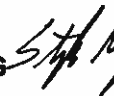



TO: GENERAL COMMITTEE

SUBJECT: MINIMUM DISTANCE SEPARATION FOR BOARDING, LODGING AND ROOMING HOUSES

PREPARED BY AND KEY CONTACT: A. SHAIKH, PLANNER
EXT. #4434

SUBMITTED BY: S. NAYLOR, MES, M.C.I.P., R.P.P., DIRECTOR OF PLANNING 

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG.
GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the current standards for Boarding, Lodging and Rooming Houses in Comprehensive Zoning By-law 2009-141 and Zoning By-law 85-95 be maintained.

PURPOSE & BACKGROUND

Purpose

2. The purpose of this staff report is to report back to General Committee on a proposed Zoning By-law Amendment initiated by the City of Barrie to include new standards under Section 5.2.8.3 of Zoning By-law 2009-141. The amendment proposes to establish a 75 metre minimum distance separation between Large Boarding, Lodging and Rooming Houses (as defined in Section 3 of the Zoning By-law) in the Multiple Residential RM2 zone.

Council Direction

3. On May 10, 2010, City Council adopted motion 10-G-189 regarding Minimum Distance Separation, directing the following:

"That a public meeting be scheduled to consider a Zoning By-law Amendment, recommending Minimum Separation Distances for large Boarding, Lodging and Rooming Houses in medium density zones and staff report back to General Committee on their findings, as follows:

Zoning By-law 2009-141

Add a new c) to 5.2.8.2 as follows:

5.2.8.2 Large Boarding, Lodging, Rooming Houses

- c) *No Large Boarding, Lodging, Rooming House shall be permitted to locate within 75m of another licensed Boarding, Lodging, Rooming House in the RM2 zone."*
4. A public meeting was held on November 7, 2011 to review the Zoning By-law Amendment, at which time Planning staff provided a presentation and background information relating to the proposed Zoning By-law Amendment. The presentation outlined the current provisions of the

Zoning By-law for Boarding, Lodging and Rooming Houses, and discussed Council's proposed changes that would include a 75 metre minimum distance separation between Large Boarding, Lodging and Rooming Houses in the RM2 zone. No comments or questions were received from members of the public or Council regarding the presentation.

Background

5. In 2007, Staff Report PLN048-07 recommended definitions and performance standards for Boarding, Lodging and Rooming Houses, and that they be permitted in various residential zones. The recommendations of this report were adopted by City Council on December 10, 2007, culminating in a text amendment to the Official Plan and Zoning By-law (2007-264).

The amendment created two categories of Boarding, Lodging, and Rooming Houses:

- Small Boarding, Lodging and Rooming Houses, defined as "providing lodging for not more than 6 tenants", to be permitted in R1, R2, R3, R4, and RM1 zones.
 - Large Boarding, Lodging and Rooming Houses, defined as "providing lodging for more than 6 tenants", to be permitted in RM2, RA1, and RA2 zones.
6. The amendment also includes a provision applying a minimum distance separation of 75 metres between Small Boarding, Lodging and Rooming Houses in any of its permitted zones (R1, R2, R3, R4, and RM1). No minimum distance separation applies to Large Boarding, Lodging and Rooming Houses in any of its permitted zones (RM2, RA1, and RA2).
 7. On February 22, 2010, Council adopted motion 10-G-042 directing staff to investigate minimum distance separation provisions specifically for Large Boarding, Lodging and Rooming Houses in the RM2 zone, consistent with the provisions for Small Boarding, Lodging, and Rooming Houses.
 8. On May 3, 2010, Staff Report PLN017-10 came forth in response to Council motion 10-G-042, recommending against the application of minimum distance separation provisions for Large Boarding, Lodging and Rooming Houses. The report discusses the opinion of Planning staff that Large Boarding, Lodging and Rooming Houses are a part of the mix of housing types encouraged by Official Plan policies. The report also explains that RM2, RA1, and RA2 zones are intended to accommodate various forms of medium and high density uses, and accordingly includes Large Boarding, Lodging and Rooming Houses as-of-right.
 9. Notwithstanding staff's recommendation, on May 10, 2010, Council adopted motion 10-G-189 directing a public meeting be scheduled considering a Zoning By-law Amendment to include minimum distance separation provisions for Large Boarding, Lodging and Rooming Houses in RM2 zones, and that staff report back to Council on their findings.
 10. The Planning Services Department recognizes the unusual length of time between the Council direction received in May 2010 and the Staff Report coming forward in May 2012. This delay is not characteristic of the general response time of the department. Planning Services has experienced considerable change over the past year including the introduction of a new Director, the departure of two staff, and the hiring of four new staff. Although Planning Services has been operating with reduced staff during the interim, the department has since introduced new project tracking measures reviewed and updated weekly by management in order to prevent such a delay in the future.

ANALYSIS

Policy Review

11. In general, the Provincial Policy Statement (2005) contains policies that are supportive of the development of Boarding, Lodging, and Rooming Houses. Housing policies in Section 1.4.3 states that "Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents...", and that this be accomplished by permitting and facilitating "all forms of housing required to meet the social, health and well-being requirements of current and future residents, including special needs requirements".
12. The City's Official Plan sets a basis for the creation of residential housing, including Boarding, Lodging and Rooming Houses, and in general is supportive of their development. Specific sections containing relevant policies can be found in Section 3.3 Housing.
13. Official Plan Section 3.3 Housing, subsection 3.3.1 Goals, states:
 - (a) *To provide for an appropriate range of housing types, unit sizes, affordability and tenure arrangements at various densities and scales that meet the needs and income levels of current and future residents.*
 - (d) *To ensure the development of complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space and easy access to local stores and services.*
 - (e) *To encourage all forms of housing required to meet the social, health and well-being requirements of current and future residents including special needs requirements.*
14. Official Plan Section 3.3 Housing, subsection 3.3.2 Policies, states:
 - (a) *The City will encourage the maintenance of reasonable housing costs by encouraging a varied selection with regard to size, density and tenure. The Zoning By-law will be amended to allow for innovative housing where it is recognized to be in accordance with good land use planning principles.*
 - (b) *The City shall support programs and policies encouraging a wide range of housing opportunities including rental housing in order to meet identified housing needs in accordance with good land use planning principles.*
15. Boarding, Lodging and Rooming Houses constitute part of the mix of housing types and affordability levels that are encouraged by both the Official Plan and the Provincial Policy Statement, which are intended to maintain a varied selection with respect to size, density, tenure, and cost.

Criteria for Application of Minimum Distance Separation

16. A principle of land use planning is the grouping together of compatible land uses and the separation of incompatible land uses. Minimum distance separation (MDS) is a tool to determine a recommended distance between land uses with the objective of preventing land use conflicts and minimizing nuisance complaints.
17. MDS for Boarding, Lodging and Rooming Houses has been upheld by the Ontario Municipal Board in a 1992 decision [*Guelph (City) Zoning By-law (1990)-13517 (Re)*, [1992] O.M.B.D. No. 88] on the basis that the MDS was applied to limit density, which is a land use issue. Any

application of MDS provisions must be supported by rationale based solely on addressing a land use planning issue, otherwise they may be found void and unenforceable by the Ontario Municipal Board if appealed.

18. The Ontario Municipal Board has also considered MDS in the context of neighbourhood compatibility, for example, in the case of residential uses adjacent to agricultural or industrial uses. In both circumstances, the Board has supported the Ministry of Agriculture, Food and Rural Affairs and the Ministry of the Environment position regarding the implementation of MDS provisions in order to reduce nuisance complaints between conflicting land uses.
19. At present, the Zoning By-law contains MDS provisions for Small Boarding, Lodging and Rooming Houses in low density residential zones. The land use based rationale for the MDS is to prevent the concentration of multiple Boarding, Lodging, and Rooming Houses near one another in low density residential zones that are not designed or intended to support increased densities. The MDS is thus applied to limit density, similar to the rationale upheld in the 1992 Ontario Municipal Board case referred to in paragraph 17.
20. Staff Report PLN048-07 states the following with respect to MDS for both Small and Large Boarding, Lodging and Rooming Houses:

"Staff continue to recommend a minimum distance separation of 75m within low density residential zones as defined in the OP. This distance separation would be applied to any Small Boarding Lodging Rooming Houses from a licensed Small or Large Boarding Lodging Rooming House. It is not being recommended that minimum distance separation be applied to Large Boarding Lodging Rooming Houses as these uses are already permitted by By-law to locate within medium and high density residential zones. The medium and high density residential zone are where multiple tenanted buildings were intended to be located through OP policies and the zoning by-law."

Staff are of the opinion that the above statement continues to be relevant.

21. The application of MDS for Large Boarding, Lodging and Rooming Houses in RM2, RA1, or RA2 residential zones would not be supportable by a rationale based on land use conflict, nuisance complaints, or density. This is due to the fact that RM2, RA1, and RA2 zones are designed and intended to accommodate all forms of medium and/or high density developments throughout, which also includes Boarding, Lodging and Rooming Houses. The City does not currently apply a MDS to apartment and high-rise condominium buildings for the same reasons as why a MDS is not recommended for Large Boarding, Lodging and Rooming Houses.

Other Considerations

22. In February 2012, the City of Barrie received copies of a publication by the Ontario Human Rights Commission (OHRC) titled "In the Zone: Housing, human rights, and municipal planning". The publication considers implications of the Human Rights Code on municipal planning decisions, such as the passing of zoning by-laws.
23. One example described in the publication discusses passing a zoning by-law to prohibit rooming houses in certain residential areas, explaining that if the municipality is unable to demonstrate a planning rationale to support the specific exclusion of rooming houses in defined areas, then prohibiting the rooming houses may potentially breach the Human Rights Code. This is due to the fact that excluding rooming houses may restrict the opportunity for some residents to locate in the affected areas.

24. Planning staff have reviewed this matter and do not believe a defensible planning rationale is present to support the exclusion of Boarding, Lodging, and Rooming Houses in any of the medium and high density zones.
25. On April 2, 2012, General Committee received a staff report outlining a recommended work plan for a new Affordable Housing Strategy for the City of Barrie. This report identified the growing issue of the lack of affordable housing in Barrie and the County of Simcoe. Boarding, Lodging, and Rooming Houses represent one type of housing which has the potential to address these issues in the broad spectrum of affordable housing types. Additional restrictions on forms of affordable housing may serve to exacerbate the current issues facing the City.

ENVIRONMENTAL MATTERS

26. There are no environmental matters related to the recommendation.

ALTERNATIVES

27. There are two alternatives available for consideration by General Committee:

Alternative #1 General Committee could include minimum distance separations for Large Boarding, Lodging and Rooming Houses in RM2 residential zones.

This alternative is not recommended, as it would limit the ability of the City to provide a range of housing types, unit sizes, price levels, and tenure arrangements as set out in the Official Plan. The By-law may also be open to appeal without the support of a land use planning based rationale.

Alternative #2 General Committee could remove Large Boarding, Lodging and Rooming Houses "as-of-right" from RM2, RA1, and RA2 residential zones, and require any future uses of this nature to be reviewed through a Zoning By-law Amendment on a site-specific basis.

This is a valid alternative for Council's consideration which would allow for review of all planning and locational criteria on a case by case, site-specific basis. However, this alternative would add procedural and financial impediments to the provision of Boarding, Lodging, and Rooming Houses, as it would require an application for a site-specific rezoning whereas current Zoning By-law provisions allow them as-of-right.

FINANCIAL

28. There are no financial implications for the Corporation resulting from the proposed recommendation.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

29. The recommendation included in this staff report is not specifically related to the goals identified in the 2010-2014 City Council Strategic Plan.