

## **Final Changes Made to the Draft Zoning By-law**

<b>Date:</b>	May 14, 2010
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division
<b>Wards:</b>	All Wards
<b>Reference Number:</b>	Pg10038

### **SUMMARY**

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This report outlines further changes and refinements to draft new Zoning Bylaw that have resulted from the direction of the Committee at the meeting of April 21, 2010 and further input from stakeholders and other interested parties . These changes will be incorporated in the final draft of the new Zoning Bylaw that will be prepared for the Statutory Open House on May 27, 2010 and brought back to the Committee for final consideration at its meeting to be held on June 16, 2010.

### **RECOMMENDATIONS**

**The Chief Planner and Executive Director, City Planning Division recommends:**

1. That the changes to the draft new Zoning Bylaw as discussed in this report be incorporated into the final version of the Bylaw.
2. That, for a trial three-year period in PA1 (Downtown and Central Waterfront), the minimum vehicle parking requirement for new developments may be reduced at a rate of 1 vehicle parking space for every 5 bicycle parking spaces provided in excess of the minimum required amount of bicycle parking by up to a maximum of 20% of the minimum number of required vehicle parking spaces.
3. That the General Manager of Transportation Services, in consultation with the Chief Planner and Executive Director, City Planning, be requested to report to the Planning and Growth Management Committee on the proposal to introduce payment in lieu for bicycle parking in the City's mixed-use growth areas as defined by Parking Policy Areas 1,2, 3, and 4.

## **Financial Impact**

There is no financial impact associated with the adoption of this report.

## **DECISION HISTORY**

The Planning and Growth Management Committee, at its meeting held on April 21, 2010, adopted ten recommendations with respect to Item 37.7, “Covering Report to the Revised Draft of the New Zoning By-law - April 2010”:

1. Directed the Chief Planner and Executive Director of City Planning to:
  - a. Distribute the revised draft new Zoning By-law for the purposes of receiving public comment in the following manner:
    - i. A printed copy of the main by-law text and maps be made available in the four civic centres, Metro Hall and the two Municipal Reference Libraries;
    - ii. A downloadable version of the main by-law text and maps be posted on the City’s website at [www.toronto.ca/zoning](http://www.toronto.ca/zoning); and
    - iii. The City’s interactive zoning web page, which allows searching for zoning information by address, be changed to include the April, 2010 new Draft Zoning By-law text and maps.
  - b. Prepare a final report for the May 19, 2010 meeting of the Planning and Growth Management Committee that addresses any further concerns and issues that may be raised as result of the release of this latest draft of the new Zoning By-law.
  - c. Meet, to the extent possible, with business and resident associations, major stakeholders and the public to discuss outstanding issues and concerns with the draft new Zoning By-law.
  - d. Incorporate Recommendations 2 as amended, 4, 7 and 8, contained in the letter (April 6, 2010) from Alan Milliken Heisey (PG37.7.2) in the final report on the Zoning By-law, as follows:
    - "2. The short-term bicycle parking location requirements in the Zoning By-law be amended to include CR and RA Zones.
    4. The Education Use provisions of the Zoning By-law be amended to increase the bicycle parking requirement from 3 bicycle parking spaces and 1 bicycle parking space per 100 square metres of Education Uses to 2 bicycle parking spaces per 100 square metre of building dedicated to Education Uses.

7. Amend the Zoning By-law to delete the exemption from the bicycle parking requirements for buildings less than 150 square metres in size and amend the Zoning By-law to provide that 3 bicycle parking spaces be required for all buildings greater than 200 square metres in size and 2 bicycle parking spaces be provided for all buildings 200 square metres or less in size.
  8. Prepare a draft amendment for consideration by the Committee at its meeting in May 2010 permitting the provision of bicycle parking, required in the Zoning By-law, in a location approved by the City Works Department, off site in a public road allowance within a distance of 50 metres of the property."
  - e. Submit a report to the May 19, 2010 meeting of the Planning and Growth Management Committee on the process that the City of Hamilton is following in harmonizing the Zoning By-laws, specifically the zoning regulations that pertain to Industrial properties.
2. Referred the following Recommendation 9 contained in the letter (April 6, 2010) from Alan Milliken Heisey (PG37.7.2) to the Chief Planner and Executive Director of City Planning for consideration and report to the June 16, 2010 meeting of the Planning and Growth Management Committee:
- "9. Amend the Zoning By-law to permit a reduction of one motor vehicle parking space to a maximum of 25% of the total motor vehicle parking spaces required under the Zoning By-law, for every five bicycle parking facilities provided in excess of the minimum bicycle parking requirements required under the Zoning By-law."

## **COMMENTS**

### **Changes to Residential Zone and Residential Apartment Zone Standards**

Changes made to the Residential zone and Residential Apartment zone categories are in response to comments provided at the April 21, 2010 meeting of the Committee and correspondence received to date.

A structural change to the new Zoning By-law is proposed with respect to these two zone categories. The general provisions related to the Residential Apartment zone category appear in Section 10.5. This section of the new Zoning By-law was intended to apply to both the Residential zone and Residential Apartment zone categories. Some readers found this confusing and there was also some concern that the provisions may not be applied consistently and accurately. As a result, it is proposed to carry over the general provisions from Section 10.5 that are meant to apply to the Residential Apartment zone to

Section 15.5, the Residential Apartment zone section of the new Zoning By-law. This will ensure clarity and consistency of application of these regulations.

At the April 21 Planning and Growth Management Committee meeting, there was concern expressed with the structure of the 'maximum height of main walls' provision. Specifically the concern was that there was no reference to 'established grade', a defined term used to ensure proper measurement of the height of structures. This is a valid point and as a result, the words 'established grade' are now included in the new regulations pertaining to the maximum height of certain main walls (Section 10.20.40.10 (2)).

Also at the April 21 meeting of the Committee, concerns were expressed with respect to side yard landscaping on a corner lot. Regulations that are similar to the requirement for front yard landscaping have now been incorporated. Although a side yard abutting a street on a corner lot is usually shallower than a front yard, proportionalities are generally the same. Given that the maximum length permitted for the majority of residential buildings in most zones is 17 metres, the landscaping percentages along the side should be similar to those required in the front yard of lots with a similar width. The new provision therefore requires that, for any corner lot containing a residential building, 60% of the side yard abutting a street is to be landscaped, 75% of which must be soft landscaping.

Related to residential uses, another requirement has been inserted into the secondary suite regulations. Following from the Ontario Municipal Board decision on the matter, specific provisions were established for additions to buildings involving the establishment of a second suite. These provisions are slightly different in each of the existing zoning by-laws owing to the framework by which buildings are regulated. For example, in the North York By-law, there is a regulation (section) requiring a second suite to be divided horizontally from the rest of the dwelling except where it occupies only part of a storey or basement. This serves to restrict the magnitude of the addition. In zones subject to a floor space index (FSI) limitation, few additions would be overly large, but where the building envelope is controlled by the lot coverage method only, it is possible for an addition to equal the full height permitted for a building. Consequently the provision previously found in the North York By-law has been incorporated into Section 150.10, applicable to areas where there is no floor space index limitation.

In previous discussions with representatives of residents groups, concern with limiting the gross floor area potential of lots along ravines was raised. The issue is that the Official Plan Section 3.4.9 prohibits including any land below the top of bank or other hazard land in the calculation of permissible density. The new Zoning By-law implements this provision generally across the City. The concern by residents is that for some small residential lots that include a large proportion of the ravine bank, this provision effectively eliminates any reasonably sized home. In addition, some homes are completely within the hazard area. These are legitimate points, however, the matter must be addressed first at the Official Plan level, as the new Zoning By-law must conform to the Official Plan policies. The implications of this policy for small residential lots will be amended during the 5-year review of the Official Plan.

Current regulations applying to rooming houses in the existing zoning by-laws of the former cities of Toronto, Etobicoke and York are being compiled and will appear in the final draft in Section 150.25 as per the direction of the Committee.

## **Changes to Commercial Residential Zone Standards**

### **CR zone changes to text**

The April 2010 draft of the new Zoning By-law contained a set-back provision of a minimum of 3.0m from a front lot line when residential uses are located at-grade. The Avenues and Mid-Rise Buildings Study and Action Plan, also before the Committee, recommends a 4.5m set-back for residential units at-grade in order to provide an adequate public to private transition where residential at-grade is permitted. To be consistent with the Study findings, the minimum set-back will be 4.5 metres, where a grade separation is not possible. Where a grade separation is incorporated to achieve an appropriate transition, the provisions in the new Zoning By-law will require a 3.0 metre minimum set-back. As a result of this change, the new Zoning By-law will contain the 4.5 metres set-back for residential uses at-grade as a starting point.

Minor changes were made to how shallow vs. deep lots are defined for the purpose of applying rear angular plane provisions for SS2 and SS3 areas (based on revisions to Mid-rise Typology Study). Based on further review and modelling by the Mid-rise Typology Study Team, the ranges of lot depths vs. right-of-way widths used in determining a shallow or deep lot have been revised. Generally, the threshold for a deep lot is now lower. In addition, both a 23 metre and 33 metre right-of-way have been added to the chart which means that almost all possible street right-of-way widths are captured by this chart. Where a street right-of-way width is not in the chart, the next lowest right-of-way width applies.

Rear angular plane is now only being applied where abutting a Residential zone or certain Open Space zones. This is done to provide an appropriate transition in scale and to limit shadowing and is consistent with the Mid-rise Typology Study direction and the Official Plan.

The new Zoning By-law currently does not permit townhouses in any CR zone; this will only be applied to CR zones that are within Policy Areas 3 and 4. These are the Avenues and townhouses are not considered to be an appropriate built form for intensification areas. This policy comes from Mid-rise Typology Study which looks at the Avenues only.

## **Changes Regarding Manufacturing Uses in Employment Industrial Zones**

Based on five meetings with representatives of the Toronto Industry Network (TIN), industrial property owners and consultants representing industrial property owners, a

number of modifications have been made to the Employment Industrial section of the new Zoning By-law (Section 60) to accommodate their concerns.

First, the new Zoning By-law will no longer use or depend upon manufacturing terms that are defined by the North American Industrial Classification System (NAICS), as this classification system was deemed to be too far reaching in restricting manufacturing uses that would otherwise not have land use issues. Instead, the new Zoning By-law will continue to define the term 'manufacturing use' and will include specific types of manufacturing uses that are needed to be identified, or defined if necessary.

Secondly, the new Zoning By-law proposes to permit 'manufacturing use' generally in both the E (general industrial) and EH (heavy industrial) zones, subject to a list of specific manufacturing uses which would not be permitted in one or either of these zones. This approach is currently used in the former City of Scarborough By-law 24982, former City of Etobicoke Zoning Code and former City of North York By-Law 7625 M2 and M3 zones, and was stressed by TIN and others attending the meetings to be a better approach to respond to industry's needs and processes.

Thirdly, some development standards set out for the E and EH zones are proposed to be changed from an approach of establishing an average range to one much less restrictive in some cases. For example, it is proposed that employment industrial areas that currently have no height limit (Etobicoke, parts of North York, and Scarborough) continue to have no height limit, but that a height limit for permitted office use in these zones be limited to 20.0 metres. Front yard, side yard and street yard building set-backs be reduced in E and EH zones to a minimum of 3.0 metres.

The EL (light industrial) zone would only apply to the former City of North York By-law 7625 M1 zone, the former City of Toronto By-law 438-86 I1 zone and the former Town of Leaside By-law 1916 M.1 zone and would continue to have a list of specific manufacturing uses that would only be permitted in the zone. The manufacturing terms, however, would not be based on NAICS defined terms. No changes to the development standards that apply to this zone are proposed at this time.

The EO (industrial-office) zone would apply to the former City of North York By-law 7625 MO zone and would control manufacturing uses with an approach similar to that of the EL zone. Again, no changes are proposed to the development standards that apply to this zone at this time.

An Employment Industrial zone HPI (High Performance Industrial) in the former Borough of East York By-law 6752 which is currently proposed in the new Zoning By-law to be zoned 'EL', will instead be zoned 'E', with an area specific exception limiting the lot coverage, building height and industrial building set-backs from adjacent residential zoned lands. This change better reflects the array of manufacturing uses currently permitted under the HPI zoning, while providing the specific controls that allow these uses to function in a compatible manner with adjacent and nearby residential areas.

Three of the existing zoning by-laws, Scarborough, North York and York, use the MIACC List of Hazardous Substances to regulate the location of industrial uses incorporating such substances. MIACC is an acronym for Major Industrial Accidents Council of Canada. This is a voluntary alliance of interested parties, representing both government and the private sector, dedicated to reducing the frequency and severity of major industrial accidents. The MIACC group was first formed in 1987 partially in response to the Mississauga train derailment accident. The group ceased to exist about ten years ago.

MIACC provides 3 lists of hazardous substances as a simple method of identifying hazardous substances and ranking of sites handling them. The Scarborough, North York and York zoning by-laws reference these 3 lists in determining where industrial operations using the substances contained in the lists might be permitted. It is by this method of industrial land use classification that these zoning bylaws are able to employ 'general' definitions of the permitted industrial uses. In the former North York and York area, applicants were required to sign affidavits acknowledging which MIACC list pertained to them. As per Committee's direction, the inclusion of provisions dealing with the separation of uses based on chemical usage is deferred until the second quarter of 2011.

## **Changes to the Parking and Loading Standards**

### **Chapter 200 – Parking Space Regulations**

As a result of on-going stakeholder discussions, a number of further changes to the parking and loading provisions of the new Zoning By-law are being proposed:

1. The existing minimum parking rate for office developments in the Downtown and Central Waterfront area (PA1) is 0.33 parking spaces per 100 m<sup>2</sup> of gross floor area. The proposed standard in the new Zoning By-law has been rounded up to 0.40. Upon further consideration, it is felt advisable to round to a new standard of 0.35 that is closer to the existing standard which is generally regarded as having worked well.
2. The requirement in section 40.10.80.1(1), that mixed use developments with less than 25 dwelling units must maintain at least one third of the total parking required in the building as unassigned and generally available to the building's occupants and visitors, be deleted. Removing this restriction will afford greater flexibility in the allocation of the required parking among different user groups in the building.
3. Modify section 200.10.1(2) to apply only outside the Policy Areas (1 to 4). This modification would allow residential visitor parking to be shared in the City's mixed use, targeted growth areas where it is also proposed that charges for visitor parking will also be permitted.

### **Chapter 220 – Loading Space Regulations**

The provisions of section 220.5.20 regarding the requirements for access to loading spaces are currently being reviewed to possibly provide for greater flexibility.

### **Chapter 230 – Bicycle Parking Regulations**

At its meeting of April 21, 2010 the Planning and Growth Management Committee requested the Chief Planner to report on the following proposal made by Mr. Alan Heisey on behalf the Toronto Cyclists Union (TCU):

“Amend the Zoning By-law to permit a reduction of one motor vehicle parking space to a maximum of 25% of the total motor vehicle parking spaces required under the Zoning By-law, for every five bicycle parking facilities provided in excess of the minimum bicycle parking requirements required under the Zoning By-law”

This proposal to place incentives in the new Zoning By-law to provide additional bicycle parking spaces was discussed with Mr. Heisey prior to the submission of staff’s “Covering Report to the Revised Draft of the New Zoning By-law – April 2010”, dated April 7, 2010. In this report, staff indicated that it did not support the TCU’s proposal to reduce the minimum number of required vehicle parking spaces in situations where more than the minimum number of bicycle parking spaces is provided.

It is not known to what extent, if any, the provision of additional bicycle parking spaces might off-set the need for vehicle parking spaces. To this point, the minimum parking standards for bicycles and vehicles have been derived independently and each set of standards stands on its own merit. In particular, the vehicle parking standards in the Policy Areas and the remainder of the City already reflect varying levels of transit service and opportunities for walking and cycling.

Given the uncertainty over the substitutability of bicycle parking spaces for vehicle parking spaces, it is recommended that a cautious approach be taken to introducing the TCU’s bike parking incentive proposal. Consequently, this report recommends that, at this stage, the proposal only be implemented in Policy Area 1 (Downtown and Central Waterfront) where conditions for utilitarian cycling tend to be most favourable. It is also recommended that the 5:1 substitution ratio of bicycle to vehicle spaces be applied to a maximum of 20% of the minimum number of required vehicle spaces. As a result, the maximum 20% reduction in vehicle spaces can be achieved by providing as many additional bicycle parking spaces as the required minimum number of vehicle spaces.

Initially, the bicycle parking incentive proposal should be introduced in PA1 on a three-year trial basis. At the end of the trial period an assessment can be made of the effectiveness of the proposal in terms of developer “take-up”, increased bike use and impacts on vehicle parking supply. On the basis of this type of evaluation, recommendations to continue, modify or extend the bike parking incentive can be brought forward for Council’s further consideration.



The Planning and Growth Management Committee also requested the Chief Planner to report on the following recommendation made by Mr. Heisey:

Prepare a draft amendment for consideration by the Committee at its meeting in May 2010 permitting the provision of bicycle parking, required in the Zoning By-law, in a location approved by the City Works Department, off site in a public road allowance within a distance of 50 metres of the property.

City Planning does not support such a proposed amendment because administratively it relies on an authority outside of the Zoning By-law itself (i.e. the General Manager of Transportation Services). As a matter of policy, it is preferable that any required bicycle parking spaces be provided on the same lot as the use generating the requirement for such spaces.

As an alternative, to provide relief from the requirement for bicycle parking to be provided on site, the Committee could consider the introduction of a policy for payment in lieu of bicycle parking in a manner similar to that currently in force for vehicle parking. Under the provisions of Section 40 of the Planning Act, City Council may accept the payment of funds by an applicant, where it is deemed appropriate, to exempt a project from all or part of the parking requirements of the applicable zoning by-law.

This report recommends that the General Manager of Transportation Services in consultation with the Chief Planner be requested to report back on the proposal to introduce payment in lieu for bicycle parking in the City's mixed-use growth areas (Policy Areas 1 to 4). Included in this report should be a suggested fee structure and the process for collecting and administering these funds.

## **Map Changes**

In addition to the ongoing zoning map work for specific exceptions, the zone labelling for Open Space and Utility-transportation zones is also progressing.

Some highways and utility sites or corridors that were not shown on the zoning map in the previous draft are now being labelled UT.

Open Space zones identified with O\* are being assigned their full zone labels (O, ON, OR, OG, OM, OC) to give effect to their Official Plan designations and the basic purpose of the site. In some circumstances, lands in this category are being identified as "Not Part of this By-law" due to potential conflict with the Official Plan designations.

Environmentally significant areas recognized by the Official Plan's Map 12, or by reference to Provincially significant natural heritage features in Policy 3.4.14 of the Official Plan, will have an exception to the ON zone, if publicly owned, permitting only conservation works for the purpose of protecting these sensitive lands. Examples include the lower Humber marshes and several parts of High Park.

Properties that were split by former municipal boundaries are, in most cases, being assigned one zone, instead of continuing to be split with different zones on either side of the former border. Of those that are being assigned a single zone, in most cases, the zone that occupied the largest portion of the site has been applied to the whole property. In a few areas, the zone line has been shifted to coincide with a physical demarcation, such as a lane. Nonetheless, most large properties that straddle a former municipal border (usually school sites) will continue to be split-zoned and some are being identified as “Not Part of this By-law” to allow for further consideration.

### **CR Zone Map Changes**

The asterisks(\*) which are currently found on the map attached to some CR and CL zone labels indicate that there is a part or parts of the zone information that needs to be confirmed. These should now all be confirmed, or if the information cannot be confirmed, then the polygon will now appear as ‘Not Part of this By-law’. When this is resolved, the properties can then be brought into the new Zoning By-law.

Coverage has been added for CR and CL zones that have coverage requirements under the current zoning by-laws. In addition to FSI, coverage will provide an additional means of controlling building mass on a lot. This will be found on the Lot Coverage Overlay Map as per the coverage for other zones.

Overlay maps are also being completed and refined. For example, some parts of the lot coverage map had identified broad areas as being subject to a particular maximum lot coverage, including zones that were not relevant (such as open space), so those areas have been reshaped to apply only to the applicable zones.

To assist in simplifying the new Zoning By-law and reducing the number of pages contained in it, we proposed that the Major Streets Overlay Map be merged into the Policy Areas Overlay Map. As the Policy Areas Overlay Map is a tool in the new Zoning By-law to apply regulations to specific areas of the City, the merger of the Major Streets Overlay Map is consistent with this thinking and reduces the number of maps to review to one.

The latest draft of the new Zoning By-law has been reviewed once again by Toronto Building Division staff. Several modifications have been made based their comments that enhance clarity and better support the intent of the new Zoning By-law as presented in April.

With the Provincial introduction of the Green Energy Act, it is proposed that wording be added to the new Zoning By-law to clarify the relationship of the Green Energy Act to those regulations enacted by Council in 2008 and now incorporated in the new Zoning By-law.

## **Transition Protocol**

The March 1, 2010 Staff Report provided details of the transition protocol for implementing the new Zoning By-law, building on the concepts outlined in the Staff Reports of March 27 and October 29, 2009. Since then, consultations and consideration have allowed for further fine-tuning of the protocol which will be explained in this section.

As previously reported, some sites and areas of the City will be "left out" of the new Zoning By-law. These properties will be denoted on the new Zoning By-law map and will be labelled "Not Part of This By-law." As none of the former general zoning by-laws will be repealed, where a property is shown to be not subject to the new Zoning By-law, the zoning regime and regulations that currently exist will continue to apply to it after the new Zoning By-law is passed.

Decisions to exclude certain properties from the new Zoning By-law are based on criteria that were outlined in four categories in the March 1, 2010 report:

1. Properties where the current zoning does not comply with the Official Plan
2. Lands currently governed by complicated and comprehensive area-based zoning by-laws
3. Sites that are under development and involved in Site Plan Approval process
4. Properties associated with an application for site specific zoning amendments on the threshold of enactment

While the first two categories are straightforward and will remain the same, the last two require further refinement.

### **Properties with a Submitted Application for Site Plan Approval, but no Building Permit**

It was proposed in the March 1, 2010 report that sites under development be left out of the new Zoning By-law if an application for Site Plan Approval had been submitted but no Notice of Approval Conditions (NOAC) issued. Following further consideration, however, it became clear that not all properties with NOAC are ready to proceed directly to the construction phase. To ensure that properties with a submitted application for Site Plan Approval are permitted to develop as they were intended, it is recommended that they be excluded from the new Zoning By-law until they have an issued building permit. At that point, the Planning Act is clear that nothing in the new Zoning By-law can apply to hinder construction.

### **Bills for Site Specific Zoning By-laws to be enacted in August**

The March 1, 2010 report recommended that a site specific zoning by-law that is too complicated to be incorporated as an Exception in Chapter 900 will be brought forward as a Prevailing By-law listed in Chapter 950. The report also recognized that, as a matter of fairness, those applications for zoning amendments on the threshold of enactment should not be caught by the passage of the new Zoning By-law. Rather, it was proposed that those properties associated with such an amendment should be left out of the new

Zoning By-law and the amending bills be permitted to proceed under the current zoning regime.

Recent site specific zoning by-laws passed by Council before and up to the actual enactment of the new Zoning By-law during the July 6 and 7, 2010 Council Meeting will be added to the Prevailing By-law List. However, those final reports for zoning amendments with a bill attached that are slated to be considered by Council in August 2010, will not have enough time to be translated into an Exception to the new Zoning By-law, or have a By-law number to be included in the Prevailing By-law List. Due to the Fall municipal election, the next Council Meeting in which bills will be considered will not occur until January 2011. This would be a considerable interruption for a zoning amendment that was just about to be enacted. As such, these properties will be left out of the new Zoning By-law so that the bills amending the current zoning by-laws can be considered by Council in August.

Properties associated with zoning approvals expected to receive final approval without a bill attached will be subject to the new Zoning By-law, as there will be sufficient time between August and January to craft the necessary technical changes to the bills so they amend the new Zoning By-law, either by translating the provisions into a Chapter 900 Exception or by passing the bill as-is and adding it to the Prevailing By-law list.

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## **SIGNATURE**

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