



**City of Kingston
Information Report to Council
Report Number 20-229**

To:	Mayor and Members of Council
From:	Paige Agnew, Commissioner, Community Services
Resource Staff:	Laura Flaherty, Project Manager, Planning Services
Date of Meeting:	November 17, 2020
Subject:	New Zoning By-Law Project – Status Update

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Goal: 2.2 Build a significant number of new residential units with a range of affordability.

Goal: 2.4 Promote secondary suites and tiny homes.

Theme: 3. Improve walkability, roads and transportation

Goal: 3.2 Enhance public safety through active transportation and a focus on pedestrian access and enforcement.

Executive Summary:

The purpose of this report is to provide an update to Council on the status of the New Zoning By-Law (New ZBL) project and to provide anticipated milestones and a project timeline for the remaining work to be completed. The City has been discussing, completing background work, creating mapping, revising policies, and drafting provisions for a new, city-wide zoning by-law since “Phase One” began in 2011, with the substantive work on the New Zoning By-Law beginning as “Phase Two” in 2015 at the same time as the Official Plan Update. The first draft of the New ZBL was released to the public on October 27, 2016 based on the project’s initial scope of work, with the initial round of public consultation occurring that fall and winter. At the time, a

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number of “bucket issues” were identified through the internal staff review, consultation process and stakeholder review of the document. Many of those outstanding issues were considered to be outside of the initial scope of the project. [Report Number 18-135](#) outlined the issues that had been raised at the time, and confirmed that the New ZBL project was put on hold following the release of the first draft to allow staff to focus on the completion of the Official Plan Update and the Central Kingston Growth Strategy, which were required to be completed prior to the release of the second draft of the document.

Since this time, Council have prepared a new [Strategic Plan](#) for 2019-2022 which clearly prioritizes leadership on climate action, increasing housing affordability, improving walkability, roads and transportation, strengthening economic development opportunities and fostering healthy citizens and vibrant spaces. The Strategic Plan specifically includes the “Zoning By-Law Consolidation” project as a land use policy to be completed to enable more housing development and has a number of goals and priorities that are inherently linked to the creation of an updated zoning by-law, specifically those related to affordable housing, climate action and active transportation.

Similarly, the final recommendation report released by Mayor’s Task Force on Housing, “[A Foundation for the Public Good: Recommendations to Increase Kingston’s Housing Supply for All](#)”, put forward a number of recommendations related to all areas of housing policy. From the perspective of the New ZBL, the report specifically stated “In this regard, the most important and highest priority task is to update and harmonize the City’s zoning by-laws. In their present form, a legacy of the 1998 amalgamation, the outdated by-laws waste valuable staff time. Council should make every effort to ensure that this task is completed as soon as possible. Ultimately, the old zoning by-laws are retarding the building of housing and increasing costs”.

It is clear that the Strategic Plan and the Mayor’s Task Force on Housing consider the completion of the New ZBL to be of utmost importance to reach strategic priorities and goals. The creation of a new zoning by-law presents an enormous opportunity to not only streamline the planning process for all stakeholders with an easy to understand and consistent approach to zoning across the City, but also to update our rules in a forward thinking manner to help reach the ambitious goals and strategic priorities of Council.

With the Official Plan Update complete and the Central Kingston Growth Strategy in the final phase of the project, staff have commenced “Phase Three”, the final phase of the expanded scope of the New ZBL project, with the goal of bringing a final document for Council’s consideration by the end of 2021. Public consultation is anticipated during the first half of 2021 with a series of “Discussion Papers” through Planning Committee, which will focus on some of the larger outstanding issues that are discussed in the body of this report. A second draft of the document will then be released to the public for comment in mid 2021, before the final draft is recommended near the end of 2021. It is important to note that these timelines may be impacted should there be a direction to add public engagement to the process or research elements that are currently outside of the ZBL project scope.

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Recommendation:

This report is for information only.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,
Community Services**

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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Options/Discussion:**Background – Phases One and Two**

Discussions about the New ZBL project began in 2011, with “Phase One” of the project: a 3-Report Study providing detailed analyses, options and recommendations for various zoning issues and the process and format for preparing a new zoning by-law. The resulting final report was the [Zoning Issues and Strategy Study – Zoning Strategy Report \(December 14, 2012, accepted by Council on February 5, 2013\)](#) and [Appendices](#).

“Phase Two” of the New ZBL project began in January 2015, when Council awarded a Contract for the Five Year Update to the Official Plan and the New ZBL project ([Report Number 15-030](#)). Dillon Consulting, in association with Lloyd Phillips & Associates Limited and Andre Scheinman were awarded the contract based on their proposal. At the time, the proposal focused on the consolidation of the five existing zoning by-laws and, where required, updates to the standards to ensure consistency and conformity with the Provincial Policy Statement and Official Plan.

The consulting team lead by Dillon Consulting completed two background reports, Zoning Framework Report (September 30, 2015) and Zoning Standards Report (January 27, 2016), which led to the completion of the [first draft](#) of the New ZBL on October 27, 2016. At the time of the release of the first draft, work on the Official Plan Update was ongoing with the same project consultant.

In response to the first draft of the New ZBL, staff received feedback from the public, internal staff and technical stakeholders identifying a number of “bucket issues”, as described in [Information Report to Council – New City-Wide Zoning By-law – Status Update and Next Steps \(Report Number 18-135\)](#). Work on the New ZBL project was put on hold in early 2017 to allow staff to dedicate the time and resources towards the Official Plan Update as well as the newly directed [Central Kingston Growth Strategy](#) (CKGS) projects, which would also ensure that the anticipated zoning recommendations from the CKGS and updated OP policies could be included in the second draft of the New ZBL. The Official Plan Update came into effect in August of 2017, and all appeals were complete by May of 2019. The CKGS project is anticipated to be completed in the first half of 2021, which will be carried forward into the second draft of the New ZBL.

Since putting the New ZBL project on hold in 2017, staff worked to address some of the outstanding issues as well as other general policy projects, including:

- Planning Framework for Reddendale ([Report Number PC-19-029](#));
- Second Residential Units ([Report Number PC-19-028](#));
- Trade Shows and Specific Day Sales ([Report Number PC-19-008](#)) (under appeal); and
- Front Yard and Recreational Vehicle Parking ([Report Number PC-19-055](#)).

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Current Status – Outstanding Issues and Phase Three

Through the stakeholder consultation and internal review process of the first draft of the New ZBL, staff determined the challenges with this ever-evolving and complex project merit an expanded scope to properly consider and address the shifting policies and priorities of the Province and the City. Staff are confident that, had the zoning by-law been completed based on the original, out-dated scope of work, an enormous opportunity would have been missed in terms of driving the City forward with a forward-thinking zoning framework.

While the project was on hold, staff were afforded an opportunity to take a broader perspective of the New ZBL project and are now moving forward with a mature view of what is really needed at a zoning level. In September 2020, staff began work on what they are considering the third and final phase of the project, which will be primarily completed “in house” by Planning Services staff, including all background research, stakeholder consultation, zoning by-law drafting and its associated mapping. The lead project consultant from Phase Two, Dillon Consulting, will assist in a peer review capacity on the Parking Standards Study of this phase and may be brought in to assist in other supporting roles if determined necessary.

Of the outstanding issues identified in the previous Information Report, the following list represents some of the major outstanding issues to be addressed prior to the release of the second draft (outside of the separate CKGS project):

- Official Plan Conformity;
- Commercial Land Review Implementation;
- Parking Standards Study;
- Environmental Protection Areas and “Ribbon of Life”;
- Community Facilities (Private and Public Schools, Places of Worship);
- Heritage Conservation Districts; and
- Tiny Homes and Shipping Containers.

In addition to the outstanding issues identified previously, in June of 2019 the *More Homes, More Choice Act* (Bill 108) received Royal Assent. The Act included substantial changes to the *Planning Act*, including, among a number of other things, changes to Inclusionary Zoning and the former Second Residential Units legislation, now called Additional Residential Units (ARU). An overview of the changes to Inclusionary Zoning can be found later in this report. As it relates to ARUs, the amendments replaced the former Second Residential Unit legislation, which previously allowed up to two dwelling units on properties which contain a detached house, semi-detached house or townhouse (either two units in a principal building or one in a principal building and one in an accessory building). The ARU amendments have the effect of authorizing up to three units on properties which contain a detached house, semi-detached house or townhouse (up to two units in the principal building plus one unit in an accessory building).

The ARU changes in the *Planning Act* require municipalities to allow ARUs in the Official Plan, and to give effect to these policies through a zoning by-law. Any amendments and zoning by-law provisions associated with ARUs are not subject to appeal. Since the City is in the process of preparing a new city-wide zoning by-law, staff must give effect to the ARU policies within

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Phase Three of this project, as such, it is considered to be one of the outstanding issues for the purpose of this report.

Of the outstanding issues, staff will be completing the necessary revisions to the first draft of the by-law to address the Official Plan Conformity, Heritage Conservation Districts and Commercial Land Review Implementation items, and consultation on these items will occur during the future public consultation periods after the second draft of the document is released. Staff anticipate a number of changes to the text of the draft by-law to address the Official Plan Conformity and Commercial Land Review Implementation issues, which may also result in suggested amendments to the Official Plan where the policies need clarification or revision to implement appropriately in the zoning by-law. The Heritage Conservation District issue is expected to be addressed through an overlay map, with specific overlay provisions directing users to the appropriate Heritage Conservation District documents.

Staff have identified the following list of issues to be more complex, and worthy of their own individual public consultation meetings at Planning Committee. As such, staff intend to complete a series of "Discussion Papers" which will be presented at Planning Committee in the first half of 2021, with time for questions and feedback from both the public and members of Council. The feedback received in response to the Discussion Papers will help inform staff's approach to these topics in the second draft of the New ZBL:

- Tiny Homes, Shipping Containers and Additional Residential Units;
- Schools and Places of Worship;
- Environmental Protection Areas and the "Ribbon of Life"; and
- Parking Standards.

Issues Outside of the Scope of the New ZBL

Recognizing that staff have set a very ambitious timeline to complete the New ZBL project, staff have determined that there are some issues that were identified in the previous Information Report that are better addressed in other policy projects or merit their own future study as part of a larger policy project. The following four issues are outside the scope of Phase Three and are detailed in the paragraphs below:

- Short-term Rental Accommodations;
- Management of Garbage and Recyclables;
- Residential Density; and
- Inclusionary Zoning.

Short-term Rental Accommodations: Since [Report Number 18-135](#), staff have been working to implement a short-term rental licensing program, which was most recently detailed in a report to Administrative Policies Committee through [Report Number AP-20-016](#). The Administrative Policies Committee deferred the item at the request of Staff and it is expected that a final report will be presented in November or December in this regard. Regardless of the outcome, Staff believe that short-term rental accommodations are better dealt with through a licensing program, since there are significant limitations in addressing this type of issue within a zoning by-law.

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Management of Garbage and Recyclables: Staff in Planning Services are separately reviewing the [Site Plan Control By-law](#), which was most recently updated in 2017. Proposed amendments are anticipated to be released in late 2020 or early 2021 for public consultation. The “bucket issue” related to the management of garbage and recycling that was identified in the previous Information Report is anticipated to be addressed through the future proposed amendments to the Site Plan Control By-law, which is the more appropriate mechanism, rather than through the New ZBL.

Residential Density: When residential density was identified as a bucket issue connected with the New ZBL project in the previous information report, it was done so in the context of the challenge the City has historically faced in light of the simple calculation of units per net hectare as a measure of density, where it doesn’t address challenges associated with high bedroom counts or the massing and scale of buildings in the central area of the City. There are three different mechanisms underway that are anticipated to address this issue in advance of the completion of the New ZBL project:

1. The CKGS project is currently in its final phase and is exploring policy and zoning recommendations. The ultimate goal is to identify areas of intensification and areas which are expected to remain stable, and the appropriate provisions to regulate built form and building typology in each area, including setting appropriate standards to aid in the regulation of density as a measure of building scale;
2. As identified above in connection with the management of garbage and recyclables, Planning Services staff will be proposing amendments to the Site Plan Control By-law in late 2020 or early 2021. The current by-law only applies to residential developments containing four or more dwelling units. Staff will be reviewing the current threshold for the number of dwelling units, and will also be reviewing the option of adding a new threshold based on a number of bedrooms, which would provide staff an opportunity to secure appropriate parking, amenity areas, waste management, accessibility and provisions to support active transportation in a broader range of residential uses in the City; and
3. The final Discussion Paper topic in conjunction with the New ZBL is the City’s Parking Standards Study. Staff have been working with a number of different consultants over the last 6 years on various studies related to parking in the City. This Discussion Paper will bring together all of the various studies in one cohesive report and is expected to propose parking standards for residential units based on the location of the building and the number of bedrooms in a dwelling unit, rather than a flat rate per dwelling unit.

It is anticipated that the three mechanisms identified above will address a number of the challenges specifically associated with the way residential density is measured in the City’s Official Plan. Future policy work may further refine the overall policy approach, but, in the interest of time, that is considered to be outside of the scope of the New ZBL project.

Inclusionary Zoning: Inclusionary Zoning was previously identified as a bucket issue connected with the New ZBL project in [Report Number 18-135](#). As described earlier in this report, the Province passed changes to the *Planning Act* related to Inclusionary Zoning in the

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More Homes, More Choice Act in 2019, which were previously detailed in [Report Number 19-156](#). The changes have a significant impact on Inclusionary Zoning in Kingston as the changes restrict the application of this affordable housing tool only to those municipalities that are prescribed by the Minister of Municipal Affairs and Housing, or those municipalities who can scope the application of Inclusionary Zoning policies to areas within a protected major transit station area or a community planning permit system. At this time, Kingston does not meet any of the criteria required by the *Planning Act*, since there are currently no municipalities prescribed by the Minister and it does not have a protected major transit station or a community planning permit system as defined by the *Planning Act*. Since Inclusionary Zoning cannot be employed in Kingston under the current regulations, it will not be included within the scope of the New ZBL project or otherwise employed by the City at this time.

As described in detail in [Report Number 20-216](#), the *COVID-19 Economic Recovery Act* amended the *Planning Act* in a number of ways, including changes to the Community Benefits Charge under Section 37 of the *Planning Act*. The new Section 37 provisions came into effect on September 18, 2020, however, municipalities have a 2 year transition period to enact a Community Benefits Charge by-law in accordance with the new provisions. In the absence of the ability to employ Inclusionary Zoning provisions in Kingston, staff will ensure that future consultation on the Community Benefits Charge by-law includes ways to address affordable housing in a manner that the province currently allows in Kingston, which is usually done in conjunction with Community Benefits.

Phase Three Timeline

The New ZBL is one of the most important policy projects in Planning Services, presenting an opportunity to meet strategic priorities and current policies through an updated, clear and consistent approach to zoning across the City. Recognizing the urgency that has been building behind this project since it was first discussed in 2011, Staff are aiming to complete the New ZBL project by the end of 2021. With that ambitious goal in mind, the overall timeline for Phase Three includes: Discussion Papers at Planning Committee and public consultation (Early to Mid 2021); Second Draft of New ZBL and public consultation (Mid 2021); and Final Draft of the New ZBL (End 2021).

Staff are looking forward to engaging with the public, business owners, professional consultants and developers in the completion of a this much-needed policy project, which will undoubtedly save time, frustration and confusion for everything that is governed by a zoning by-law and will propel the City to forward with an updated zoning framework.

If members of the public are interested in participating in this project, it is requested that they email NewZBL@cityofkingston.ca and ask to be added to the project mailing list to receive updates when documents are released and public consultation events are scheduled.

Existing Policy/By-Law:

None

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Notice Provisions:

None

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Laura Flaherty, Project Manager, Planning Services, 613-546-4291 extension 3157

Other City of Kingston Staff Consulted:

Andrea Gummo, Manager, Policy Planning, Planning Services

Sukriti Agarwal, Manager, Service Standards & Data Management, Planning Services

Tim Park, Manager, Development Approvals, Planning Services

Exhibits Attached:

None