



The Corporation of the Town of Milton

Report To: Council

From: Barbara Koopmans, Commissioner, Development Services

Date: October 19, 2020

Report No: DS-044-20

Subject: Interim Control By-law - Mature Neighbourhoods

Recommendation: THAT Council enact the proposed Interim Control By-law attached as Appendix 1 to DS-44-20, implementing interim control of large home rebuilds in mature neighbourhoods to allow time for the completion of Phases 2 and 3 of the Mature Neighbourhoods Character Study and the enactment of any resulting policy and by-law changes;

AND THAT staff complete Phases 2 (Mountainview, Mountain View Survey and Martin Meadows) and 3 (Fallingbrook, Forrest Grove, Bronte Meadows, Valley View, Dorset Park and Timberlea) of the Mature Neighbourhoods Character Study;

AND FURTHER THAT Council approve a process for exemption from the Interim Control By-law, as outlined in DS-44-20.

EXECUTIVE SUMMARY

- Development Services staff initiated the Mature Neighbourhoods Character Study in April 2018 in response to a Council direction to review Town policies and regulations relating to the construction of new dwellings and recommend appropriate changes to protect character.
- The study arose from public concern regarding the construction of large “in-fill” homes and their impact to the character of the Town’s mature neighbourhoods.
- The study is phased to recognize the extent of the Town’s stable low-density residential neighbourhoods.
- Phase 1 of the study, addressing the Downtown Character Area, is now complete.
- In response to ongoing development pressure, staff recommends Council proceed to enact an Interim Control By-law to Phases 2 (Mountainview, Mountain View Survey and Martin Meadows) and 3 (Fallingbrook, Forrest Grove, Bronte Meadows, Valley View, Dorset Park and Timberlea) to implement interim control

on large home rebuilds while Phases 2 and 3 of the Mature Neighbourhoods Character Study is undertaken.

- The *Planning Act* enables municipalities to enact Interim Control By-laws for a period of one year (with the potential to renew for a further year), having the effect of restricting the use of land in an area specified by the by-law, to enable a study to be undertaken.
- Staff is also proposing criteria and process requirements to assess any site-specific exemption requests to the Interim Control By-law.

REPORT

Background

There has been public concern expressed with respect to the impacts of large home rebuilds in mature residential neighbourhoods in the Town.

Section 38 of the *Planning Act* enables municipalities to enact Interim Control By-laws (ICBL) for a period of one year (with the potential to renew for a further year), having the effect of restricting the use of land in an area specified by the by-law, to enable a study to be undertaken. Where an ICBL ceases to be in effect, Council may not, for a period of three years, pass a further ICBL that applies to any lands to which the original ICBL applied.

Section 5.5.3.12 of Milton's Official Plan specifies that Council may pass an ICBL for a one-year period (with the potential to renew for a further year) to provide Council with the time to study a particular land use planning issue.

Discussion

Proposed Interim Control By-law (ICBL)

The proposed ICBL prohibits any new single-detached, semi-detached, duplex, triplex or townhouse dwellings or additions to existing single-detached, semi-detached or duplex dwellings, resulting in greater than a 25 percent increase in gross floor area and/or increases the height of the structure beyond that which existed on the same lot, within a defined area. It would restrict the level of change, pending the completion of Phases 2 and 3 of the Mature Neighbourhoods Character Study.

The defined area is limited to areas zoned Residential Low Density (RLD) and Residential Medium Density 1 (RMD1) in the neighbourhoods of Mountain View, Fallingbrook, Forrest Grove, Bronte Meadows, Valley View, Dorset Park and Timberlea as delineated by Schedule 'A' to the proposed by-law.

Minor Variances

The *Planning Act* permits Minor Variances with respect to lands subject to an ICBL. All Minor Variances must meet the test under s. 45 of the *Planning Act*, which is:

1. Is the proposed variance minor?
2. Does the proposed variance maintain the general intent and purpose of the Official Plan?
3. Does the proposed variance maintain the general intent and purpose of the by-law being varied? NOTE: where a variance of *both* the ICBL and the Town's parent zoning by-law is being requested, the proposed variance must meet this test for both by-laws.
4. Is the proposed variance desirable for the appropriate development or use of the land, building or structure in question?

All four tests must be met for a Minor Variance to be approved by the Committee of Adjustment. Where no variance of the Town's parent zoning is required, then an exemption to the ICBL could be applied for.

Proposed Exemption Process

It is recommended that property owners who choose to apply for exemption from the ICBL be required to submit a written exemption request to the Town's Development Services Department, inclusive of:

- the address, lot dimensions, and legal survey of the subject property;
- photos of all four sides of the existing dwelling (front, sides, and rear), as well as photos of the streetscape that depict the relationship between the existing dwelling and adjacent dwellings;
- the gross floor area of the existing dwelling;
- the gross floor area and conceptual site plan of the proposed dwelling or addition; four elevations of the proposed dwelling or addition (front, sides, and rear);
- explanation of how the proposed dwelling or addition is compatible with the existing character of the neighbourhood; and,
- the applicant's contact information.



Staff recommend that exemption requests be evaluated against the following criteria:

- **Physical Character Compatibility** of the proposed dwelling or addition with the physical character of the existing neighbourhood, inclusive of height, massing, roof lines, and built form;
- **Streetscape Character Compatibility** of the proposed dwelling or addition with the streetscape character of the existing neighbourhood, inclusive of setbacks, building projections, siting on property, and relationship to adjacent dwellings; and,
- **Percentage Increase** in gross floor area.

Staff recommend that upon receipt of an exemption request, the Town notify all abutting property owners and provide 14 days to make a written submission to the Town for staff consideration. Staff will review exemption requests and written submissions and subsequently forward a recommendation report for Council's consideration.

Should Council grant an exemption, the Town would notify all abutting property owners, as outlined in the *Planning Act*; any Council-approved exemption would be subject to a 60-day appeal period. The Town would only issue building permits once the appeal period has lapsed.

Financial Impact

An application fee, in accordance with the Town's User Fee By-law would apply to any requests for exemption from the ICBL. The fee would cover staff time to review the application and any associated public notice costs.

Respectfully submitted,

Barbara Koopmans, MPA, MCIP, RPP, CMO
Commissioner, Development Services

For questions, please contact: Jill Hogan, Director, Planning Policy and Urban Design Phone: 905-878-7252 x2304

Attachments

Appendix 1 – Proposed Interim Control By-law

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 0XX-2020

BEING A BY-LAW OF THE TOWN OF MILTON TO AMEND THE TOWN OF MILTON COMPREHENSIVE ZONING BY-LAW 016-2014, AS AMENDED, PURSUANT TO SECTION 34 AND 38 OF *THE PLANNING ACT*, AS AMENDED, IN RESPECT TO CERTAIN LANDS WITHIN THE TOWN OF MILTON, REGIONAL MUNICIPALITY OF HALTON.

WHEREAS The intent of this Interim Control By-law is to control the development of single detached, semi-detached, duplex, triplex, quadraplex and townhouse dwellings within defined areas of the Town of Milton for a period of one year;

AND WHEREAS Section 38 of the *Planning Act, R.S.O. 1990, c.P.13*, as amended, authorized the Council of a Municipality to pass an Interim Control By-law to be in effect for a period of time to prohibit the use of land, building or structures in a defined area, while the municipality undertakes a study in respect of the land use planning policies in the subject area;

AND WHEREAS in response to ongoing development pressure, the Council of the Town of Milton seeks to control development of residential lands within the Town of Milton identified in Schedule A to this By-law in order to complete a study with respect to land use planning policies and regulations (Phases 2 and 3 of the Mature Neighbourhoods Character Study) which will examine large home rebuilds and their compatibility with the mature neighbourhoods in Schedule "A";

NOW THEREFORE the Municipal Council of the Corporation of the Town of Milton hereby enacts as follows:

1. **THAT** this Interim Control By-law applies to all lands, buildings and structures zoned Residential Low Density (RLD) and Residential Medium Density 1 (RMD1) as identified in Schedule A to this by-law.
2. **THAT** No land, building or structure subject to this By-law shall be used for an "Intensified Residential Use".
3. **THAT** for the purposes of this By-law, the following definitions shall apply:
 - A. "Complete" for the purposes of Sections 5 and 7 means:
 - i) for a Building Permit means an application for a Building permit that satisfies the requirements set out in Building By-law 123-2011 or its successor by-law;
 - ii) for a Minor Variance means an application which satisfies the requirements of Section 2 of Ontario Regulation 200/96 (Minor

Variance Applications) under the *Planning Act*;

- iii) for Site Plan Approval means an application which satisfies the requirements set out in the Town of Milton Official Plan; and
 - iv) for Draft Plan of Subdivision approval, Official Plan and Zoning By-law Amendments means an application which satisfies the requirements of the *Planning Act*, the Town of Milton Official Plan and has been deemed complete by the Town of Milton.
- B. "Dwelling" means a single detached, semi-detached, duplex, triplex, quadraplex or townhouse residential building.
- C. Gross Floor Area means the aggregate of all floor areas of a building or structure above or below established grade, which floor areas are measured between the exterior faces of the exterior walls of the building at each floor level but excluding any porch, veranda, cellar, mechanical room or penthouse, or areas dedicated to parking within the building. For the purposes of this definition, the walls of an interior court shall be deemed to be exterior walls.
- D. "Intensified Residential Use" means:
- i. a new Dwelling that exceeds by 25% or more the Gross Floor Area of any Dwelling that existed on the same lot on the date of passage of this By-law; or
 - ii. an addition to an existing Dwelling such that the new Gross Floor Area of such dwelling exceeds by 25% or more the Gross Floor Area of such a Dwelling as it existed on the date of passage of this By-law; or
 - iii. a new Dwelling or addition to a Dwelling that increases the height of the structure beyond that which existed on the same lot on the date of passage of this By-law; or
 - iv. a new Dwelling on land that was vacant on the date of passage of this By-law or becomes vacant by means of a consent to sever under the *Planning Act* during the period of time when this By-law is in effect.
4. **THAT** this By-law shall come into force and take effect immediately upon the passage thereof, and shall be in effect for one (1) year from the passage of this By-law unless otherwise extended in accordance with Section 38 of the *Planning Act*, or repealed by Council at an earlier date.
5. **THAT** for greater certainty, if a building permit application filed in accordance

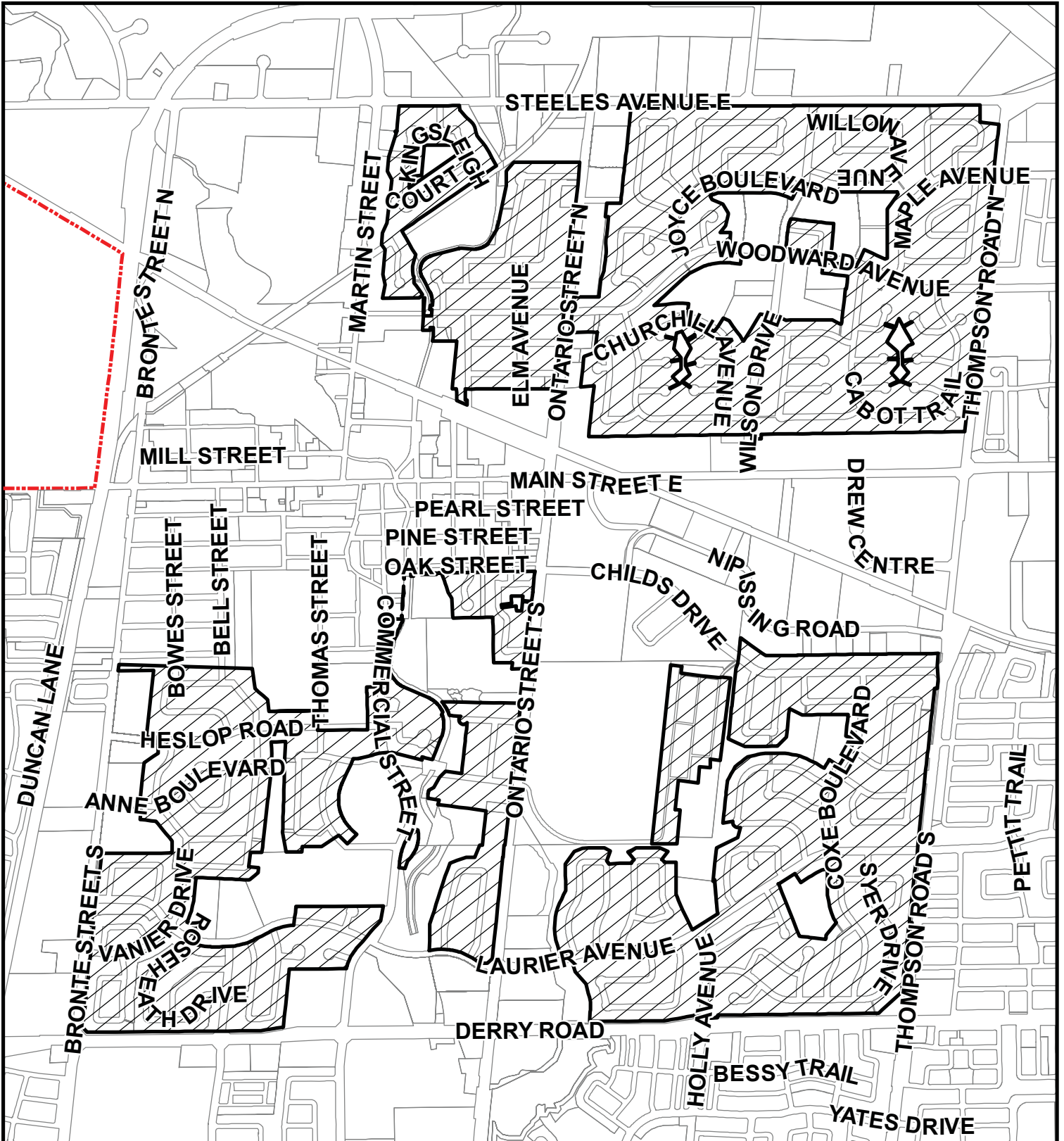
with the Ontario Building Code Act was Complete on or before the date of passage of this By-law, then this By-law does not preclude the issuance of said building permit.

6. **THAT** for greater certainty, nothing in this By-law shall prevent the registration of a Plan of Subdivision, which, has received draft plan approval on or before the passage of this By-law. Lots within the said registered Plan of Subdivision shall be eligible for building permits in accordance with the approved zoning by-law for the lands.
7. **THAT** for Official Plan Amendment, Zoning By-law Amendment, Site Plan Approval or Minor Variance applications within the defined area that could permit lands to be used for an Intensified Use shall be deemed contrary to this By-law and are prohibited.
8. **THAT** any Complete application for Official Plan Amendment, Zoning By-law Amendment, Site Plan Approval or Minor Variance under the *Planning Act* within the defined area that exists on or before the date of passage of this By-law shall be exempt from this By-law and be eligible to apply for building permits in accordance with the approved zoning for the lands.

PASSED IN OPEN COUNCIL ON OCTOBER 19, 2020

_____ Mayor
Gordon Krantz

_____ Deputy Clerk
Meaghen Reid





Council Meeting Date: October 19, 2020

Scale: 1: 17,000

Development Services Department



 Area subject to Interim Control By-law

 Urban Area Boundary