (i.e. business licence). After the City by-law is enacted, the Board by-law would follow, and would mirror the provisions of the City's by-law. The concept supports the notion that the City has identified a desire to adopt the use of a dedicated police presence in a Downtown Entertainment District (that was created by the municipality) as one of the tools available to the municipality in supporting the environment created in the entertainment area.

The Police Services Board By-law would be a vehicle for recouping the costs in support of Councils' desire to undertake this option.

Another option the Council of the City of St. Catharines may wish to consider would see the City impose the policing costs as a licencing fee. The fees collected by the municipality from designated classes of licence holders would be used to pay for the policing services. The Niagara Regional Police Service would then bill the City of St. Catharines for the costs of policing the Downtown Entertainment District with dedicated numbers of officers on certain nights. The process would be simpler than creating a Police Services Board by-law to support a municipal by-law.

Once again, I wish to thank you for the opportunity to provide comment on this potential collaboration

The Niagara Regional Police Service has enjoyed a number of partnerships with the City and community stakeholders to address specific community concerns and situations. As the Western Region Commander I am at your disposal to discuss this matter further. I look forward to moving ahead in support of your efforts as you address the Downtown Entertainment District.

Respectfully,



Carl E. Scott  
Superintendent  
Western Region

## By-laws to be considered June 23, 2014

- (a) A By-law to authorize an Agreement with Monteith Brown Planning Consultants Ltd. (Three readings – with respect to 2014 Recreation Master Plan Proposal. Delegation By-law No. 2004-277, as amended.)
- (b) A By-law to amend By-law No. 89-304 entitled "A By-law to designate private roadways as fire routes along which no parking of vehicles is permitted". (Three readings – with respect to Carleton Public School. Delegation By-law No. 2004-277, as amended.)
- (c) A By-law to appoint a Chief Building Official and Inspectors under the *Ontario Building Code Act*, 1992. (Three readings – with respect to updating the appointment of Building Inspectors. TO BE CONSIDERED by General Committee, June 23, 2014.)
- (d) 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 restrictions on Bogart Street between Grandview and Northglen. Delegation By-law No. 2004-277, as amended.)
- (e) A By-law to authorize a contract with Brennan Paving Limited. (Three readings – with respect to 2014 Resurfacing Program – Part 2, Project P14-081. Delegation By-law No. 2004-277, as amended.)
- (f) A By-law to authorize a contract with Norjohn Contracting and Paving Limited. (Three readings – with respect to 2014 Asphalt Patching, Project P14-091. Delegation By-law No. 2004-277, as amended.)
- (g) 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 June 23, 2014. (Three readings – with respect to ratification and adoption of City Council Minutes of June 9<sup>th</sup>, 2014, and General Committee Minutes of June 9<sup>th</sup>, 2014.)