

29. Development and Infrastructure Services Report - Planning and Building Services 2017-19 dated May 15, 2017 regarding a Tertiary Plan Study and an Interim Control By-law for Old Main Street.

Moved by: Councillor Hempen

Seconded by: Deputy Mayor and Regional Councillor Taylor

1. That Development and Infrastructure Services Report - Planning and Building Services 2017-19 dated May 15, 2017 regarding a Tertiary Plan Study and an Interim Control By-law for Old Main Street be received and the following recommendations be adopted:

- a. That Council direct staff to undertake a comprehensive land use, natural heritage, traffic and infrastructure study (the "Study") for Old Main Street, bounded by Main Street by-pass/Main Street North and Bexhill Road as shown on Appendix 'A' (the "Study Area"); and,
- b. That Council pass an Interim By-law on some of the lands subject to the Study as set out in the by-law presented in Appendix 'B'; and,
- c. That Council direct staff to send out a Request for Proposal for a consultant to undertake the Study, including assisting in preparing a Tertiary Plan for the Study Area.

In Favour: Mayor Van Bynen, Deputy Mayor & Regional Councillor Taylor, Councillor Vegh, Councillor Kerwin, Councillor Hempen, Councillor Kwapis, Councillor Broome, Councillor Bisanz

Opposed: None
(8 in favour, 0 opposed)

Carried



PLANNING AND BUILDING SERVICES

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May 15, 2017

Development and Infrastructure Services – Planning & Building Services Report 2017-19

TO: Council

SUBJECT: Tertiary Plan Study and Interim Control By-law for Old Main Street

ORIGIN: Planning and Building Services

Recommendations

THAT Development and Infrastructure Services/Planning & Building Services Report 2017-19 dated May 15, 2017 regarding a Tertiary Plan Study and an Interim Control By-law for Old Main Street be received and that the following recommendations be adopted:

1. THAT Council direct staff to undertake a comprehensive land use, natural heritage, traffic and infrastructure study (the “Study”) for Old Main Street, bounded by Main Street By-pass/Main Street North and Bexhill Road as shown on Appendix ‘A’ (the “Study Area”); .
2. AND THAT Council pass an Interim Control By-law on some of the lands subject to the Study as set out in the by-law presented in Appendix ‘B’;
3. AND THAT Council direct staff to send out a Request for Proposal for a consultant to undertake the Study, including assisting in preparing a Tertiary Plan for the Study Area.

Background

Current Situation on Old Main Street

Old Main Street is a very old street and was established prior to modern engineering and planning standards. It has “developed” organically over the years and without an overall or consistent plan. The lotting is haphazard; there are some fairly large lots and some lots which are much smaller. The road right-of-way does not meet current standards and probably cannot support a full two lane road. Part of the area is in the floodplain. Part of the area is on a steep slope. Residents have reported significant stormwater and flooding issues in the area. Due to its age and historical context, redevelopment of the area is extremely complex.

The proposed Study Area is the properties on Old Main Street bounded by Bexhill Road to the south-west, St John’s Cemetery to the north-west, Main Street By-pass to the north-east and south-east (see attached location map in Appendix ‘A’). It is currently designated Stable Residential in the Town’s Official Plan. The Stable Residential designation permits single and semi-detached dwellings.

There is a current development application at 172-178 Old Main Street (shown on Appendix 'A') to create six lots with semi-detached buildings for 12 new homes. This application has been deemed complete but has not yet had a Public Meeting (the "Development Application").

Interim Control By-laws

Council is given the power to enact Interim Control By-laws through the *Planning Act*. They are, in effect, a pause button, allowing Council to put a freeze on development applications, in order to take some time out and study the situation. It allows for Council to take a bigger picture view of the potential for change in an area where large scale redevelopment was not previously considered. Council must have a justifiable planning rationale for enacting an Interim Control By-law. They can be appealed to the Ontario Municipal Board, after their passing. An Interim Control By-law can freeze development for a period of one year with a possible renewal of one more year (renewal requires Council enact another by-law); for a total of two years. Notice must be given to property owners within 120m of the By-law area within 30 days of Council passing the By-law. There is a 60 day appeal period.

The Study

The Old Main Street Tertiary Plan Study would provide guidance to the overall pattern of development in the area and will assess matters such as the location of required infrastructure (i.e. streets and sidewalks), the layout of development blocks and land uses, the location of parks (if possible), the location of the natural heritage system (including environmental features and the floodplain), and urban design considerations. It would also encourage and provide direction for comprehensive development which will enhance the area as opposed to piecemeal redevelopments which may have negative impacts on the existing community. The Study will result in revised and updated policies for the Study Area.

The Study will result in a Tertiary Plan which once it is approved by Council, will require redevelopment applications be consistent with the principles, objectives and directions as set out in the new approved plan. A Tertiary Plan is a mini secondary plan. It is a policy document which sets out guidelines for development within a certain, small and specific area within the municipality. Tertiary Plans consider all of the planning elements that official plan and secondary plans speak to, such as density, unit type and housing mix, and land use. Engineering elements such as servicing capacity, road networks, stormwater management are also considered. Natural heritage and natural hazard features, such as wooded areas, potential steep slopes, and the flood plain area could all be studied.

Analysis

Why now and Why here

The Planning Division is aware of interest in redeveloping some of the larger properties along Old Main Street. Staff feel it is appropriate to pause redevelopment in the area and undertake a study to determine what is the best form of, and best course of action for, redevelopment.

An Interim Control By-law could freeze all development, including the current Development Application and prohibit the acceptance of any new applications. Council has the ability to exempt properties in the Study Area from the Interim Control By-law. Pausing development through the Interim Control would allow staff to look at the bigger picture of this area instead of considering redevelopment on a property by property basis as applications are brought forward. It would allow staff, and ultimately Council, to understand the impacts

of redevelopment on this unique area. As well, it would recommend guidelines and policies for the redevelopment which might require comprehensive approaches.

The Study could recommend the creation of design guidelines for redevelopment in the area. It may recommend investigating and/or implementing stormwater management solutions. It may recommend an investigation into converting Old Main Street to a one-way street. It may make recommendations regarding upgrading and urbanizing the road, if that is possible. It will provide guidance on the maximum density (units per hectares) that the area can support. It will provide guidance on the built form most appropriate for the area (singles vs semis vs townhouses, etc.).

Applicability to the Development Application

Staff have reviewed the application of the legal doctrine of the Clergy Principle, which requires that a development application be subject to, and must be reviewed against, the policies in place at the time the application is deemed complete. It is staff's opinion that exempting Development Application from the Interim Control By-law will not impact or diminish the results of the Tertiary Plan Study.

Based on the Clergy Principle, when the Interim Control By-law is lifted, staff would still be required to review the Development Application against the policies in place at the time of the application (i.e. the policies in place today). Accordingly, there does not appear to be a benefit in pausing the progress of the Development Application with the Interim Control By-law as the new policies Tertiary Plan will not apply.

Conclusion

It is staff's recommendation that an Interim Control By-law be applied to the properties on Old Main Street to allow staff to undertake a Tertiary Plan Study which will examine the redevelopment potential and limitations of the area. Staff believes this is the appropriate time to undertake the study as there is development interest in the area and a more comprehensive approach to redevelopment is required.

Next steps

Should Council accept staff's recommendation and pass the Interim Control By-law, staff will send out a request for proposal and initiate the Tertiary Plan Study process. The Terms of Reference will establish a detailed study process with specific objectives, public consultation and deliverables. It is anticipated that the Tertiary Plan Study would be initiated in Q3 or Q4 of 2017 and completed by mid to late 2018.

Community Consultation

There is no community consultation required to pass the Interim Control By-law. Staff will ensure notice is provided in accordance with *Planning Act* regulations.

There will be extensive community consultation and engagement required to complete the Tertiary Plan. Staff in consultation with the consultant undertaking the Study will develop a plan for enhanced community engagement.

Town of Newmarket Legal Services was consulted in the writing of this report.

Human Resource Considerations

There are no immediate human resource considerations with this report.

Budget Impact

There is no expected budget impact to passing the Interim Control By-law. Costs may be incurred if the By-law is appealed to the Ontario Municipal Board.

Staff anticipate the Tertiary Plan to cost approximately \$50,000. The funding for the Study would come from the general planning reserve. There may be other costs which arise from the study such as a detailed stormwater management study or the creation of detailed design guidelines. These would be optional costs that Council could choose to pursue, if recommended by the Plan.

Business Plan and Strategic Plan Linkages

Well-planned & Connected:

- Implement key elements of the Region's and Town's Official Plans.

Well-equipped and managed:

- Efficient management of capital assets and municipal services to meet existing and future operational demands
- Small town feel with city amenities

Living well:

- Environmental protection and natural heritage preservation

Contact

For more information on this report, contact Meghan White at extension 2460; mwhite@newmarket.ca



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Planner



Rick Nethery, MCIP, RPP
Director of Planning & Building Services



Peter Noehammer, P. Eng.
Commissioner Development and Infrastructure
Services

APPENDIX 'B'

Proposed Interim Control By-law



Corporation of the Town of Newmarket

By-law Number 2017-26

An Interim Control By-law (Old Main Street)

Whereas Section 38 of the Planning Act, R.S.O. 1990 c.P. 13, as amended, permits the council of a local municipality to pass an Interim Control By-law where the Council has directed a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof;

And whereas the Council of the Town of Newmarket has authorized a Tertiary Plan to study redevelopment potential and limitations of properties on Old Main Street;

And whereas the Council of the Town of Newmarket has directed that an Interim Control By-law be passed on the subject lands, for a period of one year from the date of passage of the By-law;

Therefore be it enacted by the Municipal Council of the Corporation of the Town of Newmarket as follows:

1. That subject lands shown on Schedule "X" to this By-law attached hereto and forming part of this By-law are subject to the interim control provisions of this By-law as set out herein;
2. That notwithstanding the provisions of Zoning By-law 2010-40, only those uses and lots legally existing on the date of passing of this By-law shall be permitted on the subject lands, except as the lands municipally known as 172 and 178 Old Main St (shown as exempted on Schedule 'X');
3. That nothing in this by-law shall prevent the construction, enlargement, repair, renovation or reconstruction of a building or structure which was otherwise legally permitted on the date of the passing of this by-law, and
4. This Interim Control By-law shall remain in effect for a period of one year from the date of passing of this By-law.

Enacted this 15th day of May, 2017.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk

