We last reported on the City's progress respecting a new zoning bylaw in our June 2011 issue of the Real Estate & Urban Development @ Gowlings newsletter. At that time, amidst considerable objection, confusion and political turmoil over the new Zoning Bylaw (Bylaw 1156-2010 - the "Bylaw"), the City's administration was in the throes of repealing the Bylaw. As reported at that time, City Council did repeal the Bylaw on May 18, 2011, and further directed its planning staff to re-engage the public and attempt to resolve some of the more than 600 objections to the Bylaw towards bringing forward a less complex Bylaw but one that maintains the same format and structure, for potential adoption in 2012.

Over the summer of 2011, and during the spring of 2012, planning staff did conduct an extensive round of meetings with the majority of the appellants to the Bylaw dealing with a wide range of general and site specific concerns. Many of the concerns expressed related to transition from the old to the new zoning regime; specifically, the treatment of development applications already in progress, the recognition of historical minor variances and site-specific bylaw permissions, and the treatment of existing buildings.

On June 4, 2012, the City's Planning and Growth Management Committee formally released a new revised Zoning Bylaw (the "Draft Bylaw"). Along with the Draft Bylaw, the Committee issued a reporting schedule providing time for further consultation and potential adoption of the Draft Bylaw.

The Draft Bylaw may be accessed through the link below. The Draft Bylaw is also available in
Overview of Changes to the Bylaw

Many changes have been made to the Bylaw. In addition to structural reorganization, substantive text changes have been made. The following is an overview of the major changes to the Bylaw.

**Chapter 1 - Administration**

Chapter 1 now provides a more clear and concise overview of the intent and purpose of the various zoning categories as well as the differences between them.

**Chapter 2 - Compliance with the Bylaw**

Chapter 2 has been changed by adding a "Transition Clause". The transition Clause functions as a protocol and determines how active applications for a zoning certificate, building permit, minor variance, site plan approval, consent to sever, draft plan of subdivision, plan of condominium, payment in lieu of parking agreement or part lot control exemption will be treated after the Draft Bylaw is passed. The Transition Clause will ensure that the Draft Bylaw will only apply to new applications submitted after it is enacted. It is proposed that the Transition Clause will be in effect for a period of three years after enactment.

**Chapters 10 and 15 - Residential and Residential Apartment Zone Categories**

Chapters 10 and 15 contain the zoning standards that apply to the full range of residential building types (singles, semis, townhouses, row houses) and all forms of walk-up and high rise apartment towers that comprise the City's residential neighborhoods.

The significant change to the residential zoning categories is the addition of the grandfather clauses, referred to as "Exemptions". The Exemption provisions provide clearer protection for existing situations which may not comply with the lot and building requirements of the Draft Bylaw.

Other specific changes to the Residential zoning categories include:

a. Protection of existing schools and places of worship located in neighborhoods, and allowing
these to expand and rebuild;
b. Changes to the gross floor area exclusion provision to clarify what is both basement and attic space towards better regulating the over bulk of the residential building above grade;
c. To address concerns that the Bylaw was imposing overly restrictive architectural controls, (i) the permitted height of main walls for single and semi-detached houses has been increased to 7.0 metres, with greater flexibility on a corner lot, and (ii), the Tall Building Guideline of a minimum 25 metre separation distance between residential apartments on the same lot, has been eliminated.

Chapter 30 - Commercial (CL) Zone Category

There continues to be only one pure commercial zoning category which is the Commercial Local (CL) zone. This zone is typically located on the edges of, and directly serves the residential neighborhoods permitting small scale clusters of commercial uses, in addition to permitting parks, recreational and institutional uses. Specific changes to the Commercial (CL) zone category include;

a. More precise language setting out particular areas of the building that are exempt from the calculation of gross floor area;
b. Deletion of the previous maximum non-residential floor area cap of 500 sq.m.;
c. Addition of a new size condition for eating establishments of a maximum of 400 sq.m which is consistent with the CR zone’s size restriction for eating establishments in proximity to residential zones;
d. Clarification that garbage enclosure provisions apply only to new buildings constructed after the enactment of the new Bylaw.

Chapter 40 - Commercial Residential (CR) Zone Category

The CR zone category essentially borders the City’s main arterial streets and permits a broad range of residential, retail, service-commercial, office, institutional, as well as park uses. The CR zone is further broken down into three distinct development categories called "Standard Sets" - SS1, SS2, and SS3. The purpose of these three Standard Sets is to regulate the design and shape of the building depending on whether the building has a more urban or suburban location. Specific changes to the Commercial-Residential (CR) zone category include:

a. A specific exemption clause providing grandfathering from design standards for lawfully existing buildings;
b. More precise language setting out particular areas of the building that are exempt from the calculation of gross floor area;
Chapter 50 - Commercial-Residential-Employment (CRE) Zone Category

The CRE zone category applies to unique areas of the City that are no longer in productive urban use due to shifts in the local or global economy and which require reintegration. To kick-start these areas, this zone category provides for a mix of commercial, residential and light industrial uses either mixed within the same block or the same building. Specific changes to the Commercial-Residential-Employment (CRE) zone category include:

a. More precise language setting out particular areas of the building that are exempt from the calculation of gross floor area;
b. Addition of Exemption Clauses for lawfully existing buildings;
c. A reduction in the threshold for requiring the provision of residential amenity space from 35 to 20 dwelling units;
d. Clarification that garbage enclosure provisions apply only to new buildings constructed after the enactment of the new Bylaw;
e. Removal of the 1,800 sq.m. maximum size restriction for retail floor area.

Chapter 60 - Employment-Industrial Zone Category
The Employment Industrial Zone category permits a range of employment uses that are tailored to the various employment areas dispersed throughout the City. The Employment-Industrial zone category contains four individual zone categories: Employment Light Industrial (EL), Employment Industrial (E), Employment Heavy Industrial (EH), and Employment Industrial Office (EO). Specific changes to the various Employment Industrial zones include:

a. Addition of Exemption Clauses for lawfully existing buildings;
b. More precise language setting out particular areas of the building that are exempt from the calculation of gross floor area;
c. Refinement of the term "wholly enclosed" to recognize that certain related industrial apparatuses might not be enclosed;
d. Removal of specific provisions governing "Ancillary Uses". All uses are either permitted with or without conditions;
e. Removal of the 5,000 sq.m. floor area cap for offices uses in the Employment Industrial (E) zone;
f. Deletion of the Employment Commercial (EC) zone. This zone was meant to apply to existing big box retail power centers, but the policy question addressing the issue of industrial land conversions for retail uses is currently part of the City's 5-year Official Plan review and until that is completed, the EC zoning is deemed premature;
g. Addition of a broader range of employment uses in the Employment Industrial (E) zone to include a "printing establishment" and an "education use";
h. Tightening up the conditions respecting outdoor storage to preclude it within a required setback area;
i. Loosening up the regulation of a "Recovery Facility" to allow for smaller facilities that may be operated indoors;
j. Revising the zoning in the Dixon Road area around Pearson Airport to Employment Office (E) in recognition of existing office/hotel uses;
k. Removal of a number of properties from the application of the Draft Bylaw where existing zoning permits retail permission deemed inconsistent with the current Official Plan.

Chapter 80 - Institutional Zones, Chapter 90 - Open Space Zones, Chapter 100 - Transportation and Utility Zones, have not been revised in any substantive way.

Chapters 200 and 220 - Parking and Loading Space Regulations

Chapters 200 and 220 contain all the regulations controlling the rate at which parking and loading spaces shall be provided based on the intended use of a property while regulations governing location, access points, setback and other design driven matters relating to parking
and loading are found in the individual zone categories. The most significant changes to the Parking and Loading regulations were the addition of several Exemption Clauses to govern certain lawfully existing situations.

**Chapter 230 - Bicycle Parking Space Regulations**

Chapter 230 contains all the regulations controlling the rate at which bicycle parking shall be provided while regulations governing location, access points, setbacks and other design driven details are found in the individual zone categories. Rather than the rate of bicycles spaces being tied to a percentage of the total floor area, the required supply is now based on bedroom count of multi-unit buildings. This change is based on the results of a survey conducted in the Downtown, the Central Waterfront and in the Centers. According to City planning staff, the proposed rates are slightly lower than those in the Bylaw.

**Chapter 700 - Non Conformity/Non-Compliance**

Chapter 700 has been deleted. The Exemption Clauses found in this Chapter are now located in the respective zone and Parking chapters.

**Chapter 800 - Definitions**

The following terms have either been altered or added in the Definitions chapter of the Draft Bylaw:

- Gross Floor Area;
- Hospice Care Home;
- Lawful and Lawfully;
- Lawfully Existing;
- Mixed-Use Building;
- Non-Residential Building;
- Stacked Bicycle Parking Space.

**The "900 Chapters"**

Chapters 900, 950 and 955 of the Bylaw contained all the site specific exceptions and pre-existing bylaws that are to prevail going forward. For ease of reference, these three Chapters have been combined into one, Chapter 900. Another category of opposition to the Bylaw involved the protection of existing zoning permissions, in particular, site-specific rezoning. These concerns have been addressed in Chapter 900 by the recognition of existing permissions as "Prevailing Bylaws" and the "Prevailing Sections" of the various former pre-amalgamation Zoning
Bylaws.

Next Steps

The process is running a little behind schedule. City Council has agreed on a period of further public consultation to extend to October 12, 2012 at which time planning staff will report back to its Planning and Growth Management Committee with further recommended changes to the Draft Bylaw. On November 8, 2012, it is anticipated that a revised version of the Draft Bylaw will be issued to allow further public input with a statutory public meeting in accordance with the Planning Act targeted for mid February, 2013. If at this statutory meeting, the Planning and Growth Management Committee choose to recommend approval of the Draft Bylaw, then it would be the subject of a full Council meeting and further public deputation during the latter part of March, or early April. If Council decides to enact the Draft Bylaw, then the Bill would be introduced at the next regularly scheduled meeting of Council, likely in May, 2013.

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