City of Kingston
Information Report to Council
Report Number 17-050

To: Mayor and Members of Council
From: Lanie Hurdle, Commissioner, Community Services
Resource Staff: Paige Agnew, Director, Planning, Building & Licensing
Date of Meeting: January 24, 2017
Subject: Consideration of an Interim Control By-Law – Near Campus Neighbourhoods

Executive Summary:

At the January 10, 2017 meeting, Council directed staff to report back to the January 24, 2017 meeting on how best to word an Interim Control By-Law prohibiting any new development of, or alterations to, one-family dwellings, two-family dwellings, row dwellings, group dwellings, semi-detached dwellings and multiple family dwellings within the Sydenham, Portsmouth and Williamsville Districts, excluding lands within the Williamsville Main Street Study, the area subject to the Kingston Penitentiary/Portsmouth Olympic Harbour visioning and any land owned by Queen's University or by St. Lawrence College.

The purpose of an Interim Control By-Law is to allow the City to control development in areas where it wishes to reconsider the land use planning policies. Prior to passage, Council must authorize a land use planning study to be undertaken and substantiate the planning rationale behind the Interim Control By-Law. Once the land use planning study is completed, the Official Plan policies and zoning by-law provisions may then be formally amended to reflect the desired policies and land uses. An Interim Control By-Law is designed to prohibit identified land uses until the completion of the study, which allows the City to prevent future land use objectives from being compromised by limiting development in the interim period of time.

The purpose of this information report is to provide Council with a draft Interim Control By-Law, land use planning rationale and provide a summary of legal challenges.

Public feedback received throughout the course of the consultation process on the Official Plan Update project from residents within the study area has indicated that the type of infill and intensification that is permitted on a site specific basis under the current policy framework has created some forms of undesirable development that have negatively impacted neighbours. It is
staff’s understanding that Council does not want to “freeze” all development within those three districts, but does however want to prohibit the type of infill and intensification that is permitted on a site specific basis that results in the construction of large “monster” homes, the conversion of existing floor area and the construction of additions on the rear of existing low density dwellings with unintended consequences to the neighbourhood. Council may want to consider continuing to encourage purpose built apartment buildings, where appropriate, to accommodate housing demand, which will help alleviate pressure for additional conversions or densification of single family homes in the near campus neighbourhoods. Apartment buildings have been defined and have been excluded from the draft Interim Control By-Law (see Exhibit A).

The draft revisions included in the Official Plan Update address the high level policy concerns identified by the public. They also acknowledge the need to conduct a detailed planning study within the Near Campus Neighbourhoods to ensure that infill and intensification projects are compatible with the existing built form through the creation of new zoning performance standards that implement the intent of the policies at the property level. Due to the anticipated timing of the Official Plan Update project and the Near Campus Neighbourhoods Study, Council has indicated their desire to complete a land use planning study in the study area in 2017. This is to address the immediate concerns identified by the public and to prevent future land use objectives from being compromised by limiting development in the interim period of time.

**Recommendation:**

This report is for information purposes only.
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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER  
Lanie Hurdle, Commissioner, Community Services  

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER  
Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Denis Leger, Commissioner, Corporate & Emergency Services  Not required
Jim Keech, President and CEO, Utilities Kingston  Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer  Not required
Options/Discussion:

Origin
At the January 10, 2017 meeting, Council highlighted that the success of post-secondary institutions in the City are creating a high volume of demand for housing near both St. Lawrence College and Queen’s University. Enrollment of first year students at Queen's University and St. Lawrence College is intended to increase, and with the majority of students living off-campus after their first year, there will continue to be pressures on the private market to provide this supply of housing. Council further identified that the existing zoning by-laws do not currently provide adequate protection of stable neighbourhoods and permit the conversion of one-family dwellings into dwellings that are able to accommodate a large numbers of bedrooms which are therefore unlikely to be used again to house a family, and which makes it difficult to maintain neighbourhood balance and its planned function. Over time, the cumulative effect of change in built residential form in these areas has impacted the neighbourhood desirability for many residents. Residents in Portsmouth, Williamsville and Sydenham Districts have asked Council for help in protecting their neighbourhoods.

Council directed staff to report back to the January 24, 2017 meeting of Council on how best to word an Interim Control By-Law prohibiting any new development of, or alterations to: one-family dwellings, two-family dwellings, row dwellings, group dwellings, semi-detached dwellings and multiple family dwellings in the Portsmouth, Sydenham and Williamsville Districts, excluding the corridor described in the Williamsville Main Street study, the area subject to the Kingston Penitentiary/Portsmouth Olympic Harbour visioning and any land owned by Queen's University or by St. Lawrence College. Council may want to consider continuing to encourage purpose built apartment buildings, where appropriate, to accommodate housing demand, which will help alleviate pressure for additional conversions or densification of single family homes in the near campus neighbourhoods.

Staff were also directed to present a draft by-law (Exhibit A) based on sound planning principles, provide a summary of any possible legal challenges to the by-law and to undertake the appropriate land use planning study required in 2017.

Interim Control By-Laws
Section 38 of the Planning Act allows municipalities to pass an Interim Control By-Law (ICBL), to be in effect for a period not exceeding one year, prohibiting the use of land, buildings or structures for specific purposes in a defined area if Council has directed that a review or study be undertaken in respect of land use planning policies in that area. The study must be completed within a year, with a maximum extension of one additional year permitted by the Planning Act. Should an extension beyond the initial year be required, Council would be required to pass an amending by-law to allow for the extension of one additional year.

The purpose of an ICBL is to allow the City to control development in areas where it wishes to review the land use planning policies, or where new policies will be developed. Once these studies are completed, the Official Plan policies and zoning by-law provisions may then be formally amended to reflect the desired land uses. An ICBL is designed to prohibit development until the completion of the study to prevent future land use objectives from being compromised.
by limiting development in the interim period of time. An ICBL may prohibit the use of land, buildings or structures. The by-law may not be applied retroactively or prohibit any use that existed legally prior to the passing of the by-law. It may not prohibit any use or building for which a Building Permit had been issued prior to the passing of the by-law.

An ICBL may be passed without a Statutory Public Meeting or the need to provide advanced public notice. After the by-law is passed, a notice of passing of the by-law must be provided in the manner prescribed by the Planning Act and is accompanied by a 60 day appeal period to the Ontario Municipal Board (OMB). If an ICBL is appealed within this time period, it is still considered to be in effect from the date of passing unless otherwise ordered by the OMB. If any Official Plan and/or zoning by-law amendments that result from the land use planning study are appealed to the OMB, the Planning Act provides that the ICBL may remain in effect past the two year period until the OMB issues a decision on the planning policies that implement the results of the study.

An ICBL is a powerful planning tool by which the City may respond quickly to perceived planning problems. Prior to passage, Council must authorize the land use planning study to be undertaken and substantiate the planning rationale behind the ICBL. The scope of the planning study and the area to be subject to the ICBL must be clearly identified in the Council resolution. Once the by-law is enacted, the expectation is that the planning study will be completed expeditiously and will result in formal amendments that implement the future planning policies for the study area.

Previous Studies
Infill and intensification concerns in the neighbourhoods surrounding St. Lawrence College and Queen’s University have been the subject of many reports, studies, by-laws and amendments, dating as far back as the 1970s.

In 1990, a three phase Student Housing Review was completed as a result of a building addition that was considered to be out-of-scale. The purpose of the review was to focus on student housing as a specific type of land use activity with particular land use characteristics and to propose land use planning approaches to deal with the impacts thereof. Phase 1 of the Student Housing Review focused on the background and main concepts, including a summary of the student housing profile and issues that had arisen as a result of student housing in Kingston. Phase 2 focused on draft Official Plan policies and zoning by-law regulations to implement an appropriate student accommodation framework. Phase 3 focused on issues that are outside of the scope of land use planning including property standards and garbage, and how they may be implemented. In 1994, City Council approved the recommendation that the Student Housing Review file be closed with no further action to be taken, as a result of concerns that were identified with respect to the discriminatory nature of the separate treatment of students and a specific definition of ‘family’.

During this same time period, Council enacted an ICBL (By-Law Number 91-323) which temporarily restricted building size in an area that was determined to be under significant pressure for large additions to existing houses. A subsequent amending by-law was passed extending the time period of the ICBL Number 91-323 to a period of two years (By-Law Number
92-299). The ICBL allowed time for staff to complete a study on the regulation of residential building size to ensure that new additions would be compatible in terms of scale, bulk and massing and that the policies of the City’s Official Plan were appropriately implemented in the zoning by-law. As a result of the study, amendments were made through By-Law Number 93-200 to control maximum permitted building depth, reduce maximum permitted building height and introduce a new maximum floor space index.

The Downtown Residential Review (DRR) Working Committee was established in 2002 to provide guidance on residential intensification issues in a study area including the lands within a 20 minute walking distance around Queen’s University campus. The Working Committee was comprised of representatives from Queen’s University, St. Lawrence College, the community (including residents, tenants, landlords and developers) and City staff to address the issue of residential intensification in the downtown. The primary focus was building additions and expansions that impacted the character and quality of life in downtown neighbourhoods. Following the completion of the DRR Working Committee, staff prepared a report in 2004 outlining 10 short-term recommendations and 9 mid-term recommendations from the Working Committee. As a result of the report, amendments were made to the zoning by-law to address some of the short-term recommendations including clarifying dormer provisions, defining private amenity area, introducing amenity area and play space requirements for multiple family dwellings, defining and requiring residential bicycle parking area, redefining dwelling unit and family and prohibiting the creation of new floor area to multiple family dwellings.

In 2007, a Student Accommodation Discussion Paper was prepared by staff that summarized vacancy rates and rental accommodation options for students of Queen’s University, St. Lawrence College and Royal Military College. The Paper also summarized the mid-term issues identified by the DRR Working Committee and provided follow-up comments and recommendations on the implementation of some of the mid-term recommendations. The Paper recommended student housing policies for consideration in the new Official Plan and the creation of design guidelines and a concept plan as recommended by the DRR Working Committee.

A report was presented to the Planning Committee on April 4, 2013 (Exhibit B – Report Number PC-13-027) summarizing previous planning studies that have been undertaken in the near campus neighbourhoods between 1991 and 2013 as part of the Central Accommodation Review. Some recommendations from the various studies have been implemented over 25 years since the last ICBL was enacted, yet public concerns related to built form and intensity of residential uses in these areas persist.

**Study Area**
As directed by Council at the January 10, 2017 meeting, the study area proposed for the ICBL is to include lands within the Portsmouth, Williamsville and Sydenham Districts with the exception of the corridor described in the Williamsville Main Street Study, the area subject to the Kingston Penitentiary/Portsmouth Olympic Harbour visioning and any land owned by Queen’s University or by St. Lawrence College (Exhibit C).
Official Plan

The study area identified by Council has experienced a significant amount of pressure for infill residential development that has resulted in intensification through the construction of additions, conversion of existing floor area and the demolition of existing buildings for the construction of larger, more intense forms of development. The overall study area is comprised of a broad mix of land uses including residential, commercial, institutional (including post-secondary, hospitals and former corrections uses), open spaces and environmental protection areas; however, the focus of concern is low density residential uses, which are the most prevalent use found within the study area.

Section 2 of the Official Plan provides the strategic policy direction, including direction related to the overall City Structure, Principles of Growth, Phasing of Growth, Stable Areas and Areas in Transition and Land Use Compatibility. The City Structure, as outlined in Section 2.2 and delineated in Schedule 2, of the Official Plan identifies the majority of the study area as a “Housing District”, with large “Open Space” and “Major Institution” land holdings. Some lands within the boundary of the study area are within “Centres” and “Corridors” (Exhibit D).

Section 2.6, Stable Areas and Areas in Transition, promotes adaptive re-use and the protection of stable areas from incompatible development or types of development and rates of change that may be destabilizing. Section 2.6.10 of the Official Plan enables the passage of an ICBL in Areas of Transition where policy guidance has not been provided or in the case of a Stable Area that is subject to transition pressures that threaten to destabilize it. This can be done while the City initiates a land use study or a secondary plan study to determine long-term impacts and provide a detailed assessment that will result in specific recommendations or a secondary plan to guide the future of the area. Sections 9.5.23 and 9.5.24 also enable the passage of an ICBL and any extensions to the period of time in accordance with the permissions in the Planning Act.

The City Structure is further divided into specific Land Use Designations that regulate the character and intended function of each area, as well as the types of uses that are permitted. The Land Use Designations are outlined in Section 3 and delineated in Schedule 3, and provide direction for future development principles with more specific means of implementation than the City Structure policies. The Land Use Designation map designates lands within the study area “Residential”, “Open Space”, “Environmental Protection Area”, “Harbour Area”, “Institution”, “Arterial Commercial”, “District Commercial”, “Main Street Commercial” and “Central Business District” (Exhibit E). The residential uses that are the focus of this report are largely contained within the “Housing District” City Structure component and the “Residential” Land Use Designation.

The Land Use Designation that is intended to permit the primary forms of housing is “Residential”, which permits detached dwellings, semi-detached dwellings, duplex dwellings, townhouses and apartments within the stable “Housing Districts”. The relevant residential policies are contained within Section 3.3 of the Official Plan.

Official Plan Update

The City is nearing the end of a 5 year update to the Official Plan (the Official Plan Update) and, during the course of the consultation process, has received considerable feedback regarding the
current policies guiding infill and intensification in established residential neighbourhoods, specifically from residents within the Sydenham, Williamsville and Portsmouth Districts. The current policies of the Official Plan speak to the protection of “Stable Areas” while allowing for varying levels of infill and intensification in areas that are “In Transition”. One of the concerns highlighted by the community is that there is a lack of clarity in the existing policies with respect to what neighbourhoods are considered “Stable” versus “In Transition”. There is also a concern that the policies do not adequately guide the form of development that may be appropriate, with little guidance related to compatibility tests that a proposal should satisfy to ensure it fits and appropriately mitigates any adverse impacts. In response to the feedback that has been received throughout the consultation process, the current draft revisions in the Official Plan Update include:

- Section 2.2 of the current Official Plan presents the City Structure, as illustrated in Schedule 2, including “Housing Districts”, “Centres” and “Corridors”. Draft revisions made throughout Section 2.2 of the Plan support the goal of seeing the majority of intensification directed to areas identified as “Centres” and “Corridors”. The Plan further acknowledges that such areas are, or may be, subject to specific policies that clarify expectations regarding built form (i.e. Williamsville, the Central Business District, etc.). Section 2.2. of the Official Plan has also been revised to clarify that “Housing Districts”, also illustrated in Schedule 2, are planned to remain stable, in accordance with the Stable Area policies.

- Section 2.6 of the current Plan speaks to Stable Areas and Areas in Transition. Draft revisions to this Section have been made to remove Areas in Transition and confirm that “Housing Districts” are planned to remain stable, while infill and intensification should be focused in the “Centres” and “Corridors”. This Section now focuses on the built form expectations of development within an area considered to be Stable. A series of policy tests have been added under Section 2.6.3 of the Plan to identify the type of infill and/or intensification that is appropriate within a Stable Area, and the type of development that is not appropriate. Further, policy revisions have been made under Section 2.6.5 to identify when proposals for intensification within a Stable Area may result in destabilization. The removal of the Areas in Transition policies will require that proposals for infill and intensification, outside of “Centres” and “Corridors”, demonstrate compatibility as considered within Stable Areas.

- In conjunction with the removal of the Areas in Transition policies, Section 2.6.10 referenced above (now Section 2.6.7) has been revised to acknowledge that the City may pass an ICBL in order to advance a broader land use study or secondary plan.

- The current Official Plan includes repetitive, and sometimes contradictory, tests for land use compatibility. The draft revisions in the Official Plan Update now focus on a succinct set of compatibility tests and mitigation measures in Section 2.7 and has removed any repetitive or contradictory policies by tying relevant policies back to Section 2.7.

In addition, in order to take a proactive approach to planning in the areas central to the City near Queen’s University Main and West Campuses, along with St. Lawrence College Campus, draft
revisions included in the Official Plan Update include a Future Planning Study Area identified as Near Campus Neighbourhoods on the Detailed Planning Areas map (Schedule 13). The purpose of this study is to identify specific policy recommendations that further strengthen and reinforce the proposed Stable Area policies for “Housing Districts” in the draft Official Plan, while also supporting the City’s overall goals of achieving smart growth through appropriate infill and re-development within existing built areas. The proposed Nodes and Corridors Study that is planned to commence later in 2017 is intended to bring focus and clarity for higher forms of residential intensification, mainly directing them outside of “Housing Districts”. New policies have been added to recognize this intent and acknowledge that the boundary of any Future Planning Study Area will be considered at the outset of the area-specific planning study. The mapping of the Near Campus Neighbourhoods is within the study area identified by Council for the ICBL.

A component of the Near Campus Neighbourhoods Study is intended to analyze the remaining infrastructure (water & sewer) capacity within the study area and how best to direct this through land use policy. Utilities Kingston identified concern for the servicing capacity that exists in the neighbourhoods that surround Queen’s University as part of the Downtown Residential Review and more recently through consultation with the Planning, Building and Licensing Department on the 5 Year Official Plan Update.

Existing Zoning By-Laws
Almost all lands designated “Residential” in the study area are within the boundary of the City of Kingston Zoning By-Law Number 8499, with the exception of a few properties located along the waterfront that have site specific Harbour Zone exceptions in the Downtown and Harbour Zoning By-Law Number 96-259 (Exhibits F, G and H). The study area includes a diverse range of residential uses, building types and lot fabric, including single detached dwellings, semi-detached dwellings, duplex dwellings, townhouses and apartment buildings. Accordingly, By-Law Number 8499 places the residential areas in a number of different zones with various permitted uses and applicable performance standards:

- “A” – One-Family Dwelling and Two-Family Dwelling;
- “A1” – One-Family Dwelling;
- “A2” – One-Family Dwelling;
- “A3” – One-Family Dwelling and Two-Family Dwelling;
- “A4” – One-Family Dwelling and Two-Family Dwelling;
- “A5” – One-Family Dwelling and Two-Family Dwelling;
- “B” – Three to Six Family Dwelling;
- “B1” – Multiple Family Dwelling;
- “B2” – Multiple Family Dwelling (Unified Ownership);
- “B3” – Multiple Family Dwelling;
- “C” – Commercial Uses; and
- “E” – Special Education and Medical Uses.

In addition to the zones noted above, there are a number of site specific exceptions that have been passed by the City throughout the study area.
New City-wide Zoning By-Law Project

The City is in the process of preparing a new City-wide Zoning By-Law to replace the existing separate, outdated zoning by-laws with one comprehensive vision for planning and development in the City. Work on this project began in April of 2015 concurrently with the Official Plan Update project.

Staff have worked with Dillon Consulting Ltd. to collect and analyze data required to complete a consolidation of the five existing zoning by-laws and, where required, update the standards to ensure conformity with the current policy framework, including the revisions contained in the Official Plan Update. The first draft of the new City-wide Zoning By-Law was released to the public on October 27, 2016, which was accompanied by a series of consultation events held across the City throughout November and December. Staff are currently reviewing comments received on the first draft and are working with the project consultant and the public to implement required revisions prior to the release of the second draft of the by-law. As an initial corrective action, the existing residential conversion policies in Section 5.23 of By-Law Number 8499 were removed in the first draft as publicly presented. However, the scope of work that was developed for the City-wide Zoning By-Law did not include detailed analysis to further amend the performance standards of the existing zoning in the neighbourhoods that surround the post-secondary institutions. As previously discussed, this work is intended to be addressed by way of an area-specific study for the area defined as the Near Campus Neighbourhood.

Near Campus Neighbourhood Study

Section 38 of the Planning Act requires that a land use study be undertaken by the municipality during the time that an ICBL is in effect. Once the study is complete, amendments may be required to the Official Plan policies and zoning by-law provisions to implement the land use recommendations of the study.

Public feedback received throughout the course of the consultation on the Official Plan Update project from residents within the Sydenham District, Portsmouth District and Williamsville District has indicated that the type of infill and intensification that is permitted on a site specific basis results in the construction of large “monster” homes, the conversion of existing floor area and the construction of additions on the rear of existing low density dwellings with unintended consequences to the neighbourhood. The current policy framework, combined with the existing zoning standards and diverse lot fabric in the study area, provides an opportunity for the interpretation of what constitutes appropriate built form, which has resulted in significant changes to built form within these neighbourhoods.

The draft revisions to the Official Plan Update will address some of the built form concerns, but also acknowledges the need to study the Near Campus Neighbourhoods to ensure that infill and intensification projects are compatible with the existing built form of the area through the creation of new zoning performance standards that implement the intent of the policies at the property level. It is going to be several months before the update to the Official Plan is adopted and in effect. Staff are working to present Council with a final draft of the OP Update over the next few months; however, the Ministry of Municipal Affairs has 180 days following Council approval of the Plan to complete its review. At Council’s direction, the Near Campus
Neighbourhood study could be concurrently undertaken while the Update to the Official Plan is with the Ministry for review.

**Legal Considerations**

Council requested that staff investigate and consider as part of this report, potential options for the “grandfathering” of planning applications currently in progress and/or by-law exemptions for certain types of residential development such as secondary suites. In consultation with Legal Counsel, staff have evaluated the options and have determined that including exceptions for specific properties or applications has a significant risk of undermining the intent of the ICBL. As a matter of land use planning, there is little justification to exempt certain applications or properties, with the exception of apartment buildings, as those applications/properties are relying on the zoning provisions that have been identified as inadequate to achieve the protection of stable neighbourhoods in the study area.

The leading case dealing with ICBLs is Equity Waste Management of Canada Corp. versus Halton Hills, a case from the Court of Appeal for Ontario. The general direction established in this case is that courts are instructed to adopt a generous and deferential approach to reviewing the exercise of municipal discretion to enact an ICBL. The case also confirmed that it is not a prerequisite that there be an emergency or other case of urgency in order to enact such a by-law; the purpose is to allow a municipality time to fairly and properly reconsider its land use planning policies.

A number of cases have established four principles that govern the appropriate use of an ICBL:

1. Section 38 must be interpreted strictly given that it permits a municipality to negate development rights;
2. A municipality must substantiate the planning rationale for the ICBL;
3. An ICBL must conform with the Official Plan; and
4. The planning review authorized by the by-law must be carried out fairly and expeditiously.

Once in force, no land may be used for a purpose prohibited by the by-law. This includes properties that have received Planning Act approvals but do not yet have Building Permits as of the date the ICBL is passed. The prohibition also includes properties for which planning applications have been submitted and have not yet been completely processed through to a decision. See Exhibit I for active planning applications within the residentially designated lands in the study area.

Any person may appeal the ICBL within 60 days of the notice of passage of the by-law being issued by the City. It may be possible for owners who have submitted land-use planning applications to appeal and ask the OMB to exempt their property from the ICBL. Whether such appeals would be successful would be determined by the OMB after an assessment of the specific facts. The OMB has granted exceptions for specific properties subject to ICBL depending on the nature of the planning assessment that was undertaken by the municipality at the time the by-law was passed. In addition, it may be possible for an individual land owner to apply for a minor variance from the ICBL in appropriate circumstances after it is in force.
Absent a successful appeal, upon passage of the ICBL landowners in the area will be subject to
the prohibition; including owners with active planning applications and approved projects for
which no Building Permit has been issued. Staff do not currently have an inventory of the
number of properties of this nature potentially affected by the passage of the ICBL.

Existing Policy/By-Law:

Planning Act, R.S.O. 1990

Notice Provisions:

Section 38 of the Planning Act does not require notice to be provided prior to the passage of an
ICBL; however, notice of passage of the by-law must be provided as prescribed. If Council
decides to pass the ICBL, notice of passage will be provided as prescribed by the Planning Act.

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

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Laura MacCormick, Project Manager, Planning Division 613-546-4291 extension 3287

Other City of Kingston Staff Consulted:

Greg Newman, Manager, Policy Planning
Marnie Venditti, Manager, Development Approvals

Exhibits Attached:

Exhibit A Draft By-Law: “A By-Law to Establish an Interim Control By-Law within Defined
Areas of the City of Kingston to Prohibit Construction or Conversion Resulting in
Intensified Residential Uses”

Exhibit B Information Report to Planning Committee, Report Number PC-13-027

Exhibit C Map of Council Directed Study Area

Exhibit D Official Plan, City Structure Map of Study Area

Exhibit E Official Plan, Land Use Designation Map of Study Area
Exhibit F  Zoning By-Law Numbers 8499 and 96-259, Map of Sydenham District within Study Area

Exhibit G  Zoning By-Law Numbers 8499 and 76-26, Map of Portsmouth District within Study Area

Exhibit H  Zoning By-Law Number 8499, Map of Williamsville District within Study Area

Exhibit I  Map of Active Application on Lands Designated Residential within Study Area
By-Law Number 2017-XX

A By-Law to Establish an Interim Control By-Law within Defined Areas of the City of Kingston to Prohibit Construction or Conversion Resulting in Intensified Residential Uses

Passed: January 24, 2017

Whereas the great success of post-secondary institutions in Kingston are creating a high volume of demand for housing near both St. Lawrence College and Queen's University; and

Whereas the current by-laws permit the conversion of single-family dwellings in stable neighbourhoods into dwellings able to accommodate many bedrooms, too many to likely ever be used again to house a family, and also too many to maintain stability in these areas which were once very desirable for families; and

Whereas residents of single-family homes in Portsmouth, Williamsville and Sydenham have asked for help in protecting neighbourhoods which contain mainly single-family dwellings; and

Whereas our Official Plan contains wording regarding stable neighbourhoods but the by-laws do not currently provide adequate protection, and work is also currently underway to create a harmonized Comprehensive Zoning By-Law, but this work is not yet complete; and

Whereas the Williamsville Main Street Study was very well-received and recommends denser housing in a designated area able to accommodate a far greater housing capacity and this would help relieve the pressure on the single-family neighbourhoods; and

Whereas it has been suggested that the City needs to further develop policies for this area and also to identify other areas for densification, and although some work has begun including the Nodes and Corridors study, other work is needed; and

Whereas our commitment to Open Government means that we need meaningful public input for this work, which takes time; and

Whereas Section 38 of the Planning Act permits Council or a municipality to pass an Interim Control By-Law that may be in effect for up to one year, which prohibits the use of land, buildings or structures within the municipality or within any defined area thereof for such purposes as set out in the by-law, but only if the Council of the municipality has
directed that a review or study be undertaken with respect to land use planning policies that apply to the subject area; and

Whereas Council for The Corporation of the City of Kingston has passed a resolution directing that a land use planning study be undertaken in 2017.

Therefore Be It Resolved That the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. This by-law shall apply to all lands, buildings and structures located within the area outlined in bold on Schedule “A” attached to this by-law.

2. No land, building or structure subject to this by-law shall be used for an “Intensified Residential Use”. Notwithstanding the foregoing, land, buildings or structures subject to this by-law may be used as an “Apartment Building”.

3. For the purpose of this by-law, the following definitions shall apply:

   a) “Intensified Residential Use” means:

      i. the use of land, building or structure for a one-family dwelling, two-family dwelling, multiple family dwelling, row dwelling, group dwelling or semi-detached dwelling where the land, building or structure was not used for such a purpose on the date of passing of this by-law;

      ii. the addition of additional gross floor area to a one-family dwelling, two-family dwelling, multiple family dwelling, row dwelling, group dwelling or semi-detached dwelling beyond that which existed as of the date of passing of this by-law; or

      iii. the conversion of existing gross floor area in a one-family dwelling, two-family dwelling, multiple family dwelling, row dwelling, group dwelling or semi-detached dwelling which has the effect of creating additional bedrooms or additional dwelling units beyond that which existed as of the date of passing of this by-law.

   b) “Apartment Building” means a residential building consisting of four or more dwelling units that share a common external access to the outside through a common vestibule and corridor system.

4. For the purpose of this by-law, the definitions of “Dwelling”, “Dwelling Unit”, “One-Family Dwelling”, “Two-Family Dwelling”, “Multiple Family Dwelling”, “Group Dwelling”, “Row Dwelling”, “Semi-Detached Dwelling” and “Gross Floor Area”, as defined in Sections 4.24, 4.25, 4.26, 4.27, 4.28, 4.29, 4.30, 4.31 and 6.3(h)(2) of City of Kingston By-Law Number 8499, shall apply.
5. Where any conflict exists between the provisions of this by-law and any other by-law of The Corporation of the City of Kingston, this by-law shall prevail.

6. This by-law shall come into force and take effect on the date of its passing and shall remain in effect for a period of one year from the date of its passing, unless otherwise extended in accordance with Section 38 of the Planning Act, or repealed by Council at an earlier date.

Given all Three Readings and Passed: January 24, 2017

__________________________________________
John Bolognone
City Clerk

__________________________________________
Bryan Paterson
Mayor
EXECUTIVE SUMMARY:

Residential intensification in Kingston Central has received a great deal of attention over the years. An on-going concern is the development of residential additions and new buildings that are out-of-scale and character with the surrounding neighbourhood. Supply and demand pressures for residential accommodations are also part of this issue, as this area of the City tries to accommodate a large population of post-secondary students, as well as other residents looking to live in Kingston’s central core.

As set out in Report No. PC-12-024, which detailed the approach of the Central Accommodation Review, this report examines a number of past studies and initiatives, which help to inform discussion and current research. The recommendations and conclusions of the following six studies/reports are reviewed, as well as how the various recommendations of each were implemented:

1. Student Housing Review – Phases I to III;
2. Interim Control Area Study – 1991: A Study of the Regulation of Residential Building Size in Inner-City Neighbourhoods;
3. Residential Intensification Near the Queen’s Main Campus: Analysis of Committee of Adjustment Applications, 1993-2002;
4. Residential Intensification in the Area Around Queen’s University;
5. Downtown Residential Review (DRR); and,
RECOMMENDATION:

This report is for information purposes.

AUTHORIZING SIGNATURES:

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<th>ORIGINAL SIGNED BY COMMISSIONER</th>
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<tr>
<td>Cynthia Beach, P.Eng., MCIP, RPP, Commissioner, Sustainability and Growth</td>
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<th>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</th>
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<td>Gerard Hunt, Chief Administrative Officer</td>
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

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<tr>
<th>Commissioner</th>
<th>Department/Position</th>
<th>Note</th>
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<tbody>
<tr>
<td>Lanie Hurdle</td>
<td>Community Services</td>
<td>N/R</td>
</tr>
<tr>
<td>Denis Leger</td>
<td>Transportation, Properties &amp; Emergency Services</td>
<td>N/R</td>
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<tr>
<td>Jim Keech</td>
<td>President and CEO, Utilities Kingston</td>
<td>N/R</td>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:

The issue of residential accommodations in the central core of the City of Kingston has received significant attention for many years. Since the 1970’s, various reports and working committees have been developed that recommended a variety of planning and non-planning approaches to address the issues arising from continued residential development in Kingston Central. Part of the issue includes maintaining a residential supply to accommodate a large population of post-secondary students in the City.

As set out in Report No. PC-12-024, which detailed the approach of the Central Accommodation Review (CAR), the purpose of this report is to provide background information on past studies that examined the issue of residential development in the City’s urban core. As part of the CAR, staff have examined the following six studies/reports:

1. Student Housing Review – Phases I to III;
2. Interim Control Area Study – 1991: A Study of the Regulation of Residential Building Size in Inner-City Neighbourhoods;
3. Residential Intensification Near the Queen’s Main Campus: Analysis of Committee of Adjustment Applications, 1993-2002;
4. Residential Intensification in the Area Around Queen’s University;
5. Downtown Residential Review (DRR); and,

Each study or report that was reviewed is described below, and includes a summary of the conclusions and recommendations, as well as a description of the actions taken on proposed recommendations. This information is presented to provide context and an historical account of current challenges. In order to properly frame a strategy to respond to current problems, it is necessary to recall previous work so that the applicable lessons may be extracted from it.

A. Student Housing Review – Phases I to III

Date Completed:
Phase I, Background & Concept Report, 1990
Phase II, Planning Implementation Report, 1992
Phase III, General Municipal Implementation Report, 1992

Completed by:
City of Kingston Planning Department

Study Area:
Not applicable
Purpose of the Study:
In 1990, as a result of the issues arising from a development proposal that was considered out-of-scale, Planning Committee directed the Planning Department to review alternative approaches to prevent the further development of residential additions that would compromise the integrity of existing neighbourhoods. The purpose of the review was to focus on student housing as a specific type of residential land use activity, identify the land use impacts created by the concentration of student housing, and to propose land use planning approaches to deal with the issues that had arisen from this specialized land use activity.

As a response to the request from Planning Committee, the Planning Department produced a three phase Student Housing Review (1990-1992). Phase I of this review presented a profile of student housing in Kingston and identified the current planning framework and mechanisms to address the issues that had arisen from student housing as a specific residential land use activity in Kingston. Phase II outlined an implementation plan and identified Official Plan and Zoning By-Law amendments that would be necessary as a result of the findings of Phases I and II. Phase III identified an implementation plan for issues that were outside of land use planning, such as property standards and garbage control.

Summary of Conclusions and Recommendations:
As a result of public consultation with the community and students, concerns were identified with respect to the approach taken in the review process. The approach was considered discriminatory due to the separate treatment of students and the fact that the Municipal Act at that time did not allow municipalities to license student accommodation. Furthermore, the approach relied on the definition of ‘family’ and amendments to the Planning Act prohibited by-laws from distinguishing between related and unrelated persons. As a result of these issues, in 1994, City Council approved the recommendation that the Student Housing Review Phase II file be closed with no further action to be taken.

Implementation:
None of the proposed amendments were implemented (and they would not be permitted under current legislation).

B. Interim Control Area Study – 1991: A Study of the Regulation of Residential Building Size in Inner-City Neighbourhoods

Date Completed:
October 1992

Completed by:
City of Kingston Planning Department

Study Area:
The area affected by Interim Control By-Law No. 91-323 was shown on Map 3 in the study, and a copy of that map is included as Exhibit ‘A’ to this report.
Purpose of the Study:
In addition to the Student Housing Review described above, City Council also enacted an Interim Control By-Law in 1991, which temporarily froze development in a prescribed area (refer to Exhibit ‘A’) that was determined to be under significant pressure for large additions to existing houses. The temporary freeze on development was meant to allow time for the Planning Department to complete a study on the regulation of building size in downtown neighbourhoods.

The purpose of the study was to assess the size of residential buildings in the study area with a view towards proposing changes to the overall regulatory framework controlling building additions to ensure that:

- New additions would be compatible in terms of scale, bulk and massing with study area building size standards; and,
- The policies of the City’s Official Plan with respect to new development in certain residential neighbourhoods were appropriately implemented in the City’s land use control mechanisms.

Summary of Conclusions and Recommendations:
The study made four key recommendations to amend Zoning By-Law No. 8499, in order to address the concern of out-of-scale additions to existing residential buildings:

1. There should be a new maximum building depth regulation to limit permitted building depth in accordance with the neighbourhood standard in relation to the depth of adjacent buildings;
2. The residential maximum building height regulation should be revised to recognize the building silhouette that predominates in the 'A' Zone, and encourage a pitch roof configuration that is characteristic of residential buildings in the area;
3. There should be a new floor space index regulation incorporated into the zoning by-law based on the relationship between the existing lot coverage and building height regulations; and,
4. The changes proposed for Zoning By-Law No. 8499 should apply to all of the ‘A’ Zone, and not just the Interim Control By-Law study area.

Implementation:
The recommendations were implemented through an amendment to Zoning By-Law No. 8499. By-Law No. 93-200 amending the ‘A’ Zone regulations was approved by Council on June 29, 1993. The by-law was appealed to the Ontario Municipal Board (OMB), but the Board dismissed the appeal and upheld Council’s decision (OMB Order No. R 930428).

C. Residential Intensification Near the Queen’s Main Campus: Analysis of Committee of Adjustment Applications, 1993-2002

Date Completed:
June 2002
Study Area:
The study area for this report was the same as for the Interim Control Area Study – 1991: A Study of the Regulation of Residential Building Size in Inner-City Neighbourhoods (refer to Exhibit ‘A’).

Purpose of the Report:
This report was presented at a joint meeting of the Planning Committee and Committee of Adjustment. Planning Committee hosted the joint meeting to discuss a motion passed by the Committee of Adjustment. The Committee of Adjustment wanted the Planning Committee and Council to consider the possibility of a neighbourhood study or Interim Control By-Law to suspend intensification of development in a defined area.

The report reviewed the previous work done by the City on the issue, including the zoning by-law amendments that had been made as a result of the Interim Control Area Study of 1991. The report also provided an analysis of Committee of Adjustment applications in the study area between 1993 and 2002.

Summary of Conclusions and Recommendations:
The analysis done of the Committee of Adjustment applications indicated that there had been a relatively high degree of residential intensification activity in the area near the Queen’s University Main Campus. However, the analysis also indicated that the revisions to the ‘A’ Zone following the 1991 Interim Control Area Study had been effective, since any minor proposal for intensification that had not met the zoning by-law defined community standard had been required to seek approval through an open public meeting held by the Committee of Adjustment, at which residents in the neighbourhood had an opportunity to review and comment on the proposal.

Implementation:
Staff was directed to prepare a report back to Planning Committee that would provide a range of options that might help to mitigate the negative impacts of residential intensification in the area around Queen’s University.

D. Residential Intensification in the Area Around Queen’s University

Date Completed:
November 2002

Completed by:
City of Kingston Planning Division
Study Area:
The study area for the report illustrated various walking distances from Queen’s University Main Campus and was shown on Map 1 in Appendix 1 of the document, and a copy of that map is included as Exhibit ‘B’ to this report.

Purpose of the Report:
The purpose of the report was to provide the Planning Committee with a comprehensive range of options that might help mitigate the negative impacts of residential intensification in the area around Queen’s University, and to enhance the benefits this form of development can bring to the area and stakeholders.

The report included a review of the following components: the Student Housing Review and Interim Control Area Study from the early 1990s; existing Official Plan policies and zoning regulations; property standards and building inspection work being undertaken by the Building and Licensing Division; and, the experience with residential intensification of a number of other Ontario municipalities that host post-secondary institutions.

Summary of Conclusions and Recommendations:
The report recommended that Planning Committee direct staff to establish a working committee consisting of representatives from Queen’s University, the community, and City staff to address the issue of residential intensification around the Queen’s University main campus, and to re-examine the previous studies conducted by the City regarding the issue of residential intensification.

Implementation:
The recommendation of this report resulted in the creation of the Downtown Residential Review (DRR) Working Committee.

E. Downtown Residential Review (DRR)

Date Completed:

Completed by:
Downtown Residential Review Working Committee and City of Kingston Planning Division

Study Area:
The study area for the DRR included the neighbourhood areas shown on Map 2 in Appendix ‘B’ of both the DRR Working Committee report and the DRR Technical Review of Recommendations report, and a copy of that map is included as Exhibit ‘C’ to this report.
Purpose of the Study:
The DRR Working Committee was originally formed as a result of the report entitled Residential Intensification in the Area Around Queen’s University, which was presented to Planning Committee on November 7, 2002. By recommendation of the Planning Committee, Staff established the DRR Working Committee consisting of representatives from Queen’s University (administration and students), St. Lawrence College, the community (including residents, tenants, landlords, and developers), and City staff to address the issue of residential intensification in the downtown.

The mandate of the Committee was to provide input into the discussion of relevant planning and development issues surrounding residential intensification in the City of Kingston’s downtown neighbourhoods and to assist in the formulation of future recommendations to Planning Committee and Council.

The issues primarily related to the ongoing submission of development applications and the resultant neighbourhood concerns over the impact of building additions, expansions, etc., on the character and quality of life in downtown neighbourhoods, given the continued housing demand from both the student and general population. The overall goal was to ensure that any intensification that happens within the core downtown area is carried out in a proper and responsible manner that ensures a high quality living environment.

The purpose of the Technical Review report was for staff to consider the merits of each of the DRR recommendations and provide input into their modification, where deemed appropriate. By doing so, the technical review and analysis would provide input into the future direction for the implementation of the final set of DRR recommendations.

The recommendations are divided into short term, mid to long term, and non-planning and development issues. The following is a summary of all of the recommendations from the DRR, including any modifications made through the technical review.

Summary of Short Term Recommendations:

1.1 Dormer Addition and/or Expansion – A zoning by-law amendment was proposed to clarify existing dormer provisions by providing additional detail, such as setbacks and size requirements, to allow for architectural and aesthetic detailing. The DRR recommendation was approved with minor staff modifications for compliance with the Ontario Building Code. Implemented through changes to the ‘A’ Zone provisions of Zoning By-Law No. 8499 by By-Law No. 2005-212.

1.2 Maximum Building Depth Requirement – The main purpose of this recommendation was to provide an area calculation to create an “upset limit” on the footprint size of a proposed addition. However, the depth and area calculations are not comparable units of measurement that can be used in the same provision, and this recommendation was not approved. It was recommended that there were other zoning regulations in the downtown...
neighbourhoods that could be reviewed, including: lot coverage (building area), building depth, and Floor Area Ratio (FAR) / Floor Space Index (FSI).

1.3Definition of ‘Dwelling Unit’ – The purpose of the recommendation was to limit the number of bedrooms per residential unit to that typically associated with standard residential dwellings. The definition in Zoning By-Law No. 8499 was only amended to include a provision for a ‘private amenity area’, as it was determined that further research was required before limiting the number of habitable rooms/bedrooms in relation to the number of dwelling units permitted in a residential zone(s). This research should include the specific geographic area that the provision would apply to, and a review of the density/number of units permitted in the area. The City encourages intensification in existing areas through the Urban Growth Strategy and Official Plan and shouldn’t limit the number of rooms in a dwelling unit without examining the number of units permitted per property in a zone.

1.4Definition of ‘Common Room’ – The purpose of the recommendation was to ensure that every residential dwelling has a designated interior common area. The DRR recommendation was approved with a staff modification of defining such space as a ‘private amenity area’. Implemented through changes to Zoning By-Law No. 8499 by By-Law No. 2005-212.

1.5Amenity Area Requirements for Multiple Family Dwellings in the ‘B’ Zones – The main purpose was to encourage the creation of units with fewer bedrooms by reducing the amenity area per unit requirement. A staff amendment to the DRR recommendation was approved, to allow for a reduction in amenity area requirements for multi-unit dwellings with 2 to 4 bedrooms for all forms of intensification. Additional amenity area space would be required for units with 5 bedrooms or more, and a provision was included that requires multi-unit buildings in the ‘A’ Zone to comply with the amenity area calculations. A review was not conducted to see whether such a provision is warranted for other residential areas/zones. Implemented through changes to Zoning By-Law No. 8499 by By-Law No. 2005-212.

1.6Parking Requirements for Multiple Family Dwellings in the ‘B’ Zones – The purpose of the recommendation was to encourage the creation of more units with fewer bedrooms by reducing the number of required parking spaces per dwelling unit, but including instead a provision for bicycle parking spaces. The original DRR recommendation was approved, applying the regulation only to conversions and not to other forms of intensification. The provision of one bicycle parking space per dwelling unit was added to Zoning By-Law No. 8499 (By-Law No. 2005-212), but the auto parking space provisions were not altered by staff through the Zoning By-Law Amendment. It was felt that it would be premature to modify parking requirements for only specific portions of the downtown neighbourhoods, and for only certain types of development, without a comprehensive review to support such changes.
1.7 Definition of ‘Bicycle Parking Area’ – The purpose of the recommendation was to facilitate the use of more sustainable transportation, and to complement the proposed parking requirements mentioned above in Section 1.6. The original DRR recommendation was approved, with the modification that the definition apply only to ‘residential’ bicycle parking areas. Implemented through changes to Zoning By-Laws No. 8499 and No. 96-259 by By-Laws No. 2005-212 and No. 2005-213.

1.8 Prohibition of New Floor Area in Multiple Unit Dwellings in the ‘A’ Zone – The main purpose was to strengthen the wording of the existing provision in order to prohibit the creation of additional floor area or dwelling units within existing multi-unit dwellings located in the ‘A’ Zone (for one and two unit dwellings). The recommendation was approved, and will require such future proposals to apply for a re-zoning as opposed to a minor variance. Implemented through changes to Zoning By-Law No. 8499 by By-Law No. 2005-212.

1.9 Removal of all reference to ‘Family’ throughout the Zoning By-Laws – The purpose of the recommendation was to bring municipal zoning by-laws into compliance with the provincial Planning Act. The staff recommendation was approved, which involves the removal of the term ‘Family’ from all future zoning by-laws. As an interim solution, since the term ‘Family’ is so prevalent in the documents, the definition will be modified to reflect a ‘Family’ as being “one or more persons residing together and comprising a single domestic household, sharing all areas of a dwelling unit.” Implemented through changes to Zoning By-Laws No. 8499, No. 76-26, and No. 32-74.

1.10 Ensuring Built Development is in Accordance with Approved Drawings and Conditions of Approval – A staff recommendation was approved, which would see an additional condition of approval for Committee of Adjustment (COA) decisions. Where new construction is proposed, the applicant would be required to provide the Building and Licensing Division with a copy of the decision of the COA and a copy of the plans submitted with the COA application when applying for their building permit.

Summary of Mid to Long Term Recommendations:

2.1 Design Guidelines – A recommendation by the DRR to create design guidelines for the area of concern to clarify the City’s design objectives, and to help integrate new development into the neighbourhoods while protecting the architectural integrity of the area. Recommended by staff, subject to the allocation of appropriate resources.

2.2 Designation of Buildings and Heritage Districts – A recommendation by the DRR for additional resources to continue and accelerate the Kingston Municipal Heritage Committee’s designation program. Recommended by staff, subject to the allocation of appropriate resources.

2.3 Licensing of Lodging Houses – Implementation of a licensing system for lodging houses and/or rental units to allow for regular inspections. Most of the rental housing in the City
does not meet the definition of a lodging house (recent court precedent in Waterloo), and the licensing of rental units was prohibited by provincial legislation at the time. Therefore, it was not recommended by staff.

2.4 **Minimum Distance Separation (MDS) for Residential Accommodation** – The purpose of the recommendation was to institute MDS in conjunction with a licensing mechanism for lodging houses and/or rental units. Not recommended by staff as it could be seen as trying to regulate housing (not permitted by provincial legislation); could be considered discriminatory (i.e. limiting the number and location of rental / affordable accommodation); and would have the effect of dispersing accommodation, which would be contrary to the goal of intensification.

2.5 **Definition of ‘Basement’ and ‘Cellar’** – The main purpose of the recommendation was to try and provide additional living space by utilizing basements in dwellings. In order to be habitable, basements must be more than 50% above-grade. Cellars are considered to be less than 50% above-grade and are not permitted as habitable space. Staff did not recommend modifying the definitions at the time, for health and safety reasons. Staff did recommend examining the issue of accessory apartments as an additional means of housing.

2.6 **‘Back Lot’ and ‘Centre Block’ Development** – The purpose of the recommendation was to provide additional residential units by utilizing deep rear yards or centre areas of residential blocks. Staff recommendations: development in back lots can be accommodated by existing Official Plan policies and can be evaluated on an individual basis; development in centre blocks would require land assembly and an area-specific concept plan; and, design guidelines would be particularly useful in shaping these types of development.

2.7 **‘Area 8’ Concept Plan** – An area defined by the DRR as being bound by Princess St. to the north, Alfred St. to the west, Clergy St. to the south, and Barrie St. to the east, and having the potential for future development and intensification. Not recommended by staff at the time, as it would be a large-scale project that would require additional resources, including an urban designer.

2.8 **Design Review Panel** – A proposal for an advisory panel to review design plans for development applications and public projects, and to help formulate urban design policies and criteria. Recommended by staff only when the City has the appropriate resources for such a committee, i.e. an appropriate staff resource (urban designer) and design guidelines (as a standardized means by which to evaluate proposals).

**Non-Planning & Development Issues:**

The purpose of this section was to provide information about those issues discussed during the DRR that were not directly related to planning and development, but were part of the larger existing issues in the area. Support was indicated for the following: proactive by-law
enforcement, particularly property standards; information for students on municipal issues; and, an on-going Town & Gown Committee.

Implementation:
As noted in some of the above recommendations, there were some Zoning By-Law amendments that were passed in 2005 that incorporated many of the short term recommendations of the DRR and the revisions proposed by the Planning Division through the Technical Review.

F. Student Accommodation Discussion Paper

Date Completed:
October 2007

Completed by:
City of Kingston Planning and Development Department

Study Area:
Not applicable

Purpose of the Study:
To review the studies and initiatives undertaken up until that time regarding the issue of accommodating post-secondary students in the central portion of the City, specifically with regard to the development of over-sized additions and new buildings on residential properties.

The report analyzed Committee of Adjustment applications from January 2003 to July 2007; reviewed the 2006/2007 enrolment numbers and forecasts for each of the three post-secondary institutions; reviewed on-campus student accommodation, the off-campus student housing supply, and off-campus student accommodation programs; and, provided an update on the mid to long-term recommendations of the DRR.

The following is a summary of the updates to the DRR’s mid to long recommendations:

- Design Guidelines – At the time of the report, funds had been allocated from the capital budget to undertake the design guidelines.

- Designation of Buildings and Heritage Districts – Since the original DRR recommendation, additional staff resources for cultural heritage had been hired, and there were also significant changes to the *Ontario Heritage Act* and *Provincial Policy Statement* with respect to cultural heritage resources. The report included a list of all of the heritage initiatives being undertaken at that time, including a number of initiatives involving the designation of properties and a proposed Heritage Conservation District for Sydenham Ward.
Licensing of Lodging Houses – In September 2006, Council passed By-Law No. 2006-213, which permits the City to license, regulate and govern certain businesses, including lodging houses. A lodging house includes every premise “in which four or more persons, exclusive of staff, are lodged, with or without meals, in return for a fee.” This does not include any premises with self-contained residential units. Therefore, lodging houses do not reflect the prominent type of rental unit in the City.

Amendments to the Municipal Act, 2001, which came into effect on January 1, 2007, allow municipalities to license any business or activity that is considered appropriate in pursuing the public good. The implementation of a residential rental licensing by-law would allow for the enforcement of applicable health and safety provincial legislation through inspections as a requirement to receive a license. The report noted that in order to evaluate the merits of a rental accommodation by-law in the City of Kingston, a separate report dedicated to the issue is required to evaluate the recommendation in the detail it deserves. It should be noted that such a by-law would require significant resources to administer the licensing program, as well as staff time to perform site inspections. Issues such as licensing fees, cost recovery, license renewal procedures and the impacts of licensing on the rental market should be part of a more in-depth analysis of a residential rental licensing program.

Minimum Distance Separation (MDS) for Residential Accommodation – During the technical review of the DRR report, it was determined that having MDS for certain types of residential accommodations could be discriminatory in nature; could affect affordable housing; would disperse accommodation, which would be contrary to the goal of intensification; and, could be outside the municipality’s jurisdiction. For these reasons, MDS was not investigated further.

Definition of ‘Basement/Cellar’ – At the time of the DRR report, staff did not recommend permitting residential units in cellars for health and safety reasons, but did recommend a review of the issue of accessory apartments. At the time of the 2007 update, it was anticipated that the issue of accessory apartments would be discussed as part of the Official Plan Review.

‘Back Lot’ and ‘Centre Block’ Development – No additional work or recommendations were made from the time the Technical Review of the DRR Report was undertaken.

‘Area 8’ Concept Plan – Staff anticipated requesting a capital budget allocation in 2008 to complete the work on this concept plan.

Design Review Panel – No further recommendation were made with respect to a design review panel, but funds had been allocated to complete the recommended design guidelines.
Summary of Conclusions and Recommendations:
The Student Accommodation Discussion Paper made three main recommendations:

1. The Planning and Development Department, during the Official Plan Comprehensive Review, should examine the Student Housing policies of Section 4.7.4 of the former City of Kingston Official Plan, and include similar policies in the new Official Plan;
2. The Planning and Development Department should pursue the design guidelines and concept plan recommended by the DRR; and,
3. The Student Accommodation Discussion Paper should be forwarded to the Building and Licensing Department and the Culture and Heritage Department for their information, as some of the issues reviewed in the report are outside the jurisdiction of the Planning and Development Department.

Implementation:
The Official Plan policies with respect to student accommodation were carried over, with some slight modifications, to Sections 3.3.D.10 to 3.3.D.13 of the new Official Plan.

The Kingston Residential Intensification/New Community Design Guidelines were undertaken in 2009 and 2010, and were approved in principle in July 2010.

Current Update on Outstanding Issues

Design Guidelines
With the addition of a planning resource with urban design expertise, staff are in the process of editing the Kingston Residential Intensification/New Community Design Guidelines into two sets of working guidelines that are concise and simple for users/builders to use.

Designation of Buildings and Heritage Districts
With the allocation of additional staff resources to the Heritage and Urban Design Division of the Planning and Development Department, staff are advancing the Department’s program for prioritizing the designation of new properties, and updating designation by-laws for others, and also undertaking the update of existing Heritage Conservation District Plans (Market Square and Barriefield) and undertaking new Plans (Old Sydenham). In addition, a new mandate was approved for the Municipal Heritage Committee by Council in June 2012, and this broadens the Committee’s role by blending built heritage issues with cultural matters.

Licensing of Residential Rental Units
As part of the Central Accommodation Review (CAR), staff will be providing a report on how other Ontario municipalities with post-secondary institutions have been utilizing controls, such as the licensing of residential rental units, to control development.
Minimum Distance Separation (MDS) for Residential Accommodation
There have been recent legal cases where the Ontario Human Rights Commission has
successfully challenged a number of Ontario municipal zoning by-laws for regulations related to
MDS for various types of residential accommodations (e.g. group homes). For this reason, staff
does not recommend pursuing the use of MDS to regulate housing.

Habitable Space in Cellars vs. Basements
The issue of whether to allow habitable space in cellars (more than 50% below grade) as of right
is something that will be examined in greater detail as part of the Comprehensive Zoning By-
Law Review.

Back Lot Development
Policies respecting this issue have been carried forward into the Official Plan.

Area 8 Concept Plan
Area 8 has been addressed by both the completion of the Kingston Residential Intensification /
New Community Design Guidelines (2010), and the “Residential Intensification in Kingston’s
Near-University Neighbourhoods” report (2009) that was completed by students at the Queen’s
University School of Urban and Regional Planning.

EXISTING POLICY/BY LAW:
The relevant policies and regulations that were in place at the time that each of the
studies/reports were written are discussed as part of sub-sections A through F described above
in the Options/Discussion section of the report.

NOTICE PROVISIONS:
N/A

ACCESSIBILITY CONSIDERATIONS:
The report is available in alternate formats upon request.

FINANCIAL CONSIDERATIONS:
N/A

CONTACTS:
Grant C. Bain, Director, Planning and Development Department, 613-546-4291, ext. 3252
Cherie Mills, Manager, Policy Planning, 613-546-4291, ext. 3289
Sonya Bolton, Senior Policy Planner, 613-546-4291, ext. 3237
OTHER CITY OF KINGSTON STAFF CONSULTED:

Shirley Bailey, Manager, Heritage and Urban Design

EXHIBITS ATTACHED:

Exhibit ‘A’ - Interim Control Area Study – Map of Study Area
Exhibit ‘B’ - Study Area for Report entitled Residential Intensification in the Area Around Queen’s University
Exhibit ‘C’ - Downtown Residential Review (DRR) Study Area
Appendix 'A' - Map 1
Walking Distance to Queen's University Main Campus

Legend:

- - - - - 5 min. walk
- - - - 10 min. walk
- - - 20 min. walk

The Corporation of the City of Kingston
Key Map

Planning Division
a division of Planning & Development Services

Scale: Metric

This map is not to be used for precise scaling.

Source: Queen's University, Queen's Accommodation Listing Service
Student Housing Map, www.queensu.ca/dso/housing/areamap.htm

Prepared by: T. Gravel
Revised by: LF, TF
Date: October 15, 2002
Date: May 13, August 17, 2004

Flora Macdonald Basin
City Hall
Kingston Inner Harbour
The Corporation of the City of Kingston

Key Map

Appendix 'B' - Map 2
DRR Neighbourhood Areas

Legend:

- Boundary of DRR Study Area

Source: Queen's University, Queen's Accommodation Listing Service
Student Housing Map, www.queensu.ca/dsao/housing/areamap.htm

Prepared by: T. Gravel Date: October 15, 2002
Revised by: T. Fisher, LF Date: August 17, 2004

This map is not to be used for presale scaling.
ZONING BY-LAW 8499 MAP OF WILLIAMSVILLE DISTRICT

LEGEND

- BOUNDARY OF ZONING BY-LAW 8499
- CONSOLIDATED ZONING BOUNDARIES
- DISTRICT AREA

SCALE: 1:6,000

0 50 100 150 200 METRES

Exhibit H

Council Meeting 04 January 24, 2017