

**DATE:** May 6, 2013

**REPORT NO. CD2013-099**

**TO:** Chair and Members  
Committee of the Whole

**FROM:** Gregory Dworak, General Manager  
Community Services

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**1.0 TYPE OF REPORT** **CONSENT ITEM [ ]**  
**ITEM FOR COUNCIL CONSIDERATION [X]**

**2.0 TOPIC**  
**Expansion of the Downtown Brantford Business Improvement Area**

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**3.0 RECOMMENDATION**

- A. THAT staff report CD2013-099 dealing with the expansion of the Downtown Brantford Business Improvement Area Boundaries BE RECEIVED; and
- B. THAT the expansion of the Downtown Brantford Business Improvement Area boundaries as shown in "Appendix "B" to staff report CD2013-099 BE APPROVED; and
- C. THAT the By-law to expand the Downtown Business Improvement Area boundaries attached as Appendix "C" BE ENACTED in accordance with Sections 204 and 209 of the Municipal Act, 2001.

**4.0 PURPOSE**

The purpose of the report is to finalize the expansion of the Downtown Brantford B.I.A. boundaries, based on the request from the B.I.A. Board of Management.

**5.0 BACKGROUND**

**5.1 Council Resolution**

The Downtown Brantford B.I.A. submitted a Committee Report on January 14, 2013 outlining its reasons for requesting an expansion of its boundaries. The current Downtown BIA boundary was set in 1987. The main reason identified for

the proposed boundary expansion is to account for the growth of businesses outside of the BIA boundary established in 1987.

City Council, on January 28, 2013, adopted the following resolution:

- A. *THAT the report, regarding the Downtown Brantford Business Improvement Area Boundary Expansion Request BE RECEIVED; and*
- B. *THAT staff BE REQUESTED to send out notice of intent to amend the designating by-law to all existing and new businesses in accordance with the Municipal Act; and*
- C. *THAT staff PREPARE the necessary amending By-law.*

## **5.2 Proposed BIA Boundary**

The Downtown Brantford B.I.A was created on March 14, 1977 through By-Law 44-77. The current B.I.A. boundaries were set in 1987 through Bylaw 210-87 and coincide with the City's Downtown Community Improvement Plan Area as follows: Brant Avenue and West Street (west), Clarence Street (east), Icomm Drive (south) and Nelson Street (north).

The proposed new area boundaries would now include all of Market Street (both sides from Grey Street to Veterans Memorial Parkway ), the east side of Clarence Street (from Colborne to Chatham), Colborne and Dalhousie Streets (both sides from Clarence to Alfred), and everything south of Icomm Drive to the Veteran's Memorial Parkway (between the Grand River and Clarence Street).

The new boundaries would encompass most of the Downtown Brantford Urban Growth Centre as defined by the Places to Grow legislation, except for the mainly residential city blocks north of Chatham Street. The existing and proposed boundaries for the B.I.A are shown in **Appendix "A"** to this report.

## **5.3 Municipal Act**

Business Improvement Areas are governed by Sections 204 to 215 of the Municipal Act. Section 209 of the Municipal Act, provides the legislative authority to expand a B.I.A.

A summary of the Municipal Act process to expand the BIA boundary is as follows:

- A notice of intention to pass the Bylaw (Appendix "B") must be sent to the BIA Board of Management, and property owners with a business property tax classification within the current and proposed business improvement area.
- Within 30 days of the notice being mailed, property owners have the responsibility to give their tenants a copy of the notice and provide the City

Clerk a list of every tenant required to pay taxes on the property and the share of the taxes that each tenant and property owner pays.

- Council cannot pass a Bylaw to change the boundaries of the BIA if written objections are received by at least one-third of the total number of persons entitled to receive notice within 60 days of mailing the notice; and if
  1. The total value of the taxes of the objectors is at least one-third of the total taxes in the improvement area, or
  2. The total value of the taxes of the objectors is at least one-third of the total taxes in the proposed boundary expansion area.

#### **5.4 Notice**

On February 1, 2013, 355 notices were sent to the affected property owners. If sufficient objections to the expansion are not received by the Clerk of the municipality, the by-law (attached as Appendix “C”) to expand the boundaries of the Downtown Brantford B.I.A. will be forwarded for consideration by City Council after the statutory appeal period. The statutory appeal period ran from February 1 to April 1, 2013.

## **6.0 CORPORATE POLICY CONTEXT**

This report reflects the Corporate Policy as follows:

### **Goal One – Economic Vitality and Innovation**

- Brantford’s downtown will be vibrant and successful – the hub for its citizens, students, businesses, visitors and government.

## **7.0 INPUT FROM OTHER SOURCES**

The Downtown Brantford B.I.A. has consulted the property owners within the proposed expanded area. Staff is satisfied with the B.I.A’s consultation process.

## **8.0 ANALYSIS**

### **8.1 Results of the Notice of Intention**

As previously noted, a total of 355 notices of intention were circulated by the Clerks Department on February 1, 2013. A total of 7 objections (2%) were received by the City Clerk. The objectors and the nature of their concern are outlined in Table 1.

**Table 1 – List of Objectors to the Proposed BIA Boundary Expansion Area**

<b>Name</b>	<b>Address</b>	<b>Date and Comments</b>
Dorothy Meisner	50 Market Street South First Choice Haircutters	March 1, 2013 Object to cost of paying levy
Martin Sitko	170 Market Street Barbershop	March 13, 2013 Object to method of consent, cost of levy and unconstitutionality of the Ontario Municipal Act
R. Rossewy and H. Rutherford	50 Market Street South Subway	March 25, 2013 Do not want to be involved with the BIA
Lin Chang	50 Market Street South Jumbo Dragon Chinese Restaurant	March 26, 2013 Oppose this proposal
Robert Middleton	50 Market Street South Little Caesar's Pizza	March 26, 2013 Do not support expansion
Jennifer Duby	50 Market St S. The Beer Store	March 21, 2013 Object to expansion
Sunset Grill (no name)	50 Market Street Sunset Grill	March 26, 2013 Oppose expansion of the BIA

The City Clerk has reviewed the 7 objections, as listed in Table 1, and has determined that the thresholds for objections as defined by the Municipal Act have not been achieved. Council is now in the position to pass the By-Law to expand the B.I.A. boundary as per the Municipal Act. The draft bylaw is attached as **Appendix "C"**.

## 9.0 FINANCIAL IMPLICATIONS

The expansion of the Downtown Brantford B.I.A. will have no financial implication for the City of Brantford as the operating budget for the B.I.A. will be totally derived through levying the B.I.A. members. Should City Council decide to enact the expansion by-law, the levy in the expansion area will begin with the final tax installment notices in June 2014.

## 10.0 CONCLUSION

The Downtown Brantford B.I.A. has completed an extensive public consultation process to determine the receptivity to its proposal to expand its boundaries. The B.I.A. has complied with the requirements as stipulated in the Municipal Act. On Council's direction, staff distributed the Notice of Intention on February 1, 2013 to all 355 affected property owners in accordance with the Municipal Act. The final date on which objections could be received was Monday April 1, 2013 and 7 were received. The Clerk has determined that the thresholds for objections were not achieved; meaning the affected property owners overwhelmingly accepted

the boundary expansion. City Council now can pass the by-law to alter the existing B.I.A boundaries.

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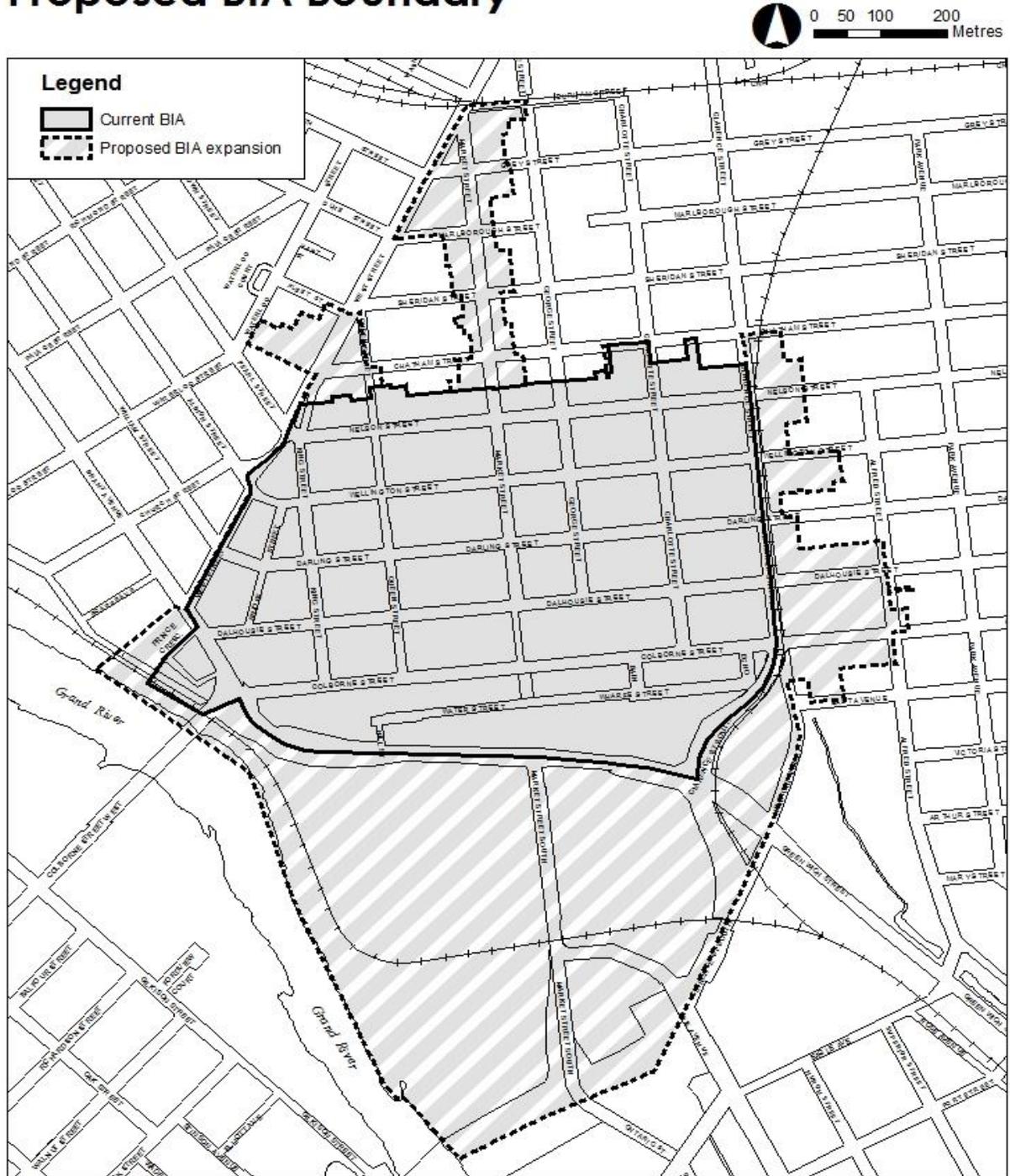
- Appendix "A"** Map of Current and Proposed BIA Boundaries
- Appendix "B"** Notice of Intention
- Appendix "C"** Draft By-law to expand the BIA Boundary

In adopting this report, is a bylaw or agreement required? If so, it should be referenced in the recommendation section.

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|--|---|--|
| Bylaw required   | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no            |
| Agreement(s) or other documents to be signed by Mayor and/or City Clerk  | <input type="checkbox"/> yes            | <input checked="" type="checkbox"/> no |
| Is the necessary by-law or agreement being sent concurrently to Council? | <input checked="" type="checkbox"/> yes | <input type="checkbox"/> no            |

Appendix "A"

# Proposed BIA Boundary



**Appendix "B"**



**LETTER TO PROPERTY OWNERS OF INTENT TO EXPAND THE BIA BOUNDARIES**

February 1, 2013

Dear Property Owner:

**RE: NOTICE OF INTENTION**

**Intention to Expand the Boundaries of the Downtown Brantford Business Improvement Area**

In accordance with Section 204 of *the Ontario Municipal Act, 2001* hereinafter referred to as "the Act", the Downtown Brantford BIA Board of Management has requested the City of Brantford expand the boundaries of the BIA as outlined in the map attached as Document 1.

A BIA is a tool to develop and undertake promotional programs, marketing and streetscape beautification for the business area. These programs are financed through a special levy, which is applied to all property owners in the area who usually pass the cost on to the business tenants. For more information on the Downtown Brantford BIA request, please contact: Annette Fitch, 519-753-6644 or [info@downtownbrantford.ca](mailto:info@downtownbrantford.ca)

The request to expand the boundaries of the BIA under the provisions of the Act was subsequently approved by City Council at its meeting on January 28, 2013.

In this regard, the following are some of the relevant provisions of Section 210 of the Act.

- 1) **Notice of Intention** - Before passing a by-law under subsection 209 changing the boundary of a BIA, notice of the proposed by-law shall be sent by prepaid mail to every person who, on the last returned assessment roll, is assessed with respect to rateable property in the area that is a prescribed business property class.
- 2) **Duties of Landlords** – A person who receives a notice under subsection (1) shall within 30 days after the notice is mailed
  - A. Give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property, and
  - B. Give the clerk of the municipality a list of every tenant described in clause (A) and the share of the taxes that the person is required to pay.

**3) Objections – a municipality shall not pass a by-law referred to in subsection (1) if,**

- A. Written objections are received by the clerk of the municipality within 60 days after the mailing of the notices
- B. The objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (A); and
- C. The objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area.

**4) Sufficiency of Petition Determined by the Clerk –** The sufficiency of the petition described in this section shall be determined by the clerk and the determination shall be evidenced by his or her certification and when so evidenced as final and conclusive.

This notice is being sent by regular mail on **February 1, 2013**. Therefore please note that the dates referred to above will be: Subsection (2) (A) **March 2, 2013** and Subsection (3) (A) **April 1, 2013**.

**Any objections must be received on or before April 1, 2013**

Yours truly,

Lori Wolfe  
City Clerk  
City of Brantford  
100 Wellington Square  
Brantford, ON N3T 2M3  
(519) 759-4150  
Email: [loriwolfe@brantford.ca](mailto:loriwolfe@brantford.ca)

Attach: Document 1: Proposed Downtown Brantford Business Improvement Area Boundary

Appendix "B"

Document 1

Proposed Downtown Brantford BIA Boundary

