



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-45-1-2019
Agenda Date	August 12, 2019	File No.	350309-457

Subject	SHIPPING/CARGO CONTAINERS IN COMMERCIAL ZONES-ZONING BY-LAW AMENDMENT AND CHANGES TO THE SITE PLAN CONTROL BY-LAW
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Recommendations	THAT Council receives this report for information to provide alternatives for storage/shipping containers in the Commercial Zones.
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Relation to Council's 2015-2018 Corporate Strategic Plan	Priority: A Prosperous and Growing Community Goal: N/A Initiative: N/A
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List of Stakeholders	Residents of the Town of Fort Erie Fort Erie Building Department Fort Erie Fire Services
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Prepared by:	Submitted by:	Approved by:
<i>"Original Signed"</i>	<i>"Original Signed"</i>	<i>"Original Signed"</i>
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Purpose of Report

The purpose of this report is to present zoning, site plan and alternative fee options to Council on converted shipping/cargo containers as an accessory use in commercial zones in the Town of Fort Erie.

Background Information

On July 8, 2019, report PDS-45-2019 was considered and approved save and except for the commercial zone provisions.

The recommendations in PDS-45-2019 for converted shipping/cargo containers in commercial zones were as follows:

- A maximum of one converted shipping/cargo container will be permitted in a CMU-2, CMU-4, CMU-5, CMU-6, UEC, C2A and C1 Zones as an accessory use subject to the accessory use provisions in each zone.
- A maximum of two converted shipping/cargo containers will be permitted as accessory uses in a C2, C3, C4, C5, C6, C7, CMU-1, CMU-3, ECU, and MS Zone subject to the accessory use provisions in each zone.
- A maximum of one converted shipping/cargo container will be permitted as an accessory use in conjunction with a residential use in all commercial zones.
- Stacking shall not be permitted.

In addition, staff also recommended that Council directs staff to prepare a pre-approved design option for an accessory commercial use as detailed in Report No. PDS-45-2019.

At the Council-in-Committee meeting of July 8, 2019, Council suggested a number of items they would like to see considered in the alternatives for the commercial zone provisions. They were:

- Two containers permitted with appropriate setbacks;
- Stacking permitted -2 high with appropriate setbacks;
- Painting the same colour as the building;
- Number of containers should be relative to property size;
- Cracks and Dents in containers should not be an issue;
- No site plan control;
- Reduction in site plan and variance costs;

Commercial Zone Alternatives as Requested

Staff have reviewed the suggested alternatives noted above and have provided two alternatives for Council to consider.

Option#1

A converted shipping/cargo container will be permitted as accessory to a commercial use subject to the following special provisions:

- i) Two (2) converted shipping/cargo containers shall be permitted on all commercially zoned properties within the Town.
- ii) A shipping/cargo container shall be located in the rear yard only.
- iii) A shipping/cargo container shall have a minimum rear yard setback of 3 metres if the shipping/cargo container is 4.5 metres high or less.
- iv) A shipping/cargo container shall have a minimum rear yard setback of 4.5 metres if the shipping/cargo container exceeds 4.5metres in height.
- v) A maximum of one converted shipping/cargo container will be permitted as an accessory use in conjunction with a residential use in all commercial zones.
- vi) A maximum of two (2) converted shipping/cargo containers may be stacked.
- vii) Stacked containers can be a maximum of 5.78 metres in height.
- viii) Stacked containers exceeding 4.5 metres in height shall be screened from view from the street and any abutting property.

Commentary from Staff on Option #1

The setbacks selected in Option #1 are similar to the accessory commercial use structure provisions for buildings that are currently within the Town's Zoning By-law 129-90, as amended. The Town's Zoning By-law currently permits an accessory commercial structure to be a maximum of 1 storey and 4.5 metres in height provided the structure is setback 3.0 metres from the rear property line. A single shipping/cargo container will not exceed 4.5 metres in height and therefore should have a similar 3.0 metre setback from the rear property line.

Stacking two containers high will exceed the minimum height requirements and an increased rear yard setback of 4.5 metres is proposed to assist in minimizing the impacts to adjacent properties.

Option #1 will continue to be subject to site plan control similar to all other accessory commercial structures in the Town of Fort Erie. Staff have included a recommendation in PDS-45-2019 to have a pre-approved design option prepared for an accessory commercial use shipping/cargo container to help minimize the cost of a site plan application on business owners.

The fees listed in report PDS-45-2019 would still apply under Option #1 as the review is the same as commercial accessory structures using standard materials wood/siding/asphalt shingles. In addition, the site plan fee helps to ensure that the Town receives a portion of the fee for service to minimize the cost to the general tax levy. These fees are no different from building permit fees, rezoning fees, subdivision fees etc.

Should **Option #1** be chosen then the remaining recommendations in report PDS-45-2019 under consideration would remain the same.

Option #2

Definition of Converted Shipping/Cargo Container would be modified as follows:

“CONVERTED SHIPPING/CARGO CONTAINER” means a shipping/cargo container(s) that is no longer being used for its intended purpose, is subject to site plan control and complies with the site plan filed with the Town if applicable.

A converted shipping/cargo container will be permitted as accessory to a commercial use subject to the following special provisions:

- a) One (1) converted shipping/cargo container per 0.4 ha or part thereof to a maximum of four (4) on all commercially zoned properties within the Town.
- ii) A converted shipping/cargo container shall be located in the rear yard only.
- iii) A shipping/ cargo container shall be screened from view from the street and abutting properties.
- iv) A shipping/cargo container shall have a minimum rear yard setback of 3 metres if the shipping/cargo container is 4.5 metres high or less.
- v) A shipping/cargo container shall have a minimum rear yard setback of 4.5 metres if the shipping/cargo container exceeds 4.5 metres in height.
- vi) A maximum lot coverage of 7%.
- vii) A maximum of one converted shipping/cargo container will be permitted as an accessory use in conjunction with a residential use in all commercial zones.
- viii) Converted shipping/cargo container for an accessory use in a commercial zone shall not be subject to site plan control.
- ix) Converted shipping/cargo container for an accessory use in a commercial zone must be painted the same colour as the main building.

- x) A maximum of two converted shipping/cargo containers may be stacked.
- xi) Stacked containers can be a maximum of 5.78 metres in height.

Commentary from Staff on Option #2

In Option #2 staff have provided an alternative to allow one shipping/cargo container per 0.4 ha or part thereof to a maximum of four. This option would allow one converted shipping/cargo container on a lot size of 0.4 ha or smaller. This provision has been used successfully in Milton.

In Option #2, the converted shipping/cargo container must be painted to match the colour of the building rather than be subject to site plan control. The painting of these structures cannot be regulated under a building permit and if there is no site plan control staff have limited authority to ensure they are painted to match the building.

The other provisions in Option #2 are to assist in minimizing the negative impacts of painted converted shipping/cargo containers. These provisions include coverage restrictions and screening requirements.

The remaining provisions are similar to Option #1 and have been discussed above.

The fees listed in report PDS-45-2019 would no longer apply to accessory commercial structures under Option #2, as they would not be subject to site plan control.

The request to allow dents, cracks etc. in converted shipping/cargo containers is not something regulated under site plan control but rather regulated under the building code. These items are only mentioned in the Town's pre-approved design options as these designs are based on set parameters.

Dented, cracked etc. shipping/cargo containers can still be utilized in both options provided they are proven through a structural engineer to the Chief Building Official as being structurally sound.

Should **Option #2** be chosen then the recommendations in report PDS-45-2019 should be modified as follows:

- THAT Council approves the proposed amendments to the Town's Site Plan Control By-law No. 134-86 as amended detailed in **Appendix "1"** of Report No. PDS-45-1-2019, and further
- THAT Council directs that the Fees and Charges By-law No.40-09 as amended be further amended to include the fees as outlined in report PDS-45-2019 and PDS-45-1-2019 and further;
- THAT Council authorizes staff to prepare the necessary by-laws.

Fees for site plan control and minor variances

On July 8, 2019 Council suggested that some consideration should be given to minimize minor variance and site plan fees for the conversion of shipping/cargo containers. Reducing these fees for commercial owners using shipping/cargo containers would create a disadvantage for those commercial owners who are constructing their accessory building from standard building materials or applying for a minor variance for their commercial storage garage and therefore not recommended by staff. Fees should not be based on building materials but rather based on use.

Conclusion

Staff have prepared the requested alternatives for Council's consideration.

Attachments

Appendix "1"- Site Plan Control By-law Changes in Option #2

BY-LAW NO. 133-86

BEING A BY-LAW TO DESIGNATE THE TOWN
OF FORT ERIE AS A SITE PLAN CONTROL AREA

WHEREAS under the provisions of Section 40 of the Planning Act, 1983, as amended, authority is granted to Councils of Municipalities to designate a site plan control area, where in the Official Plan such area is shown or described as a proposed site plan control area.

WHEREAS in the Official Plan in effect in the Town of Fort Erie it is provided that the whole Town is a proposed site plan control area, and the Council deems it expedient to designate the whole of the Town of Fort Erie as a site plan control area.

NOW THEREFORE the Council of the Town of Fort Erie enacts as follows:

1. In this section:

(a) "development" means the construction, erection or placing of one or more buildings or structures on land, or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot, or of sites for the location of three or more trailers as defined in Clause (a) of paragraph 95 of Section 210 of the Municipal Act or of sites for the location of three or more mobile homes as defined in Clause 45(l)(a) of the Planning Act, 1983;

(b) "Converted Shipping/Cargo Container" means shipping/cargo container(s) that have since been converted to a new use from their intended purpose of shipping of goods and materials."

~~(a)~~

~~(b)~~(c) "Corporation" means the Corporation of the Town of Fort Erie;

~~(c)~~(d) "owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper Registry or Land Titles Office; and

~~(d)~~(e) "person" includes an owner.

2. The whole of the area proposed as a site plan control area in the Official Plan is designated as a site plan control area, which area is all within the limits of the Corporation.
3. Notwithstanding any of the provisions of any By-law which may be inconsistent with this By-law, no person shall undertake any development or use any converted shipping/cargo container except in commercial zones in the site plan control area unless the Corporation, or the Ontario Municipal Board in the case of a referral pursuant to subsection 40(12) of the Planning Act, 1983, has approved one or both as council may determine of the following:
 - (a) Plans showing the location of all buildings and structures to be erected (save and except for those buildings and structures mentioned in Section 11 of this by-law) and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under Clause (a) of Section 4.
 - (b) Drawings showing plan, elevation and cross-section views for each building to be erected, (save and except those buildings mentioned in Section 11 of this by-law), which drawings are sufficient to display:
 - (i) the massing and conceptual design of the proposed buildings;
 - (ii) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and
 - (iii) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,but which exclude the layout of interior areas, other than the interior walkways, stairs, elevators and escalators referred to in Clause (iii), the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.
4. As a condition to the approval of the plans and drawings referred to in Section 3, the Corporation may require the owner to:
 - (a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

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- (i) widenings of highways that abut on the land, provided such highways are designated in an Official Plan as highways to be widened and the extent of such proposed widening is indicated or described;
 - (ii) subject to the Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps, curbing and traffic direction signs;
 - (iii) off-street vehicular loading and parking facilities, either covered or uncovered, access driveway, including driveways for emergency vehicles, and the surfacing of such areas and driveways;
 - (iv) walkways, and walkway ramps, including the surfacing thereof, and all other means of pedestrian access;
 - (v) facilities for the lighting, including floodlighting, of the land or of any building or structure therein;
 - (vi) walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands;
 - (vii) vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material
 - (viii) easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewerage facilities and other public utilities of the municipality or local board thereof on the land;
 - (ix) 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 (ii), (iii), (iv), (v), (vi), (vii), (viii), and (ix) of Clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways: and
- (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) and the maintenance thereof as mentioned in Clause (b) or with the provision and approval of the plans and drawings referred to in Section 3.

5. As the area designated under Section 2 is within the Regional Municipality of Niagara, plans and drawings in respect of any development proposed to be undertaken in the area shall not be approved until the Regional Municipality of Niagara has been advised of the proposed development and afforded a reasonable opportunity to require the owner of the land to:
 - (a) provide to the satisfaction of and at no expense to the Regional Municipality of Niagara any or all of the following:
 - (i) Widening of a highway abutting the land which is under the jurisdiction of the Regional Municipality of Niagara provided such highway is designated in an Official Plan as a highway to be widened and the extent of such proposed widening is indicated or described;
 - (ii) Subject to the Public Transportation and Highway Improvement Act, where the land abuts a highway under the jurisdiction of the Regional Municipality of Niagara, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs;
 - (iii) Where the land abuts a highway under the jurisdiction of the Regional Municipality of Niagara, off-street vehicular loading and parking facilities, either covered or uncovered, access driveways including driveways for emergency vehicles, and the surfacing of such areas and driveways;
 - (b) enter into one or more agreements with the Regional Municipality of Niagara dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in Clause (a) and the maintenance thereof at the sole risk and expense of the owner, including the removal of snow from access ramps and driveways and parking and loading areas.
6. Any agreement entered into under Clause (c) of Section 4 or Clause (b) of Section 5 may be registered against the land to which it applies to the Corporation or the Regional Municipality of Niagara, as the case may be, is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.

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7. Section 325 of the Municipal Act applies to any requirements made under Clauses (a) and (b) of Section 4 and to any requirements made under an agreement entered into under Clause (c) of Section 4.
8.
 - (a) Where the owner is directed or required by this By-law or any agreement thereunder that any matter or thing be done and such person defaults in doing such matter or thing, it may be done by the Corporation at its expense and the Corporation may recover the expense in doing it by action or the same may be recovered in like manner as municipal taxes.
 - (b) Where the owner is in default in doing any matter or thing which he is directed or required to do by this By-law he is to be given written notice by prepaid registered mail to his usual place of business or place of residence advising him of the default and affording him not less than thirty (30) days to remedy the default.
 - (c) Where the owner has been given notice of default by prepared registered mail and he has failed to remedy the default within the time prescribed in the notice he is entitled to appear before a meeting of the Council in respect of such default before the Corporation proceeds under subsection (a) of this Section.
9. No building permit or permits are to be issued until:
 - (a) the plans showing the location of all buildings and structures to be erected on the land and the location of the other facilities, required by this By-law are filed by the owner with the Corporation and approved by the Corporation, or by the Ontario Municipal Board in the case of a referral pursuant to subsection 40(12) of the Planning Act, 1983;
 - (b) the drawings showing plan, elevation and cross-section views for each building to be erected, and for residential buildings containing less than twenty-five dwelling units if required by the Corporation, are filed by the owner with the Corporation and approved by the Corporation, or by the Ontario Municipal Board in the case of a referral pursuant to subsection 40(12) of the Planning Act, 1983;

- (c) the owner conveys to the Corporation or the Regional Municipality of Niagara, as the case may be, lands for the widening of highways required by the Corporation, or the Regional Municipality of Niagara, free of charge and with a title free of encumbrance;
 - (d) the owner conveys to the Corporation, free of charge and with a title free of encumbrance, lands for a walkway where required by the Corporation;
 - (e) the owner conveys to the Corporation, free of charge and with a title free of encumbrance, any easements required by the Corporation or a local board thereof for its purposes; and
 - (f) the owner files with the Corporation, for its approval, a lot grading plan showing all grading and changes in elevation or contour of land and disposal of storm, surface water and waste water from the land and from any buildings or structures existing or to be erected thereon.
10. No person shall:
- (a) block or impede access to land at the point of ingress and egress shown on the plans and/or drawings filed with the Corporation;
 - (b) park a vehicle on private property other than on the parking and loading areas shown on the plans filed with the Corporation;
 - (c) block or impede the use of walkways shown on the plans filed with the Corporation;
 - (d) interfere with snow removal directly or indirectly and without limiting the generality of the foregoing, no vehicles shall be parked so as to obstruct the removal of snow from access ramps, driveways, parking and loading areas and walkways shown on the plans filed with the Corporation;
 - (e) change the grading or contour or elevation of the land from that shown on the plans filed with the Corporation and approved by the Engineer of the Corporation without the consent in writing of the Engineer of the Corporation;
 - (f) block or interfere with the disposal of or alter the normal drainage course for storm, surface and waste water from the land and from any buildings or structures thereon unless alternative drainage is provided to the written satisfaction of the Engineer of the Corporation;

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- (g) block or interfere with watercourses, watermains, ditches, land drainage works or sanitary sewerage facilities of the Corporation or of the Regional Municipality of Niagara, whichever is the case;
 - (h) permit floodlights from the land to illuminate neighbouring buildings where such illumination disturbs the sleep or privacy of the occupants of the buildings so illuminated;
 - (i) fail to maintain walls, fences, hedges, trees, shrubs or other groundcover or facilities shown on the plans filed with the Corporation; and
 - (j) fail to keep in good repair and covered, all vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material as shown on the plans filed with the Corporation.
11. The provisions of this By-law do not apply to:
- (a) any residential building containing less than four dwelling units except for converted shipping/cargo container(s);
 - (b) any alteration or addition to an existing single family dwelling duplex, triplex, or semi-detached building except for converted shipping/cargo container(s);
 - (c) any building or structure accessory to the uses described in paragraph (a) hereof except for converted shipping/cargo container(s);
 - (d) an in-ground or above-ground swimming pool accessory to the uses described in paragraph (a) hereof;
 - (e) any agricultural buildings or structures except for greenhouses and additions thereto;
 - (f) Any converted shipping/cargo container(s) in a commercial zone as illustrated in Zoning By-law 129-90, as amended.
12. Any person who contravenes Section 4 of this by-law is guilty of an offence and on conviction is liable to a fine as described in Section 66 of the Planning Act, R.S.O. 1983, Chapter 1.
13. That By-law No. 217-85 be and it is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23RD DAY OF JUNE, 1986.