

**SECOND AND THIRD READING OF BYLAWS 35P2015 AND 158D2015 POLICY
AMENDMENT AND LAND USE AMENDMENT, EAU CLAIRE (WARD 7), 2 AVENUE SW
AND 2 STREET SW**

EXECUTIVE SUMMARY

On 2015 December 8, Council gave first reading to Bylaws 35P2015 and 158D2015. These bylaws amend the Eau Claire Area Redevelopment Plan (ARP) and the Land Use Bylaw to allow for a new proposal to redevelop the Eau Claire Market site. Council directed that Administration review the Direct Control (DC) guidelines for consistency with Land Use Bylaw 1P2007, to ensure the provision of the desired amount of residential floor area, to address shadowing impacts on Eau Claire Plaza, to allow for minor variances to the DC rules and to ensure integration with the Green Line LRT project. Since that time, Administration has been working closely with the Applicant, Harvard Developments, to respond to Council's specific directions as well as to develop a more comprehensive redevelopment strategy for the area around the Eau Claire Market and the future Green Line station. This report gives an overview of the current status of the various components of the redevelopment strategy and the responses to Council's specific directions.

Additionally, on 2017, April 24, Council gave first reading to Bylaw 37M2008, a bylaw to repeal the Heritage Designation Bylaw for the Eau Claire Smokestack. This allowed the Applicant and Administration to prepare, review and process a Development Permit (DP) application for Phase 1 of the redevelopment for a site now unencumbered by the existing smokestack. In going through the development permit process, it was possible to resolve all outstanding issues related to the Direct Control District and Area Redevelopment Plan Amendment and to make the necessary amendments to the two subject bylaws. The nature of the changes has not resulted in a need for a new Public Hearing. This report highlights the proposed changes to the Bylaws.

ADMINISTRATION RECOMMENDATION(S)

That Council:

1. ADOPT the amendments to Bylaw 35P2015 as outlined in Attachment 3.
2. Give second and third reading to Bylaw 35P2015, as amended.
3. ADOPT the amendments to Bylaw 158D2015 as outlined in Attachment 4.
4. Give second and third reading to Bylaw 158D2015, as amended.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2017 April 24, Council approved the following:

ADOPT, Moved by Councillor Chabot, Seconded by Councillor Magliocca, that the SPC on Planning and Urban Development Recommendations contained in Report PUD2017-0314 be adopted, as follows:

That Council:

1. Give first reading to Proposed Bylaw 23M2017 (Attachment 2), and withhold second and third reading until both a Preservation Agreement and an Access Easement and Maintenance Agreement are executed between Harvard Developments and The City

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and a certified cheque pursuant to the Preservation Agreement has been tendered to The City;

2. Direct that the \$300,000 offered in compensation by Harvard Developments be placed in the Heritage Incentive Reserve to fund the City of Calgary Historic Resource Conservation Grant Program; and
3. Upon the relocation of the smokestack to the new proposed location on City lands, direct Administration to prepare a bylaw to re-designate the Eau Claire Smokestack as a Municipal Historic Resource.

On 2015 December 7, Council approved the following:

ADOPT, AS AMENDED, Moved by Councillor Farrell, Seconded by Councillor Keating, that with respect to Report CPC2015-163 the following Recommendations 1,2,3,4,6 and 7 be adopted:

That Council:

1. File Calgary Planning Commission Recommendations contained in CPC2015-163.
2. Give first reading to Bylaw 35P2015.
3. Give first reading to Bylaw 158D2015.
4. Withhold second and third readings of Bylaws 35P3015 and 158D2015 and direct Administration:
 - a. To return to Council with proposed amendments that include:
 - i. Rules that are consistent with the 1P2007 Land Use Bylaw;
 - ii. Establish clear rules to allow for the proposed amount of conventional office while ensuring no loss to historically permitted/required residential amounts; and
 - iii. Review and evaluate the potential for public amenities that could reduce or mitigate the impacts of increased shadowing on Eau Claire Plaza.
 - b. Tie phase 1 of DC Site 1 to plans and include a relaxation power to the development authority for minor variances.
6. To explore integration of the future Green Line LRT into the proposed project and work with the developer to establish mutual assurances regarding and commitments to integrate the development with a future station should Council advance an alignment at this location.
7. To review the current real estate agreements with the Applicant (Harvard Developments) (such as the agreement of purchase and sale, option to purchase, option to repurchase, easement and remedial action agreement and any other

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relevant agreements) to consider what kind of amendments to such agreements would be required in conjunction with the proposed change in land use and report back through Land and Asset Strategy Committee.

BACKGROUND

Harvard Developments filed an application for an Area Redevelopment Plan (ARP) and Land Use Amendment in 2014 April. This application is a significant revision to the previous ARP policy and Direct Control District that was a detailed “tied-to-plans” development concept and that was approved in 2008.

The application has undergone extensive review and revision, including a referral by Calgary Planning Commission (CPC) back to Administration in 2015 May to further investigate:

- A concurrent DP submission
- The integration of transit into the project
- The future of the +15 connection
- The amount of residential floor area
- The tower massing relative to shadowing on the Eau Claire Plaza
- The location of the historic smokestack

Ultimately Calgary Planning Commission recommended refusal of the application to Council. That recommendation was brought forward to a Public Hearing of Council on 2015 December 07.

On 2017 April 24 Council gave first reading to Bylaw 23M2017 which is a Bylaw to de-designate the Eau Claire Smokestack as a Municipal Historic Resource subject to the execution of a Preservation and Maintenance Access Agreement and the payment of a \$300,000 contribution to the Heritage Incentive Reserve. The bylaw tabulation for second and third reading of this item is expected to be heard separately on 2017 September 11. However, first reading given on 2017 April 24 allowed Administration to review the detailed development permit for Phase 1 of the Eau Claire redevelopment.

On 2017 June 26 Council finalized the alignment for the Green Line LRT through the Eau Claire area which will now enable more detailed discussions between Harvard and The City on how to integrate the new station with their proposed redevelopment over time.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

At the Public Hearing of 2015 December 07, Council gave first reading to Bylaw 35P2015 and Bylaw 158D2015. Since the Public Hearing, Administration and Harvard have met on a regular basis to work through three major issues:

1. The preparation of a comprehensive Eau Claire Public Realm Plan, including a development permit package for the redesign of Barclay Parade (between the Harvard site and the Sheraton Eau Claire hotel);
2. The investigation and relocation of the historic smokestack; and
3. A development permit for Phase 1 of the Eau Claire Market Redevelopment.

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These issues have now been resolved to the level of detail necessary to fully respond to Council's direction of 2017 December 07.

Response to Council Directions

Rules that are consistent with the 1P2007 Land Use Bylaw

The revised DC guidelines (Attachment 4) have been re-written to remove a number of site-specific provisions to allow the DC to be fully consistent with Land Use Bylaw 1P2007, except for necessary variations to accommodate the proposed development. The previous guidelines that Council saw at first reading had been drafted by the Applicant and had not gone through the normal internal drafting procedures, resulting in some redundancies. The attached guidelines have been drafted by Administration and reviewed by the Applicant. As a result, the rules are now fully consistent with Land Use Bylaw 1P2007 and meet the needs of the Applicant. A complete summary of the changes between the DC guidelines at first reading and to those proposed for second and third readings is included in Attachment 5.

A number of housekeeping amendments have also been made to the proposed ARP amendment Bylaw 35P2015 as follows:

- To recognize that the smokestack is no longer moving to the north of the site, but rather, staying in the same general vicinity as indicated in the ARP
- To change date references to 2017
- To clarify that the sunlight protection rules in the ARP remain in force except where varied by specific DC guidelines for the Eau Claire Market site (the E1 lands)

The proposed amendments to Bylaw 35P2015 are outlined in Attachment 3.

Establish clear rules to allow for the proposed amount of conventional office while ensuring no loss to historically permitted/required residential amounts.

The rules in both the ARP and the revised DC guidelines now allow for the Applicant's desired amount of conventional office space, but also clearly state the minimum amount of residential that must be provided. Further a set of plans for the first phase of the development are attached to the Bylaw that demonstrate compliance with the text of the DC guidelines. Administration has verified that there is no loss to historically permitted or required residential floor area.

Review and evaluate the potential for public amenities that could reduce or mitigate the impacts of increased shadowing on Eau Claire Plaza.

To assess and mitigate the impacts of the increased shadowing on Eau Claire Plaza, Urban Strategy undertook a detailed public realm study that proposes a plaza and public realm design that works in conjunction with the proposed development and the evolving context of the Eau Claire area, including the eventual provision of a Green Line station.

The design recognizes the potential shadow that could be cast by the Eau Claire Market redevelopment and addresses programming and design features that can work successfully with the expected shadow patterns. Additionally, Harvard Developments has offered a cash contribution of \$150,000 toward the provision of weather protection structures (such as warming

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huts) in the Plaza that will mitigate shadow impacts in the cold weather seasons. This contribution will be a prior to release condition in the phase 1 development permit and will be deposited and held in the Eau Claire Improvement Fund, until such time as plans are finalized for weather protection amenities in the plaza.

Administration believes that successfully mitigating the impacts of shadowing is achieved both by physical design and by the programming of the private development adjacent to the plaza, particularly at the pedestrian level. The ARP and the DC guidelines ensure that active and animated uses will be required adjacent to the plaza and include hospitality, hotel, retail and festival/event support services to ensure options for public activities in the area at different times of day and during all four seasons.

Tie phase 1 of DC Site 1 to plans and include a relaxation power to the development authority for minor variances.

To tie phase 1 of DC Site 1 to plans and build in some flexibility for the development authority to consider relaxations, the following has been included in the DC:

- a. A set of drawings are attached as Schedule C to the DC bylaw that represent the “must-haves” that cannot be changed without a new Public Hearing and include detailed and dimensioned drawings for the site plan, building heights, building shapes and elevations as well as prototypical floorplan designs. The drawings are not as detailed as a development permit and will allow for flexibility to accommodate possible changes in tenancies and architectural changes that do not impact the overall design intention as prescribed in the text of the DC bylaw.
- b. Section 19 of the DC guidelines includes the ability for the development authority to exercise normal relaxation powers as provided for in Land Use Bylaw 1P2007. For sections in the DC guidelines relating to minimum residential floor area, building and podium heights, tower separation, floor plate restrictions and phasing for both Site 1 and Site 2, relaxation powers will only be permissible where necessary to accommodate integration of a development into the Green Line LRT project.
- c. The DC also builds-in future flexibility for phase 1 of the development by “sunsetting” the tied to plans requirement once a Development Completion Permit is granted for the development included in the Schedule C drawings. This will allow for normal building evolution and changes over time without the need for a land use amendment to remove or replace the attached drawings. Future modifications to the building would still have to comply with any applicable DC rules, policies and design guidelines in place at the time of any new required development permit applications.

*To explore integration of the future Green Line LRT into the proposed project and work with the developer to **establish mutual assurances regarding and commitments** to integrate the development with a future station should Council advance an alignment at this location.*

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Since Council gave this formal direction to Administration, the final alignment, including a station on 2 Street SW near the Eau Claire Market site has been approved. Harvard Developments has continued to meet with Administration and the Green Line LRT project team throughout the past 21 months. At this point it has been confirmed that there is no requirement for any formal connection with the phase 1 development. The future proposed office tower site (adjacent to 2 Street SW between the Riverfront Avenue extension and 2 Avenue SW) will be occupied by a surface parking lot for the use of a proposed grocery store and retail component of the phase 1 development. The surface parking lot has been designed to include a public plaza area that can be used as a plaza foreground to the LRT station entrance. The parking lot will be designed to be convertible into a large public gathering space that could host events and programming. The DC guidelines and the development permit conditions will ensure that the surface parking has a limited life span to encourage redevelopment at the earliest possible time.

Through the subsequent development permit process, Administration will be able to ensure the necessary integration with the LRT station, including requiring the entering into of legal agreements to ensure performance where necessary. The ARP has a specific policy that addresses the possibility of cost sharing between the developer and The City.

Stakeholder Engagement, Research and Communication

Both Administration and the Applicant have continued to meet and communicate with representatives from the Eau Claire Community Association to share with them, aspects of the DC guidelines, the development permit and the overall public realm design concept for the area. They have been notified of this report coming before Council.

The Calgary Downtown Association (CDA) has also been advised and informed of the proposal coming before Council. At the time of writing of this report, the Applicant and Administration were working to meet with the CDA prior to 2017 September 11.

Strategic Alignment

Through the preparation of an overall public realm design plan for the Eau Claire area and continued discussion with the Applicant, the revised proposal aligns with Council direction of 2015 December 07. Further there has been considerable alignment with other major corporate projects including the Green Line LRT project and the Eau Claire Plaza design to ensure the successful integration of this strategic redevelopment site with major city infrastructure assets.

Social, Environmental, Economic (External)

Social

There are no social implications directly arising out of this report. The overall redevelopment of the Eau Claire Market to include a substantial amount of residential floor area, commercial amenities to support a residential neighbourhood (e.g., grocery store) and considerable enhancements to the public realm will help advance the social objectives for the Eau Claire community as outlined in both the Centre City Plan and the Eau Claire ARP.

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Environmental

Allowing for the redevelopment of the Eau Claire Market for a mix of high density uses near the future Green Line station and the downtown office core will have a significant impact on reducing automobile trips for residents and employees of the area as well as visitors to the area. In addition redevelopment will include environmental clean-up of the site that was the site of a former City transit garage.

Economic

The redevelopment of the Eau Claire Market has considerable economic upside in terms of creating both jobs during construction and a considerable amenity for the downtown area that can help attract new businesses to the area. Replacing a surface parking lot and a two-storey commercial building will, over time, make a significant contribution to ongoing property tax revenue.

Financial Capacity

Current and Future Operating Budget:

There are no impacts to current or operating budgets as a result of this report.

Current and Future Capital Budget:

There are no impacts on current or future capital budgets as a result of this report.

Risk Assessment

As per both the Municipal Government Act (MGA) and The City of Calgary Council Procedure Bylaw, if a bylaw does not receive third reading within two years from the date of first reading, the readings are deemed to have been rescinded and the bylaw is deemed to be abandoned. Bylaws 35P2015 and 158D2015 will be deemed to be abandoned on 2017 December 07 should Council not grant third reading prior to that date. If there is significant turnover on Council following the Municipal Election in 2017 October, there may not be a sufficient number of Councillors eligible to vote on the bylaws (i.e. fewer than eight Councillors who were present for the Public Hearing), thereby causing them to be abandoned. As a result, 2017 September 11 Council may be the last Council meeting where these bylaws can be adopted. Should the bylaws be abandoned, a new application and public hearing would be necessary to amend the ARP and Land Use Bylaw for the subject lands.

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REASON(S) FOR RECOMMENDATION(S):

Administration and the Applicant have undertaken considerable diligence and negotiation regarding the redevelopment of this strategic property. Administration believes that this report provides a thorough response to Council's previous direction as it relates to the subject bylaws. Further the many related issues arising out of the redevelopment of the market site, the integration of the Green Line LRT and the relocation of the smokestack are now well understood and actions are being taken to ensure the long-term coordination of redevelopment in the area. Given the time constraints that affect these bylaws and the potential benefits that could be achieved through the timely redevelopment of the property, Administration is recommending second and third readings to the bylaws, as amended, be granted at this time.

ATTACHMENT(S)

1. Bylaw 35P2015
2. Bylaw 158D2015
3. Proposed Amendments to Bylaw 35P2015
4. Proposed Amendments to Bylaw 158D2015
5. Summary of Changes to Amended DC Guidelines