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TO:	CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	BLACKFRIARS/PETERSVILLE NEIGHBOURHOOD PLANNING OPTIONS MEETING ON MONDAY, May 7, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, in response to the Council resolution on April 30, 2013 relating to Blackfriars community infill projects, the following actions **BE TAKEN**:

- i. That the Blackfriars/Petersville neighbourhood **BE IDENTIFIED** as the next potential Heritage Conservation District on the list of potential Heritage Conservation Districts as maintained by the London Advisory Committee on Heritage;
- ii. That a Consultant **BE RETAINED** to prepare a study for the Blackfriars/Petersville Neighbourhood, generally bounded by the Canadian Pacific Railway to the north, the Thames River to the east and south and the floodplain boundary to the west, and as shown on Schedule "A" (attached) to determine whether areas within the Blackfriars/Petersville area meet the Official Plan criteria and the *Ontario Heritage Act* criteria with respect to the creation of a heritage conservation district under Section 42 of the Ontario Heritage Act;
- iii. That Staff **BE DIRECTED** to undertake a concurrent study to consider a City initiated Zoning By-law Amendment to rezone the subject area from a Residential R2 zone to a Residential R1 zone; and,
- iv. That **NO ACTION** be taken with respect to an Interim Control by-law.

It being noted that staff will report back regarding possible changes to the staff workplan that may be required to undertake the zoning study identified above.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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1993 – Guideline Document – *Heritage Places: A Description of Potential Heritage Conservation Areas in the City of London*

2003, August 25 – Planning Staff Report – Potential Heritage Conservation District Priority List, Report to Planning Committee, August 25, 2003

Residential Intensification Policies, Report to PEC November 26, 2012

Great Near Campus Neighbourhoods Strategy, Reports to PEC November 10, 2008, September 28, 2009, June 18, 2012 and November 12, 2012.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The initiation of a heritage conservation study for the Blackfriars/Petersville Neighbourhood will result in the identification of a boundary for the proposed Heritage Conservation District, and the development of a Heritage Conservation District Plan and Guidelines. This process will establish the context for development and redevelopment within the area, and identify potential policies to be included in the Official Plan, and changes to the zoning by-law to implement the

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recommendations of the Plan.

The concurrent zoning study to review the appropriateness of the Residential R2 (R2-2) zoning will examine issues of compatible development, appropriate levels of intensification, community character, and matters related to the subject lands being located within a candidate Special Policy Area.

RATIONALE

1. The Staff recommendation will address the concerns of municipal Council and the residents of the area regarding the appropriate form of development and redevelopment within the area.
2. The staff recommendation is consistent with the policies of the Official Plan, specifically Section 13.3.1, Designation of Heritage Conservation Districts.
3. The staff recommendation will provide the opportunity to evaluate the appropriate zoning for the lands, addressing such matters as heritage preservation, intensification, and appropriate levels of development within the candidate Special Policy Area.

BACKGROUND

At its meeting of April 30, 2013, Municipal Council resolved:

15. That, the following actions be taken with respect to the verbal presentation from the Managing Director, Planning and City Planner and the Manager, Development Services & Planning Liaison and the communication, from K. and D. Bice, 2 Leslie Street, relating to Blackfriars community infill projects:

- a) the Civic Administration **BE DIRECTED** to report back at the May 7, 2013 meeting of the Planning and Environment Committee with respect to the implementation of an Interim Control By-law for the area;
- b) the Civic Administration **BE DIRECTED** to report back at a future meeting of the Planning and Environment Committee with respect to the initiation of a City lead rezoning of the subject area from an R2 Zone to an R1 Zone;
- c) the request for a Heritage Conservation District **BE PRIORITIZED** on the list of Heritage Conservation Districts that will incorporate heritage character design guidelines;
- d) a public site plan meeting regarding the site plan application for 108 Wilson Avenue **BE HELD**;
- e) a by-law **BE INTRODUCED** at the May 14, 2013 Municipal Council meeting, to amend By-law No. C.P.-1455-541, a by-law to designate a site plan control area and to delegate Council's power under section 41 of the *Planning Act*, R.S.O. 1990, c.P.13 with respect to an application for site plan approval submitted by Andrew Hines for the property located at 108 Wilson Avenue;
- f) the Civic Administration **BE DIRECTED** to consult with representatives from the Upper Thames River Conservation Authority and the Ministry of Natural Resources;
- g) K. Bice, on behalf of area residents, **BE GRANTED** delegation status when the Civic Administration reports back to the Planning and Environment Committee on this matter;
- h) the Civic Administration **BE DIRECTED** to report back to the Planning and Environment Committee with respect to establishing a requirement for a public site plan process for

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any application where the proposed infill development proposes a change in use and/or structure that is different from what currently exists on the site, regardless of whether or not the use is permitted under the current zoning; and

- i) the Civic Administration **BE DIRECTED** to include in the report noted in a) above, information relating to the recent court decisions regarding “Lodging House” uses. (2013-D04) (AS AMENDED) (15/9/PEC)

This report addresses items a, b, and c of the Council resolution.

1. INTERIM CONTROL BY-LAW

Section 38 of the *Planning Act* allows municipalities to pass an Interim Control By-law to prohibit the use of land or buildings that would otherwise be permitted by the Zoning By-law for a period of one year where Council has directed, by by-law or resolution, that a review or study be undertaken in respect of land use policies in the municipality. The Interim Control By-law may be extended for a subsequent year provided the total period of time does not exceed two years from the date of the passing of the initial by-law.

The purpose of an Interim Control By-law is to provide time for a municipality to undertake a study of the policies relating to a subject matter within the entire municipality or a defined area therein. The Interim Control By-law prevails over the provision of the current Zoning By-law thereby limiting the use of land so as to avoid the continuation or exacerbation of the issues that are the subject of the study, until the results of the study are known and actions to amend policy and/or the Zoning by-law, or restore the status quo have been completed.

Policy 19.9.1 of the Official Plan provides for Interim Control By-laws in the City of London as follows:

Where Council has, by by-law or resolution, directed that a study be undertaken regarding its land use planning policies for the City or any defined area or areas thereof, it may pass an Interim Control By-law prohibiting the use of land, buildings or structures within the area defined by the By-law, except for such uses as are set out in the By-law. An Interim Control By-law shall apply for a limited period of time subject to the provisions of the Planning Act.

Requirements for the Interim Control By-law include Council directing through a by-law or resolution that a study be undertaken, and that the by-law must specify the period of time that it will be in effect, not to exceed one year. In addition, the interim control by-law must specify the area to which the by-law applies.

An Interim Control By-law may be amended to extend its period for an additional year by by-law however, the maximum total length of the by-law cannot exceed two years. If at the end of the effective period for the interim control by-law, policy and/or zoning by-law amendments have not been adopted pursuant to the study that is undertaken, the original zoning returns to effect.

The City Council passed an interim control by-law to prohibit the establishment of new methadone clinics and methadone dispensaries to allow the completion of a land use study of these uses which was described by the Ontario Municipal Board as "established to cover the entire geographic area of the City". There are conflicting decisions of the courts and the Ontario Municipal Board which appear to create uncertainty as to whether an interim control by-law to address residential intensification falls within the meaning of "future interim control by-law" or may be "applied" to the same lands to which the earlier by-law was "applied". Section 38(7) of the *Planning Act* provides that "[w]here an interim control by-law ceases to have effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied." The Committee may wish to receive legal advice from the City Solicitor on this question.

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Passing an Interim Control By-law does not require any prior notice, however, the notice of adoption must be given within thirty days of the passing of the by-law by means of publication in the newspaper or by first class mail to the property owners within 120 metres of the lands to



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which the by-law applies. Anyone who receives notice can appeal within sixty days of the passing of the by-law. Unlike Zoning By-law amendments, the Interim Control By-law is in effect during the period of the appeal.

Advantages

1. An Interim Control By-law will immediately restrict planning approvals within the area of the by-law;
2. Maintain the status quo for the duration of the Interim Control By-law period; and,
3. Allow Staff time to undertake a review of the policies and regulations applied to the area

Disadvantages

1. An Interim Control By-law restricts the zoning rights of property owners in the area;
2. There are concerns regarding the ability of the City to introduce such a by-law; and
3. Would likely attract a legal challenge that would detract from resources available to undertake the study.

Recommendation:

1. An interim control by-law not be introduced at this time.

Staff do not recommend the adoption of an interim control by-law. The issues facing the Blackfriars/Petersville neighbourhood are not unlike the issues that were apparent in the BIGS neighbourhood, nor in other areas of the City within close proximity to Western University and Fanshawe College. The City has responded to these issues through the Great Near-Campus Neighbourhood Strategy, and while this matter is currently before the Ontario Municipal Board, the City has, through this Study, identified both Official Plan and Zoning By-law amendments that are intended to address issues of compatible neighbourhood development and intensification.

If Council wishes to proceed with an Interim Control By-law, a draft by-law has been prepared and is attached to this report. The draft by-law would not fully preclude development and/or redevelopment in the area, but rather, would limit the scale of such changes in order to address the primary concerns regarding the appropriate scale and form of new development. This would provide for regulations that could result in more compatible, at least in terms of scale and massing, development within the area.

2. HERITAGE CONSERVATION DISTRICT

The Blackfriars/Petersville Neighbourhood currently has eight (8) properties designated under Part IV of the *Ontario Heritage Act* and an additional 67 Priority 1 to Priority 3 properties identified as of interest in the 2006 City of London Inventory of Heritage Resources.

Petersville has long been identified as a potential heritage conservation district (HCD). It was identified as a potential HCD in the Guideline Document – *Heritage Places* as #13 of 14 potential areas in the City. Since then, a 15th area, SoHo, has been added. Since the list was created in 1993, 9 of the first 10 priority areas, have been, or soon will be, established with the completion of the Downtown and Wortley Village-Old South HCDs.

The potential districts remaining, in order of their priority, are:

- 1) Talbot North (no interest expressed recently)
- 2) Stanley-Becher/Riverforks (some interest expressed a couple of years ago, but not recently)
- 3) Grosvenor-St. George (interest previously expressed)
- 4) Petersville/Blackfriars
- 5) Pond Mills (no interest expressed)
- 6) SoHo (recommendation arising from the recent community study)

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Heritage Conservation District status requires Council support following a study to determine if the area meets the municipal and provincial criteria for designation under the *Ontario Heritage Act* as a Heritage Conservation District. It also traditionally requires community support as this is seen as a community driven initiative. All of the existing residential areas that have become heritage conservation districts have been in response to requests from the neighbours and residents of the area. Council has responded to these requests by directing that the required studies be undertaken to prepare the Conservation Plans. In the past, Council has also moved a potential area up the priority list to facilitate community goals, such as the Old East Village.

Given the high level of community interest, it would be appropriate to move the Blackfriars/Petersville neighbourhood as the next area to be studied.

Criteria for Heritage Conservation Districts

Section 13.3.1 of the Official Plan states that the following factors will be considered by Council in the evaluation of an area for designation as a Heritage Conservation District:

- *the association of the area with a particular historical event or era that is unique to the community;*
- *the presence of properties which are considered significant to the community as a result of their location and setting;*
- *the presence of properties representing a design or method of construction which is considered architecturally and/or historically significant to the community, region, province or nation;*
- *the presence of properties which collectively represent a certain aspect of the development of the City which is worthy of maintaining; and,*
- *the presence of physical, environmental, or aesthetic elements which, individually, may not constitute grounds for the designation of a Heritage Conservation District, but which collectively are significant to the community.*

Advantages

1. consistent with other established HCD areas;
2. respects a community's history and identity;
3. matters addressed through a heritage conservation district plan include guidelines for compatible development and respect for the identified heritage character of the area.

Disadvantages

1. does not provide total protection of heritage structures; and,
2. requires widespread neighbourhood concurrence and consultation in the development of the Plan

Recommendation:

1. The Blackfriars/Petersville neighbourhood be identified as the next Heritage Conservation District study area.
2. The City retain a consultant to prepare a study for the Blackfriars/Petersville Neighbourhood to determine whether areas within the Blackfriars/Petersville area meet the Official Plan criteria and the *Ontario Heritage Act* criteria with respect to the creation of a heritage conservation district under Section 42 of the Ontario Heritage Act

An option that Council may consider would be the designation of the area as a heritage conservation study area by by-law pursuant to section 40.1(1) of the Ontario Heritage Act for the purposes of undertaking an area study for the purposes of designating a heritage conservation district. If such an action was taken, the by-law could be prepared that would set out limitations or prohibitions with respect to the alteration of property, or the erection, demolition or removal of buildings or structures within the study area.

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It should be noted that the City has not designated a study area or adopted a by-law for the study area for any of the six Heritage Conservation District studies that have been undertaken to date.

3. REZONE THE SUBJECT AREA FROM AN R2 TO AN R1 ZONE

A zoning study to review the appropriateness of rezoning the lands to permit on single family development could result in changes in the zones applied and/or regulations for new development in the area that would address the issues of character and compatibility.

Given the concerns raised by the resident representatives of the Blackfriars/Petersville neighbourhood related to increasing intensity and changing character of the area, an amendment to the Zoning By-law to restrict permitted uses to just one single detached dwelling per lot would be an effective way of addressing these concerns. However, it must be noted that that this course of action represents a removal of permitted uses (i.e. change of zoning). The Zoning By-law currently permits: single detached dwellings; semi-detached dwellings; duplex dwellings; and, converted dwellings (maximum 2 dwelling units). An amendment to the Zoning By-law to permit only single detached dwellings would effectively be removing the latter three uses listed above.

Advantages

1. Result in the reduction of development of higher intensity dwellings given that the Zoning would no longer permit as-of-right intensification;
2. Requirement for future intensification projects to apply for amendments to the Zoning By-law, thereby requiring Council approval and public participation;
3. Individual applications for increased density are decided upon by Council;
4. Potential to restore appreciation to single detached dwellings in the neighbourhoods which are presently being perceived as an underutilization of the site; and,
5. Could be perceived as halting the instability felt in this neighbourhood.

Disadvantages

1. This would result in multiple legal non-conforming land uses. Any legally constructed two-units dwelling would be permitted to remain. The general approach to uses that do not conform to the zoning by-law is to encourage their transition to, or replacement by, conforming uses. However, it is not anticipated that the existing two-units dwellings will transition to single detached dwellings in the short term and will therefore continue to remain;
2. The *Planning Act* and Official Plan provide for the extension or enlargement of legal non-conforming land uses using criteria that to evaluate a proposed enlargement that includes compatibility. These are considered by the Committee of Adjustment, and not Council. This removes Council from any decision making ability pertaining to extensions and enlargements;
3. This could preclude appropriate intensification opportunities within this central London neighbourhood; and,
4. Staff resources would likely need to be re-allocated from other projects currently underway to prepare these amendments.

Recommendation:

Staff undertake a study to consider a City initiated Zoning By-law Amendment to rezone the subject area from a Residential R2 zone to a Residential R1 zone. This study could also be expanded to also look at other regulations and options other than just rezoning the lands from a Residential R2 zone to a Residential R1 zone. For example, regulations could be reviewed to add zoning regulations that would apply maximum floor areas, minimum rear yard depths, maximum number of bedrooms and alternative parking standards to complement the existing floor area ratio regulation. This direction would also be consistent with the regulations applied in other Near-Campus Neighbourhoods such as North London/Broughdale. This would permit the area to intensify, but at a scale more in keeping with the character of the existing neighbourhood.

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CONCLUSION

As a result of the request from the resident representatives from the Blackfriars/Peterville Neighbourhood, Municipal Council directed that staff report back on various options to address the neighbourhood concerns regarding recent intensification projects. This report provides options for Council's consideration.

PREPARED BY:	SUBMITTED BY:
W.J. CHARLES PARKER SENIOR PLANNER, PLANNING POLICY AND PROGRAMS	GREGG BARRETT, AICP MANAGER – PLANNING POLICY AND PROGRAMS
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

May 6, 2013

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APPENDIX "A"