



More on City of Toronto New Zoning By-law and Other Development Initiatives

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The following article represents a brief overview of other significant planning initiatives on the part of the City of Toronto. These initiatives will impact the development of properties within the City.

Regulations in City of Toronto Proposed New By-law - Tall Buildings

Regulations affecting Tall Buildings (12 storeys or more) in the City of Toronto are now included in the proposed new zoning By-law scheduled for final approval at City of Toronto Council meeting of 6-7 July 2010. Tall Buildings will be permitted as-of-right in the areas of *Downtown* Toronto (including the *Central Waterfront*) with a height limit of 46 metres or more and will be subject to regulations around minimum heights (base building and the floor-to-floor first floor heights), setbacks, tower floor plates and separation distances between two or more towers on the same lot.

The Tall Building Design Guidelines currently being used by the City to review applications form the basis for these zoning changes. Not all of the Guidelines criteria are included in the By-law. Toronto City Council recently voted to continue the use of those Guidelines until they can be fully implemented (as revised) in the Spring of 2011. This will be of particular import where tall buildings are not permitted as-of-right.

The Avenues and Mid-Rise Buildings Study

As with Tall Buildings, the City is in the process of reviewing the typology of mid-rise buildings (5-11 storeys) along Toronto's *Avenues* (important corridors along major streets where re-urbanization is anticipated and encouraged). City planning staff in a report dated 4 May 2010 have set out a proposal to use Mid-Rise Building Performance Standards developed by external consultants retained for that purpose as a tool for evaluating mid-rise development applications over a two year period. Indeed some of those Standards are now included in the proposed new zoning By-law. At the end of that period staff would report back on incorporating these Standards in guidelines, policies or further new as-of-right zoning.

Other initiatives of the City affecting the development of mid-rise buildings on the Avenues (in addition to those set out below) include: the City's new Sign By-law 196-2010 (Municipal Code Chapter 694), in effect as of 6 April 2010, which regulates the type, size, location and other characteristics of signs; the expansion of the mandate of the City's Design Review Panel, which reviews development proposals from an urban design standpoint, to include applications for development on the *Avenues*; the City's Streetscape Manual, which focuses on design quality within the public right-of-way, and; the proposed changes to the City's development charges regime whereby such charges may be reduced for intensification projects on the *Avenues*.

TTC Metropasses Required for New Condominium Units

Toronto City Council, at its meeting of 30 November 2009, enacted a new policy requiring that developers building condominium buildings of more than 20 units in the mixed-use growth areas (*Downtown* and *Central Waterfront*, the *Centres* and the *Avenues*) provide a one year prepaid Metropass per each new condominium unit on occupancy. The City advises that this new policy will be implemented through the condominium approvals process and will apply to any development application leading to the approval of a condominium development submitted to the City after 28 April 2010. Condominium developers will be required to enter into a Metropass Purchaser Agreement with the Toronto Transit Commission as a condition of condominium approval.

Further, the Metropass, which is anticipated to cost approximately \$1200 per unit, is to be provided by the developer to the purchaser at no cost. The City proposes to impose a “no-charge back” requirement as a condition of condominium approval as a means of enforcing this requirement and evidence of payment for the TTC passes will be required to be provided at the condominium registration stage.

As this new policy was not approved as an amendment to the City’s Official Plan, and has no specific grounding in statutory requirements, developers may want to consider appealing this particular condition of approval (once issued) to the Ontario Municipal Board. In fact, one developer has indeed appealed this particular condition to the OMB in connection with one of its projects. We will be following this appeal closely as the outcome will impact the implementation of this policy for other developments.

Official Plan Amendment (OPA) to Encourage Development of Units for Households with Children

City staff are recommending adoption of official plan amendments to:

- (a) include the term “dwelling units suitable for households with children” in official plan policy 3.2.1.1 requiring the provision of a full range of housing; and
- (b) introduce a new area specific policy to require that any new developments in the *Downtown* containing 100 or more dwelling units construct 10% of those units as dwelling units containing three or more bedrooms. For the purposes of the policy, such units may contain less than three bedrooms if constructed in such a manner that they can be converted to three or more bedrooms.

The proposed policies, which will go again before the City’s Planning and Growth Management Committee at its meeting of 16 June 2010, have met with considerable opposition from the development sector on the basis that there is no market demand for such units and these are not affordable within the *Downtown* area and thus will be out of the reach for average families with children. Moreover, other options exist to act as an incentive to builders, including: reduced charges (LTT, parks levies, development charges, etc.) related to such units and the use of Section 37 funds to secure such housing.

Of significant importance to note - in order for a landowner to appeal the OPA, the landowner (or its representative) is required to have made either oral or written submissions to City Council prior to the adoption of the new OPA.

Green Standards

As of January 31, 2010 the City requires that new planning applications, including zoning by-law amendments, site plan approvals and draft plans of subdivision, meet “Tier 1” environmental performance measures as those are set out in the Toronto Green Standard (TGS) adopted by City Council. Billed by the City as a “key strategy of the City’s Climate Change Action Plan”, the TGS represents a 25% energy efficiency improvement over the Model National Energy Code for all new buildings. The standards apply to low rise non-residential, low-rise residential and mid-highrise (any

use) developments. Developers will be obligated to submit to the City a completed TGS checklist and an Energy Report satisfactory to the City as part of the application process.

Developers may also choose to meet Tier 2, which is a voluntary higher level of environmental performance, in exchange for a refund of 20% of the development charges applicable for the site that would be required to be paid to the City.

Green Roof By-law

In May of 2009, Toronto City Council adopted a by-law to require and govern the construction of green roofs on new development. Those requirements and standards and the exemptions to them are set out in City of Toronto Municipal Code, Chapter 492, Green Roofs. The requirement to construct a green roof applies to residential development with a height of more than 6 storeys (20 m) and with a minimum gross floor area of 2,000 sq m as of 31 January 2010 and to new industrial development as of 31 January 2011. The scale of the obligation to provide a green roof will depend on the size of the development. Developers should discuss these requirements early on in the planning stage with City staff to ensure that these requirements are addressed. ■

Disclaimer: the above is intended as a source of general information and should not be relied on for specific legal advice. This information does not establish a solicitor-client relationship between you and Blaney McMurtry LLP. We would be pleased to discuss the issues raised above with you in the context of your particular circumstances.