

Process for Repealing Zoning By-law No. 1156-2010 and its Financial Implications

Date:	April 8, 2011
To:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Wards:	All wards
Reference Number:	Cc11022

SUMMARY

This report responds to a request of the Planning and Growth Management Committee to report directly to City Council on a by-law to repeal the new City of Toronto Zoning By-law No. 1156-2010. This report describes the main steps to take and the financial implications, from the City Planning Division perspective, in the event City Council decides to repeal By-law 1156-2010. The City Solicitor is reporting separately on matters that are subject to solicitor-client privilege with respect to the repeal and its implications.

To repeal the City of Toronto Zoning By-law, City Council would have to enact another by-law under the Planning Act which, on the advice of the City Solicitor, requires that a public meeting be held. The notice should be issued at least 20 days in advance of the meeting date. Interested parties may make representations or submissions at the public meeting either for or against such a by-law.

The work plan for dealing with transitional matters and the appeals to By-law 1156-2010 is different from the process to be followed for re-enacting a city-wide zoning by-law. The recommendation by the Committee requires current resources to be devoted entirely to revising the By-law and conducting public consultation. Staffing for the Project team will need to stay at the current level, whereas the complement would have been scaled back as the Ontario Municipal Board hearings ensued.

With respect to preparing a revised harmonized zoning by-law, the Planning and Growth Management Committee recommends that a new version of the By-law be brought back to Committee no later than January 2012. It is proposed that the revised harmonized zoning by-law be introduced initially as a 'final recommendations' report with a statutory public meeting being held at a later date to give the public sufficient time to review the new version. A statutory open house will also need to be held leading up to the enactment of the new version of the zoning by-law, at least 7 days before the statutory public meeting.

The City Solicitor has been consulted in the preparation of this report.

Financial Impact

Should City Council approve a by-law to repeal the Zoning By-law No. 1156-2010, there will be no impact on the City's 2011 Approved Capital Budget. However, approval of a repeal will result in a delay in the completion of the new City of Toronto Zoning By-law, and additional costs in future years. The Chief Planner and Executive Director, City Planning Division will report back through the 2012 Capital Budget process on future year implications of such repeal.

DECISION HISTORY

By-law 1156-2010, the new City of Toronto Zoning By-law, was enacted on August 27, 2010. There are appeals of the Zoning By-law which are now before the Ontario Municipal Board. No hearing dates have been set.

At its meeting held on January 27, 2011, the Planning and Growth Management Committee requested that:

1. The Chief Planner and Executive Director, City Planning bring forward zoning by-law amendments to By-law 1156-2010, to address technical amendments to the text and mapping.
2. A public meeting under the Planning Act, to deal with the above matters be scheduled for the March 24, 2011 meeting of Planning and Growth Management Committee.

Amendments to Zoning By-law 1156-2010 were recommended at the March 24, 2011 meeting to clarify or correct parts of the text and maps where there were errors, missing information, or uncertain interpretations. There were also inconsistencies in punctuation, spelling and bolding of defined terms. Such problems, and recommended solutions, are common in a project of this magnitude. The proposed by-law amendments would have resolved some of the appeals to the By-law now before the Ontario Municipal Board.

On March 24, the Planning and Growth Management Committee recommended that:

1. City Council not adopt the recommendations contained in the report (March 15, 2011) from the Chief Planner and Executive Director, City Planning, entitled "Amendments to Zoning By-law 1156-2010".
2. City Council request the Chief Planner and Executive Director, City Planning to bring back a revised harmonized zoning by-law to the Committee no later than January 2012.
3. City Council request staff to conduct consultations with stakeholders on a revised harmonized zoning by-law.
4. City Council direct that the scope of the revised harmonized zoning by-law not be greater than what was contained in By-law 1156-2010 but can be reduced.
5. City Council sustain the provisions of By-law 1156-2010 related to outdoor and rooftop patios and nightclubs.

The Committee also requested the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor, to report directly to City Council on April 12, 2011 on:

- a. a by-law to repeal By-law 1156-2010; and
- b. the financial implications of repealing By-law 1156-2010.

These latter requests are addressed in this report. This report has been prepared in consultation with the City Solicitor.

ISSUE BACKGROUND

Zoning is a legislated requirement. Ontario's Planning Act directs municipalities to ensure their zoning by-laws are in compliance with their official plans within a time period of three years from the respective official plan's approval.

One of the objectives to be met by this new Zoning By-law for the City of Toronto was to achieve compliance, at least in most parts of the City, with the new city-wide Official Plan that was substantially approved in 2006.

Having a single comprehensive zoning by-law for the entire City is an important customer service initiative. A key objective is to achieve greater efficiencies and effectiveness to the way zoning regulations are administered, communicated and enforced.

While the regulations contained within the new Zoning By-law continue to reflect the custom-tailored nature of the existing zoning standards in different parts of the City, the use and understanding of the new regulations will now be consistent across the City. This is a benefit to staff administering the Zoning By-law, it will improve the ability of private builders to conduct business in all districts with greater ease, and it makes it easy for the general public to know what land use regulations affect them. International investors can now quickly see the zoning by-law via the internet. To see the interactive web-site, follow this link:

http://map.toronto.ca/imapit/iMapIt.jsp?app=ZONING_R0

COMMENTS

If By-law 1156-2010 is to be repealed, City Council should direct the Chief Planner and Executive Director, City Planning to prepare a repealing by-law and bring that by-law to a public meeting. Notice of the public meeting, which should be held at a future Planning and Growth Management Committee meeting, should be given at least 20 days in advance of the meeting date. As By-law 1156-2010 is under appeal and before the Ontario Municipal Board, each appellant to By-law 1156-2010 must be provided with personalized notice of the City's intent to repeal By-law 1156-2010.

At the public meeting, interested parties may make representations or submissions to the Committee either for or against the by-law to be considered. After hearing the depositions, the Committee may make its recommendations on the repeal of By-law 1156-2010 to City Council.

The preparation of Zoning By-law No. 1156-2010 and its defence at the Ontario Municipal Board has been fully funded via the City Planning Division's Annual Capital Budget. This multi-year project's funding structure contemplated a winding down of the dedicated temporary staff team progressively over the years as milestones were reached. The current staff complement is intended to support the appeals to the OMB and develop additional amendments to By-law 1156-2010 emanating from settlements or other interpretation issues that might arise. As appeals are settled or dealt with by the OMB, the project team will be reduced as appropriate.

The Planning and Growth Management Committee recommendations to City Council includes a direction to prepare and bring forward to Committee a revised harmonized Zoning By-law by January 2012, such process to include conducting consultation with

stakeholders. This task can be accommodated within the Project's 2011 budget allocation with the current staff complement being fully dedicated to this process. However, this additional work will result in extending the Project's timelines and require additional funding in future years which was not included in the 2012-2020 Capital Budget Plan. With respect to consultation, there are many types of stakeholders affected by a comprehensive zoning by-law. Though the Committee did not specify whether the consultation is to be limited to some interested parties or a full spectrum of land owners, the Committee recommendation includes a direction that the scope of a revised by-law be no greater than that of By-law 1156-2010.

If the contents of By-law 1156-2010 constitute the starting point, it appears there is an expectation for consultation that is focussed on criticisms raised by appellants to the OMB. This type of consultation is already underway and will be the sensible way to begin if a new by-law process is directed. Nevertheless, given that it would be another new city-wide bylaw, it would also be appropriate to have an open house type of community meeting in each of the four Community Council areas. There will be a cost to advertise these open houses and any other similar public meetings but will be able to be borne within the existing budget allocation for the Project.

From a timing perspective, the first quarter of 2012 should be devoted to the formal public meeting stage required by legislation and the enactment of the new revised by-law at City Council. With the recommended target date of bringing the revised by-law back to the Planning and Growth Management Committee in January of 2012, the statutory public open house and public meeting process would be initiated at that time, including issuing formal notice. On this schedule, the statutory public meeting could be targeted for March of 2012 in order to give people sufficient time to review the revised By-law.

The cost of statutory notices would be borne by the City Clerk, but a cost to be covered by City Planning is the production of copies of the bylaw, on paper, to be available for the public to view at the City Clerk's offices in each of the four Community Council areas when the notice of the statutory public meeting is published.

If the revised by-law proceeds to City Council at a steady pace, the appeal period for the revised harmonized zoning by-law will end in late spring of 2012. Because the revised version of the Zoning By-law will focus on the outstanding issues, it is anticipated there will be fewer appeals but there can be no guarantee of this. Fewer appeals should result in less time spent at the OMB. Nonetheless, there will be transitional challenges similar to what has been experienced with By-law 1156-2010. Under the Planning Act, zoning by-laws once approved by the OMB are retroactively applied to the date they were initially passed by municipal councils. As a result, chief building officials examine new building permit applications against both old and new zoning by-laws during the time a new zoning by-law is under appeal.

There are sub-projects associated with the zoning by-law that would have been underway, as had been directed by the Planning and Growth Management Committee: Rooming Houses, and Chemical Manufacturing Uses. The following are links to the relevant decision documents:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.PG34.2>
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.PG35.1>

Should City Council decide that a new revised city-wide zoning by-law is to be prepared, just based on available time, the report requests noted above could not be conducted this year.

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SIGNATURE

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