



Committee of the Whole Report

For the Meeting of January 24, 2019

To: Committee of the Whole **Date:** January 10, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: **Rear Yard Landscaping in the C1-L Zone, Commercial Landscape District**

RECOMMENDATION

That Council instruct staff to arrange and attend a Community Meeting with the Oaklands Community Association Land Use Committee, including mailing notice to property owners and occupiers within 100 meters, and report back on the feedback received at that meeting and with further recommendations regarding how best to achieve the desired outcome noted in Council's resolution of October 4, 2018.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding a Council motion to amend the C1-L Zone, Commercial Landscape District. Further direction is required for staff to proceed with changes to the C1-L Zone, including determining Council's wishes with regard to consultation and seeking clarification on what should be included in the zoning amendment.

BACKGROUND

On October 4, 2018, Council passed the following motion:

"That staff be directed to amend the C1-L zoning bylaw in the following manner:

- a. add a preamble to clarify that the purpose of the C1-L zone is to create a landscape buffer with no commercial activity and to maintain the residential character of Myrtle Avenue,
- b. clarify that "landscaped with grass and shrubs" in Section 2 (1), refers to "living grass and living shrubs",
- c. change "No loading area," in Section 2(2) to "No loading area (including the loading or unloading of goods, or pickup or drop off of people),
- d. add "no structures of any kind, including fences," to the exception list in Section 2 (2),
- e. add that there will be protection of the large trees on the buffer boulevard on the north side of Myrtle Avenue."

The properties located on the south side of Hillside Avenue between Doncaster Green and Shakespeare Street are in the C1-L Zone, Commercial Landscape District (attached). This Zone

references the C-1 Zone, Limited Commercial District, for uses and general regulations, but has the following specific regulations related to landscaping:

1. *The lot area within 9m of the rear street shall be landscaped with grass and shrubs, which shall be maintained in a healthy condition.*
2. *No loading area, parking lot, driveway, or accessory building may be located within 9m of the rear street.*
3. *In this part, rear street means Myrtle Avenue.*

On February 27, 2018, a Delegated Development Permit was issued by staff for the property located at 1537 Hillside Avenue for the addition of a wheelchair ramp, as well as changes to the parking configuration and rear yard landscaping, in order to facilitate a daycare use. The landscaping changes included the removal of trees in the side yard in order to construct a ramp, and the addition of a fence and artificial grass in the rear yard for the children's play area. A second Delegated Development Permit Application was received on August 20, 2018, the purpose of which was to replace the two fruit trees in the rear yard with red maples, as the applicant indicated fruit trees presented potential harm to the children.

Upon commencing construction of the rear yard play area, staff received complaints from residents along Myrtle Street regarding the landscaping changes. The landscaping changes are consistent with the C1-L Zone as written; however, it was indicated by residents that they felt the intent of the Zone was to preserve the rear nine metres of the Hillside Avenue properties as open green space and that it should not be fenced nor used as a play area.

ISSUES & ANALYSIS

The following sections will identify issues and offer analysis with regard to:

- proposed zoning changes
- community consultation
- the Official Community Plan.

Proposed Zoning Changes

Staff are requesting clarification with respect to Council's October 4, 2018 direction to amend the C1-L Zone. Details of the areas where clarification is needed are outlined below.

Preamble

Council's direction to add a preamble to clarify that the purpose of the C1-L Zone is to restrict commercial activity from occurring along Myrtle Avenue, while useful in explaining the purpose of the bylaw, is not a regulation. If Council wishes to implement regulatory change, then substantive regulations would need to be added.

Loading / Unloading

Council's direction to change "no loading area" to "no loading area (including the loading or unloading of goods, or pickup or drop off of people)" is not necessarily needed, as there is no loading area at the rear of the property. Rather, daycare users park and load/unload on Myrtle Avenue and access the site from the rear. In this instance, the loading area would therefore be the street, which is a public right-of-way with public parking; zoning cannot regulate traffic on the street. In addition, there are no parking infractions or bylaw regulations in effect which would discourage a person from dropping off a passenger on Myrtle Avenue. Even if restrictions were put in place, it is

difficult to enforce short term parking issues like drop offs, as a resident would have to report the infraction, an ambassador be dispatched, and the vehicle ticketed. Within that timeframe the infracting vehicle would likely be gone. The City at present does not have the resources to pay special attention to areas like this on an ongoing basis.

There are a few options for Council to consider. The north side of Myrtle Avenue could become a no stopping zone, but this could affect any employees of surrounding businesses that currently park there and would likely force the employees to park further into residential areas. In addition, it would require periodic enforcement, as parents may still use it to drop off their children at the daycare. Another option would be for road closures or directional diversions to make accessing Myrtle Avenue more difficult. However, this would also impact residents of the area. Alternatively, the current parking restrictions along Myrtle Avenue could remain as is.

Landscaping & Trees

Council's direction to clarify living grass and living shrubs as well as protect large trees can be achieved. Living grass and living shrubs can be clarified through an amendment to the C1-L Zone. However, trees cannot be regulated through zoning and instead are regulated through the City's *Tree Preservation Bylaw*. The table found in Schedule A of the *Tree Preservation Bylaw* can be amended to give the Myrtle Avenue trees protection as "significant trees". The work would include identifying which trees to add to Schedule A and drafting a bylaw to amend Schedule A within the *Tree Preservation Bylaw*. Trees protected by the bylaw require a 2:1 replacement should they be removed.

Fencing

Council directed that a restriction on all structures including fences be added to the C1-L Zone, which could be completed through a change to the Zone. However, this would restrict property owners' ability to protect their property should trespassing and/or vandalism become a concern. Additionally, there may be conditions where a fence is warranted for safety reasons, either to ensure the public is not exposed to unsafe conditions or to ensure that an area or specific users (e.g. a daycare/preschool) are protected from passing vehicles.

Community Consultation

Normally, rezoning proposals require a Community Meeting with the relevant Community Association Land Use Committee (CALUC) and sign posting indicating a proposal to rezone the land. Should Council choose to proceed, staff would like further clarification on the process requirement to attend a CALUC meeting. In addition, the *Land Use Procedures Bylaw* requires posting signage, which would occur on private property on both the Hillside Avenue and Myrtle Avenue frontages. The recommendations outline a variety of options for Council to consider.

Official Community Plan

The *Official Community Plan* (OCP) notes:

15.8 Encourage the development of quality, accessible, affordable daycare ... to support families and employers by:

15.8.2 Encouraging new childcare and elder daycare spaces throughout the city.

Removing the ability to have commercial activities in the rear yard of the businesses along Hillside Avenue would create a legally non-conforming scenario with the current daycare, which has its own ramifications to improving and renovating the existing building, and would hinder other daycares

from being created along this strip of properties. Daycares, which are commonly found in residential areas, can be seen as an appropriate transition from heavier commercial activities to residential neighbourhoods.

The proposed amendments would also prohibit small-scale urban food production in the rear yard setback. Similar to daycares, small-scale urban food production appears to be a use that would transition well to residential neighbourhoods as it maintains a “green” appearance while tapering down from heavier commercial activities.

Resource Impacts

Depending on whether Council waives the requirement to hold a CALUC meeting, funds may have to be allocated for staff to attend this meeting. Resource impacts of a zoning amendment with community consultation would include the notification printing cost, the poster board printing costs and salary costs for City staff attendance at the meeting. In addition, notice of the Rezoning Application is required to be posted on both frontages of all affected lots. The cost of the signs (materials and labour) would be approximately \$5500. The preparation for both the CALUC meeting and any Zoning Bylaw changes would impact staff resources that are normally reserved for the day-to-day processing of development applications and would detract from staff’s abilities to support the advancement of other Council priorities.

In addition, adding trees to the list of significant trees in Schedule A of the *Tree Preservation Bylaw* has never been done before. Currently, Schedule A is an empty table. Both Legal and Parks departments will need to devote staff resources in order to develop and draft what is essentially a new regulation.

OPTIONS

Given the considerations outlined in this report, the following options have been prepared for Council’s consideration:

Option 1 – Zoning amendment with consultation (recommended, if Council wants to proceed with this direction)

That Council instruct staff to begin the process of amending the C1-L Zone, Commercial Landscape District, by attending a CALUC meeting and subsequently bringing the feedback and resulting proposed changes to a Committee of the Whole meeting.

This option would engage the impacted parties including the property owners in discussions about possible changes, and may result in a more collaborative problem-solving approach and potentially new ideas for addressing neighbourhood concerns. However, the resource impacts would be greatest.

Option 2 – Minor amendments to clarify landscaping requirements

That Council waive the requirements to hold a CALUC meeting and instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize amending the C1-L Zone, Commercial Landscape District, to further specify landscaping requirements in the rear yard, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set.

This option allows Council to protect the landscaping strip along Myrtle Avenue while still allowing minor commercial activities, such as daycares, to take place. In addition, the option has lesser

resource impacts as the costs would relate only to sign posting. However, the concerns of the adjacent residents might not fully be met with this option.

Option 3 – Fast-tracked zoning amendment

That Council waive the requirements to hold a CALUC meeting and instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the changes to the C1-L Zone, Commercial Landscape District, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set.

Option 3 is the most cost-effective approach. However, the impacted owners and occupiers of commercial properties would not have a full consultation process and would have to wait until the Public Hearing to voice any concerns. Additionally, as noted in the preceding report, not all of the residents' concerns can be achieved through changes to the Zone.

Option 4 – Maintain current version of C1-L Zone

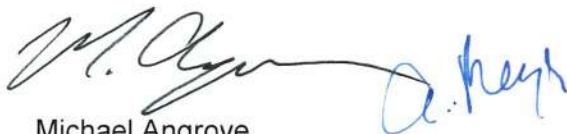
That Council make no changes to the C1-L Zone, Commercial Landscape District, and direct that the challenges related to the transition between these commercial properties and the traditional residential uses nearby be examined in conjunction with the Local Area Plan process.

Review of these properties and the neighbourhood as a whole would be completed within the process of updating the *Oaklands Neighbourhood Plan* when Hillside Avenue corridor planning takes place. This plan is set to be reviewed and developed under Phase Three of the neighbourhood planning process. This would be a cost-effective and collaborative approach, but would delay any changes made to the C1-L Zone, as local area planning in this part of the city would not happen in the short term.

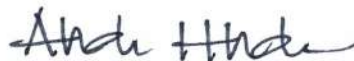
CONCLUSIONS

Receiving comments from the broader community, including both the single family dwelling residents on the south side of Myrtle Avenue and the affected commercial property owners on the north side of Myrtle Avenue, may help inform a refined, collaborative problem-solving approach to a Zoning Bylaw Amendment. However, as noted above, this will impact resources and multiple alternate motions have been provided for Council's consideration.

Respectfully submitted,

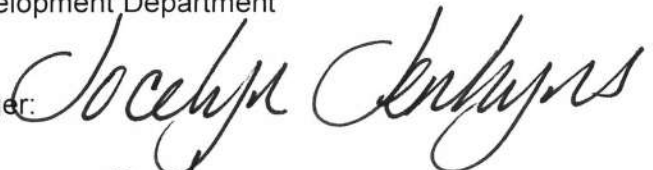


Michael Angrove
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Andrea Hudson, Acting Director
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Report accepted and recommended by the City Manager:


Date: Jan 17, 2019

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Zoning Bylaws for C1-L Zone and C-1 Zone
- Attachment D: Committee of the Whole minutes from October 4, 2018.