



Report to: Development Services Committee

Report Date: September 8, 2015

SUBJECT:	PRELIMINARY REPORT Proposed General “Housekeeping” Zoning By-law Amendments 2015 (PR-13-128740)
PREPARED BY:	Tom Villella - Manager, Zoning and Special Projects Extension 2758
REVIEWED BY:	Ron Blake – Acting Senior Development Manager

RECOMMENDATION:

- 1) That the report dated September 8, 2015 entitled “PRELIMINARY REPORT – Proposed General “Housekeeping” Zoning By-law Amendments (PR-13-128740)”, be received;
- 2) That the report dated August 7, 2015 by Meridian Planning entitled “ANALYSIS OF PROPOSED “HOUSEKEEPING” CHANGES TO VARIOUS CITY OF MARKHAM BY-LAWS” attached as “Appendix 1” to this report, be received;
- 3) That a Public Meeting be held to receive comments from the public, internal and external agencies, and other stakeholders with respect to proposed amendments to the zoning by-laws, and;
- 4) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to provide preliminary information on a proposed City-initiated general zoning by-law amendment. These regular “housekeeping” amendments are intended to improve and clarify provisions of existing Markham Zoning By-laws.

The City’s New Comprehensive Zoning By-law Project, which aims to update and consolidate Markham’s nearly fifty (50) Zoning By-laws into one modern regulatory document, commenced in late 2013. This is a multi-year project and the adoption of the New Comprehensive Zoning By-law is at least two years away. It is therefore necessary to continue with general “housekeeping” amendments to the City’s existing zoning by-laws until the new By-law is in place.

Through this report, Staff is also seeking Committee’s authorization to hold a statutory Public Meeting on the matter.

BACKGROUND:

Through regular use of the City's Zoning By-laws, City Staff, as well as citizen and developer stakeholders, identify various issues with respect to administration and interpretation of its regulations. Staff then bring forward proposed "housekeeping" amendments for Council's consideration, with a view to improving the by-laws and keeping them current and relevant.

Zoning Issues raised by City Staff and Stakeholders in 2014-2015

The City retained Meridian Planning Consultants in 2014, to assist staff in the review and analysis of identified zoning issues. The consultant submitted a draft report to the City on August 7, 2015, providing details on each issue, and proposed corresponding actions.

Below is a brief summary of the issues identified in the consultant's report, and the recommendations proposed. More detailed information on these issues may be found in the consultant's report attached as "Appendix 1".

It is noted that in some instances the consultant has recommended that an issue is best dealt with through the New Comprehensive Zoning By-law process, since it is considered to be a more "major" amendment, or an amendment involving a fundamental policy shift, which would require more detailed review and analysis.

1. Permissions for Driveways to Cross Landscape Strips (Sec 2.2 of Meridian Report)

In 2013, Council passed By-law 2013-108, a major update and consolidation of Zoning By-law 177-96. One of the amendments included in By-law 2013-108 was a new definition of "landscaping". The effect of the amended definition is that lands that are used as walkways, driveways and ramps that provide access onto the lot from the street could be interpreted to no longer be technically permitted in a landscaping area.

It was never the intent of By-law 2013-108 to prohibit the crossing of landscape strips by driveways. Given that driveways are necessary to access a property, there is a need to correct this definition.

It is recommended that the definition of landscaping in both By-laws 117-96 and 28-97 be modified, per the language in "Appendix 1".

2. Prohibited Uses in Special Policy Areas (Sec 2.3 of Meridian Report)

In 2014 the Ministry of Municipal Affairs and Housing requested that the list of prohibited uses in Special Policy Areas be updated to ensure that all inappropriate uses are specifically prohibited in these areas. Special Policy Areas are those areas of the City that are susceptible to flooding hazards due to their topography and/or location proximate to a major watercourse. In Markham, the Special Policy Areas are all located in the Unionville area, adjacent to the Rouge River and its tributaries.

MMAH has requested that **ambulance, hospital and fire services** not be permitted within Special Policy Areas.

In order to be consistent with the 2014 Provincial Policy Statement, it is recommended that the list of prohibited uses be expanded as per the request made by the Ministry of Municipal Affairs and Housing.

3. Barrier Free Access and Setbacks from Lot Lines (Sec 2.4 of Meridian Report)

A number of inconsistencies have been identified by staff with respect to the way the City's by-laws deal with barrier-free access. In this regard, there is a need to update any wording dealing with barrier-free access in the relevant by-laws to ensure that the provisions are consistent with each other and reflect the current use of terminology.

The Ontario Building Code has been amended recently to include extensive rules regarding barrier-free design. Wheelchair ramps and lifts are considered to be "structures" by all City of Markham zoning by-laws, and therefore they are required to conform to the development standards of each applicable by-law.

Markham adopted an "omnibus" by-law in 1992 to regulate barrier-free access for all areas of the City. Subsequently, similar regulations were included in By-law 177-96 (New Urban Area) and By-law 2004-196 (Markham Centre). The wording in all three by-law requires updating, and the same wording should apply throughout the entire City. The consultant has recommended standardized wording, as found in "Appendix 1".

4. Using the Centreline of a Watercourse to Determine Zone Boundary (Sec 2.6 of Meridian Report)

Staff have identified concerns with respect to how zone boundaries are determined, as they relate to watercourses such as the Rouge River and its tributaries. There is inconsistency across City zoning by-laws with respect to this issue, which should be corrected.

Based on a review of all of the City's by-laws, it is clear that there are a number of ways to determine various zone boundaries (not only watercourses). In many of the older by-laws, there is not much latitude, while in others very dated language is used. On this basis, it would be appropriate for zone boundaries to be determined consistently across the City.

It is recommended that the language in Section 2.3 of By-law 177-96 be inserted into all other City by-laws (see Appendix 1), to provide consistency with respect to the determination of boundaries between zones.

5. Reference to Floor Area in Definition of Net Floor Area (Sec 2.7 of Meridian Report)

By-law 2014-65, which was an amendment that had the effect of updating Parking By-law 28-97, deleted the definition of "*Floor Area*", since it was very similar to the 'gross floor area' definition in that by-law. However, the definition of 'net floor area' references the "*aggregate of the Floor Areas of a building above or below established grade*". Given that the words "*Floor Areas*" is in title case, the implication is that the words are defined and in this case, the definition no longer exists.

In addition to the above, there are a number of other sections in By-law 177-96 that include the term "floor area" in italics, which implies that there is a definition of floor area.

It is recognized that there are multiple definitions for Gross Floor Area and Floor Area in virtually all of the City's by-laws. However, the term Net Floor Area is used only in By-laws 28-97 and 177-96. It is therefore proposed that the definition of "Net Floor Area" be amended in both By-laws 28-97 and 177-96.

In addition, it is recommended that the appropriate sections of 177-96 (listed in "Appendix 1") be modified by adding either the word 'gross' or 'net' before 'floor area' as appropriate.

6. Definition of Public Authority (Sec 2.8 of Meridian Report)

Staff have expressed a concern respecting the definition of Public Authority in By-law 177-96. The definition is problematic in that the included language of "*City Government*" has been interpreted to not be specific to the **City of Markham**. This means that other cities (i.e. Toronto) can theoretically use land in the City of Markham, since they are also Public Authorities.

It is recommended that the definition of Public Authority contained in all City by-laws to be modified, in order to clearly indicate that a "*City Government*" refers only to the City of Markham.

7. Required Interior Side Yard in cases where Private Garage is in Rear Yard (Sec 2.9 of Meridian Report)

By-law 28-97 establishes a number of development standards respecting where driveways and the parking of vehicles are permitted on a lot. However, it does not include any provisions requiring the establishment of an increased side yard in a circumstance where a driveway from a public street travels through the side yard to access a garage located in the rear yard.

It is recommended that a new section be inserted into By-law 28-97 requiring a minimum interior side yard of 2 metres on one side, where a private detached garage is located wholly or partially within the rear yard and the access driveway crosses the front lot line. This provision would not apply to lands subject to By-law 177-96, since that by-law already contains development standards associated with this type of driveway and side yard.

8. Definition of Business Office (Sec 2.10 of Meridian Report)

By-law 2014-62 amended the definition of 'Business Office' in a number of by-laws to ensure that wherever the term was used, a medical office would be considered a business office. In addition, a definition of 'Medical Office' was also added to a number of City by-laws. The intent of these changes was to ensure that consistent terminology for business offices and medical offices was used in all City by-laws. The definition of 'Medical Office' was also amended in By-law 28-97 as a consequence of the passage of By-law 2014-65 in accordance with the above changes.

Notwithstanding the desire to ensure that the same terms were used in all by-laws, amendments

to by-laws 177-96 and 2004-196 were not made. In addition, the definition of 'Business Office' in By-law 28-97 was not updated to reflect the term included in most of the other City By-laws. As a consequence of the above, there continues to be some inconsistent terminology used in the City's by-laws with respect to the terms "*Business Offices*" and "*Medical Offices*".

With respect to By-law 177-96, the decision not to modify the definitions as per the other by-laws as discussed above was made because business offices and medical offices are not permitted in the same zones. When By-law 177-96 was initially prepared, the medical office use was excluded from two "neighbourhood commercial" type zones due to parking concerns particularly if the use was integrated within a residential building form. As a consequence of the above, making the same change to By-law 177-96 would have the unintended effect of permitting medical offices in two new zones in By-law 177-96.

On the basis of the above, it is recommended that no changes be made to By-laws 177-96. However, a number of other changes are required to various by-laws to ensure that this intent is fully implemented, as discussed in the consultant's report attached as "Appendix 1".

9. Technical Issues With By-law 2014-63 (Door Openings in Side Yards) (Sec 2.11 of Meridian Report)

By-law 2014-63 amended a number of City by-laws to restrict openings within 1.2 metres of an interior side lot line. By-law 196-82 was inadvertently not included in the list of by-laws that were amended. In addition, while By-law 1767 is identified in the recitals, there is no actual change to By-law 1767 included within By-law 2014-63. By-law 19-94 was also not included in the list of by-laws amended by By-law 2014-63. These issues now need to be addressed to ensure consistency. It was the intended that all by-laws permitting residential uses be subject to 2014-63. It is recommended that By-laws 196-82, 1767 and 19-94 be amended accordingly.

10. Applicability of By-law 2014-63 (Openings) to Dwellings that are Connected Below Grade (Sec 2.12 of Meridian Report)

By-law 2014-63 amended a number of by-laws as discussed earlier in this report to ensure that all zoning by-laws in the City restrict openings within 1.2 metres of an interior side lot line. This provision was written to apply only to single-detached or semi-detached dwellings. However, consideration should also be given to applying this same restriction to dwellings that may appear to be single or semi detached dwellings from the street, but which are actually another dwelling type by virtue of being connected below grade (i.e. "link" dwellings).

With respect to the applicability of the restriction to other dwelling types, it is recommended that the provision be modified to also apply to "street townhouse dwellings" in Bylaw 90-81, where these "link" dwellings are located. Some technical modifications to By-law 177-96 are also required, as outlined in "Appendix 1".

11. By-law 2014-83 Issues (Lot Coverage) (Sec 2.13 of Meridian Report)

By-law 2014-83 introduced a consistent definition of "lot coverage" in all zoning by-laws in the City. While By-law 2150 is identified in the recitals, there is no specific amendment to By-law 2150 in the body of By-law 2014-83. It was the intent of the City that all by-laws requiring a

change in the definition of 'lot coverage' be dealt with by By-law 2014-83. Therefore, this oversight should be corrected.

It is recommended that the definition of 'coverage' in By-law 2150 be replaced as per By-law 2014-83.

OPTIONS/ DISCUSSION:

A review of the proposed zoning amendments has been conducted by the consultant for the purposes of this exercise, and key staff involved with the use and interpretation of the zoning by-laws have met regularly during the formulation of the consultant's report.

Authorization to hold Public Meeting(s) is being requested in order to solicit comments from the public and other interested stakeholders with respect to the proposed zoning amendments.

FINANCIAL CONSIDERATIONS:

There are no financial matters to be considered in this report.

HUMAN RESOURCES CONSIDERATIONS:

There are no Human Resources matters to be considered in this report.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The zoning by-law refinements suggested for review will align with Council's Growth Management strategic focus area.

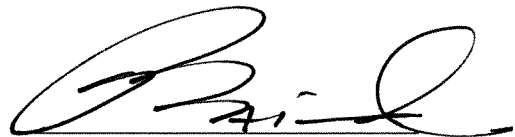
BUSINESS UNITS CONSULTED AND AFFECTED:

The proposal will be circulated for review and comment. Comments received will be helpful in determining the final form of any zoning amendment proposed to improve the existing zoning by-laws.

RECOMMENDED BY:



Ron Blake, M.C.I.P., R.P.P.
Acting Senior Development Manager



Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development
Services

ATTACHMENTS:

Appendix 1: Analysis of Proposed Housekeeping Changes to Various City of Markham By-laws

File path: Amanda\File 13 128740\Documents\Recommendation Report