

DEVELOPMENT IN PROXIMITY TO THE RAILWAY CORRIDOR UPDATE

EXECUTIVE SUMMARY

In 2016 June, Council directed Administration to prepare a Rail Policy, in accordance with an attached Terms of Reference, and provide an update to Council no later than 2017 Q1.

By working closely with internal business units and industry stakeholders The City is developing a Calgary approach for development in proximity to a rail corridor. The policy direction is centred on public safety and protecting buildings, facilitating access to the rail corridor for emergencies and optimizing the development potential of lands in proximity to rail consistent with the Municipal Development Plan (MDP), local area plans and site specific land use bylaw.

A series of stakeholder engagement workshops have been held since 2016 September. Through this engagement, Administration, industry stakeholders and rail companies have collaborated to review the current approach, to clarify the development application process, understand the concerns of developers and other stakeholders, and work towards refining a policy for development in proximity to a rail corridor.

An update to the current approach for applications was required and has been developed in collaboration with stakeholders. The new "Interim Approach" is based on risk management and will guide new applications until a Development and Rail Policy is adopted by Council. The new policy will use a Baseline Risk Assessment as a foundation. The Baseline study will be developed not on the perception of risk but using an empirical/engineering approach.

The Terms of Reference have been amended to accommodate completion of the Baseline Risk Assessment, an Access Strategy and the policy proposal.

ADMINISTRATION RECOMMENDATION(S)

That the Standing Policy Committee on Planning and Urban Development recommends that Council:

1. Receive this Report for information; and
2. Direct Administration to bring a Development and Rail Policy to the Standing Policy Committee on Planning and Urban Development no later than 2018 Q2.

RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED 2017 MARCH 08:

That the Administration Recommendations contained in Report PUD2017-0123 be approved.

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PREVIOUS COUNCIL DIRECTION / POLICY

On 2016 June 20 Council adopted the recommendation from the Standing Policy Committee on Planning and Urban Development as follows:

“Moved by Councillor Sutherland, that the Administration Recommendation contained in Report PUD2016-0347 be approved, as follows:

That the Standing Policy Committee on Planning and Urban Development recommend that Council direct Administration to prepare a Rail Policy, in accordance with the Terms of Reference in Attachment 2, and provide an update to Council no later than 2017 Q1”

On 2016 March 21 Council directed Administration to consult with key stakeholders to review the draft deliverables for a Rail Policy Framework, including a more particular review and revision of the sensitive use list and report back to Council with a Terms of Reference that includes deliverables, scope of work and timelines no later than 2016 Q2.

At an in-camera session on 2015 December 18 Council directed Administration to report back to the 2016 March 21 Strategic Meeting of Council.

BACKGROUND

When development is located near freight rail risks to human safety and property due to possible freight rail incidents or derailments need to be examined. As well there can be nuisance issues, such as noise and vibration caused by freight rail operations. Currently, there is no Council policy for guiding development close to freight railways.

The intent of the Development and Rail Policy is to contribute to the Municipal Development Plan (MDP) goals by ensuring that development and redevelopment near rail continues while incorporating a risk management approach. When considering a development application adjacent to rail, Administration has established three key objectives:

1. Protection for building occupants and citizens in close proximity to the building;
2. Protecting buildings; and,
3. Facilitating emergency response to a railway incident.

Achieving the objectives will require some policy and bylaw changes. One approach is to require a setback between the development and the rail corridor. While this can work well in a “greenfield” (new development) scenario, it is often not feasible in a redevelopment situation for a number of legal and practical reasons. In these cases, a different approach is needed.

When taking into account the objective of providing safety for building occupants, it is essential to consider regulations already in place, such as the Alberta Building Code (ABC). These provisions are aimed at limiting the probability of harm to building occupants. As a result, buildings are designed so that the occupants can evacuate safely in the event of an emergency.

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Following Council direction provided in 2016 June, Administration has responded to the planning applications located in proximity to rail using the current approach. This approach allows the Approving Authority to exercise discretion with an internal review committee assessing applications. It respects the key objectives for development and rail and the MDP goals of increasing population and intensifying development in established areas, and does not sterilize land.

The current approach was intended to serve the three key objectives. The approach considers the development's location and uses. Depending on a project's configuration, studies considering the site's context and proximity to rail may include a risk assessment, noise and/or vibration studies. The standards and mitigation recommendations outlined in the studies are incorporated at the time of construction. In addition, for a "greenfield" (new development) scenario a 30 metre setback for residential development from the property line is applied. Since 2016 January, 156 applications in proximity to rail have been reviewed. The majority of these were development permits located in industrial areas where the current approach does not require rail specific studies. Of the 156 applications, three were required to complete studies due to the development's footprint being within proximity to a rail corridor

INVESTIGATION: ALTERNATIVES AND ANALYSIS

What Has Been Done: Improving Clarity

Since 2016 June, Administration has been working with stakeholders to develop a Rail Policy, in accordance with the direction set out in the Terms of Reference for the initiative. Administration committed to lead a process to create a Calgary-specific policy that will provide clarity and certainty, while balancing safety and development potential.

Running parallel to managing current applications, over the past five months key insights were gained through engagement and collaboration with internal departments, industry stakeholders and Canadian Pacific (CP) and Canadian National (CN) railways. As outlined in the engagement summary (Attachment 1), the workshop sessions reviewed:

- how to achieve development potential in accordance with the MDP and other City policy;
- how to modify the current approach and sensitive use list to generate the *Development in Proximity to Rail* – Interim Approach for applications; and,
- the importance of accurately understanding empirically measured risk specific to the Calgary context.

As outlined in the 2016 June report (PUD 2016-0347), the Rail Policy work should reduce uncertainty for land owners regarding the potential for future development. This is particularly important for development in the Sunalta, Centre City and Inglewood/Ramsay areas.

Six workshops were held between 2016 September and 2017 January. Through this engagement, Administration and industry stakeholders worked together to review the current approach, understand the concerns of developers and other stakeholders, and work towards refining a Calgary approach for development in proximity to a rail corridor.

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To further improve clarity and certainty in the development application process, education sessions for staff were held in September and October, 2016. Each meeting reviewed the current approach and staff offered support to facilitate a timely response to application inquiries.

With the experience gained through current applications and in dialogue with stakeholders, it was determined the goal of increased safety and reaching development potential is best accommodated through a parcel/location specific risk assessment. This context sensitive approach supports a new development's building program and design through an empirically based risk analysis which recommends mitigation measures specific to the site's characteristics. This approach is flexible and preferable to a more prescriptive approach that could limit development options.

What Has Been Done: Development in Proximity to Rail – *Interim Approach*

In developing the policy direction an investigation of risk and mitigation processes, proximity rules and sensitive uses with internal and industry stakeholders was undertaken. This led to an updated application process called the *Development in Proximity to Rail – Interim Approach* (Attachment 2). It consolidates Administrations approach to development in proximity to railway, for both greenfield and developed area applications. Key changes are as follows:

1. Clarifying for redevelopment that a 30m “setback” is not required by introducing the term Rail Proximity Zone to more accurately describe the area where the *Interim Approach* applies. This area is within 30m of the property line of a rail corridor. This distance is not a setback restricting development, but rather triggers a risk mitigation approach for specific uses and the position of commercial buildings over three storeys located within the Rail Proximity Zone.
2. Simplifying the sensitive use framework. A refined sensitive use list was developed and received consensus and support from the majority of stakeholders. Sensitive uses have been categorized into three groups, similar to the structure of the building code. The “Group” outlines the studies and conditions required to determine what mitigation may be required when the use is located in the rail proximity zone. ‘Group A’ uses are treated similarly to residential or hotel uses, “Group B” considers uses supporting assembly of children. Discretion will be applied for Group A and B uses. “Group C” uses, such as hospitals or jails, are not supported when located in the rail proximity zone. This framework supports the first objective – “*Safety for building occupants and citizens in close proximity to the building.*”
3. Requiring, in a “greenfield” (new development) scenario a 30 metre setback for residential and sensitive uses. In areas of redevelopment establish planning policy identifying public lands where the access to the rail corridor can be maintained. This supports the second objective – “*Facilitating emergency response to a railway incident.*”
4. Increasing clarity for commercial applications when located within the rail proximity zone. Commercial developments of four storeys or higher require a risk assessment when located in this zone. This supports the third objective – “*Protecting buildings*”

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5. Streamlining the application process to increase clarity and certainty. A series of flow charts were reviewed to understand where improvement can be found. A typical process flow is included in Attachment 2.

The Interim Approach is an amendment to the Current Approach and will be applied by the Approving Authority to development applications in proximity to the railway corridor. The internal review committee will continue to consider proposed developments prior to an application, or at the initial stages of the application process. This step allows unique circumstances for the development to be dealt with at the beginning of the process. Applicants and Administration continuing to work together early in the application process was seen as positive by internal and industry stakeholders. The Interim Approach will be used to guide applications until a Rail Policy is adopted.

What Has Been Done: Intergovernmental and Railway Company Engagement Strategy

The Terms of Reference for the Rail Policy Framework identifies one of its deliverables as an “approach to working with other orders of government, industry, railway companies and regulators on issues of rail safety and operations.” While the position on the Development and Rail Policy is yet to be finalized, Intergovernmental & Corporate Strategy (ICS) has collaborated with the project team to advance these objectives.

This work has included correspondence between the Mayor and the Federation of Canadian Municipalities (FCM) and the Minister of Transport Canada. Additionally, Administration has monitored activities and positions of other orders of government, industry, railway companies and regulators on issues of rail safety and operations. There continues to be tracking of legislation, proposed policy changes and stakeholder positions to ensure the Development and Rail Policy is developed in a manner accounting for existing externalities.

ICS will continue to work with the Development and Rail Policy team to appropriately support Rail Policy goals, where advocacy efforts will be continuous and ongoing in order to foster relationships with all stakeholders where communication is two-way and proactive.

Next Steps: Baseline Risk Assessment

To develop an effective policy supporting an innovative and flexible Calgary approach for redevelopment requires policy and planning decisions being based not on perception of risk, but rather on understanding Calgary’s specific risk context more accurately. This understanding will be gained through completion of a Baseline Risk Assessment.

The Baseline Risk Assessment is an empirical based engineering study which will compile generalized freight rail risk data within the Sunalta, Centre City and Inglewood/Ramsay communities. It is a City initiated and funded study and will utilize a context sensitive approach that has industry and internal support.

The Baseline Risk Assessments objectives include risk identification and quantification for each of the larger study areas. It will recommend how development applications will support objectives one and three. With a Baseline Risk Assessment in place, if a parcel specific risk analysis is required, it can build on the Baseline Risk Assessment and outline an approach with

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reduced timelines and cost for the process. The site specific analysis will remove unnecessary duplication of work required for traditional risk assessments. It will also guide the preparation of a noise and vibration study when required.

Work on the Baseline Risk Assessments has been initiated and will continue through the fall of 2017. Its findings will influence the development of policy.

Next Steps: Continued Stakeholder Collaboration and Public Engagement

The stakeholder workshops will continue as the Baseline Risk Assessment is completed. Two of the future Baseline workshops will focus on the project's initial findings. The successful consultant will attend, participate and present information materials for the workshops. The role of the first workshop is to become familiar with the Baseline Assessment's initial findings, and review potential insights and effect on policy direction. The second Baseline workshop will include reviewing the final report and recommendations for parcel specific analysis, noise and vibration studies.

After the Baseline Risk Assessment is complete, a Development and Rail Policy will be prepared. A public engagement process will be used to introduce the Development and Rail Policy framework to the community in 2017 Q4 and 2018 Q1.

Next Steps: Access Strategy

The Access Strategy will be a planning resource for consideration as lands adjacent to rail are developed, or as road network changes are proposed. Options for access continue to be explored and the strategy process includes participation of The Calgary Fire Department, Calgary Emergency Management Agency (CEMA), CP Rail and CN Rail.

The Access Strategy continues to be developed. It will identify access points through public lands which should be retained to provide railway corridor access if a rail incident occurs. The majority of these access points in established communities are facilitated through at-grade road crossings or roadway/open space adjacencies. In the Centre City Corridor where crossings are grade separated, public lands are being identified to maintain access for emergency response to the rail corridor.

Amended Terms of Reference

Progress has been made on numerous deliverables. The work done to date has been incorporated in the Interim Approach and it supports the projects three key objectives. In order to provide sufficient opportunity for collaboration on the remaining deliverables, the Terms of Reference has been amended with an addendum (Attachment 3) to deliver policy to the Standing Policy Committee on Planning and Urban Development in 2018 Q2.

An adjustment in the timeline will enable continued collaboration with internal and external stakeholders, and complete the following:

- Noise and vibration recommendations – in support of objective 1;
- Complete the access strategy – in support of objective 3; and,
- Baseline Risk Assessment – to support objective 1 and 2.

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- A public engagement process to introduce the Development and Rail Policy framework to the community in 2017 Q4 and 2018 Q1.
- Recommending policy to Council no later than 2018 Q2.

This continued work by Administration and all stakeholders is working towards delivering a unique Calgary specific approach for development in proximity to a rail corridor. Once done, it will form improved policy, which Administration will have ready by 2018 Q2. The intent is for the policy recommendation to be in *Part 4 – Specific use policies* of the MDP. The policy will be implemented through amendments to the MDP, or Land Use Bylaw (if required) and guidelines, subject to Council approval.

Stakeholder Engagement, Research and Communication

The stakeholder workshops have proven to be an effective way to advance this work, and this meaningful and collaborative stakeholder engagement will continue to guide the development of the Rail Policy throughout the process. As outlined by the Terms of Reference, a communications plan will ensure applicants and citizens are well informed of the work underway and the current approach. Principles for the engagement process in the Terms of Reference will continue to be observed.

Strategic Alignment

Overall the MDP seeks to increase the population in developed areas of the city. Specifically Sections 2.2.3 and 3.2 of the MDP speak to the importance of the Centre City as the business and cultural heart of Calgary. Section 3.2.1 b. identifies a goal to accommodate 232,000 jobs and 70,000 people in the Centre City over the next 60 years. The Rail Policy will ensure development adjacent to the rail in this area is safe for occupants, and makes it possible for first responders to assist in the event of an emergency, while allowing The City to approve development that will help to meet its jobs and population targets as per the MDP, local area plans and Land Use Bylaw targets.

The Rail Policy will align with Council Policy CSPA033 “Integration of Emergency Services into The City of Calgary Land Use, Infrastructure and Mobility Planning Policy”, which states that, “emergency services protection, response and public evacuation will be integrated with planning processes of other departments of The City to ensure long-term economic, social and environmental sustainability.”

Administration is working proactively to ensure that strategies, policies and decisions related to development near rail align with The City’s Integrated Risk Management framework.

Social, Environmental, Economic (External)

Social

The health and safety of people who occupy buildings near rail is a key consideration. The risk assessment and mitigation strategies will seek to protect public health and safety, and buildings. The safety and operational needs of first responders who may need to respond to derailments or other incidents near rail will be a priority addressed through the emergency response access strategy. The vitality of communities near rail and the continued success of Calgary’s downtown will be factors as the Rail Policy is developed.

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Environmental

The environmental impacts of railways on nearby development include noise and vibration. The Interim Approach and future policy will provide a framework for responding to noise and vibration concerns.

Economic

The lands adjacent to railways are largely privately owned and, particularly in the Centre City, have high development potential and if developed to reach MDP, local Area plans and land use bylaw density targets provide significant revenues to The City. The Rail Policy will seek to balance the need to protect public safety and buildings while optimizing development potential.

Financial Capacity

Current and Future Operating Budget:

The railway corridor work is identified in Planning & Development's work plan, and staff resources are within existing operating budgets. Any need for consultant services is being absorbed within existing budgets.

Current and Future Capital Budget:

There are no capital expenditures associated with this work.

Risk Assessment

The Rail Policy is being developed to reduce risk associated with the following in relation to proximity to heavy rail:

1. Safety for building occupants and citizens in close proximity to the building;
2. Protecting buildings; and,
3. Facilitating emergency response to a railway incident

In order to develop the final Rail Policy, the Baseline Risk Assessment is being developed to empirically identify and lay out general risk to developments adjacent to a rail corridor. It is an innovative approach not yet undertaken by a municipality. The City of Calgary will be breaking new ground and this may present unexpected challenges and opportunities that will need to be carefully considered and managed as they present themselves.

Until the final Rail Policy is developed, and while other municipalities are implementing different approaches related to development rail proximity, The City of Calgary has reduced risk through the Development in Proximity to Rail: Interim Approach.

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REASON(S) FOR RECOMMENDATION(S):

This report provides updated information to Council on the topic of development in proximity to the railway corridor. Administration will employ the Development in Proximity to Rail – Interim Approach when reviewing development applications in proximity to rail until the Rail Policy is adopted. The amendment to the Terms of Reference for the Rail Policy has been developed through consultation with stakeholders.

ATTACHMENTS

1. Engagement Summary Report: What We Heard
2. Development in Proximity to Rail: Interim Approach
3. Addendum to the Terms of Reference