



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: JUNE 12, 2017

FROM: Building Services Department, Municipal Enforcement Department,
and Development Engineering Department

DATE: June 12, 2017

SUBJECT: Infill Development - By-law 2017-007 and By-law 2017-008

LOCATION: Town wide

WARD: Town wide

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RECOMMENDATION:

1. That information presented in the June 12, 2017 report from the Municipal Enforcement, Building Services and Development Engineering departments on negative impacts from infill housing be received;
2. That a new fee for a contractor's vehicle temporary parking permit listed in Appendix A to the report from the Municipal Enforcement, Building Services and Development Engineering departments, dated June 12, 2017, be approved, effective immediately, and such fees be included in the 2017 Rates and Fees schedules;
3. That a new fee for second and subsequent lot maintenance orders listed in Appendix B to the report from the Municipal Enforcement, Building Services and Development Engineering departments dated June 12, 2017, be approved, effective immediately, and such fees be included in the 2017 Rates and Fees schedules;
4. That By-law 2017-007, being a by-law to regulate the accumulation of refuse and debris on land, the use of land for wrecking, salvaging motor vehicles and prohibit the placement of graffiti on property be approved; and
5. That By-law 2017-008, being a by-law to prescribe standards for the maintenance and occupancy of property, be approved.

KEY FACTS:

The following are key points for consideration with respect to this report:

- There is currently no comprehensive strategy to deal with infill housing concerns
- Council requested that staff report on options to minimize negative impacts of infill construction activity in established neighborhoods
- An analysis of issues resulting from infill construction was conducted by municipal enforcement, building services and development engineering staff.
- It was determined that the majority of infill construction sites do not generate significant issues
- Where infill construction issues were identified, the majority can be addressed through existing regulations
- This report provides options to improve the town's response to issues related to infill construction activity; specifically:
 - Enhanced training of enforcement/inspection staff
 - Improved communications
 - Notice of approved building/site alteration permits
 - Development of a Good Neighbor's Guide
 - Establishment of Builder's Liaison Group
 - Development of new by-laws and procedures
 - Property standards
 - Lot maintenance
 - Implementation of scoped Site Plan approval
 - Implementation of contractor parking permits

BACKGROUND:

At its August 22, 2016 meeting, Town Council passed the followed resolution:
"That staff report back with options available to help avoid the negative impact of construction activity in Oakville neighbourhoods."

The main focus of concern being properties within our existing neighbourhoods that (re)develop and in doing so transition through the phases of vacant home, demolition and finally new construction. It is through these phases that the Town receives complaints regarding the care and management at the property and its associated construction activities.

Staff have since reviewed commonly reported issues resulting from residential infill construction sites and considered possible measures to mitigate the issues.

From: Building Services Department, Municipal Enforcement Department, and Development Engineering Department
Date: June 12, 2017
Subject: Infill Development - By-law 2017-007 and By-law 2017-008

Over the past five years, an annual average of 142 permits for infill homes have been issued – this number does not include permits for additions or minor alterations.

During construction, those typically impacted are adjacent property owners. Although the majority of infill sites do not generate problems, in some cases, multiple concerns have been raised by residents about a single site, resulting in the involvement of multiple town departments. Providing an efficient and effective response to these types of concerns are challenging, as it appears most issues could be avoided through proper site management, which resides with the on-site contractor. In most cases, the Town's role becomes one of mediator between abutting land owners reminding each, what can and cannot transpire on and around the lands being (re)developed. While enforcing deviations from the approved plan (the what) is relatively simple; enforcing the activities associated (the how) with achieving the plan tends to be the most challenging. These tend to be activities that the Town does not permit (noise, dust, parking, trespass, damage to adjoining lands, etc.) but become involved in resolving. Good builders manage their sites in compliance with our by-law requirements and with little interference to neighboring property owners.

A number of departments were consulted in an effort to understand the range of issues and examine options for improvement. These departments include building services, municipal enforcement, development engineering, IS&S, *ServiceOakville*, parks and open space, legal and communications. Staff also sought input from each of the Ward Councillors who tend to receive these types of inquiries/concerns from residents.

COMMENT/OPTIONS:

Construction in an established neighbourhood brings unique challenges. Residents often notice new homes closer to the property line, temporary neighbourhood disruption from equipment and workers, and changes to the streetscape.

To control and mitigate potential issues, town staff rely on either provincial regulations and/or applicable municipal by-laws. Worker safety is the responsibility of the site owner who must comply with Ministry of Labour regulations.

The table below lists the common issues, applicable regulations and responsible departments.

PLANNING AND DEVELOPMENT COUNCIL MEETING

From: Building Services Department, Municipal Enforcement Department, and Development Engineering Department

Date: June 12, 2017

Subject: Infill Development - By-law 2017-007 and By-law 2017-008

| Responsible Department/Ministry/Body | Issue | Regulation |
|---|--|---|
| Municipal Enforcement | • Noise | Noise By-law |
| | • Dust | Nuisance By-law |
| | • Parking | Traffic By-law |
| | • Idling Vehicles | Idling By-law |
| | • Ponding Water • Vermin, Lighting | Property Standards By-law |
| Development Services | • Tree Protection (now resides with Parks and Open Space) | Tree By-law |
| | • Mud Tracking • Street/Sidewalk Damage • Building Material on Town Land | Municipal Right of Way By-law |
| | • Drainage/Grading | Approved Plans/Site Alteration By-law |
| Building Services | • Excavation | <i>Ontario Building Code</i> |
| | • Location and Size of New Build | Zoning By-law |
| Ministry of Labour | • Worker Safety | <i>Occupational Health and Safety Act</i> |
| Property Owners | • Damage and or Trespassing on Adjacent Property | Civil Issue |

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Staff typically respond to issues on a reactive basis. Ensuring that staff are available to respond expeditiously to concerns can present a challenge as some issues transpire in the early morning/evening hours and/or on weekends.

The following proposed strategies build on existing successful processes and introduces new measures to address resident concerns.

Creating Synergies

Increased construction activity in established neighborhoods can create negative impacts if/when work sites are improperly managed. The five-year annual average for infill housing permits is 142 with a high in 2016 of 200 infill permit applications.

Contractors working in established neighbourhoods are subject to multiple regulations and by-laws, administered by the municipal enforcement, building services, development engineering and parks and open space departments. Educating builders and enforcement/inspection staff from the supporting departments on provincial regulations and town by-laws, which govern infill construction, could help mitigate or avoid negative impacts on residents.

Staff are proposing that if an issue is identified by an inspector, the inspector (regardless of department responsibility) can issue an immediate verbal warning. This information will be shared with the responsible department, who will proactively follow-up on the issue. It is anticipated that a verbal warning will achieve compliance in many cases.

Identifying issues in a timely manner and coordinating with other departments will increase the effectiveness of enforcement and minimize the impact of residential infill construction. Early detection and contractor awareness of increased monitoring should also result in fewer reoccurring issues.

Sources of Information Available to the Public and to Contractors

Notification of Approved Works in the Area

Staff will develop a communication notice to be mailed to adjacent property owners at time of building/site alteration permit issuance. The notification will inform residents of approved works in their area and direct them to the Good Neighbour's Guide and *ServiceOakville* for additional information. This action is similar to that of the recent requirement under the Private Tree By-law, requiring applicants to post their notice of approved tree removal permit. The intent here is to inform neighboring property owners that works on the subject lands have been reviewed and a permit issued for works to proceed. Many inquires received by the Town simply seek to confirm that the property owner has received the necessary approvals for the work.

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Good Neighbour's Guide

Currently, all responsible departments have websites that provide general information regarding infill construction activity. In an effort to provide a single source of information, staff have initiated the development of a Good Neighbour's Guide to provide answers to frequently asked questions related to infill construction, such as:

- The adjoining builder wants to cross over my lands, what do I do?
- The adjoining builder damaged my private property, how can this get resolved?
- What hours can the builder work?
- The trades are parking on the street, is this allowed?

This information (along with information about the permits issued for the property) will be made available on the town's website and to *ServiceOakville*.

Over the last year, map layers on the town's website have been enhanced. Previously, residents were only able to confirm if a building permit had been issued, now the map layers include Committee of Adjustment applications and permits issued by development engineering. The development engineering map layer identifies permits issued for site alteration, road cuts and temporary street occupancy. All of these map layers will be linked to the Good Neighbour's guide.

Process Changes

Property Standards By-law

Staff have reviewed current regulations to identify gaps and improve processes. Municipal enforcement is proposing a new updated property standards by-law, which updates the regulations to more closely reflect the Ontario Association of Property Standards Officers model by-law, removes nuisance property issues for more effective enforcement in a lot maintenance by-law and clarifies regulations for easier enforcement and resident understanding. Significant changes are highlighted in Appendix E. Most specifically, the new by-law adds the requirement for construction fencing in section 5.5. This change will result in a more consistent application of construction fencing regulations throughout town and is scoped to include all construction sites except those where work is contained within a building and those sites exempted by the Chief Building Official. Construction fencing addresses resident safety issue and helps to mitigate issues related to debris and unsightliness of construction sites.

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| Construction Fence Key Information Property Standards By-law 2017-007 |
|--|
| <ul style="list-style-type: none"> • Chief Building Official can grant exemption |
| <ul style="list-style-type: none"> • Must be structurally secure / neat |
| <ul style="list-style-type: none"> • Free from posters, signs advertising material – except as permitted by sign by-law |
| <ul style="list-style-type: none"> • Free from graffiti |
| <ul style="list-style-type: none"> • Must fully enclose site |
| <ul style="list-style-type: none"> • Built to deter entry by unauthorized persons or vehicles |
| <ul style="list-style-type: none"> • Height of not less than 1.8 metres above outside grade |
| <ul style="list-style-type: none"> • Material can include wood, plastic mesh, chain link, hoarding |

Lot Maintenance By-law

A new lot maintenance by-law is also being proposed. The by-law will expedite enforcement related to nuisance property issues – long grass, debris in yards and unlicensed motor vehicles. While the property standards by-law’s authority comes from the *Building Code Act*, the lot maintenance by-law will be empowered by the *Municipal Act*. This will allow staff to reduce compliance timeframes associated with property standards orders from a legislated 19 days, to a timeframe deemed reasonable by an investigating officer. Practically, this means an officer will be able to issue an order to cut long grass with a compliance period of five days or less, resulting in a quick more timely response to neighborhood concerns.

It is also proposed that properties that continue to be owned by the same owner and receive second and subsequent lot maintenance orders, be charged a \$100 administration fee. This fee will recover costs associated with the enforcement of ongoing nuisance violations and provide incentive to owners to reduce the number of repeat violations. The fee has been developed with the assistance of the finance department and is based on recovering costs related to enforcement, corporate administration and mileage. Should Council approve the recommendation to implement this fee, municipal enforcement staff will draft a procedure for approval by the policy review committee and ensure the information is included on the town website.

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In addition, the lot maintenance by-law also requires property owners to maintain compliance with conditions of site plan. This new enforcement authority will allow officers to issue orders and require compliance when properties are found to have altered conditions of approved site plans.

Scoped Site Plan Approval

Up until now, residential (re)developments (knock down and rebuild) were subject to a Building Permit and a Site Alteration Permit, which included the issuance of Private Tree Permits where applicable. The definition of 'development' under section 41 of the Planning Act and the town's Site Plan by-law allows residential properties to be subject to a 'scoped site plan review; specifically section 41 (7) (a) 6, 8, and 9, (b) and (c) of the *Planning Act*, being:

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.

8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land.

9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;

(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) or (d) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4);

Staff are of the opinion that the scoped site plan approval process would allow for the imposition of conditions pertaining to the undertaking of drainage examinations (e.g. groundwater level), the securing of drainage easements, where deemed appropriate, and the execution of development agreements which may be registered on title to ensure these matters are achieved and maintained on the lands unless subsequent permissions are granted by the Town for their alteration. Additionally the

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updated Urban Forest Strategic Management Plan (expected later this fall) is expected to provide evidenced based recommendations for the application of canopy targets that can be conditioned through this approval process. Appendix D contains a draft Short Form Site Plan Agreement that will be formalized with input from our Legal department and subsequently registered on title for Site Plan approvals granted by the directors of Planning and/or Development Engineering. This new scoped Site Plan approval process (and the application of Short Form Site Plan agreements for delegated approvals by Planning and Development Engineering) is intended to be operationalized by the end of June 2017. Builders and developers have been informed of this proposed change and are anticipating its implementation this June as well.

Contractor Parking

There is also an opportunity to better control and manage contractors' vehicle parking for infill developments through a temporary parking permit process. The process would require workers to obtain a parking permit for their passenger vehicles if they park on the road near their work location. Any permits issued would consider the location, available parking, safety, access, emergency response, municipal services and impact on area residences and businesses.

Municipal enforcement services manages and controls short term parking requirements of passenger vehicles throughout the town through the temporary on street parking procedure. With a maximum permit period of 15 days per vehicle per year, the procedure is primarily used for residents when their parking needs temporarily exceed their parking supply (e.g. overnight visitors). A copy of the Temporary On-Street Parking Procedure MS-REG-001-002 is attached as Appendix C. Should Council approve the recommendations in this report, municipal enforcement staff will work with the policy review committee to update the procedure to add the following wording "permit temporary parking permits for contractor vehicle parking for infill development" and ensure the changes are reflected on the town website.

The contractors' vehicle temporary parking permits would allow passenger vehicles to park on the public roadway for longer than 3 hours; all other parking regulations, including vehicles parked longer than three hours without a permit, would be enforced. The permits would only provide for parking between 7 a.m. and 7 p.m. Monday to Saturday, in line with permitted construction hours. This will provide the developer with a known amount of parking in the area, and may eliminate vehicle operators from moving their cars every few hours to avoid getting a ticket. If the developer requires more parking than the town can accommodate, they will be responsible for finding alternate parking arrangements. Vehicles not displaying a parking permit will be subject to ticketing if they exceed three hours. For infill

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developments requiring site plan approval, the developer is responsible for a construction management plan, which includes parking accommodations.

While the new contractors' vehicle temporary parking permit would allow contractor passenger vehicles to park on the public roadway, it would not allow contractors to work from their vehicles parked on the roadway. Any commercial vehicle parking requirements will continue to be controlled and managed through the Temporary Street Occupation By-law.

Staff are recommending that the fee for the contractors' vehicle temporary parking permit be established at \$10 per day or \$50 per month, including HST. This fee would be used to offset the cost of review, temporary signage changes (if needed) and permit administration. As well, increased patrol and enforcement would be required to ensure compliance with any issued permits.

Building Code, Zoning and Site Alteration Reviews

Prior to building permit issuance, plans are reviewed for compliance with the *Ontario Building Code*, town's zoning by-law and the site alteration by-law. These reviews ensure that the proposed (re)development conforms to zoning bylaw, building code and town's grading/drainage requirements.

After the permit is issued, the builder is required to provide an "as built" survey shortly after the foundation is backfilled. Staff review the survey to confirm the location of the house and that the top of foundation matches reviewed drawings. The "as built" survey is also used to establish that the site is continuing to conform to the approved grading/drainage plan. This existing process mitigates the potential of a structure that is not built in accordance with the approved drawings.

Builder Liaison

The proposed strategies that have been listed build on existing established processes. To encourage good construction practices staff have established a Builder Liaison Group that will meet on a regular basis. The forum will provide an opportunity for staff to share information with infill builders and seek their feedback on measures aimed at improving the process and activities around residential infill construction sites. The town is looking for the builder to play a significant role in how infill development activities are better managed and controlled for the benefit of all.

Next Steps

Staff over the next several month's staff will continue to develop and refine the processes that can mitigate the issues arising from infill construction.

From: Building Services Department, Municipal Enforcement Department, and Development Engineering Department

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| Second Quarter 2017 | Third Quarter 2017 | Fourth Quarter 2017 |
|---|---|--|
| Develop notification letter to property owners adjacent to building sites | Implement notification letter to property owners adjacent to building sites | Enhanced inspection/enforcement provided |
| Develop Good Neighbor's Guide | Implement Good Neighbour's Guide | |
| Update property standards by-law | Train inspection/enforcement staff on town by-laws and processes | |
| New Lot Maintenance By-law | Initiate contractor parking permit process | |
| Establish Builder Liaison Group | | |
| Implement Scope Site Plan Approval Process | | |

Conclusion

Construction can be disruptive and create noise, dust, and other challenges for nearby residents. By educating those involved in the construction about their responsibilities and implementing new by-laws and processes to improve on the application of existing regulations; disruptions and impacts to existing residents can be minimized.

As a result of this residential infill construction review, measures have been identified and will be implemented that over time will mitigate negative impacts in Oakville neighbourhoods.

CONSIDERATIONS:

(A) PUBLIC

An inaugural builder liaison meeting was held on May 19, 2017. During that meeting, by-laws, regulations and processes contained in this report were discussed with building industry representatives. Notice of the proposed passing of the lot maintenance and property standards by-laws was advertised in the Oakville Beaver on June 1st and 8th and included on the town's website at www.oakville.ca.

(B) FINANCIAL

Finance staff have analyzed the lot maintenance fees proposed in this report for second and subsequent lot maintenance orders, to ensure they are cost recovery.

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Contractor vehicle parking permit costs are consistent with other similar parking permit fees. Impacts will be monitored and incorporated into the parking operations activities for 2017 and included in future budget submissions. Any significant impacts will be reported through periodic variance reports to council.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Staff from the municipal enforcement, building services, development engineering and parks and open space departments are able to incorporate new changes as outlined within their current staffing complement.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- continuously improve our programs and services
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be fiscally sustainable

(E) COMMUNITY SUSTAINABILITY

Implementation of new by-laws, regulations and practices to address resident concerns with infill housing addresses the social pillar of sustainability.

APPENDICES:

Appendix A – Contractor Parking Fee

Appendix B – Second and Subsequent Lot Maintenance Order Fee

Appendix C – Temporary On-Street Parking Procedure MS-REG-001-002

Appendix D – Draft Short Form Site Pan Agreement

Appendix E – Significant Property Standards By-law Changes

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