



## STAFF REPORT ACTION REQUIRED

### Draft Zoning By-law: Results of the Public Consultation Process

<b>Date:</b>	October 21, 2009
<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>	Pg090044

### SUMMARY

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At its meeting held on April 14, 2009, the Planning and Growth Management Committee instructed the Chief Planner and Executive Director, City Planning to consult with the public about the draft new zoning by-law. The draft zoning by-law was introduced for public consultation in May 2009 via the internet on the City's website. In addition, eight Open Houses and six ward meetings (at the request of Councillors) were held. The comments received have been summarized and are presented in this report. As a result of these comments, changes to the draft zoning by-law are recommended. It is also recommended that a Statutory Open House and a Statutory Public Meeting be held, in accordance with the Planning Act, in February 2010 for the purposes of considering the draft new zoning by-law.

### RECOMMENDATIONS

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

1. The Chief Planner and Executive Director, City Planning report to the Planning and Growth Management Committee at its meeting to be held on February 12, 2010, convened as the statutory public meeting to consider the draft zoning by-law.
2. The Chief Planner and Executive Director, City Planning conduct a Statutory Open House prior to the Statutory Public Meeting explaining the purpose and intent of the draft new zoning by-law and providing an opportunity for members

of the public to ask questions and receive answers about the draft new zoning by-law.

### **Financial Impact**

There are no financial impacts beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

At its meeting held on April 14, 2009, the Planning and Growth Management Committee had before it a report from the Chief Planner and Executive Director, City Planning entitled "Draft New Zoning By-law: Summary and Public Consultation Process". In adopting the report, the Committee made several recommendations to the Chief Planner and Executive Director, City Planning concerning the public consultation process. In addition, the Committee requested that the results of the consultation process be brought forward to the October 7 meeting of Planning and Growth Management Committee. This report responds to that request.

<http://www.toronto.ca/legdocs/mmis/2009/pg/decisions/2009-04-14-pg24-dd.htm>

<http://www.toronto.ca/legdocs/mmis/2009/pg/minutes/2009-05-06-pg25-mn.htm>

## **ISSUE BACKGROUND**

The draft new zoning by-law was introduced for public consultation in May 2009 via the internet on the City's website. Notice for the consultation was through advertising in various media. In addition, eight Open Houses and six ward meetings (at the request of Councillors) were held. The comments received have been summarized and are presented in this report.

In addition, recommended changes to the draft new zoning by-law resulting from public input are included in the text of the report. Issues of transition for existing site specific zoning by-law amendments and committee of adjustment minor variances, pipeline applications and sites that will be left out of the new zoning by-law are also discussed.

## **COMMENTS**

Some 1,500 comments have been received to date. Many of the comments were able to be grouped into a set number of key topics related to the proposed zoning by-law regulations. The report is organized around those key topics. The report will first describe the proposed zoning regulation at issue. Then an explanation of the concerns received during the consultation period will be presented followed by any recommended changes to the draft new zoning by-law. The report begins with a summary of the public consultation exercise.

## **Public Consultation Process**

The public consultation process offered a variety of means, times and venues to both review and comment on the draft zoning by-law. The draft by-law was released on May 22, 2009. It should be noted that the by-law was not changed since its release despite the discovery of technical, typographical and grammatical errors. However, this is not the final form of the zoning by-law. It will be amended to take into account the comments of both public and staff.

Two Open Houses were held in each District. During the month of June, at least one Open House was held in each of the Districts. Due to the labour disruption three of the Open Houses were rescheduled for September 9, 16 and 24, 2009 in City Hall, Scarborough and North York Civic Centres. The attendance figure for all of the Open Houses was approximately 260 people. In addition, the Planning and Growth Management Committee held its own public meeting in each of the four Districts. City Councillors organized ward meetings for City Planning to present the draft by-law and answer questions from the ward residents.

The Open Houses were well publicised with two notices in the Toronto Star, 1 notice in Now Magazine and 40 notices in the Community newspapers. Several notices were placed in the electronic urban planning, development and municipal affairs newsletter, Novae Res Urbis- City of Toronto edition.

The Open Houses ran from 4:00 to 9:00 p.m. to allow ample opportunity for people to attend. Staff presented the highlights of the by-law including the seven major zones, new provisions, tall buildings, and a Question and Answer period followed the presentation. Computers were also available to show how to use the interactive map and links to the zoning by-law text. The presentation is posted on the zoning by-law website [www.toronto.ca/zoning](http://www.toronto.ca/zoning). Several display boards and large scale zoning maps were available to help explain the many facets of the draft zoning by-law.

Staff attended ward meetings organized by the Ward Councillor to address issues of concern to the residents in their respective wards. Comparison charts were provided that showed the differences between the existing zoning by-laws and the proposed draft zoning by-law. The ward meetings were organized by Councillors Walker, Stintz, Jenkins, Parker and Filion. Each of the six ward meetings was well attended with a total of about 600 people attending.

Two Councillor Information sessions were held on May 27 and June 1, 2009. Staff provided City Councillors with a briefing memo, including Frequently Asked Questions, and presented the major features of the draft by-law. The PowerPoint presentation was provided to every Councillor.

This report addresses public comments we received by the end of September 2009 so that staff could meet the Committee reporting deadlines. Staff will continue to review comments until the statutory Open House and Public meeting dates. Numerous letters

that have been submitted concerning individual properties are not discussed in this report. The comments submitted to the City for review by source is as follows:

- Over 300 comments collected via the website in the zoning text and maps
- Over 400 comments heard at eight Open House meetings
- Over 80 written comments provided in comment sheets
- Over 425 email messages
- Over 275 telephone calls
- 20,311 website visits between May 1 and October 12, 2009

The comments are discussed and evaluated below.

### **Approval Process and Technology**

During this public consultation period, there were several questions and comments related to the process, time line for approval, the internet and the electronic nature of the zoning by-law.

The questions of process focused on opportunities for public participation and further change. It was explained that the series of Open Houses together with the online comments, emails, phone messages and written comments would be the subject of a report to this Committee on November 4, 2009. It was also mentioned that people would be able to address the Committee at that time. It was further explained that the intention would be to then proceed with a Statutory Public Meeting at the February 2010 meeting of the Planning and Growth Management Committee. In addition there would be a Statutory Open House held at least one week before.

There were several questions concerning the cut-off date for public comment. From the staff reporting standpoint, it was explained that comments were needed by September 25, 2009 for the purposes of this report going to Committee, although comments as late as the week of October 12, 2009 have been incorporated into the report. The cut-off date is January 6, 2010 for comment and input into the report accompanying the draft by-law proposed for the February Statutory Public Meeting. These pertain to input into the staff report. Public comments may be sent directly to the Committee up to and including the day of the Statutory Public Meeting.

While most comments were concerned with the exactness of the new zoning by-law in replicating existing zoning provisions, there were some comments directed at more meaningful change to the current zoning regulations. It was explained that the mandate of the new zoning by-law project was to capture the intent the existing zoning by-laws in preparing a single by-law for the City. However, in some instances the existing by-laws varied in how regulations were administered. In such circumstances, a 'best practices' approach was taken to ensure consistency with how the new zoning by-law would be applied across the City. Other than the accommodation for this 'best practices' approach, wholesale review of any existing standards was not considered. It was explained that the review of the appropriateness of existing standards should be seen as phase two.

The online version of the draft zoning by-law has been generally well received. It offers instant access to the entire zoning by-law from a computer. However, there are a few technical glitches to overcome before the release of the final version. Nonetheless, never has zoning information been so easily and readily available to the public. One specific challenge is providing large scale printed maps. The best approach is being examined and will be reported on at the time of the statutory public meeting.

## **Commercial Residential (CR) Zones**

### Modifications to Building Requirements

As described in the report to the Committee in April of this year, the development standards for commercial residential zones were consolidated into three categories that typify the development along major streets. Standard Set 1 contains the standards applicable to CR zones along major streets in the Downtown area. Standard Set 2 contains standards applicable to CR zones found along major streets that typically contain buildings built nearer the street and may contain both commercial and residential uses. Standard Set 3 contains standards applicable to CR zones along major streets most likely occupied by commercial plaza-type development, with buildings built further from the street.

The following recommended changes to the CR zone requirements are best understood by viewing the diagrams found in Attachments 1, 2, and 3.

### Height

Height limits for CR zones are either depicted on the Height Overlay Map (currently applicable only to the former City of Toronto area) or have a preset maximum applicable to each standard set. For Standard Set 1, it is 16 metres. For Standard Set 2, it is 14 metres. For Standard Set 3, it is 11 metres. The draft new zoning by-law also introduced new provisions for ‘tall buildings’ (discussed further below). The concept embedded in the provisions was to ensure that, as buildings got higher, the bulk and mass would be reduced to allow for greater light, view and privacy. This resulted in different standards for the ‘base building’ versus the ‘tower building’, with the ‘base building’ being no higher than the width of the right-of-way onto which it fronts.

Many respondents during the consultation were confused as to whether this meant that ‘tall buildings’ would be allowed in all CR zones. This was not the intention. The confusion arose because it was implied that the setback requirements and angular planes for the ‘base building’ were seen as universal to all CR zones. The ‘tower building’ requirements only apply to where such height is permitted. This point will be clarified.

In addition, a modification to the height requirements for the ‘base building’ is proposed. Any building in a CR zone that is equal to or less height than a 1:1 ratio to the width of the street allowance is considered a ‘base building’ and must comply with all the

provisions applying to such a building. A further requirement on the height of the ‘base building’ is the main front wall can be no higher than 80% of the width of the street allowance before applying a 45 degree angular plane to the remainder of the building height (see Attachments 1 and 2). This will ensure sunlight penetration onto sidewalks on the opposite side of the street during the midday period during spring, summer and fall. It should be noted that the maximum base building height of a 1:1 ratio to the width of the street allowance, and the main front wall height of 80% may not be achievable as-of-right in all CR zones given the current height limits. Attachment 4 describes how this base building height relates to the tower building in the case of a tall building.

### Rear Yard Setback

The standard rear yard setback in CR zones governed by Standard Sets 2 and 3 is 7.5 metres. This was not abundantly clear in the draft zoning by-law. In addition, it is proposed to add a 45 degree angular plane starting at the proposed minimum height requirement of 10.5 metres (see Attachments 1 and 2). This will ensure sunlight penetration to adjacent properties. In the Standard Set 1 areas, a rear yard setback of 3 metres is being added when there are no windows or openings and when CR zone property abuts a Residential zone category. This is the current requirement in for CR zones in the former City of Toronto zoning by-law.

### Side Yard Setbacks

Currently the draft zoning by-law requires a side yard setback of 5.5 metres when there are openings or windows. If there are no windows or openings, it is possible to build to the lot line. This is not a problem when building up against another CR zoned property. But in the event of an abutting residential zone, some setback should be provided. It is proposed a minimum 3 metre side yard be introduced for such situations.

### Front Yard Setbacks

In Standard Set 3 areas, the draft zoning by-law proposed a minimum front yard setback of 7.5 metres. Several comments were received expressing concern and disappointment that the by-law would require a ‘minimum’ setback along the Avenue growth areas. It is a common practice to require buildings to be located close to the street in many redevelopment schemes. In addition, 7.5 metres does not allow for any useful or practical design element, being too narrow an area for parking and too big an area for landscaping. It is proposed that this requirement be removed.

In the Standard Set 1 and 2 areas, a different approach to front yard setbacks is taken. These areas have a proposed maximum building setback of 3 metres and a further requirement that a minimum of 80% of the main front wall be built within the front yard setback area. Based on the comments received during consultation and a further review of existing buildings, a more suitable percentage would be 75%.

### Modifications to Tall Building Provisions

Many comments were received concerning the tall building provisions. The opinions were somewhat mixed. Many preferred that the tall buildings requirements remain as guidelines. Other comments supported the idea of zoning by-law requirements for tall buildings with the understanding that they would be more likely adhered to. Staff met with the Building Industry and Land Development (BILD) representatives to discuss the zoning by-law provisions. They expressed the position that these requirements should remain as guidelines. It was explained that the guidelines have been used by staff in reviewing applications for tall buildings for the last 2 to 3 years. The provisions being included in the proposed zoning by-law are those measures that have worked well in practice and are important in all tall building proposals.

As mentioned above, there is some confusion with how the tall buildings provisions might be interpreted to apply across the City. It was not the intention to suggest tall buildings are permitted in all CR zones. The provisions regarding the tower portion of tall buildings will be moved out of the individual Development Standard Sets sections of the by-law and will instead be set out under the topics of height, floor area, setbacks, separation, and permitted encroachments sections. The 750 square metre maximum floor plate restriction is proposed not to apply to hotel buildings or hotels which have a residential component. Balconies will not be permitted to encroach into the required 3 metre minimum setback for the tower portion of the building.

### Drive-Through Facility Use in the CR Zone

There are current contradictory provisions between the conditions for this use in a CR zone and the use specific conditions for this use found in Section 150 of the draft by-law. It is proposed to remove Drive-Through Facility as a permitted use in the CR zone.

### As of Right Conversion of Existing Non-Residential GFA to Residential GFA

Currently the provision that allows conversion of existing non-residential gross floor area to residential gross floor area without the need of a rezoning applies to all CR zones. It is proposed that the provision be modified and rewritten to ensure that CR zones which currently do not have any residential density permissions (i.e., the R 0.0) are not subject to this provision (Section 40.10.40.40 (1)) so as not to confer residential density rights where they do not currently exist.

### Amenity Space Requirements in CR Zones

The draft zoning by-law neglected to add amenity space requirements for the residential portions of mixed use buildings in the CR zone consistent with the requirements in Residential zones. This requirement will be added to the draft by-law.

## **Commercial Residential Employment (CRE) Zones (formerly RA zone)**

### Modifications to Building Provisions

We propose to modify the setback provisions in the CRE zone that are based on land use type to setback standards that apply to all buildings, regardless of use. This is consistent to the approach in the CR zones.

### Additional Separation Provision for King-Spadina

A provision that currently exists in the King-Spadina Reinvestment Area of the former City of Toronto by-law requires 7.5 metre separation for windows or openings from walls or lot lines that do not abut a street or park. It was missed in the preparation of the draft by-law. This provision will be added to the zoning by-law as it pertains to the King-Spadina area.

## **Local Commercial (CL) Zones**

### Modifications to Building Provisions

The new draft by-law currently establishes three development standard sets for lots in the CL zone, which is consistent with the way in which the CR zone organizes the base building provisions. Upon further review, it was noted that there are no properties with CL zoning in the downtown where the Standard Set 1 rules would be applied. As a result, it is proposed that the development Standard Set 1 provisions (SS1) in the CL Zone section of the current draft zoning by-law be deleted.

Additional modifications to the Standard Set 2 provisions in the CL zone are proposed in order to be more consistent with the CR zone requirements. Where a lot abuts a lane, it is proposed that the rear yard setback requirement be 7.5 metres as measured from the far side of the lane. A minimum side yard setback of 5.5 metres for walls with openings is proposed. A minimum 3 metre side yard setback is proposed if the lot is adjacent to a street which is not a major road.

Similar modifications are proposed for the Standard Set 3 provisions in order to be more consistent with the CR zone requirements. Where a lot abuts a lane, it is proposed that the rear yard setback requirement be 7.5 metres as measured from the far side of the lane. A minimum side yard setback of 5.5 metres for walls with openings is proposed. A minimum 3 metre side yard setback is proposed if the lot is adjacent to a street which is not a major road. In addition, the current requirement for a minimum front yard setback of 7.5 metres is proposed to be deleted as is proposed for the CR zones.

## **Employment Zones**

### Retail in Employment Industrial Zones

There are several industrial zones in the former City zoning by-laws that permit retail uses in a variety of forms and sizes; however, the Official Plan recognizes only two categories of retail uses for Employment Areas. These pertain to retail uses that are limited in scope and size so as to serve the area businesses and workers and, other retail uses that are large scale, stand-alone and "power centres". Any new zoning will need to conform to the Official Plan policies.

The proposed zoning by-law provisions for Employment Industrial zones will continue to restrict the type and amount of retail uses in areas designated Employment Areas under the Official Plan. In the Employment Industrial (E) and Employment Industrial Office (EO) zones, retail shall be limited in scope and size to those types of uses that are to serve area businesses and workers and Ancillary retail (i.e., products sold that are manufactured on site). In the Employment Light Industrial zone (EL), ancillary retail will be permitted with a strict size limitation. No retail will be permitted in the Employment Heavy Industrial zone (EH).

Developments that are large scale, stand-alone retail stores and power centres built prior to June 6, 2006, fall under Policy 4.6.5 of the Official Plan. These developments are proposed to become Employment Industrial Commercial zones (EC) that will appropriately reflect the specific nature of the development. This would include any developments recognized in applicable Secondary Plan or Site and Area Specific policies in the Official Plan. Determining which lands qualify under the policies is still being examined at the time of the writing this report. Properties that have mixed industrial commercial zoning under the current by-laws which do not have developments that qualify under Policy 4.6.5 of the Official Plan or site specific policies, shall remain outside of the proposed by-law at this time, and their existing zoning will continue to apply for the time being.

Going forward, any large scale, stand alone retail stores and power centres approved under Policies 4.6.3 of the Official Plan with associated rezoning approval will receive an Employment Industrial Commercial (EC) zoning that appropriately reflects the specific nature of the development.

### Ancillary Daycare in Employment Zones

It is recommended that the provision to permit ancillary daycare in Employment zones be removed. Daycares create a conflict with respect to the proposed chemical separation distance requirements. Current ancillary daycares should be able to continue as a non-conforming use and new proposals for such ancillary uses will require a rezoning.

### Issues Related to using the North American Industry Classification System for Manufacturing Uses (NAICS)

A meeting was held with the Toronto Industry Network (TIN) and representatives of the South Etobicoke Industrial Employers Association (SEIEA) regarding employment zoning matters. At the meeting, concerns were expressed in the manner the North American Industry Classification System (NAICS) was proposed to be used in the new zoning by-law. NAICS is widely recognized as a current source for the purposes of identifying specific types of manufacturing uses. It is proposed that the zoning by-law reference this classification system as opposed to defining every type of permitted manufacturing land use.

Based on the comments received to date, there will be a need to include some additional manufacturing terms in the list of permitted uses, by employment zone, that were erroneously left out of the May draft. For example, these include “Computer and Electronic Product Manufacturing”, “Electronic Equipment & Appliance Manufacturing”, “Sign Manufacturing”, and “Footwear Manufacturing”. Other changes include specifying more clearly the specific use being permitted. “Paper Manufacturing” is listed but it should be “Paper Product Manufacturing”, since the intent of the by-law is not to permit pulp and paper mills from being developed.

It has also been suggested by industry representatives that the by-law provide, as an appendix, a copy of the NAICS manufacturing listing to which the by-law is relying on for the purposes of distinguishing manufacturing land use terms. This is a good suggestion that will be considered.

### Items to Exempt from Height Limit

Representatives of some industries have raised concerns about not exempting certain items from the height limit in Employment zones. Specifically the concern is with scrubbers and other pollution abatement measures. This will be considered for the final draft of the zoning by-law. Other comments have suggested establishing a height limit exemptions for wind turbines in Employment zones as well.

### Parking and Loading in Employment Zones

The May draft by-law currently does not address the requirements of where parking and loading areas can be located on a lot in a given Employment – Industrial zone. Restrictions, such as limiting the location of parking and loading in front yards in Employment – Light Industrial (EL) and Employment Industrial Office (EO) zones needs to be added. Such standards will be added to the final draft of the zoning by-law to the best practice from the current by-laws.

## Amending Outdoor Patio Use Restriction

Industry representatives from the South Etobicoke Industrial Employers Association have suggested that the proposed restrictions on outdoor patio space add no value to the by-law. It is proposed to modify this provision (Section 60.5.50.20) to specifically restrict outdoor patios for the portion of yards that abut a lot in a Residential zone category, and remove the other restrictions.

## **Measuring of Height in Non-residential Zones**

The measurement of height in the non-residential zones of the draft zoning by-law was not clearly explained. For these zones it is proposed that building height be measured as the distance between the elevation of the highest point on the building or structure and the average of the highest and lowest elevation of grade along the front lot line or in the case of a corner lot, along all lot lines that abut a street.

Provisions to implement these changes will be incorporated into each respective zone section of the draft zoning bylaw.

## **Hazardous Chemicals**

The draft new zoning by-law proposes to categorize uses by the amount of chemical substances stored for use or distribution on site. The zoning by-law would stipulate the separation distance required between uses that contain such chemicals and uses that would be most affected by an accident involving those chemicals.

Reliance for the type and amount of chemical was taken from the federal 2008 Emergency Response Guidebook which is used to deal with spills or other incidents resulting from the transport of chemicals.

The evacuation distance in the 2008 Emergency Response Guidebook was used as the basis for the anticipated separation distance between a user of the chemical and a sensitive use such as residential dwellings, schools, places of worship, hospitals, nursing homes and detention centres. The by-law will provide separation distances and distinguish between when they are stored in a building, where permitted, and when they are stored outdoors. The minimum separation distances are outlined in a table found in Section 150.200 of the draft zoning by-law.

While the protection of sensitive uses from industries with hazardous chemicals is important, it is equally important that sensitive uses not encroach into Employment Industrial areas where a reverse impact is created. The by-law therefore proposes minimum separation distances for sensitive uses from zones that permit a certain type of chemical to be stored or used.

During a meeting with TIN and SEIEA industry representatives, a concern was expressed that the separation distances for hazardous materials might be too restrictive particularly

for propane stored as a fuel source for their equipment such as tow motors. The storage containers might hold 1000 to 2500 litres according to industry representatives. It was suggested that a regulation might be needed in the draft zoning by-law to clarify and permit this fuel storage to occur.

Many comments from industry were received suggesting that the separation distances could pose a problem of conformity for some existing industry but little specific explanation was provided. Given the extent feedback to date, the following can be recommended at this time. It is appropriate for the zoning by-law to include a regulation that states for clarity purposes that the application of the chemical separation distance does not apply to chemicals used as fuel and stored in the fuel tank of a vehicle. However, the storage of vehicle fuels such as propane in on-site refuelling stations is an activity that is consistent with the objective of the separation distance proposed in the zoning by-law. As such, the required separation distance should be complied with for on-site re-fuelling stations. While this may place some industries into non-conformity, the issue of ensuring public safety through the separation distances in the draft zoning by-law should remain the paramount objective.

### **Parking and Loading Standards**

The revised parking and loading standards have, up to this point, drawn relatively little public comment. The comments received have varied widely in scope from a general questioning of the need for standards, to detailed concerns over the appropriateness of a given standard in a particular area of the City. Also, some of the comments on the standards ventured into peripheral subject areas such as front yard parking, reverse slope driveways, on-street parking permits and charging for visitor parking which are being dealt with separately.

The proposed parking and loading standards are an amalgam of new, revised standards for certain land use classes and a consolidation of existing or old standards for the remaining classes, applied to a new geography. City Council initially approved the development of new parking standards for offices, retail store, eating establishment and multi-unit residential land uses and, subsequently, expanded the range to include places of worship and places of assembly. A further study was undertaken to assess the impacts of securing reserved parking spaces for car sharing vehicles on the overall demand for parking in apartment buildings.

All the background studies have been available on-line during the public discussion period. The new parking standards were generally developed using a “blended” approach that brought into consideration:

- Existing standards in the City’s former municipalities;
- Best practices elsewhere in Ontario and other large North American cities;
- Surveys of parking demand and utilization;
- First Principles methods of traffic forecasting and parking demand estimation;

- Policy objectives such as that of reducing auto dependency in the targeted mixed use growth areas of the City.

There is general support for varying the parking standards according to the level of transit service in an area. Where transit access is good the standards are lower. Adopting the geography of the Official Plan's Map 2 – Urban Structure, four parking policy areas were defined as: PA1 – Downtown and Central Waterfront; PA2 – Centres; PA3 – Avenues on a subway line, and PA4 – Avenues on a bus or streetcar line. The parking standards progressively increase through policy areas 1 to 4 and are highest in the remaining part of the City that falls outside these transit-oriented, mixed use growth areas.

The overall aim in developing the new parking requirements, and in consolidating the existing ones, is to establish a set of minimum responsible standards across the City. The new standards also impose maximum levels on the amount of parking to be provided in the four parking policy areas. Not every land use class has standards that vary across all five sub-areas and a few, such as industrial uses, have only a single city-wide standard. The new standards for offices, retail, restaurants and apartments also include requirements for bicycle parking and shower/change facilities.

In response to concerns raised over particular parking and loading standards, the following observations and proposed changes are being put forward:

- Develop a definition of “assisted housing” and ensure the retention of existing standards that apply to this residential category;
- Reduce the standard for secondary schools from 2.0 to 1.5 parking spaces per classroom and office;
- Retain the former North York minimum parking standards for financial institutions (banks) and medical offices of 3.5 and 4.1 spaces per 100 m<sup>2</sup> respectively (as opposed to the proposed standards of 2.0 and 1.5 per 100 m<sup>2</sup>) for the lands included in the “Sheppard Avenue Commercial Area Secondary Plan”;
- Pursue the further consolidation of existing parking standards among land use classes that have similar parking requirements;
- Ensure that certain exemptions are carried forward;
- Clarify that off-site parking is generally not permitted because of lack of an adequate legal means of securing and enforcing off-site parking arrangements, and
- Clarify the wording in 220.5.10.1 (G) regarding loading standards for the “other” class of land use, including specifying the type of loading space to be provided

A variety of concerns were raised over bicycle parking standards for particular uses. The following proposed changes are being put forward to address these concerns:

#### Bicycle Parking Standards for Residential Uses:

Feedback from the public and the development community has suggested that providing 0.2 visitor parking spaces at-grade per dwelling unit (which is equal to 20%

visitor parking at a rate of 1 space / dwelling unit in PA1) is proving to be onerous, particularly on constrained sites in the downtown area. When applied to a development proposal 20% appears to be an oversupply for visitor bicycle parking. The City of Toronto Cycling Study (2009) has shown that 66% of Toronto households own bicycles with an average of 2.2 bicycles per household. In order to better reflect bicycle ownership in City of Toronto households and to avoid an oversupply of visitor bicycle parking, the following changes are recommended to the bicycle parking standards for residential uses.

Type of Bicycle Parking	Planning Area 1	Rest of City
Visitor (short-term) Parking	0.1 per dwelling unit	0.08 per dwelling unit
Occupant (long-term) Parking	0.9 per dwelling unit	0.7 per dwelling unit

Bicycle Parking Standards for Uses not Currently Listed:

There are a number of non-residential uses for which a bicycle parking standard was not recommended in the consultant reports. This absence of standards for particular uses has been raised by the public as well as developers and City planners involved in the development review process and area planning initiatives. In addition, the new Toronto Green Standard proposes to include a bicycle parking requirement in the 2009 TGS that will capture particular uses that are not included in the proposed Zoning By-law. To address these concerns the following standards have been developed using a first principles approach based upon current bicycle mode share data and a future target mode shares.

Use	Bicycle Parking Rate Policy Area 1		Bicycle Parking Rate City-wide	
	Short-term (Visitor) Parking Minimum	Long-term (Occupant) Parking Minimum	Short-term (Visitor) Parking Minimum	Long-term (Occupant) Parking Minimum
Hospitals	0.1 spaces per 100m <sup>2</sup> or 6.0 spaces if greater than 1000m <sup>2</sup>	0.1 spaces per 100 m <sup>2</sup>	0.06 spaces per 100m <sup>2</sup> or 6.0 spaces if greater than 1000m <sup>2</sup>	0.06 spaces per 100 m <sup>2</sup>
Public and Private Schools, and Educational Facilities	0.1 spaces per 100m <sup>2</sup> or 6.0 spaces if greater than 1000m <sup>2</sup>	0.1 spaces per 100 m <sup>2</sup>	0.06 spaces per 100m <sup>2</sup> or 6.0 spaces if greater than 1000m <sup>2</sup>	0.06 spaces per 100 m <sup>2</sup>

Art Gallery, Community Centre, Library, Museum, Place of Worship, and Place of Assembly	3.5% of maximum occupancy as per building code	1.5% of maximum occupancy as per building code	2.0% of maximum occupancy as per building code	1.0% of maximum occupancy as per building code
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#### Shower requirement:

Feedback suggests that the currently proposed standard may be both onerous and an over supply. The intent of the proposed standard was to require showers for all medium to large size offices. We propose that this standard be required at a reduced rate from what has been recommended in the consultant report. The following rates are proposed. If a building contains uses, other than dwelling units, for which bicycle parking spaces are required, shower and change facilities shall be provided for each gender at the following rate:

- (A) none if less than 5 required long term bicycle parking spaces;
- (B) 1 for 5 to 60 required long-term bicycle parking spaces;
- (C) 2 for 61 to 120 required long-term bicycle parking spaces;
- (D) 3 for 121 to 180 for required long-term bicycle parking spaces;
- (E) 4 for more than 180 required long-term bicycle parking spaces.

#### Visitor Parking

Staff included in the draft zoning by-law a regulation that specifies that there can be no fee charged for a visitor parking space in multi-unit residential buildings in Residential Zones in accordance with Council direction.

During the consultation process, there were comments submitted stating that charging for a visitor parking space should be allowed.

After consideration of the comments, staff can not see the merits in the request to permit charging for the use of a visitor parking space and therefore no change to the regulation is proposed.

### **Residential Zones**

#### Lot Coverage Instead of Floor Space Index for Low-rise Residential Buildings

All existing zoning by-laws, with the exception of the former City's of Toronto and York, use lot coverage, together with other provisions, to control the bulk and size of low-rise residential buildings. The former Toronto and York areas use a floor space index (FSI) factor to control bulk. As part of the 'best practices' approach to creating the new zoning by-law, the lot coverage approach is proposed for the entire City.

The FSI regulation was first introduced to the former City of Toronto in 1958. Prior to that time lot coverage was used. The covering report on this issue argued that FSI was being widely used in the United Kingdom as a universal method of predicting the impact of development from the standpoint of expected number of residents, number of employees and amount of traffic generated. FSI is useful for planning purposes but not necessarily to conserve and enhance neighbourhood character.

For low-rise residential buildings, the impact of one upon another is generally associated with its three-dimensional outer bulk, its location on the lot relative to lot lines and neighbouring houses, its height and how much of the lot remains open. The outer dimensions of this building envelope can be regulated without the need for an FSI factor.

The comments received on the conversion from FSI to lot coverage were mixed. Some of the comments expressed support for the lot coverage approach. However, other comments were concerned that the conversion formula would allow for more density than currently is permitted by the FSI factor. Most people who have expressed concern about the size of a neighbour's house have indicated it is how big the house seems from the outside that matters rather than how much floor space is inside the house.

In converting areas currently using FSI, the objective was to ensure the general result that might be expected with FSI can be adequately converted into the new approach without potential for a much bigger house. The draft by-law proposes that areas currently zoned with a z0.35 code (0.35 FSI) would be converted to 25 % lot coverage. Areas zoned with a z0.6 code (0.6 FSI) would be converted to 35 % lot coverage.

FSI figures can be easily converted to a lot coverage dimension by multiplying by 100. For the 0.35 areas, the lot coverage equivalent would be 35%, if the lot were limited to a one storey building. If a two storey building were allowed, then the lot coverage equivalent would be 17.5%. Since the draft zoning by-law is proposing 25%, comments have suggested that the density is being raised. In the case of 0.6 FSI areas the lot coverage equivalent would be 60% for a one storey building and 30% for a two storey building. The draft zoning by-law is proposing 35%.

There were reasons for choosing 25% lot coverage. Review of existing ground floor area figures for these zones indicate that the mean lot coverage of the main building is 20%. This excludes any accessory structures such as garages. A single car garage will account for an additional 5% to 7% coverage depending on the final dimensions of the structure. Because the remainder of the City includes accessory structures within the total lot coverage figure, the same approach was applied in converting the former City of Toronto zones. This results in a lot coverage amount of 25%. This developed as a result of the 20% existing mean lot coverage plus 5% for accessory structures. See Attachments 5 and 6 for a comparison of lot coverage and FSI.

A similar conversion was done for the z0.6 zones although the existing mean lot coverage was very close to 30%. As a result the proposed lot coverage was calculated as 30% plus 5% for accessory structures for the total lot coverage of 35%.

Some of the comments received noted that the 5% for accessory structures may be used exclusively to bulk-up the main building and then a variance might be sought for the garage. In most of the City, where most house designs include an integral garage, this situation is unlikely to occur. However, the former City of Toronto area has a history of stand alone garages especially when the lot is associated with a lane. For this reason it is proposed that in the z0.35 and z0.6 zones in the former City of Toronto the lot coverage be split between the main building and accessory buildings thereby more accurately converting the FSI factor to lot coverage.

### Height

Comments received related to height were almost exclusively concerned with how height is proposed to be measured in low-rise residential areas.

The draft by-law proposes to measure height to the peak or highest point of the roof. The maximum height for low rise residential zones is 10 metres. Some existing zoning by-laws measure to the peak while others measure to the mid-point of a pitched roof. The mid-point is defined as half way between the lowest eave and the highest point of the roof. See Attachment 7 for a comparison of the two approaches. According to comments received, there are two issues arising from measuring to the peak.

Measuring to the peak will allow 3 storey flat roof buildings in areas where the predominant form is a 2 storey pitched roof building. With a 10 metre height limit, it is possible to build a 3 storey flat roofed building. Currently, the North York zoning by-law places a 2 storey, 8 metre limit on flat roof buildings. This is a good solution to this concern and is equitable in that both designs result in a 2 storey building. It is proposed that the 2 storey, 8 metre limit on flat roofed buildings be applied in RD zones across the City.

Another concern expressed during consultation was that the height of buildings would be raised. This was particularly noted in neighbourhoods affected by the North York zoning by-law. In the North York zoning by-law, height is measured to the mid-point at a maximum height of 8.8 metres. The 10 metre height limit to the peak is seen as an increase in height. This is not the case if the height of the roof above the 8.8 metre height limit is considered. As an example, if a pitched roof has a height of 2.4 metres (a modest number, many roofs are higher), half the height of the roof is equivalent to 1.2 metres. If 8.8 metres is the height of the building to the mid-point of the roof, then the 1.2 metres (half the height of the roof) should be added to calculate the height of the building to the peak of the roof. The result is a 10 metre high, pitched roof building;  $8.8 + 1.2 = 10$ . The conversion to a peak roof limit of 10 metres does not result in appreciably taller buildings. In fact, for some areas in York and former City of Toronto, it results in a slight decrease in height.

Another issue raised on the matter of height involves the point of measurement. The draft zoning by-law proposes that height be measured at the front yard setback line at an

elevation calculated as the average between the elevations of the two side lot lines. This is defined in the draft zoning by-law as established grade. The elevations of the side lot lines are interpreted to mean the elevation shared with the adjacent lots. The purpose of this approach is to ensure that the property does not artificially raise the grade thereby creating a taller building allowance than was intended.

Most of the concerns came from residents in the former North York area where grade is measured from the elevation of the crown of the road. This method assumes that the measurement point cannot be altered unless road work is undertaken. However, it does create an inconsistent and unfair application of the true height limit. Most properties are higher in elevation than the street; a practical consideration ensuring that water run-off is directly away from buildings onto the street. In some parts of the City, lots are substantially higher than the road. This means that the permitted height limit of structures could never be met without an application to the Committee of Adjustment. For this method to work equitably, each lot would have to have a height defined to take into account the difference between the road elevation and the existing lot elevation. Alternatively, lot owners would be removing soil from the site to achieve maximum height.

No changes to the draft zoning by-law with respect the definition of established grade is recommended.

#### Side Yard Setback Requirements for Detached Residential

In the proposed RD zone, the draft zoning by-law cites the following requirements for side yard setback:

- “(i) 0.9 metres if the minimum required lot frontage is less than 9.0 metres;
- (ii) 1.2 metres if the minimum required lot frontage is 9.0 metres to less than 18.0 metres;
- (iii) 1.8 metres if the minimum required lot frontage is 18.0 metres to less than 30.0 metres; and
- (vi) 3.0 metres if the minimum required lot frontage is 30.0 metres or greater.”

During the public consultation, concerns were expressed by residents from differing perspectives. Some thought the recommended setbacks were too small while others thought they were too large. In the Willowdale area of North York, residents have pointed out that the R4 zone in the North York by-law (which applies to the majority of houses in Ward 23) has a minimum side yard requirement of 1.8 metres for lots with 15 metres frontage or more. A representative of the Leaside Ratepayers Association has pointed out that much of that area, which has minimum lot frontage of 9 metres and 12 metres, has a requirement of 0.9 metre side yards while the new zoning by-law will require 1.2 metres. Other comments suggested that there might be further gradations within the lot frontage categories in particular adding a larger side yard setback for lots between 24 and 30 metres in width.

Analysis of current zoning by-law requirements for detached house in residential zones shows a clear tendency toward the concept that each side yard be about 10% of the lot's expected frontage. On this basis, the incremental increase in side yard setback requirements based on lot frontage is proposed to be to the following:

- (i) 0.6 metres if the minimum required lot frontage is less than 6.0 metres;
- (ii) 0.9 metres if the minimum required lot frontage is 6.0 metres to less than 12.0 metres;
- (iii) 1.2 metres if the minimum required lot frontage is 12.0 metres to less than 15.0 metres;
- (iv) 1.5 metres if the minimum required lot frontage is 15.0 metres to less than 18.0 metres;
- (v) 1.8 metres if the minimum required lot frontage is 18.0 metres to less than 24.0 metres;
- (vi) 2.4 metres if the minimum required lot frontage is 24.0 metres to less than 30.0 metres; and
- (vii) 3.0 metres if the minimum required lot frontage is 30.0 metres or greater.

For those areas where the current zoning by-law has allowed existing houses to be closer to the side lot line than what has been proposed, the draft by-law does contain the following statement:

“If a building has a front, rear or side yard setback less than that required by this By-law, the respective minimum yard setback for that building is the yard setback that lawfully existed on the date of the enactment of this By-law.”

The revised rule (iv), above, goes half way to meeting the concerns of residents in the Willowdale area. The current side yard setback is 1.8 metres and this proposal is to require 1.5 metres for lots of 15 metres to 18 metres in width. There is currently a provision allowing lots that have less than the required minimum lot frontage to have reduced side yard requirements (at a ratio that coincides with 10% of the actual lot frontage), to as low as 1.5 metres. In addition, a garage attached to a house with no habitable space above it can be 1.2 metres from the side lot line.

#### Parking in the Front Yard

During the formulation of the draft zoning by-law, there were concerns expressed about the number of vehicles being parked in a front yard of a residential home despite zoning by-law regulations that did not permit front yard parking. Under the Planning Act, zoning by-laws have the ability to regulate the 'parking space' but not the activity of parking. As such, existing zoning by-laws in the City generally require that for ground related residential buildings the required parking space should be located behind the front main wall so as not be located in the front yard. This fundamental requirement is also required in the draft zoning by-law. However, despite this requirement for no front yard parking, zoning by-laws do permit a parking space to be located in the driveway when it is required for a second suite.

The issue of front yard parking arises when a by-law also recognizes the casual parking of a vehicle in the driveway. This generally results in residents parking a vehicle on the driveway in the front yard in front of the garage door. To assist in formalizing this current activity of driveway parking into a zoning regulated matter, the new zoning by-law proposes to create a parking space on the driveway in the front yard only if the required parking space for the dwelling unit is behind the main front wall and if the parking space on the driveway is in tandem with the parking space behind the main front wall. The effect of this approach is to formalize in zoning terms the situation that currently exists and in fact is required when a second suite parking space is to be located on the lot.

### Natural Hazard Line

The natural hazard line provision is a new feature of the draft zoning by-law. This provision requires a setback of 10 metres from the top of bank along all the ravines considered hazard lands from the standpoint of slope stability. The reaction at community meetings and open houses has been positive. This provision implements directly a policy of the Official Plan.

However, comments from some individuals, a ratepayer association, and the Rosedale Golf Club have expressed concern about how onerous this will be on affected property owners. In some instances, buildings are already at the setback limit or at the top of bank. In such circumstances, no further expansion of existing buildings toward the top of bank would be permitted.

To assist with existing situations of encroachment, it is recommended that a revision to the proposed exemption clause for lawfully existing buildings be made to allow existing encroaching buildings to be replaced, provided the new building is no closer to the hazard line.

### Landscaping on Residential Lots

The draft zoning by-law has retained rules for landscaping in the front yards of low-rise residential buildings that were enacted city-wide in 2006, which require that a percentage of the front yard be landscaped, the amount differing depending on lot width, and that three-quarter's of the area to be landscaped must be used only for soft landscaping.

The draft zoning by-law also proposes a new standard that is not in any of the current by-laws, pertaining to landscaping in the rear yard of most types of residential lots; at least half of the rear yard is to be used for soft landscaping.

Among the comments that have come in on this topic, there has been more general support than not. Audiences at the open houses and community meetings have been quite positive with respect to "green" initiatives. However, there were some specific concerns submitted during the consultation period.

With respect to front yard landscaping, there has been some difficulty in meeting the front yard soft landscaping proportion on small lots where the front wall is closer to the street than the garage entrance, or where a porch is located at the front. In most cases, where the main front wall is at the required front yard setback, a porch will not impact the calculations since the draft by-law would exempt those that are permitted to encroach into a required setback from the landscaping calculations. For lots less than 6 metres wide, having a deeper garage should not be an issue since the requirement is that the area not covered by a driveway is to be landscaped.

For lots that are slightly larger than that threshold, there could indeed be an issue because it is conceivable, if the garage is recessed far enough back, that the remaining yard in front of the main part of the house would comprise less than half of the front yard. Though, in many cases of a recessed garage in a small lot project, the second floor will still be in line with the rest of the main wall, so the elongated driveway does not alter the ratios of the front yard.

The above circumstance is relatively rare. For this reason, a change to the zoning by-law is not recommended. The Committee of Adjustment would be a better option. Should the situation become more prevalent, then a change to the zoning by-law could be considered. As suggested in this submission, relief to the front yard requirements might be balanced with conditions that increase the amount of rear yard landscaping and thereby retaining the intent of the provision of soft landscaping.

With respect to the new rear yard soft landscaping requirement, comments have expressed concern about how it will affect smaller lots since some features such as a detached garage or a swimming pool are usually of a few fixed sizes so they take up a larger percentage of the yard as the yard gets smaller. However, many of the current by-laws (including Toronto, where most of the small lots are) already limit the size of swimming pools to 15% of the lot area, which does appear elsewhere in the draft zoning by-law. Also, based on maximum driveway widths, even a 6 metre wide lot can accommodate a parking space in the rear yard while still having more than 50% available for landscaping. Given the environmental benefits of water infiltration, urban heat island relief and of making space available for vegetation, this new regulation should remain as is.

## **Special Use Regulations**

### Schools – Elementary and Secondary Levels

The City Official Plan recognizes the role of schools in the overall functioning of the City and provides the following policy framework and guidance:

‘Keeping surplus schools for community purposes will be pursued where the need for such facilities has been identified as a priority. Where this is not feasible, alternate uses of closed schools must be compatible with the surrounding neighbourhood and should provide City residents with continued access to school playgrounds and playing fields.’

‘Council recognizes that schools are an integral community resource that serve not only as learning institutions but also as socio-cultural centres and a source of valuable community open space. The City will encourage and promote shared use of schools, parks and public open space. The City will consider acquiring publicly owned school sites, shown on Map 7, for parks and open space purposes should they no longer be needed as learning institutions.’

The existing zoning by-laws treat the zoning for schools differently. In some cases the sites are zoned for schools or institutional purposes and in other zoning by-laws, schools are permitted within the zone category. This latter situation gives school sites the base zoning privileges such as, residential, commercial or industrial. If the zoning by-law is to implement the Official Plan policies with respect to schools, a consistent city-wide approach is needed.

The draft by-law proposes a use-specific zone approach for all schools for both publicly funded and private schools. On a go forward basis, new school sites will be zoned ‘Institutional – School (IS)’ with permission for other compatible uses. This means that when a school site is to be redeveloped for other purposes, it will be subject to a public process to rezone the land for the development being proposed.

Under the draft by-law zones, all new schools will be zoned as Institutional School ‘IS’. Many existing school sites in Scarborough and Etobicoke are already zoned for school or institutional purposes. The draft by-law proposes to only zone ‘IS’ those existing school site in Scarborough and Etobicoke that are specifically zoned for school or institutional purposes. While ideally all schools should be zoned ‘IS’, in other areas of the City placement of exiting schools in the ‘IS’ zone will result in a loss of development rights.

In all the other zoning areas of the City of Toronto, schools are no longer listed as permitted uses. To establish a school use, a rezoning application is necessary. Only those schools existing in the residential, commercial or institution zones on the date of the enactment of the by-law will be permitted to remain in a non ‘IS’ zone, limited in size to what exists at the date of passing of the zoning by-law or whatever special permissions that may have been attained through a site specific rezoning. Schools existing on the date of the enactment of the by-law in employment zones will become legal non-conforming.

We have met with representative of the Toronto District School Board and are awaiting additional material from them to in order to further evaluate the zoning by-law on their lands.

### Places of Worship

Places of worship are currently permitted in the existing zoning by-laws in a number of different ways. Some by-laws allow places of worship in various zones such as residential or industrial. Other by-laws allow places of worship only in a specific ‘Place

of Worship’ zone. Some by-laws also permit places of worship in areas provided they are in a building specifically constructed for that purpose.

Under the existing zoning by-laws, places of worship are able to start up in houses in stable residential neighbourhoods, in store front commercial areas and in buildings in industrial areas. While some by-laws impose separation distances between places of worship, it is felt that when a Place of Worship is permitted in a specific zone it is unnecessary to continue the requirement for a separation distance between sites.

Places of worship are necessary to the culture of the City and as such need to be accommodated. The draft zoning by-law proposes to permit places of worship in a Place of Worship zone (IPW) as well as in certain institutional and commercial-residential zones. This approach provides significant opportunity for a place of worship use to locate in the City. As-of-right permission for a place of worship in a Residential zone or and Employment Industrial zone will not be allowed.

In residential areas, existing places of worship are permitted to remain subject to limitations on their expansion. An existing place of worship in an employment zone will become a legal non-conforming use under the draft by-law.

#### Provisions for Day Nurseries

The Day Nurseries Act, and all of the current zoning by-laws, distinguishes day nurseries from Private Home Daycare. The latter is where a person can look after up to five children in their home without having a licence. All the by-laws (including the draft by-law) permit private home daycare as an ancillary use in most types of residential units.

The current by-laws allow licensed day nurseries in most parts of the former cities, though not every zone is treated the same way, and the requirements to be met before one can be permitted to differ somewhat among the by-laws. The draft by-law lists day nursery as a permitted use, either as-of-right or conditionally, in every zone except for employment, utility, and some open space zones.

None of the current by-laws have qualifications to be met in order for a day nursery to be permitted in non-residential zones. In the residential zones, there are some notable differences, but there are also common themes that can be found among the current by-laws:

- Except for Scarborough, the by-laws permit day nurseries in most residential zones, subject to the day nursery being in a certain type of building or associated with certain types of uses. The Scarborough by-laws do not allow day nurseries in detached, semi-detached, or townhouse zones.
- Scarborough’s apartment and multi-family zones do permit day nurseries, provided they are not in a detached or semi-detached house, or a townhouse, and provided they are not located above the second storey in an apartment building.

- Where day nurseries are allowed in low density residential zones, the majority of the by-laws require that they be in various types of institutions. These include schools, places of worship, community centres, or libraries, depending on the by-law. In the Scarborough by-laws, if a day nursery is in a school, it cannot occupy more than 40% of the total area of the school building.
- In former Toronto's R2 zones and higher, there is a more permissive approach than in its R1 and R1S or any of the other by-laws' residential zones, in that a day nursery is allowed in a detached or semi-detached house, or any non-residential building permitted in the zone, including one purposely built as a day nursery. Where it is in a house, it is supposed to be the only use in the whole building (including both units in a semi-detached), except that the house can also be the principal residence of the day nursery owner or operator.
- The current Toronto by-law prohibits a playground in the front yard of a day nursery in its R1 and R1S zones, which has not been addressed in any of the other current by-laws.

In the draft zoning by-law, day nurseries would be permitted in all residential zones but only in schools, places of worship, community centres and libraries. Scarborough's limit on day nursery floor space in a school would be extended city-wide. Day nurseries would also be permitted in apartment buildings, but not above the first storey. The Toronto R1 and R1S prohibition on a front yard playground is proposed to be applied to all residential zones.

Several of the comments on this matter have come from people in the High Park area, expressing concern about the proposed elimination of the permissiveness of the Toronto R2, R3, R4 and R4A zones. This is correlated with the local study that is now underway with respect to day nurseries locating in large houses along High Park Avenue.

The draft new zoning by-law as currently written permits a day nursery in all residential zones but only in schools, places of worship, community centres and libraries. No change is proposed at this time. The study associated with the Interim Control By-law, involving day nurseries in the High Park, is examining the concerns with permitting such a use in residential buildings. This permission is found only in the R2 zone ('R' in the new zoning by-law) in the former City of Toronto.

### Seniors Community House

The Seniors Community House by-law was enacted, city-wide, in 2002. Its basic principles have been carried forward in the proposed zoning by-law, with some revisions in keeping with the structure of the new draft by-law. For instance, whereas the 2002 by-law specified that there be no more than one such use "per block" if it is on a local or collector road, this has been replaced with a separation distance consistent with the one adopted by Council in 2003 for Municipal Shelters.

Among the criteria of the 2002 by-law is a requirement that a seniors community house is to be a non-profit operation. Submissions have been made requesting that this restriction be eliminated. This qualification currently exists and consequently was carried forward into the new zoning by-law. This requirement was added by City Council after consultation on this matter. No change to this requirement is proposed.

### Funeral Establishments

In zones where funeral establishments are permitted (CR and CRE) the current draft by-law restricts them to lots that abut an arterial road and such lots cannot abut a lot in a Residential zone category. The latter requirement has raised concerns with the funeral establishment industry, as many of the existing operations could not comply with the requirements. Most CR zones in the City of Toronto abut arterial roads and abut lots in a Residential zone category.

The concern with funeral establishments has to do with the impact they have on abutting residential properties vis-à-vis the parking and queuing of vehicles associated with the use. It is suggested, that in lieu of restricting these establishments from locating next to a residential zone category, that the draft zoning by-law be revised by replacing this provision with the requirement that an appropriate soft landscaping buffer and fencing be provided on the portion of the lot where it abuts a lot in a Residential zone category as a means to mitigating the impact.

Some members of the funeral establishment industry have requested that the by-law consider allowing crematoria as a permitted use in zones that permit funeral establishments. None of the current zoning by-laws permit crematoria in CR zones. The draft zoning by-law permits crematoria in the Open Space Cemetery zones only, subject to conditions. This is consistent with the intent of existing zoning by-laws. This request is a significant departure from the existing intent and it should be reviewed separately. It is recommended the draft by-law not be changed with respect to allowing crematoria as part of the funeral establishment definition. In addition, since crematoria and visitation centres are listed as permitted only in Open Space Cemetery zones, it is proposed to amend the definition of cemetery to include these two uses.

### Home Occupations

The approach taken in the draft zoning by-law with respect to home occupations was to restrict business activity that could have deleterious impacts such as excessive noise or traffic on residential neighbourhoods. The challenge with such an approach is to avoid allowing too much discretion in the interpretation of the provisions and ensure that the provisions do not read as conditions that must be fulfilled before receiving zoning clearance. Nonetheless, the home occupation provisions are a good representation of current zoning by-law requirements.

The comments received during the public consultation phase have been generally supportive, with some qualification. The most frequent input indicated the provisions were not permissive enough. There was support for a broader set of uses, including some fabrication work, and sale of goods. There was support for allowing a greater number of employees. And, there was support for this being a good way of helping businesses start-up in a tough economy.

Some comments supported following the approach to home occupations in the current zoning by-law for the former City of York. However, the types of uses that it permits include uses, such as fabrication and repair involving relatively heavy machinery.

There were specific concerns also about some of the qualifications. Some thought that music instruction should not be limited only to detached houses. There was a concern that personal service (in the “R” zone only) might allow for a laundry depot. There was another concern that not permitting sale of goods would prevent sale of information over the internet. And two comments were against allowing medical practitioners.

Some of the matters that have been raised relate more to interpretation rather than intent. The language of the draft by-law will be reviewed to determine its clarity with respect to interpretation. Revisions will be prepared where necessary for the final draft of the zoning by-law. For example, the zoning provisions should be clear that the sale of goods does not including the sale of a report over the internet. The intent of the provision is to avoid having buyers coming and going, and commodities being shipped in and out of homes on a regular basis.

Consideration will also be given to the possible need to clarify “manufacturing use”, which is listed as not being permitted. Also consideration will be given to adding “warehouse” to the list of businesses that are not permitted.

The permission for personal services in the “R” zone, a practice currently permitted in the zoning by-law for the former City of Toronto, should also be clarified as it may or may not relate to the laundry depot concern expressed during consultation.

The qualification that music instruction is allowed only in a detached house is currently in several by-laws, including that of former Toronto. On this basis, the provision should be retained despite comments to the contrary. However, it would be appropriate to also have this apply to other music related subjects, such as dance.

Medical practitioners are currently permitted in several of the former municipal zoning by-laws, some of which allow for an assistant. A similar permission was removed from the North York by-law in the mid 1990’s, mainly because houses were evolving into larger clinics. As there are serious concerns the potential number of clients and resulting traffic and parking issues, it is proposed that a medical practitioner’s office not be considered a home occupation and should be studied further.

## **Human Rights and Housing**

Comments have been received from the Ontario Human Rights Commission indicating that the City should be particularly careful when attempting to regulate housing models which could be interpreted to be discriminatory to individuals protected by the Ontario Human Rights Code rather than being based on good planning.

The primacy of the Ontario Human Rights Code is recognized by City Planning and the proposed zoning by-law has been compiled carefully to ensure that regulations are based on good planning principles and are not discriminatory in nature.

Staff have made certain changes in response to the Commission's submissions. The term used to describe persons with mental health issues has been removed. This reference was part of a site-specific exception, which originated in a rezoning by-law from over five decades ago. It was never the intention of the zoning by-law team to carry forward such a characterization.

In general, it is important to emphasize that the issues of human rights, housing, planning principles and the sections of the draft zoning by-law of concern to the Ontario Human Rights Commission are to be understood and assessed in the context of existing provincial legislation, which includes:

- The Planning Act
- The Building Code Act
- The City of Toronto Act and the Municipal Act

In certain cases the City enforces provincial legislation, such as the Planning Act and the Building Code Act. The City has no authority to amend those acts, only the provincial legislature does. Therefore, if the Commission believes those Acts contain discriminatory provisions or standards, the Commission should look to the province to amend those provisions and standards. The City is happy to provide any support or explanation as needed.

### **Group Homes**

The definition of "group home" in the draft zoning by-law is derived from both the City of Toronto Act and the Municipal Act. Generally, these institutions are businesses established to provide supervised care to individuals that meet provincial criteria. The province allows municipalities to regulate these institutional uses through zoning. The City, through its zoning by-law, allows these institutional uses to locate in residential areas where institutional uses would not normally be allowed, strictly for the purpose of assisting with the integration of the clients of a group home into a residential community. This approach is in keeping with the principles of the Ontario Human Rights Code, as they aim for full integration in residential neighbourhoods and as prevention against the segregation of members of certain communities which may be protected by Code grounds. Furthermore, while the zoning by-law does use the definition of group home

provided in provincial legislation, it is solely for the identification of the use, not the individual.

It is important to note that the draft zoning by-law does not exclude group homes from any residential zone in the City. There are separation requirements, but this is a condition of allowing the institutional use in a residential zone where it would not otherwise be permitted. It is recognized that the draft zoning by-law included different separation distances for different institutional uses and where uses are similar in nature it is recommended that the separation distances be standardized. The additional requirement to be located on major roads for group homes used for correctional purpose will remain.

### Seniors Community House

In its submission, the Commission questions the reasons behind the requirement that a building be built five years prior to its conversion and use as a seniors community house. This requirement protects the low rise residential housing character of an area. The benefit of the senior's community house is that its residents are able to remain in a low-rise residential neighbourhood where the more intense built form would not be otherwise permitted.

### Municipal Shelters and Crisis Care Shelters

While the Commission may be correct that the definitions of these two terms are similar, the functional objectives of the two uses are quite different. A crisis care shelter is a privately run facility intended to provide shelter and services to individuals who require immediate need of counselling for particular crises, including the assistance of health care professionals. As such, these facilities are directed to locations where an ongoing operation is compatible with the Official Plan's long term vision of the City and where the size and zoning are more appropriate for the intensity of this use. Municipal shelters, on the other hand, are intended to allow the municipality to create facilities in response to localized needs involving housing using an existing building that is in compliance with the zoning where it is located. This regulatory approach expands the opportunity for publicly operated and assisted accommodation that would not normally be permitted.

## **Transition Issues**

### 'Holes' in the Draft New Zoning By-law

As stated in the previous report (March 27, 2009), although it is important for the draft new zoning by-law to be comprehensive in its application, some properties may be excluded in the sense that they are regulated by existing zoning by-laws and not by the new zoning by-law. The Zoning Map of the draft new zoning by-law will label these excluded properties with language such as: "The new zoning by-law does not apply to this property, the regulations in the applicable existing zoning by-law for this site will continue to apply" (or something similar). In such a case, the old zoning by-law will continue to apply to those lands, which effectively creates a "hole" in the Zoning Map.

Where a property is shown as not being regulated by the new zoning by-law, the existing zoning by-law regulations will continue to apply to it; either the new zoning by-law will apply or the existing zoning by-law will apply to a site at any one time, but not both.

#### Site-Specific Zoning By-laws, Prevailing By-laws and Minor Variances

Except for properties that are intentionally excluded from the new zoning by-law, and for which the existing zoning by-laws will continue to apply (i.e. the “holes” discussed above), site-specific zoning by-laws in force before passage of the draft new zoning by-law for properties that are governed by the new zoning by-law are intended to be dealt with in the new by-law in one of two ways: Either the site-specific by-law will be incorporated as an exception in Chapter 900 Site Specific Amendment, in which case it will be written in the format and using the terms of the draft new zoning by-law, or it will be listed in a list of prevailing by-laws in a chapter of the draft new zoning by-law as a Prevailing By-law. Site-specific zoning by-laws listed as Prevailing By-laws will continue in force and prevail to the extent of any conflict between the Prevailing By-law and the new zoning by-law. The intent is to preserve the rights and duties found in each of the Prevailing By-laws. To that extent, and to ensure the provisions of the former general zoning by-laws are used where necessary to interpret and provide context for the Prevailing by-laws only, the new draft by-law provides that they shall only continue to apply to the extent necessary to support the continued existence and validity of the Prevailing By-laws.

Minor variances are exceptions or relief from by-law requirements granted by the Committee of Adjustment as a separate process under the Planning Act distinct from a zoning by-law; they are not amendments to zoning by-laws. As such, the Planning Act does not provide for, nor should it provide for, an automatic “grandfathering” of those types of approvals into a new zoning by-law. If the development for which the relief was originally sought has been built, it may well not be an issue especially in light of the provisions in the new draft zoning by-law providing for the recognition of a number of non-complying regulatory standards.

#### Section 12 (1) and 12 (2) of By-law 438-86

There are approximately 800 provisions that form part of Sections 12 (1) and 12 (2) in the former City of Toronto By-law 438-86. These are essentially amendments to the general regulations contained in 438-86 and are organized in two sections: “permissive” amendments, S. 12 (1), or “restrictive” amendments, S.12 (2). These are known more commonly as Section 12 (1) and (2) provisions. These sections contain provisions that may apply on either an area basis or site specific basis. Approximately 250 of these 800 provisions deal with at least 10 properties or more.

Of the 800 provisions in Section 12 (1) and (2) that were analysed, approximately 250 were determined to be “area specific” exceptions in By-law 438-86, that is, applying to more than 10 properties. These “area specific” amendments are being carried forward into new zoning by-law by rewriting them into the language of the new by-law and

continue to apply. They will appear as an exception on the map associated with the zone that it happens to pertain to. In some instances, the area exception was determined to be redundant either because of conflict with the current Official Plan policies or because the structure of the new zoning by-law deals with the intent of the exception. All other Section 12 (1) and (2) exceptions pertaining to areas of less than 10 properties will be carried forward as prevailing by-law exceptions with their original wording in reference to By-law 438-86. It is anticipated that in the future the balance of these more site specific Section 12 exceptions can be dealt with in a similar manner as the area specific exceptions in making them a part of the new zoning by-law.

### Pipeline Projects

At the time of passage of the draft new zoning by-law, there will be developments at various stages of municipal planning approvals (the “pipeline”). If a building permit has been issued prior to the date of passage of the new draft zoning by-law, the Planning Act provides a certain level of protection for the building to be erected and used. If an application for a building permit has been made prior to the passage of the new draft zoning by-law and the permit would otherwise issue if particular matters are dealt with, for instance minor amendments to the permit drawings, the common law may provide for a resolution depending on the facts. If a matter is earlier in the “pipeline”, the extent to which the resolution would have to await the outcome of the application or appeal process will have to be determined on a case-by-case basis.

## **CONTACT**

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## **SIGNATURE**

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Gary Wright  
Chief Planner and Executive Director  
City Planning Division

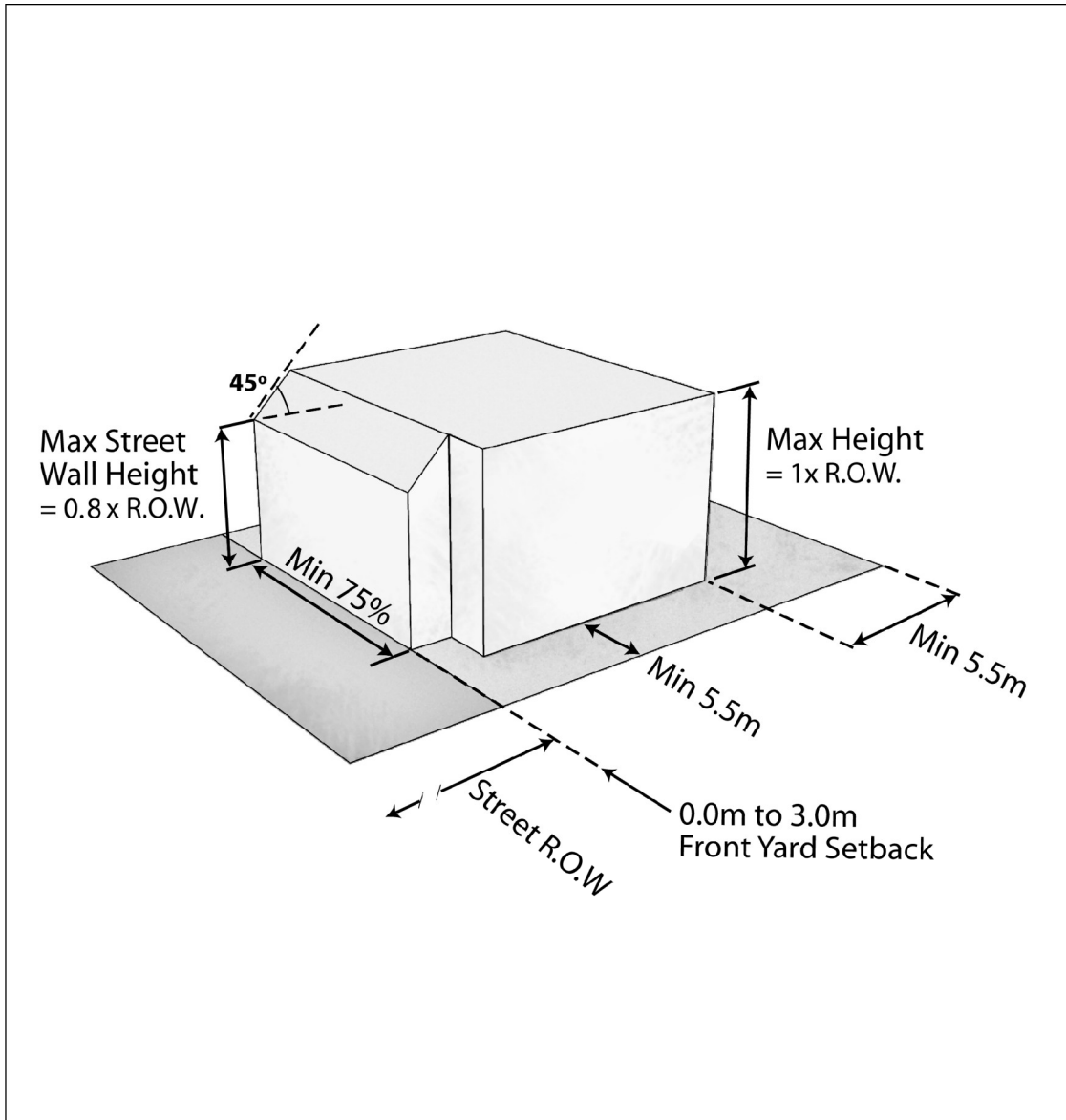
## **ATTACHMENTS**

Attachment 1: Commercial Residential Zone - Development Standard Set 1  
Attachment 2: Commercial Residential Zone - Development Standard Set 2  
Attachment 3: Commercial Residential Zone - Development Standard Set 3

Attachment 4: Tall Buildings - Base Building Height and Tower Building Setbacks  
Attachment 5: Residential Zone - Coverage Comparison Typical R1 Lots  
Attachment 6: Residential Zone - Coverage Comparison Typical R2 Lots  
Attachment 7: Residential Zone - Height Comparison

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## Attachment 1: Commercial Residential Zone - Development Standard Set 1



CR Zone: Development Standard Set 1

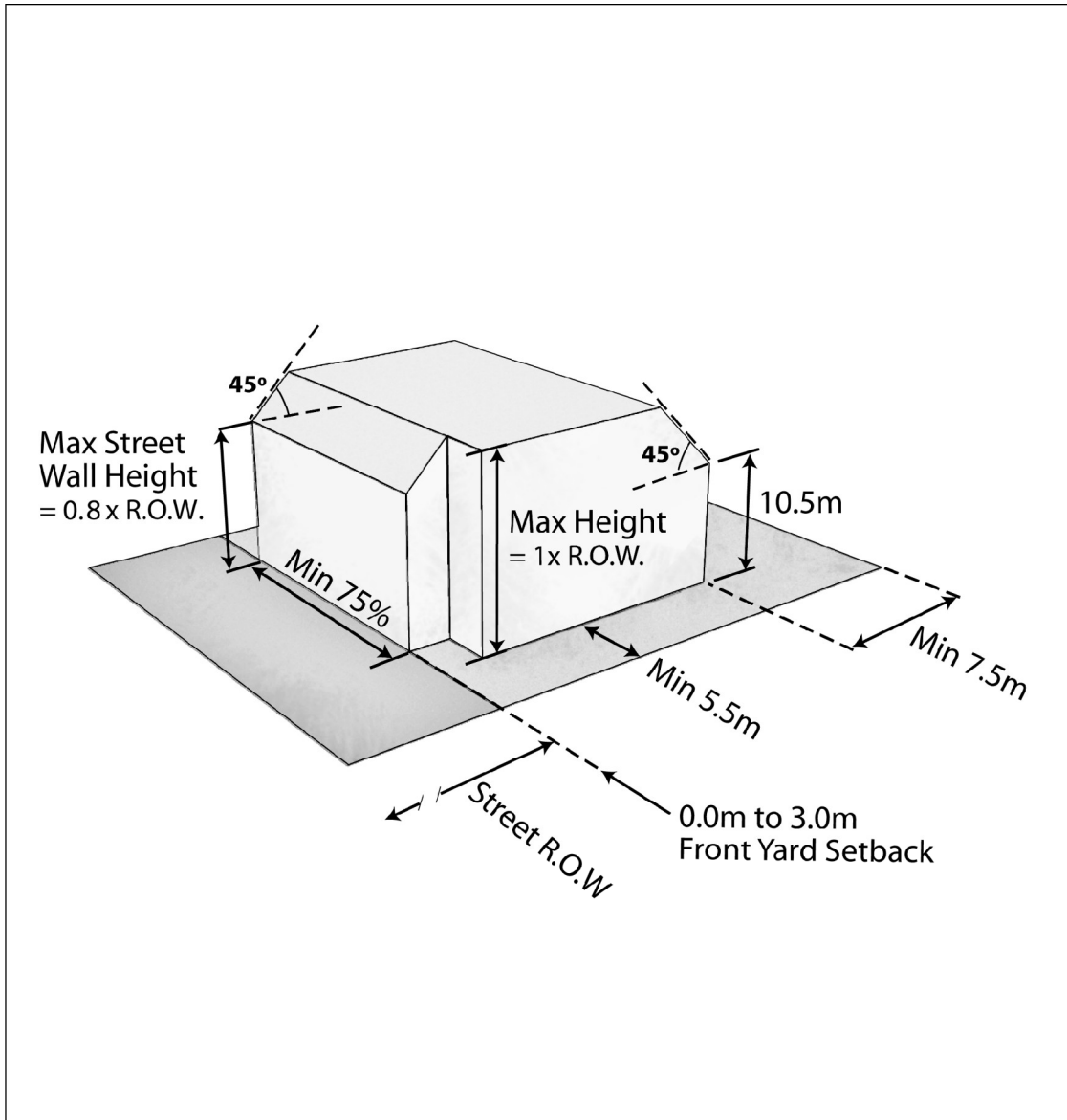
New Zoning By law

File # 09\_0044



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## Attachment 2: Commercial Residential Zone - Development Standard Set 2



CR Zone: Development Standard Set 2

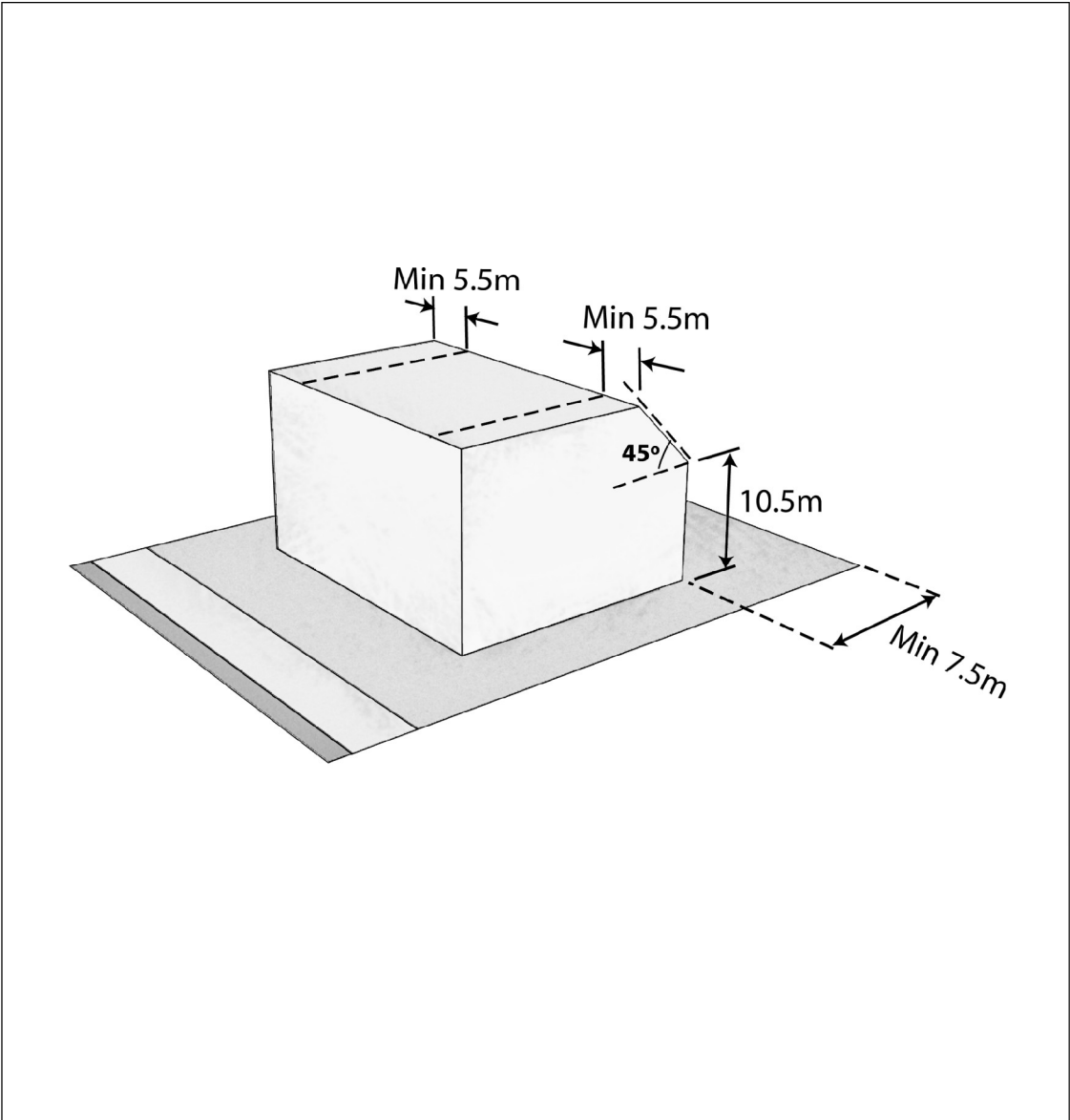
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Attachment 3: Commercial Residential Zone - Development Standard Set 3



CR Zone: Development Standard Set 3

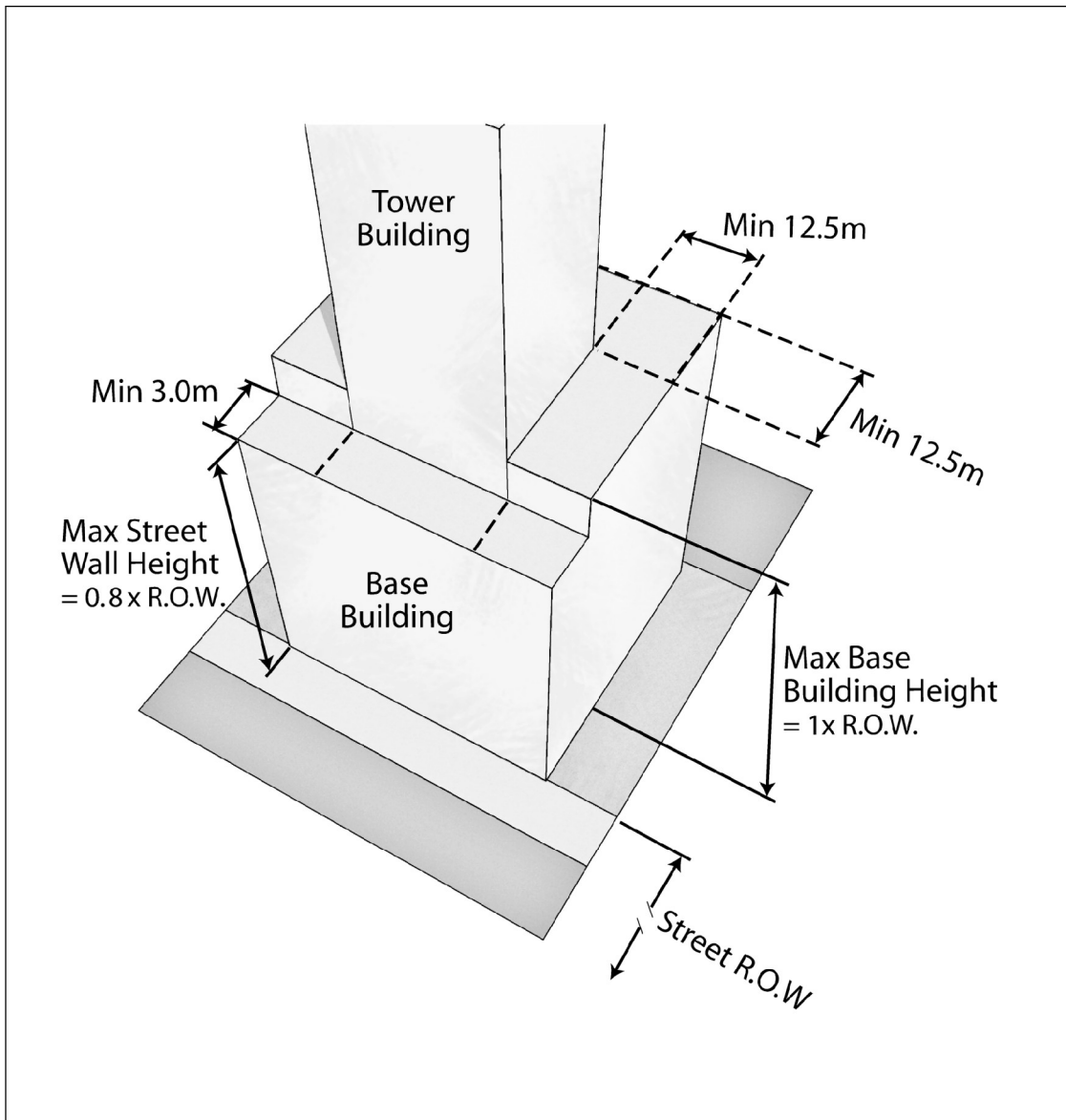
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#### Attachment 4: Tall Buildings - Base Building Height and Tower Building Setbacks



Tall Buildings: Base Building Height and Tower Building Setbacks

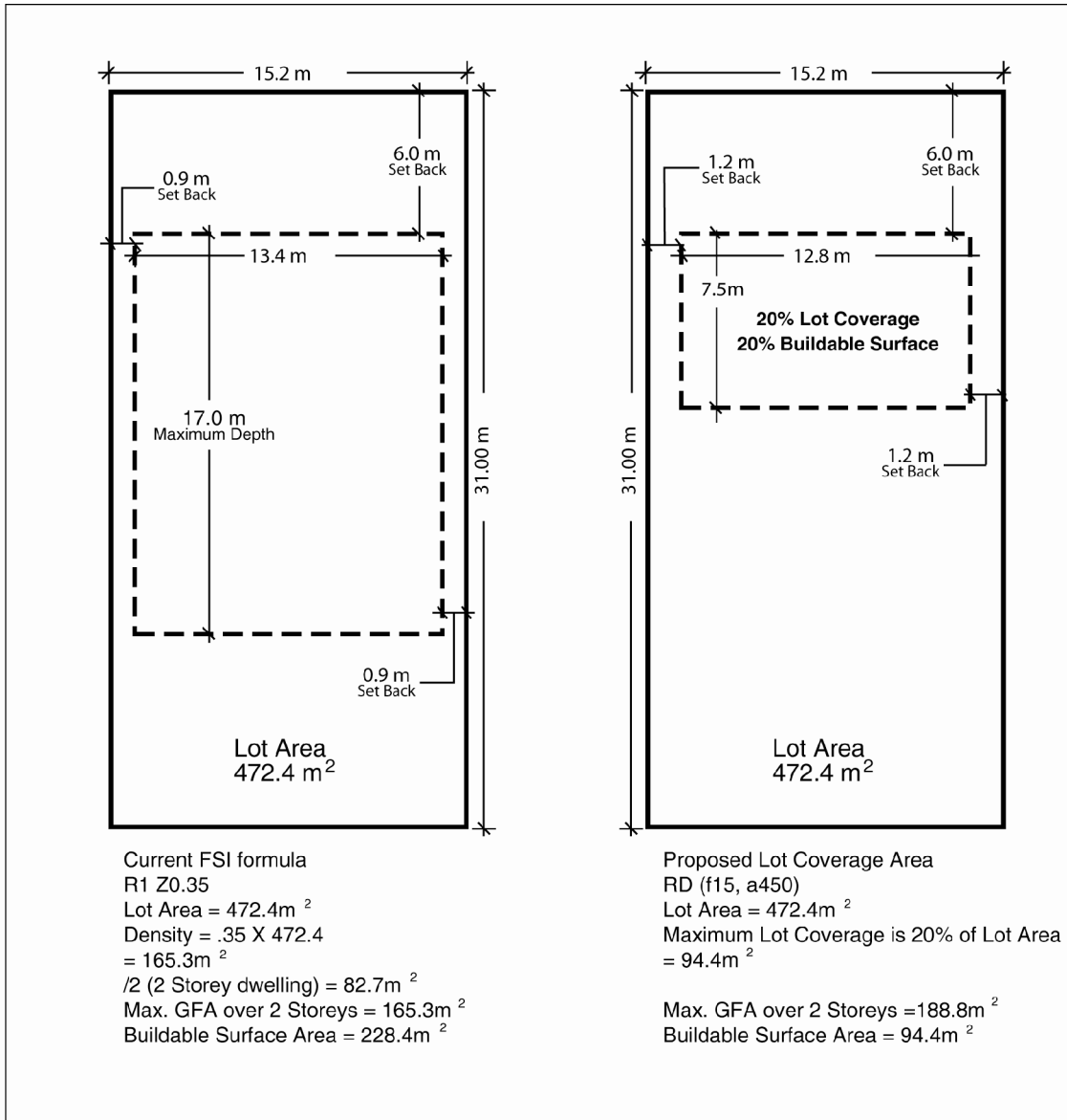
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## Attachment 5: Residential Zone - Coverage Comparison Typical R1 Lots



### Residential Zones: Coverage Comparison Typical R1 Lots

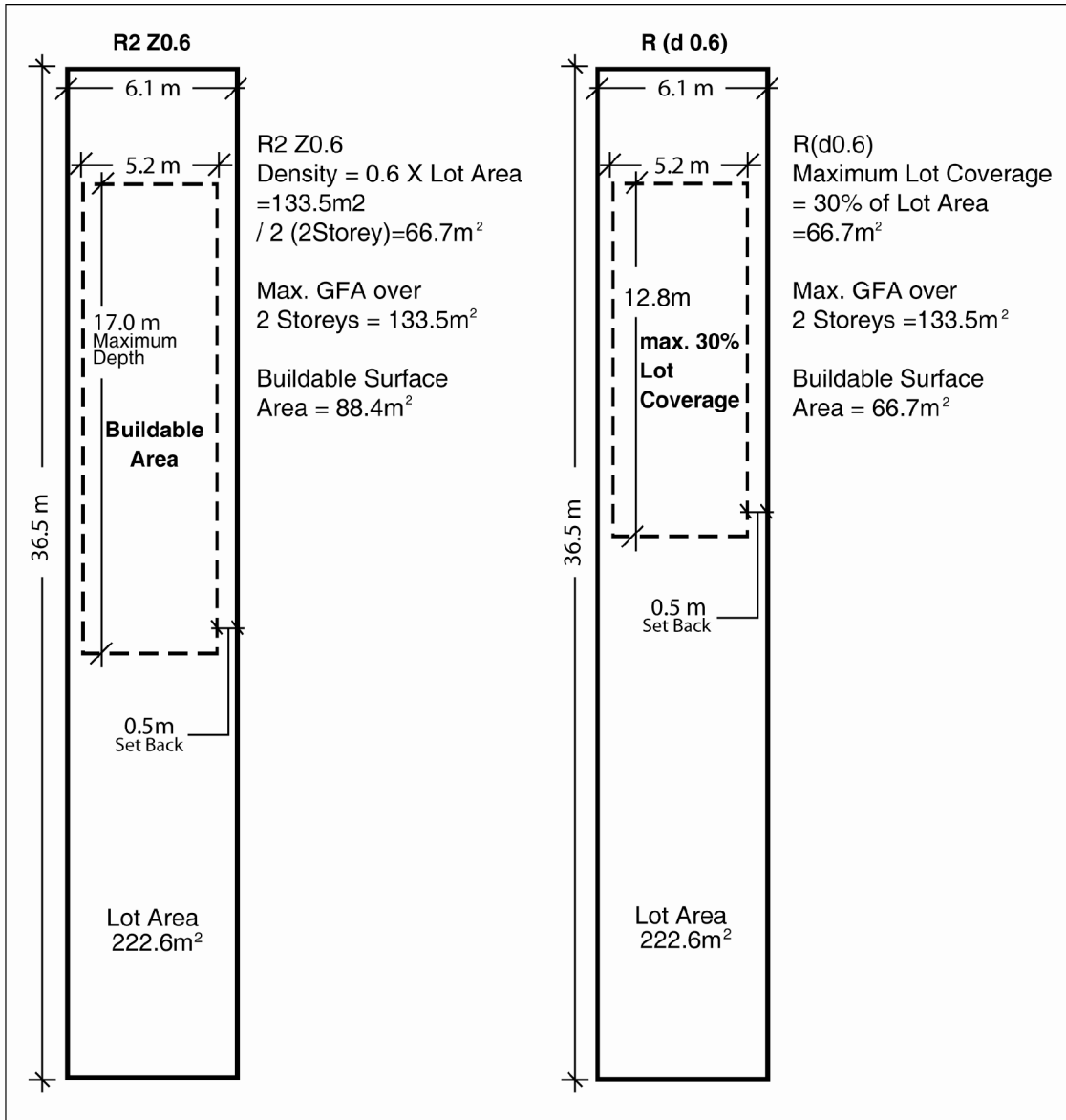
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## Attachment 6: Residential Zone - Coverage Comparison Typical R2 Lots



### Residential Zones: Coverage Comparison Typical R2 Lots

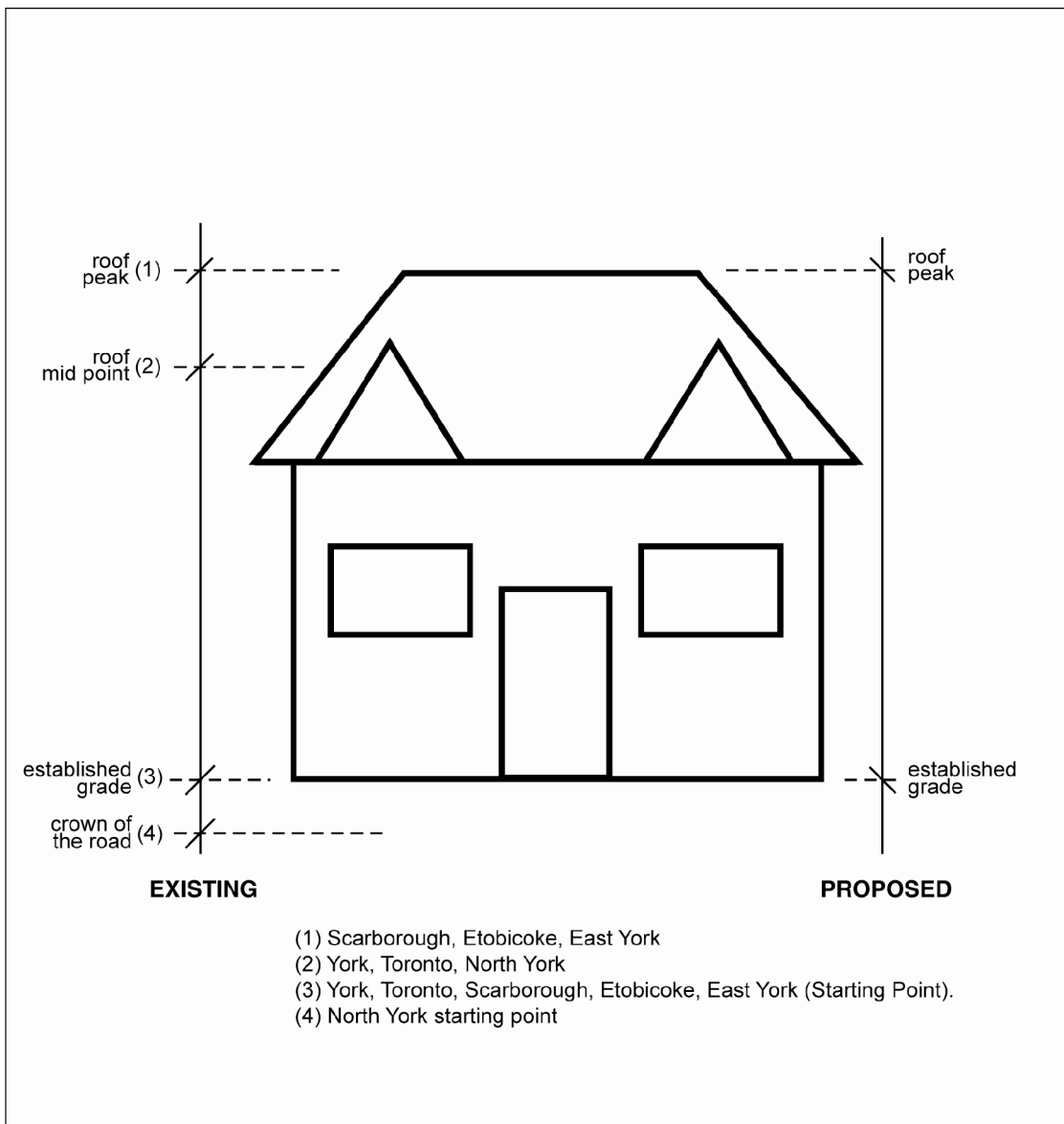
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## Attachment 7: Residential Zone - Height Comparison



### Residential Zones: Height Comparison

### New Zoning By law

File # 09\_0044



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