

REPORT

SPECIAL PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: FEBRUARY 25, 2014

FROM: Planning Services Department

PD-022-14

DATE: February 11, 2014

SUBJECT: Recommendation Report, Town of Oakville Comprehensive Zoning By-law 2014-014 (inZone Project) (File No. 42.25)

LOCATION: Livable Oakville Plan area

WARD: Town wide

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RECOMMENDATION:

1. That pursuant to subsection 34(17) of the *Planning Act*, no further notice is determined to be necessary for the changes made to proposed By-law 2014-014;
2. That the Town of Oakville Comprehensive Zoning By-law 2014-014 be passed;
3. That Council authorize the Director of Building Services to waive minor variance application fees where a second application is necessary to obtain the same relief under both Zoning By-law 1984-63 and Zoning By-law 2014-014;
4. That the work of the inZone Subcommittee be deemed complete and that the subcommittee be sunsetted; and
5. That By-law 2014-030, a by-law to clarify zoning references in other by-laws as a result of the 2014 Zoning By-law, be passed.

KEY FACTS:

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

- The development of a new comprehensive zoning by-law for the Town is a major project under Vision 2057 required for the implementation of the Livable Oakville Plan.
- The final draft (numbered v3.1) of the 2014 Zoning By-law was developed through continued review and analysis, as well continued technical advisory group consultation, inZone subcommittee input, and input from the public engagement process.

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- A number of revisions have been proposed in this updated draft. Comment on these changes is detailed in this report.
- A corresponding inZone Conformity and Housekeeping Official Plan Amendment has also been prepared and is being presented to Council under a separate report.
- Work will begin on a number of implementation tasks following passage of the 2014 Zoning By-law.
- By-law 2014-030 is recommended for passage to freeze the interpretation of other Town by-laws which include references to zones in Zoning By-law 1984-63.
- Minor additions, revisions, and edits are likely to be identified after publication of this report. A detailed summary of any minor revisions will be prepared and distributed to Council and circulated to the inZone project mailing list (by email) at or before the meeting of February 25, 2014.
- Copies of the final draft (v3.1) of the 2014 Zoning By-law and previous work can be found on the [inZone project webpage](#) (visit www.oakville.ca and search for “inZone” in the search tool in the top right corner).

BACKGROUND:

On October 11, 2011, Planning and Development Council received report PD-073-11, dated September 26, 2011 and titled, “Zoning By-law Review: Terms of Reference.” It set out all of the tasks to be undertaken in preparing a new Comprehensive Zoning By-law for the Town. Council directed that work begin on the “inZone project” and established the inZone subcommittee to provide feedback on the analytical and research components of phase two of this project.

The inZone project is a key action item in the Town’s Strategic Work Plan, and further housed under the “Create it!” banner of the Vision 2057 group of studies. The new By-law will replace the existing Zoning By-law 1984-63, as amended, and implement the Livable Oakville Plan goals, vision, and policies for how, what, and where uses are permitted and buildings can be constructed in Oakville.

1. *inZone Project Principles*

The project terms of reference established two tiers of principles to frame the research and analysis undertaken. These principles are grounded in planning law, good planning practices, and established Town policy.

First and foremost, the 2014 Zoning By-law needs to implement and conform to the Livable Oakville Plan. It is the primary source of policy direction for growth and development. No zoning permission can be more permissive than the Livable Oakville Plan. The overall framework of the final draft (v3.1) conforms to the Livable

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Oakville Plan in terms of its structure and permissions, achieved through a variety of means and degrees of control.

Seven additional principles have guided the inZone project:

Table 1: inZone Project Principles

Part	Description
1. Establish a design-first philosophy	Detailed modelling exercises have been undertaken as the basis for many new building envelope standards, completed alongside the Livable by Design (Urban Design Manual) project work. Expanded building envelopes are proposed in non-residential areas to create more alternatives for building placement on lots, with more detailed design objectives to be obtained through Site Plan Approval. Additional controls such as maximum yards and adjusted lot coverage and new residential floor area calculations are also proposed to support design-based objectives.
2. Ensure new development is context-sensitive	Changes in regulations to potential building envelope size in the proposed -0 Suffix Zones (the current R0 Zones) to better reflect the existing neighbourhood character in these areas. The proposed new Mixed Use Zones for the Town's growth areas provide for planned intensification and include various regulations to transition land uses such and built form. Setbacks and floor area limitations on certain employment uses adjacent to sensitive land uses are also provided in the regulations.
3. Minimize the effects of physical change on the social, economic and natural environment	Strengthened regulations to both mitigate and minimize impacts of development have also been updated. As an example, landscaping requirements are proposed to mitigate against the impacts of parking and provide areas for tree planting to help meet canopy coverage targets. A number of natural areas designated in the Livable Oakville Plan are proposed to have protective zoning. The regulations are provided using an evidence-based approach.

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Part	Description
4. Consolidate and streamline content	Fewer zones and rewritten regulations have helped shorten the length of the document by almost half. Special Provisions are shorter and contain consistent language. New tables and illustrations are provided to assist a much broader audience with reading the document. Duplicate or inconsistent regulations (i.e. provisions governing legal non-conformity) have also been harmonized using consistent terminology. Shorter text should not be interpreted to necessarily mean less regulation, but actually more effective regulation.
5. Recognize existing permissions wherever possible	The proposed use permissions, zone standards, and Special Provisions have been drafted with reference to existing permissions and approvals. However, all permissions need to conform to the Livable Oakville Plan, which means some existing permissions are proposed to be deleted (i.e. retail and select service commercial uses currently permitted as-of-right in employment zones).
6. Use existing recommendations wherever possible	Regulations from recent work on a number of projects (including lodging house and boarding house study, the Automobile Related Uses Review, power generation facilities study, drive-through facilities study) are retained, with technical refinements to ensure consistency.
7. Confirm by reviewing best practices	Each technical paper prepared incorporated a best practices review, while in some other areas the draft regulation reflects a new best practice for zoning in Ontario.

2. Consultation Undertaken

Public consultation throughout the inZone project has been extensive. A summary of the consultation is provided in the public consideration section of this report. Since the release of the second draft (v2.0) of the 2014 Zoning By-law, two additional open houses were held. These were used to gather input from interested stakeholders in advance of the statutory public meeting. Open houses were held at the following locations and times:

1. Queen Elizabeth Park Community and Cultural Centre; 2302 Bridge Road; Wednesday, October 16; 2 to 4 p.m. and 7 to 9 p.m.; and,
2. Town Hall, Oakville/Trafalgar Rooms; 1225 Trafalgar Road; Thursday, October 17; 2 to 4 p.m. and 7 to 9 p.m.

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Together, the open houses attracted 58 people. Questions were mostly site-specific or about the intent and interpretation of several draft regulations.

A number of meetings were held with individual citizens or stakeholders with specific issues respecting the second draft (v2.0). Twenty-eight such one-on-one meetings have been held since the statutory public meeting on November 4, 2013. The content of these meetings oriented mainly around site-specific concerns relating to the 2014 Zoning By-law, with related feedback to other ongoing projects including Livable by Design (Urban Design Manual) and the inZone Conformity and Housekeeping Official Plan Amendment.

Written and telephone submissions for the inZone project have also increased since September 2013. In total, 165 written submissions (included as part of over 300 estimated individual conversations) have been received as of September 13, 2013.

“All About Zoning” presentations have been given to eight additional groups since September 2013, with one additional workshop pending. In total, 30 presentations have been given and have been attended by over 520 individuals. The online “All About Zoning” presentation has been viewed by an additional 104 individuals since going live in March 2013.

The inZone subcommittee has met 9 times over the life of the inZone project. Questions were asked by subcommittee members regarding issues presented at the applicable meetings.

A summary of community workshops and meetings facilitated is attached as Appendix A to this report. A summary log of correspondence received since April 2013 is attached as Appendix B. Copies of written correspondence received and sent since the first distribution of information to Council on September are also attached as Appendix C to this report.

COMMENT/OPTIONS:

Based on further review, a number of edits are proposed in the final draft (v3.1) of the 2014 Zoning By-law. Many changes are strictly editorial in nature or have been requested to clarify the intent or applicability of a regulation or correcting typographical errors. Others are updated recommendations based upon the continued review of issues. A detailed table explaining all proposed changes is attached as Appendix D to this report.

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1. General Areas of Change in the Final Draft (v3.1)

While the majority of the 165 submissions received are of a site-specific nature – commenting on proposed permissions or regulations as they apply to a specific property – three particular sections of the By-law have been the subject of general comment.

1.8 Transition Clauses

The proposed transition clauses can be found in Section 1.8 of the final draft (v3.1). The intent of the transition clauses is to allow the construction of buildings having obtained planning approvals in accordance with the current Zoning By-law 1984-63, as amended, since the effective date of the Livable Oakville Plan. Any transition also needs to be limited in scope in order to ensure that zoning conformity with the goals, vision, and policies of the Livable Oakville Plan in a timely and reasonable period

A transition protocol is appropriate to recognize and transition recent planning approvals obtained in accordance with the zoning in effect at the time of the decision. The clauses are proposed to be updated so that the clause speaks to approval dates, rather than when decisions become “final or binding” and to include an additional scenario accommodating minor variances required as a condition of a site plan approval within the transition protocol.

While the proposed transition clauses have been restructured and edited in a number of areas, the recommendation generally remains the same as in the second draft (v2.0). Two categories of recent planning approvals are proposed to be “transitioned” into the 2014 Zoning By-law:

1. Recently approved applications for a consent, minor variance, or site plan (conditional or final) finalized on or after May 10, 2011 (the effective date of the Livable Oakville Plan) and before the date the 2014 Zoning By-law is passed by Council; and,
2. Recently filed applications for a building permit received on or before the date the 2014 Zoning By-law is passed.

In both situations, the rules and regulations of Zoning By-law 1984-63 shall apply when evaluating building permit applications. The clauses proposed will provide direction to Building Services that a building permit may be issued for an application received by the Town fitting either of these two scenarios. A building permit can only be obtained for applications that comply with the zoning in effect.

Minor variance applications are not proposed to be recognized through a transition clause. A limited number of variances are proposed to be recognized in Special

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Provisions (typically where existing Special Provisions already apply) but otherwise such uses, buildings, and structures will become legal non-conforming once the new By-law comes into effect.

There have also been concerns over how lots, buildings, and uses that would become legal non-conforming would be treated under the 2014 Zoning By-law. Section 4.12 of the final draft (v3.1) allows individuals with a legal non-conforming lot (including some landscaping deficiencies), building, or structure to obtain a building permit under the 2014 Zoning By-law, “provided that the enlargement, repair, or renovation:

1. Does not further increase the extent or degree of non-conformity; and,
2. Complies with all other applicable provisions of this By-law.”

The draft regulation as proposed provides some flexibility to landowners in these situations. Should a landowner seek to increase the extent of non-conformity, an avenue to consider that increase is available through the Committee of Adjustment under subsection 45(2) of the *Planning Act*.

6.4 -0 Suffix Zone, Lot Coverage and the Proposed Residential Floor Area Ratio

Section 6.4 of the final draft (v3.1) deals with a suffix zone applying modified lot coverage and residential floor area maximums where the current R0 Zones apply. The proposed reductions in lot coverage maximums contained in the second draft (v2.0) were restrictive on larger lots and more permissive on smaller lots. Through discussions with and comments made by stakeholders, there was a desire to preserve the current approach for flexibility in design through an as-of-right zoning permission.

Approaches taken in other municipalities on the same issue as well as current market conditions for building were reviewed. A two-regulation framework – building envelope restrictions, plus a volume-based metric – remains a popular method of regulating the building of replacement dwellings in established residential areas. Mississauga has passed two zoning by-law amendments in recent years using this approach. Burlington also maintains a number of standards based on building heights. There is also considerable familiarity and understanding in broad terms of the floor area/lot ratio framework in place since 1989.

A revised massing regulation framework was prepared and included as Sections 6.4.1 and 6.4.2 of the final draft (v3.1) of the 2014 Zoning By-law. The framework contains three key elements. The revisions address and maintain the policies of Section 11.1.9 of the Livable Oakville Plan to ensure infill and replacement housing maintains and protects the existing neighbourhood character of the applicable neighbourhood.

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Landowners seeking additional permissions beyond those provided in the proposed Zoning By-law 2014-014 continue to have the opportunity to seek relief through the Committee of Adjustment. Recommendations to the Committee of Adjustment continue to be guided by Section 11.1.9 of the Livable Oakville Plan and Council's endorsed Design Guidelines for Stable Residential Neighbourhoods.

10.2 Employment Zone Use Permissions

Zoning By-law 1984-63, as amended by By-law 2001-007, contains three employment zones with similar use permissions applied in each:

- The base set of permissions (Light Employment E1) permit a number of generally "lighter" industrial uses, office, service commercial uses, vehicle dealerships and repair, and places of worship. These permissions are repeated in all three employment zones.
- One zone additionally permits a number of generally "heavier" industrial uses involving outside storage, intensive trucking, and waste processing and transfer (General Employment E2).
- The other zone permits commercial schools, private schools, service establishments - commercial, and limited retail (Transition Employment T1).

The Livable Oakville Plan provides four designations with a range of permitted uses and development policies, with clear distinctions between each. Restrictions on use permissions are applied in policy to protect land supply for their intended purposes and function in appropriate locations. Accordingly, a new zoning framework is recommended to replace the 13-year-old employment zoning with a new framework implementing updated Provincial policy (Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe), Halton Region Official Plan, and the nearly five-year-old Livable Oakville Plan (Official Plan).

The proposed employment zone framework includes four zones each implementing the policies of one corresponding designation in the Livable Oakville Plan. Therefore, a number of current use permissions are recommended to be deleted. Also, a number of other properties gain new use permissions, with a new set of zone regulations and parking requirements to facilitate the establishment of new uses in appropriate locations.

Generally speaking, the submissions have all focused on providing additional use permissions in three of the four proposed Employment Zones. Permitting any of the uses requested by commenters broadly and as-of-right cannot be recommended without prior consideration of all issues and impacts associated with the establishment of new uses. These impacts are broad and varied, and require the assessment of the planned function of employment areas in relation to future

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demand and supply. During the Livable Oakville process, employment lands were similarly reviewed through a year-long study focused solely on the issue.

Until the completion of this study, additional use permissions are recommended based on the location of current legal existing uses and existing zoning limitations on the scale of service commercial uses. In the proposed Office Employment E1 Zone, manufacturing (renamed from “industrial use”), repair shop, warehousing, and food production, accessory retail store and showroom, and sports facility are proposed to be permitted subject to specific size and location criteria. Contractors establishment and food bank are additionally proposed to be permitted. All retail and service commercial uses in the proposed Office Employment E1 Zone remain proposed to only be permitted within the same building as other uses, with the footnote revised to recognize the potential range of permitted uses on lots in this zone.

In the proposed Business Employment E2 Zone, the following additional uses are proposed to be permitted and subject to the following criteria:

- Service commercial establishments limited to restaurants, financial institutions, private schools, and drive-through facilities, with limitations proposed on location and size limitations to protect the planned function of these sites for business and employment uses
- The maximum net floor area of 1,000 square metres (10,760 square feet) limitation for sports facilities on any lot within 100.0 metres of a residential zone is proposed to be added. This limitation matches the current framework in Zoning By-law 1984-63, as amended.
- Day cares are proposed to be deleted as a permitted use. As a sensitive land use, the establishment of new uses should be reviewed through a zoning by-law amendment to evaluate all impacts. Legal existing uses are proposed to be recognized through new Special Provisions.

In the proposed Business Commercial E4 Zone, permitting places of worship as an additional permitted use, subject to a maximum net floor area of 50% of the total net floor area on the lot, is recommended. Places of worship can be considered in the Office Employment E1 and Business Employment E2 Zones through the approval of a zoning by-law amendment.

2. Outstanding Council Items

There are currently three items in Section 4.6 of Council’s Outstanding Issues List that have been addressed by the inZone project. Each of these areas has been addressed through the inZone project, with detailed comments and recommendations provided in Appendix E of this report.

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3. *Technical Recommendations Related to Project Management*

It is recommended that Council approve three additional technical items to conclude this phase of the inZone project:

The first item is to allow the Director of Building Services to waive Committee of Adjustment application fees where a second application is necessary to obtain the same relief under both of Zoning By-law 1984-63 and Zoning By-law 2014-014. This ensures that applicants to the Committee of Adjustment only pay one application fee during the period where both Zoning By-law 1984-63 and Zoning By-law 2014-014 are being reviewed.

The second item is to dissolve the inZone Subcommittee. The intent of the Subcommittee, per Section 2.0 of its Terms of Reference, was to be “a commenting body to provide advice and input to staff on public consultation and draft staff recommendations regarding the content of the new Comprehensive Zoning By-law and projects with a direct connection to the inZone Project” such as Livable by Design (Urban Design Manual). According to Section 8.0 of the same Terms of Reference, the Subcommittee’s mandate “will have completed its mandate upon the completion and presentation of final drafts of the new Comprehensive Zoning By-law to Council in accordance with all applicable legislative or policy requirements.” Through this report, this task is complete. Council approval is required for this action to be undertaken.

The third item is to pass an interpretive By-law 2014-030. There are currently other Town by-laws which make reference to and use zones described in Zoning By-law 1984-63. Since Zoning By-law 2014-014 will repeal Zoning By-law 1984-063, it is necessary to freeze the references to the zones described in By-law 1984-63 in other Town by-laws to ensure that those other by-laws continue to operate. The frozen references to By-law 1984-63 will continue until such time as the other by-laws or either comprehensively reviewed or can be updated to incorporate references to the proper zones in Zoning By-law 2014-014.

5. *Notice of Passing and the Appeal Period*

A number of tasks remain to be undertaken once Council passes the 2014 Zoning By-law. Subsection 34(18) of the *Planning Act* requires the clerk of a municipality to give written notice of passing of the by-law not later than 15 days after the day the by-law is passed. If passed, the notice of passage will appear in the Oakville Beaver. On the same date, a mailed copy will be provided to those who have requested this notice by mail and an emailed copy to those on the inZone project mailing list (currently at 357 members). Ontario Regulation 545/06 also requires

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paper copies of the 2014 Zoning By-law to be sent to the clerk of Halton Region and the regional director of the Ministry of Municipal Affairs and Housing's Central District Municipal Services Office.

The appeal period to the Ontario Municipal Board officially commences on the date notice is completed. Subsection 34(19) of the *Act* sets a limit of 20 days after that date for persons who made oral submissions at the November 4, 2013 statutory public meeting or a written submission to Council. Based on an anticipated March 5, 2014 posting of the notice of passing, the appeal period would close on Wednesday, March 26, 2014.

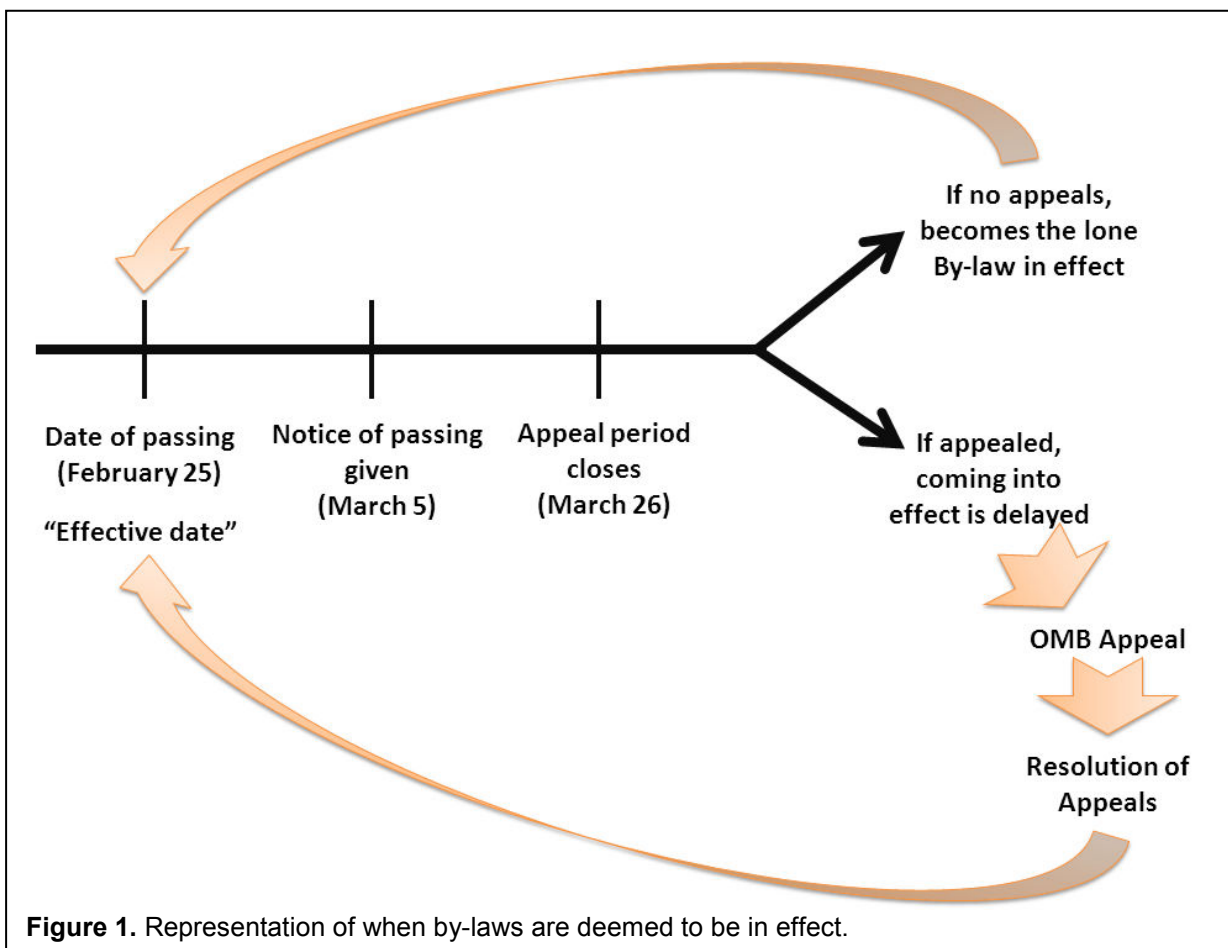


Figure 1. Representation of when by-laws are deemed to be in effect.

For as long as there are outstanding appeals to the Ontario Municipal Board, applications will be reviewed to ensure compliance with both Zoning By-law 1984-63, as amended, and Zoning By-law 2014-014. Decisions made by Council and the Committee of Adjustment should amend or vary both By-laws until Zoning By-law 2014-014 comes into effect. Applications in process are being reviewed against the

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second draft (v2.0) of the By-law. The transition clauses of Section 1.8 will further assist the finalization of existing approvals.

Should appeals be filed, the Legal Services Department will review those alongside Planning Services. Information and next steps would be provided to Council in a future report from Legal Services.

6. Project Next Steps and Implementation Tasks

Once the notice of passing is published, the inZone project will turn its focus toward implementation projects. Apart from potential appeals to the Ontario Municipal Board, the following work will continue through 2014:

- Updating templates used within the Community Development Commission for application review;
- Uploading all documents to the Town's website, and incorporating zoning text into the Explore Oakville public GIS;
- Providing training to by-law users on content and interpretation; and,
- Continuing to provide advice and support to members of the public – the "All About Zoning" workshop remains available to any external stakeholder group interested in discussing zoning issues.

CONSIDERATIONS:

(A) PUBLIC

The *Planning Act* establishes a minimum requirement for public consultation. This project has far exceeded that minimum requirement with a broad range of strategic consultations and public engagement at key points during the project as outlined in this report. It is estimated that over 1100 individual points of contact have been made since the inZone project was officially launched in October 2011 through:

- 30 "All About Zoning" workshops attracting over 520 attendees;
- 22 total open houses;
- 9 total meetings of the inZone subcommittee;
- Over 45 one-on-one meetings with individual landowners, 28 of which have occurred since the statutory public meeting on November 4, 2013;
- Over 100 views of the online "All About Zoning" presentation; and,
- Receipt of 165 written submissions as of February 12, 2014.

The further revisions suggested by staff in this report remain in keeping with the scope of potential changes identified in the notice given for the

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November 4, 2013 statutory public meeting. Therefore, no further notice is required.

The notice of passing required by subsection 34(18) of the *Planning Act* shall be posted as detailed in this report.

(B) FINANCIAL

This project is being completed predominantly by staff, with some specialized peer review and parking consultant expertise retained to complete technical support. The project has been approved and accounted for in the Town's Capital Budget. The new Zoning By-law represents a project covered by development charges.

Any costs related to potential appeals to the Ontario Municipal Board are accounted for in the Legal Services operating budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The 2014 Zoning By-law involves and impacts many Town departments. The technical advisory group and additional departments will continue to be involved in the inZone project throughout 2014 with training and support as required. The interpretive by-law 2014-30 will assist in freezing references to zones within other municipal act by-laws in the interim (e.g. sign by-law).

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

The 2014 Zoning By-law will be reflective of the Town's sustainability goals and objectives as it implements and conforms to the Livable Oakville Plan, as proposed to be amended by OPA # (inZone conformity and housekeeping matters).

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APPENDICES:

Appendix A – Summary of Community Meetings and Workshops

Appendix B – Correspondence Summary Log

Appendix C – Copies of Written Correspondence Received and Sent
(Received on or after September 11, 2013 and prior to February 7, 2014)

Appendix D – Description of Major Revisions Proposed in the Final Draft (v3.1)

Appendix E – Outstanding Council Items

Prepared by:

Joe Nethery, MCIP, RPP

Manager, Zoning By-law Project

Recommended by:

Diane Childs, MCIP, RPP

Manager, Long Range Planning

Denis Daoust

Manager, Zoning and Committee of
Adjustment

Submitted by:

Dana Anderson, MCIP, RPP

Director, Planning Services

John Tutert

Director and Chief Building Official,
Building Services