



Report to: Development Services Committee

Report Date: March 5, 2013

SUBJECT: Request to Remove Restrictions on the Approval of
Additional Restaurant Floor Space within the Commercial
Core Area of Historic Unionville
Unionville Business Improvement Area

PREPARED BY: Regan Hutcheson, Manager, Heritage Planning, ext 2080

RECOMMENDATION:

- 1) That the report entitled "Request to Remove Restrictions on the Approval of Additional Restaurant Floor Space within the Commercial Core Area of Historic Unionville – Unionville Business Improvement Area", dated March 5, 2013, be received;
- 2) That the request from the Unionville Business Improvement Area (UBIA) to amend the Unionville Core Area Secondary Plan (OPA 107) and to amend Zoning By-law 122-72, as amended, related to the restrictions on the approval of additional restaurant floor space within the commercial area of historic Unionville, be referred to the Main Street Unionville Precinct Master Plan study currently being undertaken by Torti Gallas and Partners.
- 3) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of the report is to present options to Council related to the request from the Unionville Business Improvement Area (UBIA) to remove the restrictions on the approval of additional restaurant floor space within the historical commercial area of historic Unionville. The recommendation of staff is that the matter be considered in the context of the Main Street Study recently authorized by Council, in partnership with the UBIA and other stakeholders. Other possible options available to Council are also addressed in the report.

BACKGROUND:

UBIA requests the removal of the "50/50 restaurant restriction"

In November 2012, the UBIA prepared and distributed a survey to commercial businesses and property owners on Main Street Unionville seeking feedback on the existing restrictions related to the approval of additional restaurant floor for properties in the historic commercial area. According to a letter from UBIA member Sharon Taylor Wood dated November 16, 2012, 48 surveys were received which represented about 66% of the tenants and property owners. Of the completed surveys, 96% requested the removal of the restaurant restrictions with 2% not in favour and 2% undecided. According to Ms Taylor Wood, the removal of restrictions was also supported at the UBIA General Meeting and at a subsequent UBIA Board Meeting.

Development Services Committee received the correspondence and deputation from Ms. Taylor Wood, including copies of the surveys, on December 11, 2012, and referred the matter to staff.

Current restrictions on the approval of additional restaurant space was approved in 2003 after extensive study and consultation

In 2002, the Town of Markham retained consultants to undertake the “Main Street Land Use and Parking Study” - a study of the Unionville Core Area to explore the desired planned function of Main Street Unionville, and to make recommendations in respect of land use policies and zoning requirements. A number of Main Street Unionville business representatives and area ratepayers had expressed concern in relation to the number of restaurants and pubs locating on the Main Street, and its impact on retail uses and parking supply. Concern was also expressed regarding the pressure for ground floor office uses and a general concern with the displacement of retail uses.

The above study confirmed that the proliferation of restaurants threatened to undermine the planned function of Main Street as a traditional shopping area. Further controls on restaurant uses were warranted to ensure a vitality of retail uses and continued variety and mix of land uses. As part of the study, Retail/Management Consultant John Winter undertook a Market Analysis of Main Street and his findings included:

- “the current proportion of restaurants, 27%, exceeds by a wide margin any other commercial area that we are aware of in Canada (excluding restaurant campuses)”;
- “the average for urban areas is some 7% of the commercial area in restaurants...Unionville is currently four times higher than the average”;
- “the future trends indicated that a ‘restaurant row’ or a ‘restaurant campus’ is forming along Unionville Main Street and, while this may increase the diversity and choice of eating areas, it can be seen as contrary to the planned function of Unionville Main Street, which focuses on ‘a traditional shopping experience’”;
- “the success of the restaurants is threatening to choke off the amount of space devoted to retailers, who were the original draw...restaurant rents may outbid other uses”;
- “Experience has shown that successful retail nodes, particularly Main Streets, sell merchandise. A decline in the number and proportion of retail stores could be a predictor of impending decline”;
- **Recommendation #1 – “Maintain the proportion of retail stores in Unionville Main Street at or (preferably) above the 50% level of ground floor space”;**
- “As long as any new restaurants did not crowd out retailers...and maintained their propulsive spin-offs, restaurants could be any proportion below 50%”
- **Recommendation #2 – “To protect the planned function of Unionville Main Street, restrict the areal extent of restaurants”**

To implement the recommendations of the overall study, changes were made to the Official Plan, the Unionville Core Area Secondary Plan, and the Zoning By-law.

The Official Plan was amended to further articulate what was meant by a “traditional shopping experience” in the Heritage Main Street commercial zone. The Unionville Core Area Secondary Plan introduced policies that:

- Ensure that in excess of 50% of the total, at-grade floor area within a defined traditional shopping areas would be in retail use and that Council would only approve additional restaurant floor space when retail uses represented greater than 50% of the total at-grade floor space (Policy 5.1.2)
- Control the amount of new restaurant space by requiring an amendment to the zoning by-law to permit new restaurant space in the defined area (Policy 5.4.2)
- Provide guidance to the Committee of Adjustment to discourage minor variances for parking associated with restaurants and only permit a variance subject to strict guidelines (i.e. no reduction shall be greater than 10%) (Policy 5.6.3); and
- Prohibit certain land uses not conducive to a “traditional shopping experience” or those that do not contribute to the animation of the retail environment including banquet halls, fast food restaurants and banks. (Policy 5.4.4).

The Zoning By-law was amended to remove all forms of restaurant type uses as a permitted use in the Heritage Main Street commercial zone, but individually identified the existing restaurants at their current size as permitted uses.

Percentage of retail floor space is 49.9 %

Each year since 2003, or as required, Heritage Section staff has undertaken an update to the Building Footprint Inventory to determine the amount of gross ground floor area currently in retail, restaurant and in other uses (personal services, public, residential). This analysis provides information on whether more than 50% of the total at-grade, gross floor area is in retail use. The following chart illustrates the original findings from May 2003 and the most recent results:

	May 2003 M²	Percentage	July 2012 M²	Percentage
Retail	3,576.0	45.7%	4,054.1	49.9%
Restaurant	2,187.0	27.9%	2,304.5	28.4%
Other (personal service, residential)	2,064.0	26.4%	1,758.0	21.7%
Total	7,827.0	100%	8,116.6	100%

Note: In 2003, vacant space was included in the ‘Other’ category. In all other analysis, vacant floor space has been assessed as its former use (i.e. a vacant retail store has been counted as ‘retail’).

To determine the use of the property, the following definitions are used:

Retail- a premise in which the principal activity is the display and sale of merchandise to the general public for household or personal consumption (excluding wholesale) with the majority of sales being conducted by traditional ‘over the counter’ means direct to the consumer. **Personal service uses are not counted as ‘retail’.**

Restaurant- a premise for the preparation and sale of food and beverages served by a restaurant employee and includes Café Restaurants, Fast Food Restaurants, Take-out Restaurants and Taverns/Pubs.

Other – uses which are not retail establishments or restaurants and may include **public uses** such as the McKay Art Gallery, **personal service shops** (spas, dog grooming, hair salons, etc), **legal offices** (certain properties have the right to have ground floor offices), and **residential**.

Council has authorized the Main Street Unionville Precinct Master Plan study

On January 30, 2013, Council approved the above study to be undertaken by Torti Gallas and Partners Inc and sub-consultants to an upset limit not to exceed \$250,000. This study proposal was initiated by the UBIA and submitted to the City for funding authorization. A Working Group (Main Street Unionville Committee) consisting of City representatives, the UBIA and heritage and ratepayer representatives is being formed to help guide the study and its implementation. Part of the study includes a review and analysis of existing entitlement zoning provisions which may result in possible changes to land use regulations. According to the study schedule, the four stages of the study should be completed within 6 months, and will provide for public input including a design charrette.

OPTIONS/ DISCUSSION:

Options for Consideration

Option 1- Do Nothing

Council could choose to maintain the current policies related to restaurant restrictions in the Unionville Core Area Secondary Plan and the zoning by-law.

Option 2 – Modify the Existing Policy

Council could direct Planning staff to modify the current policies in the Secondary Plan to reduce the retail percentage to a lower number to allow a moderate amount of restaurant investment to occur. Applicants would still have to seek an amendment to the zoning by-law to permit new restaurants to be introduced. Amending the Secondary Plan would take 3-4 months as it involves a statutory public meeting.

Option 3 – Removal of the Existing Policy

Council could direct Planning staff to remove the policies in the Secondary Plan related to restrictions on restaurant use. As noted in the Background Section, there are a number of inter-related policies on the matter of restaurants including the 50% requirement, the need for a zoning by-law amendment, the policy on variances related to restaurant parking requirements, and the prohibition of fast food restaurants. This option would also require the Zoning By-law to be amended to add restaurants as a permitted use. Amending these two documents would take 3-4 months as both involve a combined statutory public meeting.

Option 4 – Refer the Issue to the Current Master Plan Study

Council could defer consideration of this matter at this time and refer the proposal to be considered within the context of the above Master Plan Study. The restaurant restriction issue would be addressed along with all other policy and land use matters currently affecting historic Unionville. The recommendations from the consultants would be based on full public and city input obtained through the charrette process, and any subsequent public meeting(s) to consider possible amendments to the Official Plan, Secondary Plan and Zoning.

Staff Recommendation

Based on a review of the four options, staff recommends Option 4. This would provide for a comprehensive review of the policy in the context of all other policies. The proposed timeframe of the study would allow Council, if necessary, to make any modifications to the Secondary Plan and zoning by-law in the Fall of 2013.

If Council does not wish to support Option 4, and prefers Option 2 (Modify the Policy) or Option 3 (Remove the Policy), Council as part of its resolution on this matter, would need to authorize staff to arrange a statutory public meeting.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Council on January 30, 2013 (continuation of the January 29th meeting) authorized funding for the Main Street Unionville Precinct Master Plan study.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

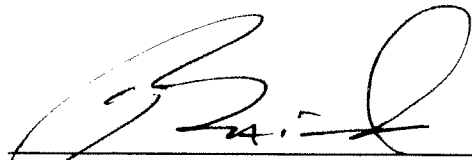
The Master Plan study will address matters relating to Growth Management.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not Applicable

RECOMMENDED BY:

Rino Mostacci, M.C.I.P., R.P.P.
Director, Planning & Urban Design



Jim Baird, M.C.I.P., R.P.P.
Commissioner of Development Services

ATTACHMENTS:

Attachment 'A' Secondary Plan Policies related to restaurants
Attachment 'B' Zoning By-law

APPENDIX A

of the SPECIAL POLICY AREA and prescribes the various land use categories permitted, in the context of this Secondary Plan, within the boundaries of the lands designated SPECIAL POLICY AREA. The specific land use policies applicable in the SPECIAL POLICY AREA shall be the policies of Section 3.10.2 of the Official Plan (Revised 1987) as amended and the policies applicable, in this Secondary Plan and in the Official Plan, to the land use categories as shown on Schedule 'AA' hereto.

5. POLICIES5.1 GENERAL

5.1.1 It shall be the policy of the Town to encourage the continued commercial viability of the Unionville Core Area, while preserving and enhancing its distinctive and historic character. To this end, Council will permit limited expansion and intensification of Core Area uses.

5.1.2 It shall be the policy of the Town that Main Street Unionville provide a traditional shopping experience in the form of a historic commercial area where the at-grade uses are predominately retail.

Specifically, it is intended that in the Main Street Unionville Traditional Shopping Area as shown on Schedule 'BB', in excess of 50 percent of the total at-grade, gross floor area shall be in retail use. Council shall only approve additional restaurant floor space within the Traditional Shopping Area shown on Schedule 'BB' when retail uses represent greater than 50% of the total at-grade, gross floor area.

5.1.3 To maintain animation and pedestrian activity and interest at street level, it shall be the policy of the Town to prohibit business and professional Offices on the ground floor of commercial properties facing Main Street Unionville.

5.1.4 Applications for commercial development and expansion within the Core Area shall be evaluated with regard to compatibility with the historic character of the area, the adequacy of parking provided and available in the Core Area and sensitivity to adjacent low density residential areas.

5.1.5 Commercial development shall not be permitted to expand beyond the Unionville Core Area into adjacent residential areas. Council is committed to the retention of a residential component within old Unionville, which shall include the historic

5.3 HAZARD LANDS

5.3.1 The lands adjacent to the Rouge River, east of the Kennedy Road original road allowance, are designated HAZARD LANDS as shown on Schedule 'AA'. These HAZARD LANDS, which are outside the SPECIAL POLICY DESIGNATION of the Official Plan, are subject to the HAZARD LANDS policies of Section 3.10.1 of the Official Plan.

5.3.2 Within the area designated HAZARD LANDS as shown on Schedule 'AA', provision shall be made for a vegetated riparian habitat zone along the streambank of the Rouge River, having a minimum width of thirty (30) metres (or to the satisfaction of the Town and the Toronto and Region Conservation Authority). Such riparian habitat zone shall be retained in a natural state and, where required, will be planted or supplemented with additional planting in accordance with a riparian vegetation plan, approved by the Town in consultation with the Toronto and Region Conservation Authority.

5.4 PERMITTED USES

5.4.1 Permitted uses in the Core Area shall include a diversified mixture of commercial facilities, limited to specialty retail establishments, personal service shops, bed and breakfast establishments and business and professional offices as well as recreational and cultural facilities and residential uses. The nature and location of these uses shall be specified in the implementing zoning by-law.

5.4.2 In addition to the uses permitted in Section 5.4.1, restaurant uses may be permitted by Council subject to an amendment to the zoning by-law. When considering such an application, the applicant shall be required to satisfy Council that there is sufficient parking available and that the new use will not negatively affect the predominance of at-grade retail uses along Main Street in accordance with Section 3.4.6.4. a) i) of the Official Plan and Section 5.1 of this Secondary Plan.

5.4.3 In addition to the uses permitted in policy 5.4.1, hotels may be permitted by Council subject to an amendment to the zoning by-law. When considering such an application, the applicant shall be required to satisfy Council that there is sufficient parking available and that the new use will not negatively affect the predominance of at-grade retail uses along Main Street, in accordance with Sections 3.4.6.4 a) i) of the Official Plan and Section 5.1 of this Secondary Plan.

5.4.4 Notwithstanding Section 3.4.6.4(c) of the Official Plan (Revised 1987) as amended, the following uses shall be prohibited on lands designated Heritage Main Street Area:

- Places of Worship
- Private and Commercial Schools
- Motels
- Funeral Homes
- Banquet Halls
- Fast Food Restaurants
- Banks and Financial Institutions
- Daycare Centres

5.4.5 The Core Area is characterized for the most part by uses that are complementary and interdependent; each use plays a role in creating and enhancing the overall character and attractiveness of the Core Area. Uses that attract and promote "one stop shopping" contribute little to the overall vitality and amenity of the Core Area. These uses are typically characterized by high user turnover and high parking demand and shall not be encouraged to locate within the Core Area. An example of such a use would be a fast food restaurant franchise outlet, which attracts high volumes of traffic to one specific site.

5.4.6 The value of the small, independent commercial establishments to the overall amenity and vitality of the Core Area is recognized and such uses will be encouraged to remain or locate in the area.

5.5 HERITAGE AND URBAN DESIGN

5.5.1 In order to maintain and preserve the existing buildings and historic architectural character of the Core Area and environs, the Town has established the Unionville Heritage Conservation District under Part V of the Ontario Heritage Act.

5.5.2 Council has adopted a heritage conservation district plan, which includes policies and design guidelines respecting the protection and enhancement of the district, in accordance with the guidelines established by the Ministry of Culture and accepted heritage conservation policies and practices.

5.5.3 It is the objective of Council, in consultation with Heritage Markham, that all new development within the Core Area shall be compatible with, and complementary to, the distinctive and historic character of the area. In particular, regard shall be had for building design, building materials and treatments, signage

and landscaping and tree preservation. Uses or establishments that are by nature incompatible with this objective shall be discouraged from locating in the Core Area.

5.6 TRAFFIC AND PARKING

- 5.6.1 Improvements to the parking areas and traffic circulation patterns shall be initiated and encouraged by Council, with an emphasis on pedestrian convenience and safety. Such improvements will include improved pedestrian and vehicular linkages between Main Street and the parking areas to the east and west. Council will also endeavor to improve signage identifying parking areas within the Core Area.
- 5.6.2 The availability of convenient and adequate parking is critical to ensure the continued commercial vitality of the Core Area and may have implications for future commercial growth. Consequently, Council will ensure that adequate on-site parking is provided in association with all new development in the Core Area. In addition, the Town will pursue opportunities for supplementing the supply of public parking within the Core Area. Opportunities for additional public parking may include:
- the lands to the east of Main Street;
 - the lands on the west side of Main Street north of Carlton Road and the bridge;
 - northeast corner of Main Street and Carlton Road;
 - historic Unionville train station site;
 - former Stiver Mills lands;
 - Recycling Depot lands on Main Street.
- 5.6.3 Parking demand closely mirrors the available parking supply. In keeping with the planned function of Main Street and recognizing that the parking standard for restaurant uses are reduced when compared to other areas of the Town, the granting of minor variance relief from the parking standards of the zoning by-law is strongly discouraged for restaurant uses. Such relief should only be granted in limited circumstances upon the applicant satisfying the Town that a minor reduction of the parking requirement is necessary for the appropriate use and development of the land and that there will be other demonstrable community benefits through the granting of such a request, such as the integration of adjacent parking areas or additional landscaping. It is intended that the Committee of Adjustment be guided in their decisions that in no case shall the reduction be greater than 10 percent of the parking requirement.

APPENDIX B

RESTAURANT means an establishment for the preparation and sale of food and beverages served by a restaurant employee to a table located in an area inside or outside the building where the food is prepared and, as an accessory use thereto, such establishment may offer a take-out service. Such establishment may include a licensed dining lounge.

RESTAURANT, CAFÉ means an establishment serving primarily hot beverages such as coffees and teas, and as accessory thereto may offer associated food products.

RESTAURANT, FAST FOOD means an establishment for the preparation and sale of food and beverages for consumption both inside and outside the building(s) on the premises and as accessory thereto may offer drive-in, take-out, or packaged fast food service.

RESTAURANT, TAKE-OUT, means an establishment where food and beverage are prepared and sold, primarily for delivery to or pick-up by customers for consumption off the premises.

RESTAURANT, TAVERN means a Building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food, and shall include a pub-style restaurant.

All other definitions of Section 2 – DEFINITIONS of By-law 122-72, as amended, not inconsistent with the above definitions shall continue to apply.

- 1.5 By deleting Section 14 – COMMERCIAL MAIN STREET (MS) ZONE of By-law 122-72, as amended, and substituting therefore the following:

"SECTION 14 – HERITAGE MAIN STREET (HMS) ZONE

14.1 HMS USES PERMITTED

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, NOR ERECT and use any BUILDING or STRUCTURE in a HERITAGE MAIN STREET (HMS) ZONE except for one of more of the following uses:

- Display, storage and sale of objects of art and craft work such as in an antique shop
- Custom workshops for the production, repair and storage of works of art and craft work as accessory to the commercial sale of such objects in the same BUILDING
- Photographer's studios
- Historical museums, libraries and art galleries
- 'Speciality' retail sales establishments including boutique fashion stores, tobacco and pipe stores, florists, greeting card stores, book stores and gift stores
- PERSONAL SERVICES SHOPS
- Outdoor displays, exhibitions and kiosks and open air markets
- Amateur and semi-professional theatres and the like
- Business and professional OFFICES, provided that such OFFICE uses shall not be located on the GROUND FLOOR of BUILDINGS
- SINGLE DETACHED DWELLINGS or DWELLING UNITS in the same BUILDING as any of the above permitted uses
- BED AND BREAKFAST INNS

1.1. By amending Section 14.3(iii) to read:

139 Main Street

RESTAURANTS shall be permitted provided the total maximum gross floor area for all RESTAURANTS does not exceed 326.5 m² and the second floor shall only be used for Office uses on the lands municipally known as 139 Main Street as shown on Schedule 'B'. In addition, not less than 50% of the at-grade gross floor area of 139 Main Street shall be devoted to RETAIL use.

14.2 PROHIBITED USES

In addition to the uses prohibited by Subsection 5.19 of By-law 122-72, as amended the following uses shall also be prohibited in the HERITAGE MAIN STREET (HMS) ZONE:

- FAST FOOD RESTAURANTS
- DRIVE-IN RESTAURANTS
- Business and professional OFFICES on the GROUND FLOOR of BUILDINGS

14.3 SITE SPECIFIC EXCEPTIONS

(a) Notwithstanding the provisions of Subsections 14.1 and 14.2 above, the following additional uses shall be permitted/prohibited on a site specific exception basis for the properties noted:

- (i) 162, 166 and 170 Main Street, Unionville
A sporting goods store shall be permitted on the lands municipally known as 162, 166 and 170 Main Street, Unionville, as shown on Schedule 'B'
- (ii) 142, 149, 166, 175, 182, 186, 187, 189, 198, 201, 202 and 205 Main Street, Unionville
A RESTAURANT, TAVERN, and CAFE, the size as existing as of the day of the passing of this by-law, shall be permitted on the lands municipally known as 142, 149, 166, 175, 182, 186, 187, 189, 198, 201, 202 and 205 Main Street as shown on Schedule 'B'
- (iii) 139 Main Street
One (1) RESTAURANT shall be permitted having a maximum gross floor area of 296 m² on the lands municipally known as 139 Main Street as shown on Schedule 'B'
- (iv) 187 Main Street
In addition to the RESTAURANT floor space existing on the day of the passing of the by-law, an additional 65 m² of ground floor restaurant space shall be permitted on the lands municipally known as 187 Main Street as shown on Schedule 'B'
- (v) 155, 187 and 194 Main Street, Unionville
A TAKE OUT RESTAURANT, the size as existing as of the day of the passing of this by-law, shall be permitted on the lands municipally known as 155, 187 and 194 Main Street as shown on Schedule 'B'
- (vi) 141, 143 and 145 Main Street, Unionville
TAVERN RESTAURANTS, TAKE OUT RESTAURANTS, take-out service accessory to a RESTAURANT, and outdoor garbage storage facilities associated with a RESTAURANT shall be prohibited on the lands municipally known as 141, 143 and 145 Main Street as shown on Schedule 'B' which properties are zoned Heritage Main Street Commercial

replaced by
OMB decision
See Amendment

(HMS). In addition, the following prohibition or restriction of outdoor patios or decks accessory to a RESTAURANT shall apply to the aforementioned properties:

- 143 and 145 Main Street – outdoor patios or decks associated with a RESTAURANT shall be prohibited
- 141 Main Street – one (1) outdoor patio or deck accessory to a RESTAURANT shall be permitted, having a maximum floor area of 100 square metres, and shall be located in the FRONT YARD only and set back a minimum distance from the LOT LINES as follows:

<u>LOT LINE</u>	<u>MINIMUM SETBACK</u>
EAST	58.0 metres
NORTH	14.0 metres
SOUTH	8.0 metres
WEST	3.0 metres

Any portion of the outdoor patio or deck projecting south of the south wall of the MAIN BUILDING shall be required to be visually screened in relation to the abutting residential ZONE to the east, through a combination of landscaping and privacy screen fencing

- (vii) 136, 141, 143 and 145 Main Street, 2 and 4 Station Lane, Unionville
Business and Professional OFFICES shall be permitted on the GROUND FLOOR of BUILDINGS on the lands municipally known as 136, 141, 143 and 145 Main Street, and 2 and 4 Station Lane as shown on Schedule 'B'
- (viii) 159 and 159A Main Street, Unionville
A HOTEL subject to a Holding provision shall be permitted on the land municipally known as 159 and 159 A Main Street, as shown on Schedule 'B'. No person shall use any BUILDING or STRUCTURE on the lands subject to the holding provision for HOTEL until an amendment to this by-law to remove the Holding provision has come into effect pursuant to the provisions of Section 36 of the Planning Act, R.S.O. 1990, c.P. 13. The precondition for removal of the Holding provision by Council shall be the execution of a site plan agreement with the municipality involving a hotel use
- (b) 141 and 143 Main Street, Unionville
Notwithstanding the provisions of Section 14.4(g)(i) of By-law 122-72, as amended, in the case of the two properties on the east side of the Kennedy Road original road allowance immediately north of Victoria Avenue, municipally known as 141 and 143 Main Street as shown on Schedule 'B', which properties are zoned HERITAGE MAIN STREET COMMERCIAL (HMS), the continuous LANDSCAPED OPEN