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## **Established Neighbourhoods Study – Interim Control By-law Staff Report to Council**

Report Number: 2019-118

Department(s): Planning and Building Services

Author(s): Ted Horton, Senior Planner, Community Planning

Meeting Date: November 25, 2019

### **Recommendations**

1. That the report entitled Established Neighbourhoods Study – Interim Control By-law dated November 25, 2019 be received; and,
2. That the By-law included as Attachment 2 be adopted; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Executive Summary**

The Established Neighbourhoods Compatibility Study is progressing toward recommendations to Council on amendments to the Official Plan and Zoning By-law. The adoption of these amendments will allow the lifting of the interim control by-law to be lifted at the earliest possible opportunity. A Special Committee of the Whole on December 2 will provide the opportunity for discussion of more specific policy directions.

Statutory public notice of the proposed amendments and a statutory public meeting must also occur before Council can adopt any amending by-laws. Interim Control By-law 2019-4 will expire on January 21, 2020 if it is not extended. This report proposes to extend the interim control by-law for six months while reducing the area covered by the by-law while the final stages of the Established Neighbourhoods Compatibility Study are completed and Council adopts amending by-laws.

## Purpose

The purpose of this report is to provide an update to Committee on the Established Neighbourhoods Compatibility Study and to recommend that Interim Control By-law 2019-4 be extended and amended. A more fulsome update on the Study will be presented at a Special Committee of the Whole on December 2<sup>nd</sup>.

The proposed extension will allow the time for the final public consultations and adoption of Official Plan policies and Zoning By-law regulations stemming from the study. The proposed amendment continues previously-identified exemptions and issues and removes Interim Control By-law 2019-4 from areas where it has been identified that there is limited possibility for the types of development affected by the by-law to occur.

## Background

On October 16, 2017 Committee of the Whole received Planning and Building Services report 2017-40 and directed staff to organize a Council workshop to discuss options related to managing change in established residential neighbourhoods.

On March 26, 2018 a Council workshop was held to present best practices related to regulating and managing change in established residential neighbourhoods.

On June 11, 2018 Committee of the Whole received Report 2018-37 and directed staff to engage the services of a consultant to assist in reviewing Official Plan policies and Zoning By-law regulations to address change in established residential neighbourhoods.

On January 14, 2019 Committee of the Whole received Report 2019-3 and directed staff to prepare an interim control by-law. Council then adopted Interim Control By-law 2019-04 on January 21<sup>st</sup>, which prohibited any person from using lands identified in Schedule A of the By-law for the purposes of an “Intensified Residential Use” as defined by the By-law.

Staff engaged the services of SvN Architects + Planners to assist with the consultation and revisions to the Official Plan and Zoning By-laws, which commenced with a project initiation meeting on March 20, 2019.

On May 16, Planning staff and SvN held a Public Open House and Visioning Workshop. At this event, participants were given the opportunity to view display boards, listen to a presentation, and participate in a rotating series of individual and group-based workshop exercises tailored to



**Saturday, October 19**  
**Newmarket Community Centre**  
**and Lions Hall, Hall 1**  
**(200 Doug Duncan Drive)**  
**10 a.m. to 2 p.m.**

Learn more at  
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understanding how residents define, interact with, and characterize their neighbourhoods.

On July 16, Planning staff and SvN were present at the farmer's market at Riverwalk Commons to discuss the project and seek feedback from residents through an interactive mapping exercise and kiosk.

On September 23, 2019 Committee of the Whole received a presentation related to the background study and consultation to date.

On October 19, a second Public Open House was held at the Riverwalk Commons Community Centre. At the event, participants were given the opportunity to view display boards and information handouts, provide direct feedback on the draft neighbourhood classification system and policy options, and provide general feedback on the study.

A Special Committee of the Whole has been scheduled for December 2 for Committee to receive an update on the findings thus far and to share their feedback on the direction of the study.

## **Discussion**

This report provides an overview of the Established Neighbourhoods Study ("the Study"), lays out the work to be completed, and presents the amended Interim Control By-law ("the ICB").

## **Current Study**

As is discussed in the background section above, the recent efforts at reviewing compatibility of development in residential neighbourhoods has progressed since the fall of 2017. The issue of how to manage growth and change in established neighbourhoods goes back much further. Amending Zoning By-law 2013-30 encompassed much of wards 2 and 5 as an earlier effort based on similar concerns, and the policies of the 2006 Official Plan for the areas designated as Stable Residential enacted earlier efforts to carefully manage change in the developed areas of Newmarket.

## **Planning Act Requirements**

The Study is an inherent requirement of the ICB. Section 38 of the Planning Act lays out the ability for a municipality to enact an ICB for a limited duration of time to prohibit the use of land, buildings, or structure for specific purposes. In order to enact an ICB, Council must direct that a review or study be undertaken related to the land use policies relevant to the prohibition. An ICB can be enacted for a period of time not to exceed one year, and can then be amended to extend the period of time provided that the total time does not exceed two years from the date of passing of the ICB. Council can repeal an ICB at any time.

## **Interim Control By-law 2019-4**

The ICB encompasses all residential areas in the Town of Newmarket. It prohibits any person from using land for the purposes of an “Intensified Residential Use”, the definition of which is available in the copy of the By-law that is attached to this report. In effect, the ICB prohibited any increase in height of a dwelling beyond its existing height, any increase in floor area greater than 25% of its existing floor area, or the construction of a dwelling on land that was vacant when the by-law was passed or became vacant due to an application for consent under Section 53 of the Planning Act.

The ICB contained a number of exceptions listed in clauses 5 to 7 of the by-law. These included that the ICB would not prevent the issuance of any building permit for which a complete application had been submitted, nor the registration of a draft plan of subdivision and issuance of building permits for lots therein. The ICB also excluded any lands that had been subject to a complete application for certain types of application under the Planning Act.

The By-law also included a clause that stated that certain types of Planning Act applications that could lead to an “Intensified Residential Use” were prohibited. As was discussed in Information Report PCI-19-10, further review determined that the Planning Act does not provide for municipalities to have the ability to limit the right to make applications under the Act. Moreover, Section 45 of the Act specifically empowers the Committee of Adjustment to consider applications for minor variance to an ICB.

Following the feedback from a number of residents who were significantly advanced in their work toward a building permit for a structure that would contravene the ICB but result in a building that was largely in keeping with the surrounding area, staff developed an exemption process that was approved by Council through Reports 2019-43 and 2019-56. In the intervening months, Council has approved 5 exemptions as of mid-October.

### **Next steps**

As is discussed above, public consultation has been conducted throughout the Study process. The findings of the consultation and review of best practices were presented to Council in the form of the Background Study on September 23<sup>rd</sup>.



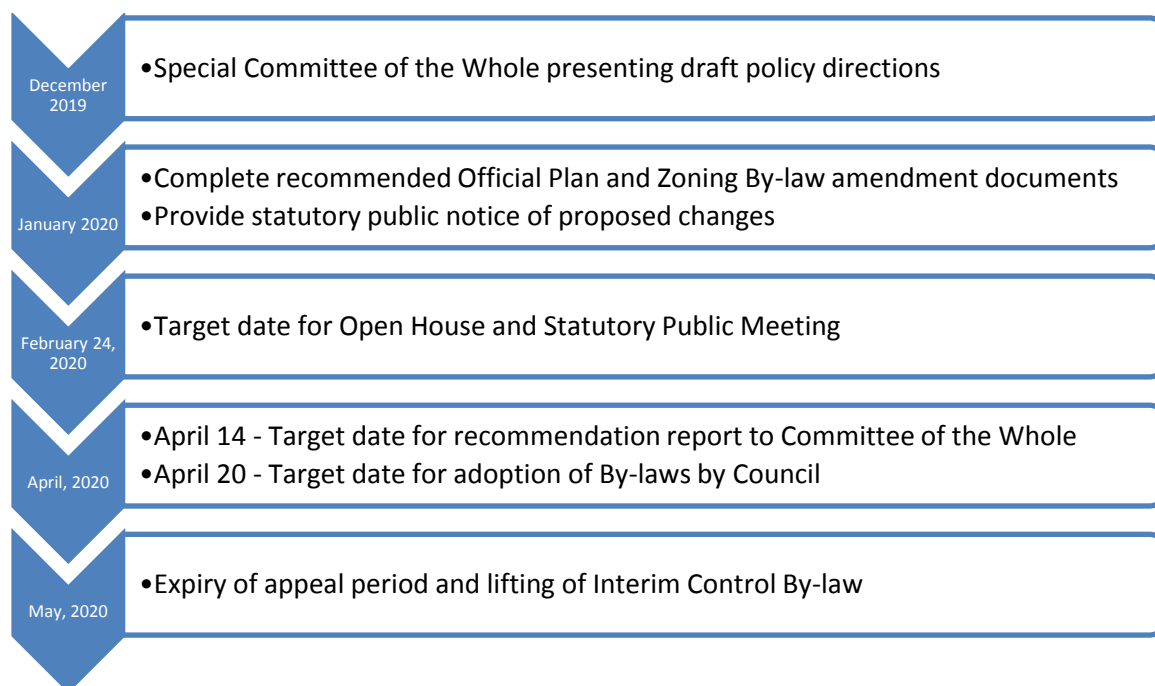
Concurrently with this staff have worked with SvN to develop policy directions that will inform a future Official Plan amendment and Zoning By-law amendment. These will be presented at the Special Committee of the Whole that is scheduled for December 2.

Following this meeting, Planning staff and the consulting team at SvN will develop the detailed proposed changes and provide public notice of the proposals as required by the Planning Act.

While the Study has progressed over the course of the last year, this work has been background study and public consultation; no specific proposed changes have yet been presented. Accordingly, no public notice has yet been provided of what the proposed changes to the Official Plan and Zoning By-law could be.

Notice is required to be provided at least 20 days in advance of the statutory public meeting, and must provide sufficient detail and timing for the public and the Town's review partners and agencies to provide comments for considering by Planning staff and Council. A statutory public meeting will be held in early 2020 at which the public will have an additional opportunity to provide input on the direction of the project.

After these steps have been completed, Planning staff and SvN will review the public feedback, make any necessary revisions to the proposed changes, and present their recommendations to Committee of the Whole. As with any Official Plan amendment or Zoning By-law amendment, following the adoption of the by-laws, an appeal period will take place. If no appeals are received, the ICB can be lifted at the earliest opportunity. In the event that there is an appeal, the ICB will continue to apply until the date of an order of the Local Planning Appeal Tribunal. The intended timeline for the remainder of the study is below.



## **By-law extension**

The timeline discussed above demonstrates the current status of the Study; background information and public consultation has informed draft policy directions that will be presented to a Special Committee of the Whole on December 2<sup>nd</sup>. From this meeting, the specific proposals for amendments to the Official Plan and Zoning By-law will be presented through the public notice required under the Planning Act. This notice and the resulting statutory public meeting are required by the Planning Act for Council to be able to adopt any amending by-laws.

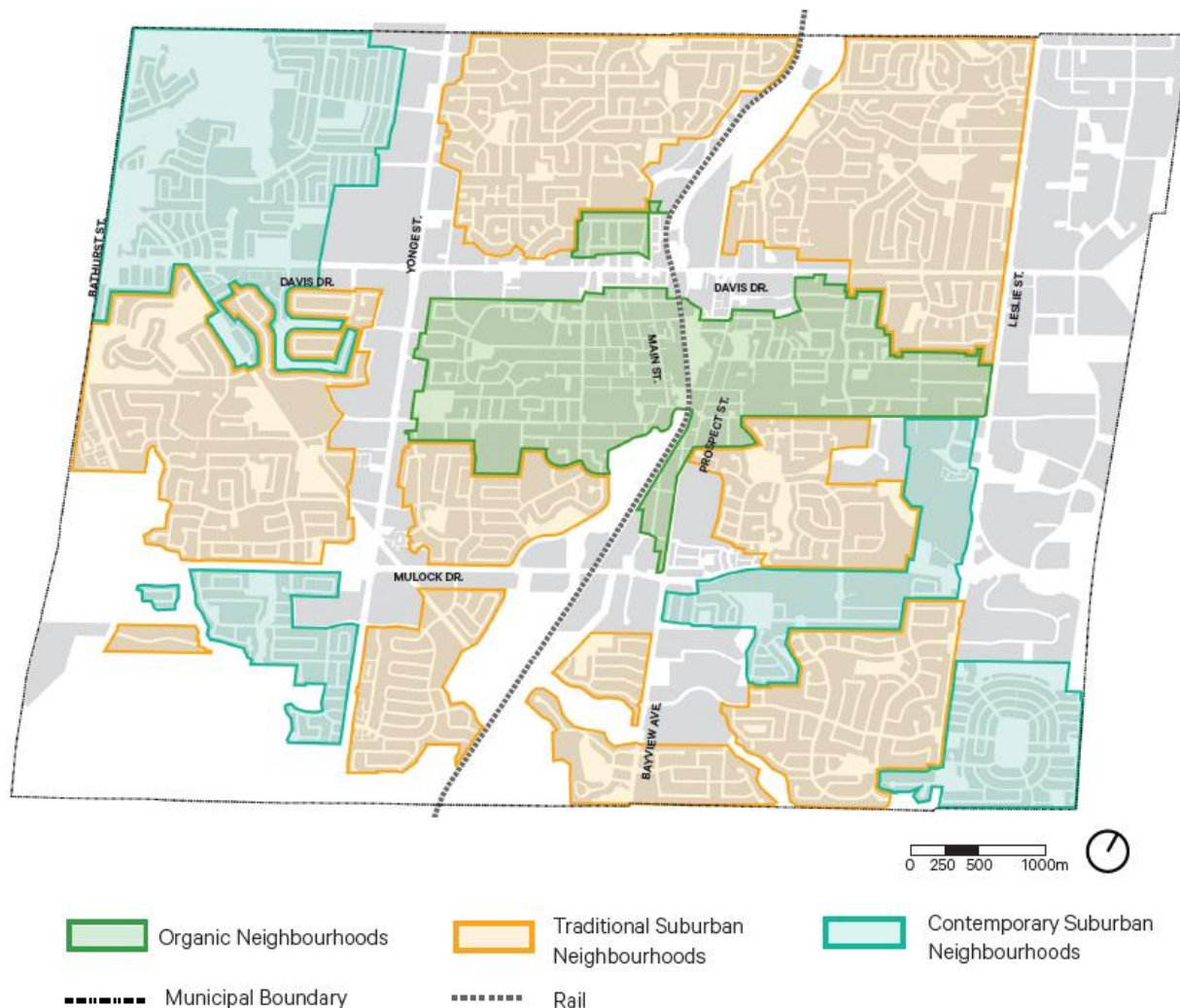
The ICB will expire on January 21, 2020 if it is not extended. The recommendations of this report would extend the ICB for a period of six months while the Study and resulting amendments are completed. Council retains the ability to further extend the ICB beyond six months to the statutory limit of two years from the passage of the original ICB. As noted above, Council can also repeal the ICB at an earlier date if the amending policy documents are adopted earlier.

If the ICB is not extended, the prohibition on creating an “Intensified Residential Use” will expire and the zoning for residential areas will revert to the permissions that existed previously. The extension of the ICB is a matter that can be appealed to the Local Planning Appeal Tribunal.

## **Reduction in area encompassed by ICB**

The recommendations of this report would also reduce the areas of Newmarket that are encompassed by the ICB. The areas recommended to be excluded are largely those that have been identified as being “Contemporary Suburban Neighbourhoods” by the results of the Study to date. The draft classifications of neighbourhoods is presented in the figure below. Areas in grey and white are not part of the study area, being the urban centres, commercial lands, employment lands, and open space lands.





The “Contemporary Suburban Neighbourhoods” areas are largely congruent with the “Emerging Residential” designation of the Official Plan, which are neighbourhoods that have been developed more recently and feature dwellings that have largely been built out to the maximum zoning permissions in a manner that is consistent to each development. There is limited possibility for increases to the size of houses in the areas proposed to be excluded from the ICB.

## Conclusion

The Established Neighbourhoods Compatibility Study is progressing toward recommendations to Council on amendments to the Official Plan and Zoning By-law, followed by the lifting of the interim control by-law. Further steps are required to develop, refine, and consult on the proposed amendments.

Interim Control By-law 2019-4 will expire on January 21, 2020 if it is not extended. Extending the ICB will allow for time for the Study to be completed and necessary amending By-laws passed. Staff’s intention remains to complete the study and propose

the amending policy documents at the earliest possible opportunity such that the ICB can be lifted without delay.

## **Business Plan and Strategic Plan Linkages**

The Established Neighbourhoods Compatibility Study responds to Council's direction of reviewing development in established neighbourhoods to protect character and ensure well-managed growth. The amendments to the Official Plan and Zoning By-law will fulfill Council's statutory obligation to make decisions on planning matters that conform to provincial policies.

## **Consultation**

The Study has included significant public consultation to date as discussed above. The extension of the ICB as recommended by this report will provide further opportunities to consult on the specific proposed changes.

## **Human Resource Considerations**

None.

## **Budget Impact**

None.

## **Attachments**

Attachment 1: Interim Control By-law 2019-4

Attachment 2: Proposed Interim Control By-law Extension

## **Approval**

Ted Horton, Senior Planner, Community Planning

Adrian Cammaert, Acting Manager, Planning Services

Jason Unger, Acting Director, Planning and Building Services

Peter Noehammer, Commissioner, Development and Infrastructure Services

## **Contact**

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