

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: Gregg Barrett
Director, Planning and City Planner

Subject: ReThink Zoning Phase One Update

Meeting on: June 22, 2020

Recommendation

That, on the recommendation of the Director, Planning and City Planner, this report and the attached Discussion Paper for ReThink Zoning – Phase One **BE RECEIVED**.

IT BEING NOTED that the Discussion Paper will be used as part of the ReThink Zoning Project public consultation program.

Executive Summary

The purpose of this report is to introduce a discussion paper that will be utilized for public engagement in the ReThink Zoning project over the spring and summer months. Opportunities for discussion and comments about the project will be provided later this year. The report also includes a progress update on Phase One of ReThink Zoning and describes adjustments made to the public engagement program as a result of COVID-19.

ReThink Zoning is the process for delivering a new Zoning By-Law to implement the London Plan. Phase One of the project, to prepare background research and formulate an approach, is now underway. The consultant team has recently provided staff with the first of two discussion papers meant to inform and support the public consultation process.

The discussion paper evaluates four contemporary zoning approaches, and two options for implementing them in Ontario – the Traditional Zoning By-Law and Community Planning Permit System. The consultants also analyzed six municipalities in Ontario and North America to capture lessons that can be applied to London. These lessons, as well as other key takeaways from the paper, are described in this report.

Staff have also been preparing to begin the first stage of public engagement over the spring and summer, which would be informed by lessons learned and feedback received from the discussion paper. This first stage of engagement focuses on background information meant to educate and inform the public about zoning options available in Ontario. This engagement will evolve to include more technical consultation, which will coincide with a second discussion paper this fall.

This engagement program was intended to include a variety of in-person and online opportunities. However, due to current public health recommendations and the cancellation of numerous festivals and gatherings staff have updated this program to include more online opportunities to participate and engage in the ReThink Zoning conversation.

Report

1.0 Background

The London Plan was approved by City Council in June 2016 and provides a vision for how London will evolve over the next twenty years. ReThink Zoning is the process of

preparing a new zoning by-law for London that conforms with and is supportive of the London Plan.

When the London Plan was being developed through the ReThink London engagement process, a community conversation took place around the type of city Londoners want. ReThink Zoning continues that conversation and moves it into a new stage where instead of asking what kind of city we want London to become, our new focus is on how we will get there.

This is a major project that will have a lasting impact on how London will be shaped to meet the vision established in The London Plan. It was determined that the project would be carried out in two phases. The first phase would involve choosing a direction for the zoning by-law, and the second would involve drafting a by-law based on that approach.

As part of Phase One, staff had initially planned to carry out engagement in two stages using both in-person and online methods. As a result of COVID-19, we have updated the first stage of engagement to focus on various online methods to educate, inform, and raise awareness about the project. We will then transition to more technical consultation later in the year once the second discussion paper is released.

1.1 Previous Reports

May 13, 2019 – ReThink Zoning Terms of Reference Report to Planning & Environment Committee

Based on feedback from engagement, updated terms of reference were presented to the Committee that identify opportunities for meaningful public and stakeholder engagement throughout the process. The Terms of Reference were approved during the May 21 meeting of Council and include a detailed overview of the project goals, work plan, and deliverables.

August 13, 2018 – ReThink Zoning Terms of Reference Report to Planning & Environment Committee

City Council received a draft Terms of Reference in August 2018 and gave direction to staff to circulate the draft to key stakeholders and to allow for public comments about the project. Staff then held meetings with a variety of stakeholders, and in each meeting the need for public and stakeholder engagement was identified as key to the project's success. Advisory Committees were also circulated the terms of reference and asked to provide comments.

2.0 Phase 1 Update

2.1 Phase 1 to Date

At the end of 2019, a consultant team for Phase One was selected following a procurement process. The consultant team is a collaboration between Plateia Planning, led by Melissa Ayers, Intelligent Futures, led by Cassandra Caiger, and Fotenn, led by Ute Maya-Giambattista.

The consultants visited London during the week of January 26, 2020. Their visit included conducting a workshop for internal staff that use the zoning by-law, as well as a review of stakeholders. A workshop was also held involving a variety of key external stakeholders, such as the Urban League and the London Development Institute, to familiarize the consultants as well as provide an overview of the engagement expectations and deliverables over the course of Phase 1. A city-wide tour of recent examples of development was also led by staff. In addition, the consultants attended a Steering Committee meeting. During this visit the consultants learned about London's context and the specific needs for the new by-law. The importance of stakeholder engagement and community buy-in was also reiterated.

2.2 Updated Project Schedule and Work Plan

Following the consultants' site visit, an updated work plan, project schedule, and engagement & communications plan were prepared. Below is an updated timeline for Phase One. The spring and summer engagement will kick off the project, educate the public, and explore the key aspects of zoning to implement the vision of the London Plan. The fall engagement will continue the conversation with a more technical discussion paper and the additional visual assessment of built form considerations through the use of LiDAR data. Engagement for Phase One is further described in section 4.0.

Task	Status
Retain consultants	Completed
Discussion Paper 1 (Best practices, London Plan implementation, and Ontario's legislative context)	Completed
Information Report to PEC	Completed
Public Engagement (Stage 1 and Stage 2)	Q2-Q3, 2020
Discussion Paper 2 (Review of the zoning by-law Z-1, analysis of existing built form, identify gaps between the current by-law and the London Plan)	September 2020
Progress Report to SPPC	September 22, 2020
Recommendation Report	Q4, 2020
Terms of Reference – Phase 2	Q4, 2020
Phase 2	Details to be determined based on Phase Two Terms of Reference.

3.0 Discussion Paper

3.1 Overview

As part of the Phase One deliverables, it was determined that two discussion papers should be prepared to inform engagement before a recommendation report is prepared on the approach. The first discussion paper is presented now while the second will be prepared in September.

The first major deliverable *Zoning: Considerations for London* is a discussion paper that provides an overview of best practices for zoning amongst Canadian municipalities, and an analysis of how zoning approaches could implement the London Plan's policies and be applied within Ontario's legislative context.

The document is inspired by the Discussion Papers that were used for ReThink London, and was finalized following refinements from City Planning staff, the Project Team, as well as the Steering Committee. The discussion paper describes the different approaches that may be considered to implement the city envisioned by The London Plan.

3.2 Four Contemporary Zoning Approaches

Historically, zoning was predicated upon protecting health and safety, as well as limiting development. This led to the proliferation of use-based zoning, which focuses on defining and separating uses.

Three other contemporary zoning approaches have also since been used by municipalities in North America. These have been used as alternatives or additions to use-based zoning to supplement its use-based focus.

- Performance zoning is the practice of allowing more varied uses based on defined 'performance standards'.
- Incentive zoning generally uses use-based zoning as a baseline, and permits negotiation for public amenities in exchange for greater height or density. Prior to Bill 108, this was enabled in Ontario as 'density bonusing' through Section 37 of the Planning Act.
- Form-based zoning has gained prominence as a neo-traditional urbanist approach. It de-emphasizes uses occurring on a site in lieu of standards that guide the look and feel of that space.

In practice, some combination of several of the approaches above can be used in a zoning by-law, and to some limited degree, are reflected in the City's current Z.-1 Zoning By-law. Based on the strengths of each approach, the objective of the ReThink Zoning Project is to determine the best approach for London's new zoning by-law.

3.3 Two Zoning Options in Ontario

In order to implement the four above zoning approaches, two main zoning options are permitted by Ontario legislation: zoning by-law / site plan by-law, and Community Planning Permit System (CPPS). In practice, both systems could be used if a municipality chooses to apply a CPPS to a specific portion of a municipality.

Key considerations for the Zoning By-Law / Site Plan By-Law (Option 1) are summarized as follows:

1. Application of the Act. In a Zoning By-Law approach, the Planning Act determines that, in some capacity, a use-based approach must be used. The language in the Act is also primarily limiting as opposed to permissive, which would require a shift in perspective to apply best practices.
2. Lack of Flexibility and Discretion. Zoning By-Laws do not provide for discretion. In most zoning by-laws, most standards and regulations are very specific and rigid, and the only method to address these inflexible standards is through the minor variance or zoning by-law amendment process.
3. Multiple By-Laws Required for Implementation. This option requires that the zoning by-law and site plan by-law are consistent. It can be challenging to obtain consistent outcomes.
4. Multiple Applications. In cases where a minor variance may be required, this option could require up to three applications for every development proposal. In most cases, this is not realized until the site plan approval stage.
5. Tried and Tested. This option has been thoroughly tried and tested so that both the risks and liabilities are understood.

The CPPS, also known as the Development Permit System (DPS) replaces the zoning by-law and site plan by-law with a Community Planning Permit by-law. Minor variances may also be considered in this system. The CPPS allows for discretionary uses, conditions approvals and variances, and also provides opportunities to regulate landscaping and vegetation removal, site alteration, and façade improvements. The CPPS could apply to certain classes of development or areas of a municipality. The key considerations are summarized as follows:

1. Increased certainty and flexibility. The CPPS can provide greater certainty combining the zoning-by-law, site plan process, and minor variance process. Through the application of discretionary uses the City can establish the conditions that must be met to permit uses and intensities beyond the base zone.
2. Flexible zoning approaches. The CPPS includes use requirements, but also includes a form-based approach. The CPPS also enables performance zoning by identifying the link to development outcomes.

3. Geographical scope. It is possible for a CPPS to be applied municipal-wide or to a specific area.
4. Five year 'freeze'. After adoption and the appeal period, Council can choose to use a five year 'freeze' where the Community Planning Permit By-law cannot be amended. Appeals would be limited to the subject landowner of a given site.

3.5 Findings from Case Studies

The consultants evaluated six municipalities to analyze how they implemented the four zoning approaches and implemented the goals of their community. Each presents an opportunity for London to learn from.

1. **High River, Alberta** – High River, south of Calgary, developed a new Land Use By-Law following a major flood. Administration realized that the previous By-Law was ineffective in helping rebuild. The simplification and focus on uses in the new By-Law has demonstrated how focusing on key priorities and outcomes can result in positive change. It has resulted in new development in line with the community vision, and has streamlined applications so that the average development permit is processed in two weeks.
2. **Halifax, Nova Scotia** – Halifax is the largest municipality in Canada to use a hybrid by-law. Performance standards, such as Floor Area Ratio (FAR), wind, and shadowing, are used. The integration of form and use coupled with standards and timelines has resulted in increased quality and quantity of development. It has also streamlined and made the process more predictable.
3. **LaSalle, Ontario** – LaSalle adopted form-based zones for two planning districts into their by-law in addition to development standards for streets in the Town. When the form-based framework is applied, it is highly visual with images, and plan and section graphics. The illustrative form-based zones demonstrate the opportunity for shifting qualitative design measures to quantifiable standards in Ontario.
4. **Gananoque, Ontario** – Gananoque approved a Development Permit By-Law (now CPPS) in 2011. The By-Law divides the Town into twelve permit areas with two overlays. Each area includes permitted and discretionary uses with clear standards for different forms. The by-law demonstrates the success of a municipal-wide CPPS with use classifications, discretion, and process clarity and efficiency.
5. **Brampton, Ontario** – Brampton's comprehensive Zoning By-law follows a traditional use-based approach, however, a CPPS has been applied to specific area. The area is distinguished by mature street trees and heritage character. The use of the CPPS for heritage preservation demonstrates how certain development outcomes, such as historic preservation, can be achieved with an alternate tool.
6. **Miami, Florida** – Miami 21 is the first example of a form-based code applied city-wide in a large metropolitan area. The code regulates form matters including building disposition, configuration, function, intensity, as well as the share of uses, standards for landscaping and transitions. While initially complex and unwieldy, online tools and map-based options have made the information more accessible and easier to understand. The successful transition of the complex form-based code to a clear online tool demonstrates the importance of usability.

3.6 Key Findings

Based on the analysis conducted for the discussion paper, there are several key findings that should be contemplated as we move forward with engagement and an approach.

1. **Connect the Foundation to Policy** – While by-laws change over time, the overall approach needs to be directly linked to our policy goals. Regardless of the option selected, the foundation of the by-law will affect development outcomes.

How uses are defined in a bylaw can significantly affect interpretation, the application of other zoning approaches, and the approvals process. Each municipality was different in how they approached uses. The new zoning by-law will implement the Place Types envisioned in the London Plan.

2. **Usability Affects Outcomes** – The integration of the application process in the by-law review can significantly affect development outcomes. It has the ability to increase change in areas where revitalization is desired, or can limit change where preservation is the goal. Whether the by-law itself is designed to be user-friendly or tools are used afterward to increase usability, the transparency and understanding of the by-law by anyone is important. Illustrations and graphics enhance usability.
3. **Consider the Relationship between Legislation and Approach** – The four zoning approaches are not independent of one another, and should instead be contemplated within the provincial legislative framework. Zoning approaches can be used to strategically affect development outcomes and should be applied as appropriate. We should therefore ensure that the four zoning approaches are well understood through our engagement process and that we can connect them to tangible development outcomes.
4. **The CPPS Warrants Further Discussion** – In terms of the two zoning options in Ontario, the CPPS could be an effective tool to implement the London Plan, due to its ability to balance use, form, and intensity. The best example of a municipal-wide CPPS in Ontario is Gananoque. Clear conditions, development permit areas, and use classifications related to a clear decision-making process, is a model to consider for London.

Within the limitations of our legislative requirements, we should consider how a new by-law can reframe the standards and processes to build a successful community.

4.0 Stage One Engagement Strategy

4.1 Engagement and Communications Plan

In addition to the discussion paper, an engagement and communications plan was also prepared by the consulting team. The plan contains descriptions of in-person and online engagement tactics, as well as identification of stakeholders and key messages. It has been used by staff to provide high-level guidance on the detailed engagement program that will be undertaken as part of Phase One.

The first stage of Phase One's engagement is to take place from June to August 2020, and its purpose is to capture perspectives on how we implement our vision for the future. Using the discussion paper, it is meant to engage key stakeholders and the public, continuing the conversation from ReThink London and focusing a conversation on specifics and trade-offs relating to the Zoning By-Law. Themes to be addressed include community identity, building forms, and building and space uses.

Staff have been preparing to launch the engagement program, which had included many online and in-person opportunities. The latter incorporated interviews, data walks workshops, and event pop-ups at festivals such as SunFest, Ribfest, and at Masonville Farmers Markets in order to create place-based active engagement.

The initial online engagement program included online questionnaires, a social media campaign, and communications conducted through the City of London webpage, primary stakeholder emails, social media, local media, and messaging via stakeholder organizations. A plain language and visual summary of the first discussion paper is also to be included.

4.2 Changes in Response to COVID-19

As a result of social distancing measures and event closures in response to COVID-19, staff have put forth additional measures to maintain a consistent preliminary engagement program using primarily online means. Determined through conversations with Communications, the consultant team, and the Steering Committee, these

additional engagement tools can allow us to remain consistent with the project goals and maintain the project schedule, while adapting to our new reality:

- **Get Involved Website** – getinvolved.london.ca is the online engagement platform used by the City of London for a variety of projects, and is powered by Bang the Table. Bang the Table uses eight tools to enable participation in public processes and to help governments make informed decisions based on feedback. The tools can allow users to engage in discussions, upload pictures or respond to surveys, among other things. The Get Involved Website will act as a hub where social media posts are directed to.
- **Social Media** – Broad, engaging content can be posted using our existing handles on Twitter, Facebook, and Instagram to draw the general public to our Get Involved portal. Posts can be visual, plain language and educational, which is key at this stage of the process.
- **Webinars** – This technique allows staff to conduct a virtual ‘town hall’-type meeting, with a format that is conducive to in-depth educational sessions or panel discussions. A ‘questions and answers’ format can be used as well. The use of a moderator can ensure that sessions are timely and focused.
- **Video Conferencing** – Video conferencing technology allows us to hold meetings with stakeholders to discuss the project while in-person meetings are not possible. Staff will utilize software that can facilitate web conferencing without an account, allows for a meeting to be split up into separate sub sessions or breakout rooms, then return the meeting back together for group discussion. Other features can also allow users to share and collaborate on a whiteboard within a meeting. Meetings can be recorded and shared online for those unable to attend.

The techniques above lend themselves well to educating the public and providing a common understanding of the key messages, themes and tools that are addressed in the Discussion Report. The fall engagement will be more technical and staff will evaluate opportunities to conduct more in-person consultation. The above list is not exhaustive, and with guidance from Communications, staff are exploring additional tools such as radio discussions, interviews, and live streaming.

While the ongoing situation has necessitated changes to the engagement strategy, new tools can be used as an opportunity to better connect with the public and maintain the engagement outcomes and goals. The materials disseminated through Bang the Table and the City’s social media platforms will ensure that participants learn about relevant issues in order to make informed responses as more opportunities for in-person engagement become available.

4.3 Integrating the Findings of the Discussion Paper into our Engagement Strategy

The discussion paper provides a baseline for what we know and what trade-offs should be considered in each zoning approach. Its findings help to frame the discussion and provides images that can be used to engage the public. For example, staff can visually show how the two zoning options and four approaches could be used to achieve a specific built form outcome. Existing forms that illustrate what outcomes could be achieved through each approach could also be selected and ranked.

Staff remain committed to working towards improved community consultation, a better understanding of the impacts of zoning within the community, and obtaining input from stakeholders and the public that will inform staff recommendations for the project. This can only be accomplished through ensuring that tools are made available to all stakeholders, and that consistent messaging is used across multiple platforms to tell a story and build an understanding of growth and development impacts.

Adjustments will be made based on new public health recommendations, check-ins with the consultants and Steering Committee, and data produced by Bang the Table. Refinements can then be made to the fall engagement stage as necessary.

5.0 Next Steps

5.1 Phase One

The remaining tasks to be completed in ReThink Zoning Phase One include:

- The preliminary spring stage of engagement. After concluding the engagement, a report will be provided with highlights from the engagement process. It will capture what we did, who we heard from, and what we heard, with a focus on high-level insights.
- Background research and the fall stage of engagement, which involves:
 - Reviewing the existing Zoning By-law No. Z.-1 to identify areas of strength or concern, determine what is working and what needs improvement in the new by-law to achieve the overall goals. This will inform the second discussion paper.
 - Consulting key stakeholders to assess strengths and weaknesses of our current by-law and the desired outcomes of a new by-law
 - A public engagement program to listen to ideas, concerns, and suggestions from Londoners
- Identifying key elements/components/areas to be addressed through the new zoning by-law
- Recommending the best zoning approach to implement the policy directions of The London Plan
- Preparing the Terms of Reference for Phase 2 – the preparation of the by-law, based on the direction provided by Council

4.2 Phase Two

Phase Two is when the new by-law will be prepared, based on the approach confirmed through Phase One. The approach and timing for Phase Two will be clarified in the detailed Terms of Reference to be prepared in Phase One.

Deliverables to be prepared in Phase Two include:

Deliverable	Assignment
• Inventory and analysis of existing development	Deliverables will be prepared collaboratively by a City staff and consultants. Specific assignments to be confirmed through Phase Two Terms of Reference.
• Mapping/zoning data overview and recommendation	
• First Draft By-law	
• Second Draft By-law	
• Results of public and stakeholder feedback	
• Amendments to other City by-laws and documents	
• Final By-law for approval	

The engagement to be undertaken over the coming months and Council's direction on the recommended approach will inform Phase Two, which will then ultimately result in a new zoning by-law for the City of London.

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