
Request for Decision



To: Peter de Verteuil, CAO **File No:**
Meeting Date: February 5, 2018 **Submission Date:** January 26, 2018
From: Michelle Geneau, Manager of Planning
Reviewed By:
Subject: Zoning Bylaw No. 3166, 2017

RECOMMENDATION:

That the Committee of the Whole approve the proposed minor changes to the Zoning Bylaw, as described in the February 5, 2018 report by the Manager of Planning;

And That the Committee of the Whole direct staff to hold a Public Hearing for Zoning Bylaw No. 3166, 2017, on **March 19, 2018 and to advertise for the Public Hearing in accordance with Part 14 of the *Local Government Act*.**

BACKGROUND:

At the January 8, 2018 Committee of the Whole Meeting, the following motions were passed:

(numbered for reference purposes only)

1. a. That the Committee of the Whole approve the proposed wording to amend Zoning Bylaw No. 3166, 2017, to include a site specific amendment to include automobile sales for 439 and 461 Trans Canada Highway;
b. And That the existing set-backs for these properties remain for automobile sales only.
2. That the Committee of the Whole direct staff to bring back options to allow reconstruction of an existing single unit or two unit dwellings in the case of destruction.
3. That the Committee of the Whole direct staff to review and reduce the proposed Minimum Floor Area Ratio regulations in all of the zones in which they apply, based on the information in the January 8, 2018 report by the Manager of Planning.

The January 8, 2018 staff report is provided as Appendix A for information. Proposed changes to the bylaw are discussed in the Analysis section of this report and are included in the bylaw, Appendix B of this report.

ANALYSIS:

Automotive Sales

Setbacks for existing car dealerships

In motion 1.b. noted above, the Committee of the Whole directed staff to revise the Highway Corridor Zone to allow the existing setbacks for the existing automotive sales use structures at 439 and 461 Trans Canada Highway (including 467 Trans Canada Highway and 466 St. Julien Street). This would provide that if the existing structures are damaged beyond repair, they could be rebuilt in the current locations and sizes, and would not need to meet the Development Regulations in the new bylaw.

In order to implement this motion, an additional section was added to section 5.15:

5.15.2 Principal buildings used for *automotive sales* on the *parcels* in sub-section 5.15.1 are not subject to the Minimum *Floor Area Ratio*, Minimum *Height* or Maximum *Front Parcel Line Setback* regulations in section 5.13.

New site specific use request

The owner of 277 Government Street (actually comprised of seven individual lots) has also submitted a written request to be permitted site specific zoning for his property in the Downtown Comprehensive Commercial Zone to allow automotive sales use. The property is currently zoned C-3 Service Commercial, the same zoning currently in place for most of the highway corridor. The property was at one time used for automotive sales, but the use has been discontinued for over twenty years. The owner, who also owns a car dealership outside of City boundaries, explained that he wants to maintain the ability to open a new dealership at the site in the future.

Staff explained to the owner that the properties that will be zoned for site specific automotive sales use are in a more appropriate area for a vehicular-oriented use such as automotive sales, and that the Official Community Plan and other City plans and policies establish that downtown uses are intended to provide and build upon a vibrant mix of pedestrian-oriented commercial and residential activities.

The existing building currently contains a motorcycle service and sales business, as well as two businesses which fall under general retail sales use. The property also includes a large undeveloped area, included a paved asphalt area leased for parking, as well as a fenced, gravel-surfaced area.

While staff are not supportive of adding automotive sales for the entire lot, staff support adding site specific zoning for motorcycle repair and sales for the property. This would permit the existing business to potentially expand in the future into some of the undeveloped area, or within the existing structure. The owner could still apply for a zoning amendment in the future once a full concept for automotive sales facility is developed.

Residential Non-Conformance

In motion 2, the Committee of the Whole directed staff “to bring back options to allow reconstruction of an existing single unit and two unit dwellings in the case of destruction”. This is so that property owners of non-conforming dwellings would not have difficulty insuring their homes. The simplest way to implement this recommendation would be to include language in the Medium Density Residential and High Density Residential Zones stating:

Single unit or two unit dwellings in this Zone built prior to adoption of this bylaw may be rebuilt subject to the Development Regulations in the Low Density Zone, only if the building is damaged to the extent of 75% or more of its value above the foundations, as determined by the *Building Inspector*.

The *Local Government Act* states that non-conforming uses cannot be repaired or reconstructed if damaged 75% or more the value above the foundations, as determined by the Building Inspector. See Appendix A for further discussion on non-conformance and related insurance concerns.

Minimum Floor Area Ratio

In motion 3 from the January Committee of the Whole Meeting, the Committee directed staff to review and reduce the Minimum Floor Area Ratios (FARs). Staff modeled various development scenarios to test the proposed Minimum FARs, which were developed when the bylaw still included underground parking requirements (Council directed staff to remove underground parking requirements in November 2017). The models are shown and described in Appendix C to this report. Staff recommend reductions to the Minimum FARs, through consideration of the minimum height, setbacks, surface parking, parking access and landscaping that were modeled using very basic development scenarios from the uses permitted in each zone to determine achievable minimum floor areas that would not discourage development or redevelopment of lots.

The recommended changes are summarized in the table below:

Zone	Original Proposed Minimum FAR	New Proposed Minimum FAR
Medium Density Residential (MDR)	0.75	0.5
High Density Residential (HDR)	1.2	0.75
Downtown Comprehensive (DTC)	1.75	1.0
Neighbourhood Commercial (NC)	1.0	0.5
Highway Corridor Commercial (HCC)	0.5	0.3

Community Care

The new Zoning Bylaw includes “Community Care” in the list of Uses Permitted in All Zones (Section 3.1). Community Care is defined as:

the use of land, buildings or structures for the provision of care to persons who require specialized care for any purpose, operated in accordance with the Community Care and Assisting Living Act and Residential Care Regulation, including assisted living, personal care, supportive housing and residential daycare.

In the Provincial *Community Care and Assisted Living Act*, Community Care Facility is defined as:

a premises or part of a premises

- (a) in which a person provides care to 3 or more persons who are not related by blood or marriage to the person and includes any other premises or part of a premises that, in the opinion of the medical health officer, is used in conjunction with the community care facility for the purpose of providing care, or
- (b) designated by the Lieutenant Governor in Council to be a community care facility;

"Care" is defined as:

supervision that is provided to

- (a) a child through a prescribed program,
- (b) a child or youth through a prescribed residential program, or
- (c) an adult who is
 - (i) vulnerable because of family circumstances, age, disability, illness or frailty, and
 - (ii) dependent on caregivers for continuing assistance or direction in the form of 3 or more prescribed services;

Section 20(1) of the *Act* states that for a licensed facility used as a day care for no more than eight persons in care, or a residence for no more than ten persons (not more than six of whom are in care), a municipality can not enact a bylaw that would:

- (a) limit the number of persons in care who may be accepted or accommodated at the community care facility,
- (b) limit the types of care that may be provided to persons in care at the community care facility, or
- (c) apply to the community care facility only because
 - (i) it is not being used as a single family dwelling house, or
 - (ii) it operates as a community care facility, a charitable enterprise or a commercial venture.

The types of facilities and uses described in the paragraph above are the types that must therefore be permitted in all zones. However, the City has the ability to regulate other types of community care facilities, such as multi-unit assisted living facilities that are also included in the proposed Zoning Bylaw definition of community care facility.

It is recommended that (a) Section 3.1 be changed to state “Community Care facility for no more than 10 persons”, and that the general community care facility use be added to the Permitted Uses in the Medium Density Residential, High Density Residential, Downtown Comprehensive Commercial (above the ground floor), Neighbourhood Commercial (above the ground floor) and Community Service Zones.

IMPLICATIONS:

- Financial:** Costs for advertising the Public Hearing will be attributed to the Development Services budget.
- Policy/Legislation:** Advertisement for the Public Hearing will be in accordance with the *Local Government Act*.
- Strategic Priority:** Relates to Strategic Priority 2.3 “Comprehensive review of the Zoning Bylaw”.
- Sustainability:** The Zoning Bylaw re-write relates to several Desired Outcomes of the Integrated Community Sustainability Strategy, including Building and Sites outcomes “Duncan provides a diverse and flexible housing stock that meets all income and age requirements, ensuring a diverse community” and “Green building and housing design is prevalent throughout the City.”
- Communication:** Communication of the next Public Hearing will be required. If Option 4 in the Analysis section is selected, staff will send notice and an application to qualifying property owners. Applications received would be brought to a future Committee of the Whole meeting.
- Staffing Implications:** Development Services staff time was applied to making the proposed changes to the bylaw. Additional staff time will be required if Council recommends further changes or if Option 4 from the Analysis section is selected (Option 4 would require Financial Services staff involvement as well).

ALTERNATIVE OPTIONS

1. **That the Committee of the Whole recommend additional or alternative changes to Zoning Bylaw No. 3166, 2017.**

APPENDICES:

- Appendix A: January 8, 2018 Staff Report
Appendix B: Zoning Bylaw No. 3166, 2017
Appendix C: Minimum FAR Review & Recommendations

