



OAKVILLE

## REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: SEPTEMBER 11, 2017

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**FROM:** Planning Services Department

**DATE:** August 24, 2017

**SUBJECT:** **Public Meeting regarding a Study of Zoning Regulations for Rooftop Terraces and Balconies**

**LOCATION:** Town wide

**WARD:** Town wide

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### RECOMMENDATION:

1. That the findings of the Study of Zoning Regulations for Rooftop Terraces and Balconies be received; and
2. That comments from the public with respect to the Study of Zoning Regulations for Rooftop Terraces and Balconies being undertaken by the Town of Oakville, be received.

### KEY FACTS:

The following are key points for consideration with respect to this report:

- This report presents information with respect to the Town's Study of Zoning Regulations for Rooftop Terraces and Balconies.
- A Public Information Meeting (PIM) was held on June 13, 2017.
- The study is intended to review and amend zoning regulations regarding balconies and uncovered platforms in Residential -0 suffix zones, as well as regulations for rooftop terraces in all zones.
- The public meeting being held September 11, 2017 satisfies legislative requirements and allows Planning staff to receive input from the public regarding the proposed changes to the Zoning By-law 2014-014.
- A final report will be presented to Planning and Development Council in the near future. Amendments to the Zoning By-law 2014-014 will be proposed to implement the final recommendations.

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Date: August 15, 2017

Subject: Statutory Public Meeting regarding a Study of Zoning Regulations for Rooftop Terraces and Balconies

## **BACKGROUND:**

The Town's Zoning By-law 2014-014, passed by Council on February 25, 2014 includes a prohibition of balconies and uncovered platforms in Residential -0 suffix zones:

### *6.4.5 Balcony and Deck Prohibition*

*Balconies and uncovered platforms are prohibited above the floor level of the first storey on any lot in the -0 Suffix Zone.*

On April 11, 2016 the Ontario Municipal Board approved amendments to Zoning By-law 2014-014, which introduced regulations for rooftop terraces:

### *4.6.6 Rooftop Terraces (PL140317)*

*The following provisions shall apply to rooftop terraces:*

- a) A rooftop terrace is only permitted on a lot in a Residential Medium (RM), Residential High (RH), Mixed Use (MU), Neighbourhood Commercial (C1), Community Commercial (C2), Core Commercial (C3), or Office Employment (E1) Zone;*
- b) A rooftop terrace is not permitted on the roof of the first storey of any building;*
- c) The minimum setback for a rooftop terrace from the edge of a roof shall be 2.0 metres;*
- d) No structures, excluding a mechanical penthouse, associated with a rooftop terrace are permitted on a lot in a RM1, RM2 or RM3 Zone;*
- e) No structure on a rooftop terrace shall have walls;*
- f) No structures on a rooftop terrace shall exceed 20% of the total area of the rooftop terrace and such structures shall not be deemed a storey;*
- g) No access from grade shall be permitted to a rooftop terrace; and*
- h) The outer boundary of a rooftop terrace shall be defined using a barrier having a minimum height of 1.2 metres.*

## **COMMENTS:**

### **Balconies and uncovered platforms**

Through the processing of development applications, staff experienced several situations in which the above mentioned existing regulations appeared to be problematic. For example, prohibition of balconies on such a broad scale does not contemplate instances in which these features would not create negative impacts on privacy of the surrounding properties, such as large lots abutting the lake, ravines,

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woodlots or parks. Further, the prohibition is only applicable in the -0 Suffix Zones, which are generally larger lots, often featuring mature vegetation and inherent privacy. There are many instances in which these properties abut other low residential zones in which balconies are permitted, which creates an unbalanced situation (*Figure 1*).

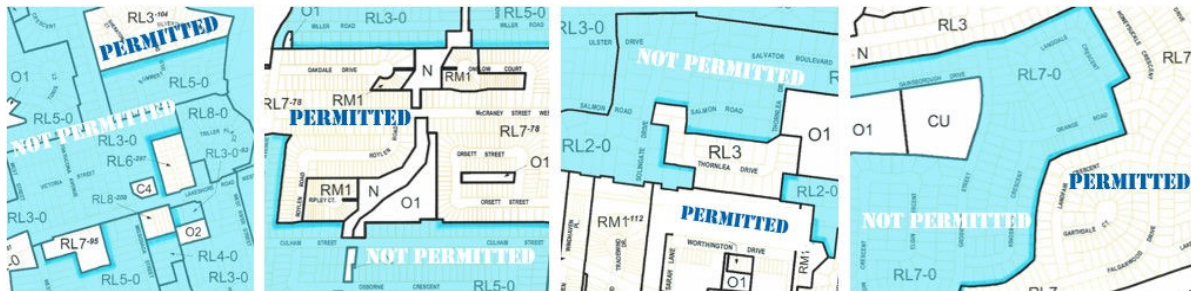


Figure 1

Since the passing of Zoning By-law 2014-014 in February 2014, 33 applications for a minor variance to permit a balcony in -0 suffix zone have been processed. Due to the prohibition of balconies, requests for minor variances have not been supported by staff.

### **Rooftop Terraces**

Rooftop terraces provide opportunities for outdoor amenity spaces in urban areas. When designed well, they can contribute to an increase of tree canopy coverage and reducing the heat island effect and storm water run-off. The zoning regulations regarding rooftop terraces may prohibit or significantly restrict terraces in locations which may otherwise be desirable. Therefore, applying the current regulations may result in unintended and undesirable consequences. As the definition for rooftop terraces recognizes any amenity spaces over the roof structure (such as garages or podiums of the buildings) as rooftop terraces, the regulations have a considerable impact on the viability of a building's design.

Staff have evaluated the existing regulations and their effectiveness and suggest that some revisions to the existing regulations would provide for more functional and creative, as well as more inclusive designs.

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## **STUDY INPUTS:**

A detailed assessment of factors influencing the design and development of balconies, uncovered platforms, and rooftop terraces has been underway by staff, based on research of applicable regulations in neighbouring municipalities in the Greater Golden Horseshoe, as well as research of existing developments featuring rooftop terraces and balconies and comparison and analysis of the findings.

### **Consultation**

A Public Information Meeting (PIM) was held on June 13, 2017. Staff have not received any written comments. We have received one phone call from a resident who noted that if the balconies were to be approved, zoning regulations such as setbacks and depth of the balconies should be introduced to protect the privacy of the neighbouring properties. There were no comments received in regard to the rooftop terraces.

### **Balconies and uncovered platforms**

As uncovered platforms are by definition not permitted above the floor level of the first storey, their prohibition in -0 Suffix Zones is unnecessary in Section 6.4.5 and should be eliminated.

Analysis of the Zoning by-laws of City of Mississauga, Town of Milton and City of Burlington indicate that none of these municipalities prohibit second storey balconies.

City of Mississauga Zoning By-law permits balconies in all residential zones, with a maximum encroachment of 1.0 m into a required front, rear and exterior side yard. However, City of Mississauga discourages designs which could cause overlook conditions through their *Urban Design Guidelines: Dwellings, Replacement Housing, and Additions*: "...new houses and/or additions should not have a detrimental impact on the immediate neighbours in terms of loss of privacy or sunlight." This is similar to the Town of Oakville's *Design Guidelines for Stable Residential Communities*, endorsed by Council on April 29, 2013, which states that "New development should not include second storey decks and balconies, which may create an undesirable overlook condition onto adjacent properties." (Section 3.1.5.3)

City of Burlington Zoning By-law permits balconies in all residential zones. It also permits a maximum of 0.5m encroachment into a required side yard and maximum 1.6 m encroachment into any other required yard.

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Town of Milton Zoning By-law also permits balconies in all residential zones; however, not in the interior side yard (excluding apartments for which there is no side yard restriction). It also permits a maximum of 1.5m encroachment into a required yard. Town of Milton Zoning By-law also permits uncovered platforms (decks) located no higher than the floor of the second storey.

Analysis and Findings: Rear Yard Setback

Staff analyzed several scenarios related to the required minimum rear yard setbacks, as well as distances of deeper rear yards which are currently found in -0 Suffix Zone neighbourhoods. It appears that the overlook condition does not meaningfully reduce within the length of the usual rear yard (*Figure 2*).

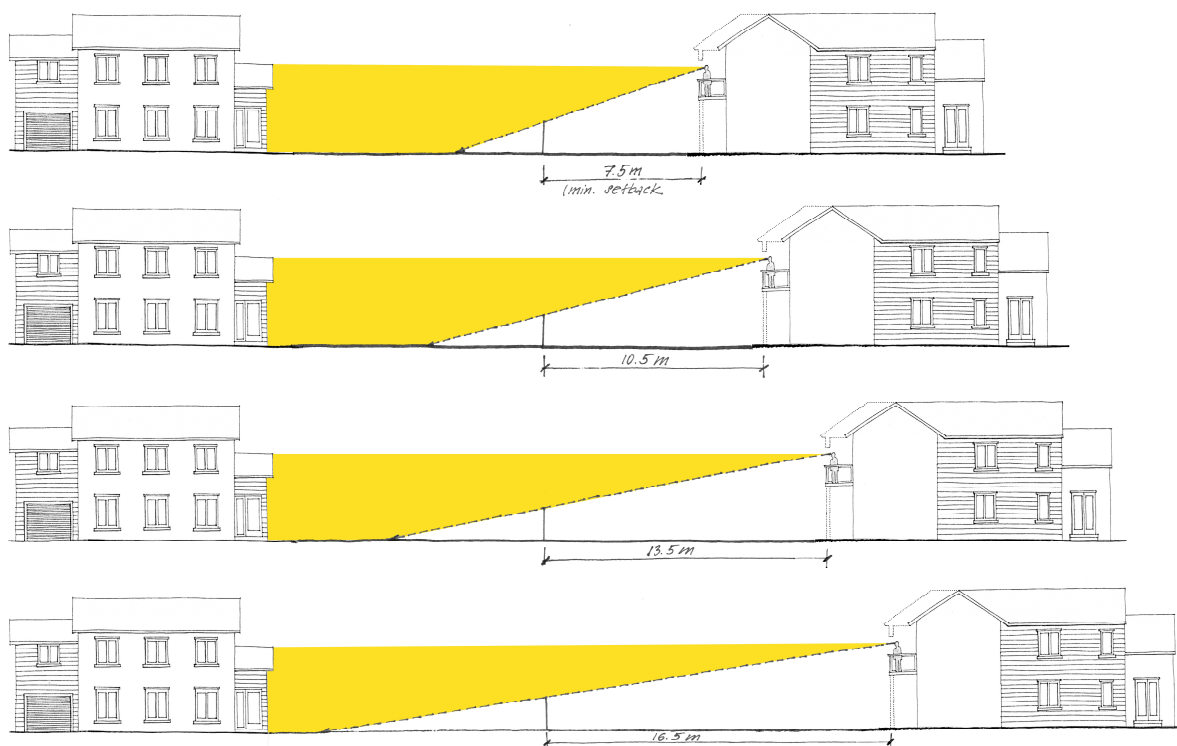


Figure 2

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As the viewing and overlook condition is the same from the balcony as from the second storey window (Figure 3), staff suggests to permit balconies in -0 Suffix Zones with no encroachment provisions. That means that the edge of the balcony would be located no closer to the property line than the required minimum yard setbacks.

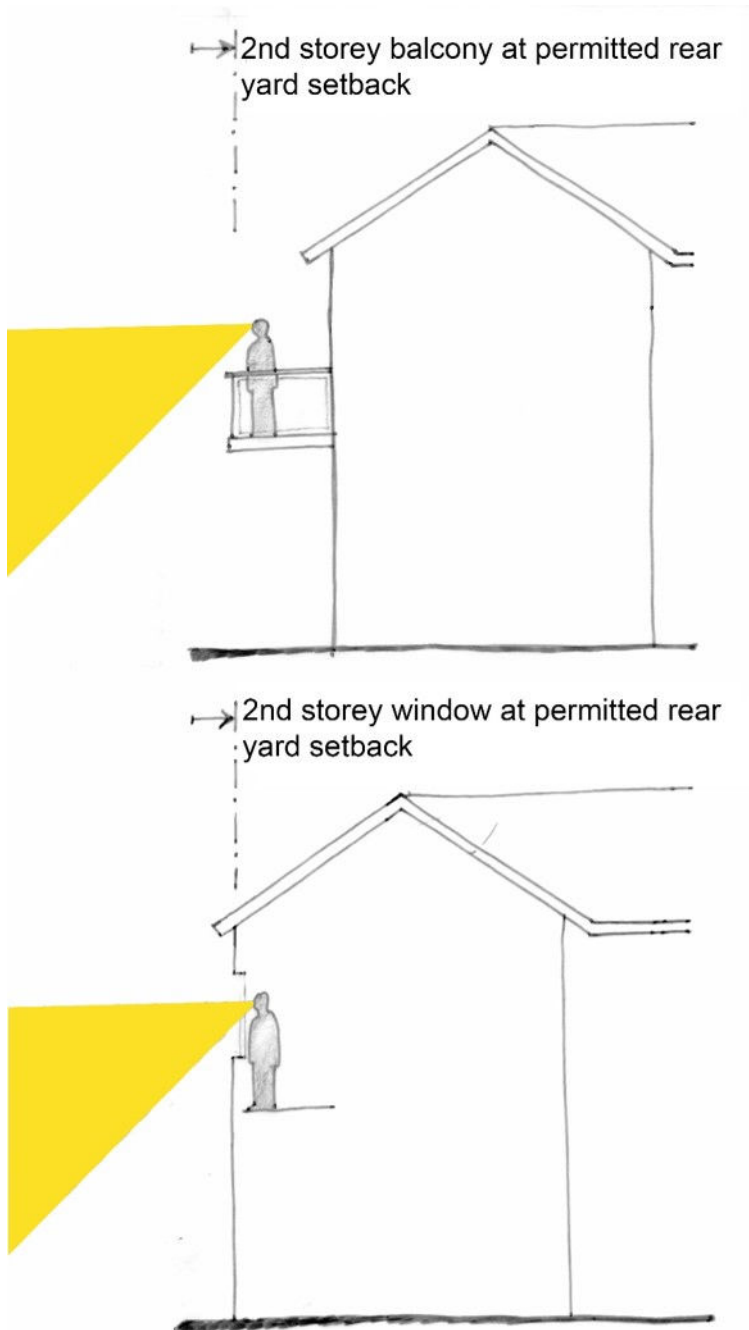


Figure 3

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Analysis and Findings: Interior Side Yard Setback

Balconies would not create any negative impact in the flankage yard, as they would overlook public street and not a private amenity space. It is suggested to ensure privacy for the adjacent properties, incorporate an interior side yard setback to any balcony a minimum of 4.2 m, which is the largest required interior side yard setback in the low density residential zones (*Figure 4*).

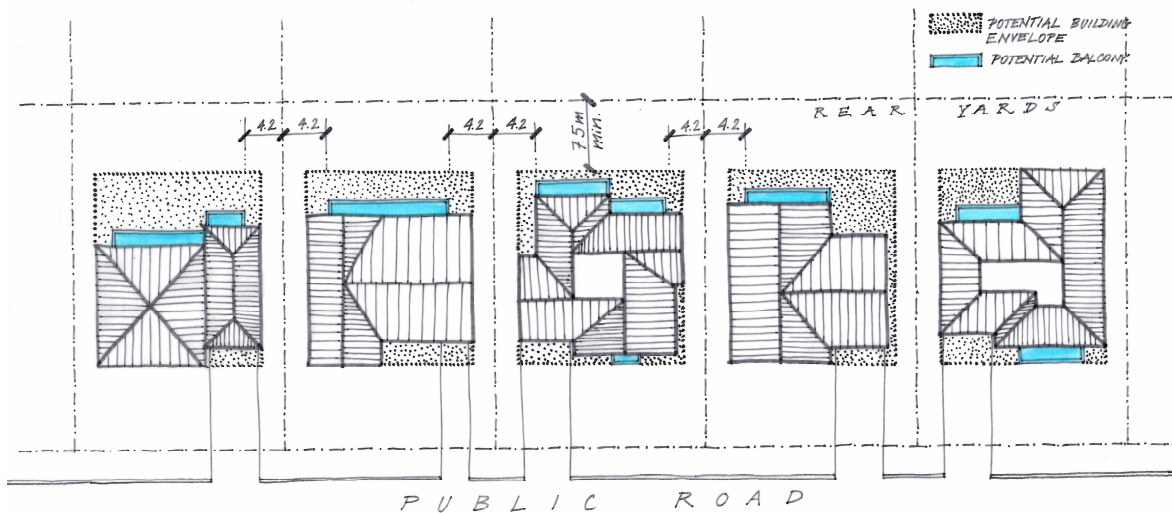


Figure 4

With the maximum permitted depth of a balcony as 1.5 m (regulation maintained), and incorporating the proposed required setbacks, the balconies would not create a negative impact on the neighbourhood properties. Maintaining the depth regulation could eliminate the possibility of these balconies being used for food preparation and social gatherings.

If balconies are permitted for -0 suffix lots and an application for Minor Variance is submitted for greater permissions, staff would be able to assess such an application on its own merits. On large lots, or lots abutting the lake, ravines, woodlots or parks, minor variances to the By-law would be reviewed and considered within that context. With such applications, staff could require additional measures to mitigate or eliminate any privacy concerns (through screening, etc.).

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## **Rooftop Terraces**

Analysis of the Zoning By-laws of City of Mississauga, Town of Milton and City of Burlington reveals that none of these jurisdictions prohibit rooftop terraces. City of Mississauga staff encourages rooftop terraces especially on multi-unit developments to provide more amenity spaces for the residents, decrease the urban heat island effect and to reduce the storm water run-off.

Town of Oakville's zoning regulations prohibit rooftop terraces in several zones (4.6.6 (a)) and restrict their design and use. The definition for rooftop terraces recognizes any terraces over the roof structure (such as a garage or podium of the building) as rooftop terraces:

*“Rooftop Terrace means an outdoor amenity area located on the roof of a building.”*

Therefore, the regulations, which were originally contemplated only for terraces on the roof of the top storey of a building, would not currently allow for a terrace on the top of a podium, for example. However, a podium roof terrace could be desirable as a design feature and functional amenity space.

Staff analyzed the regulations and suggests permitting rooftop terraces in all zones. In Residential Low Zone, it is suggested that a rooftop terrace be permitted only on the roof of the first storey of the principal use building in the front and/or rear yards, subject to a minimum 4.2 m side yard setback and a maximum 1.5 m depth (the same as the contemplated and existing balcony provisions (respectively)).

Regulation 4.6.6 (b) does not permit a rooftop terrace on the roof of the first storey of any building. This regulation is intended to prohibit rooftop terraces over a detached garage or a similar accessory structure, as such a design could create a privacy concern in situations in which these detached structures are located in the rear yards and in close proximity to the adjacent residential properties. However, many new townhouse developments are designed on rear lanes or in similar situations in which residents do not have access to any rear yard amenity areas. Rooftop terraces over the attached garages provide important private amenity spaces for these residents, without creating negative impacts on the adjacent properties. Therefore, staff suggests to revise the regulation 4.6.6 (b) to prohibit rooftop terraces in Residential Low and Residential Medium Zones on the roof of a single storey structure. This is a minor change which will better address the original intent of the regulation.

Staff also analyzed the regulation 4.6.6 (c), requiring a minimum setback for a rooftop terrace from the edge of a roof to be 2.0 metres. This regulation constrains



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the design of rooftop terraces over podiums of new developments. It appears that rooftop terraces over the podiums do not create an overlook condition which would be more unfavourable than an overlook condition from the permitted balconies above (Figure 5). It is suggested to only apply the required 2.0m setback from the building wall to the rooftop terrace on the roof of the top storey of the building.

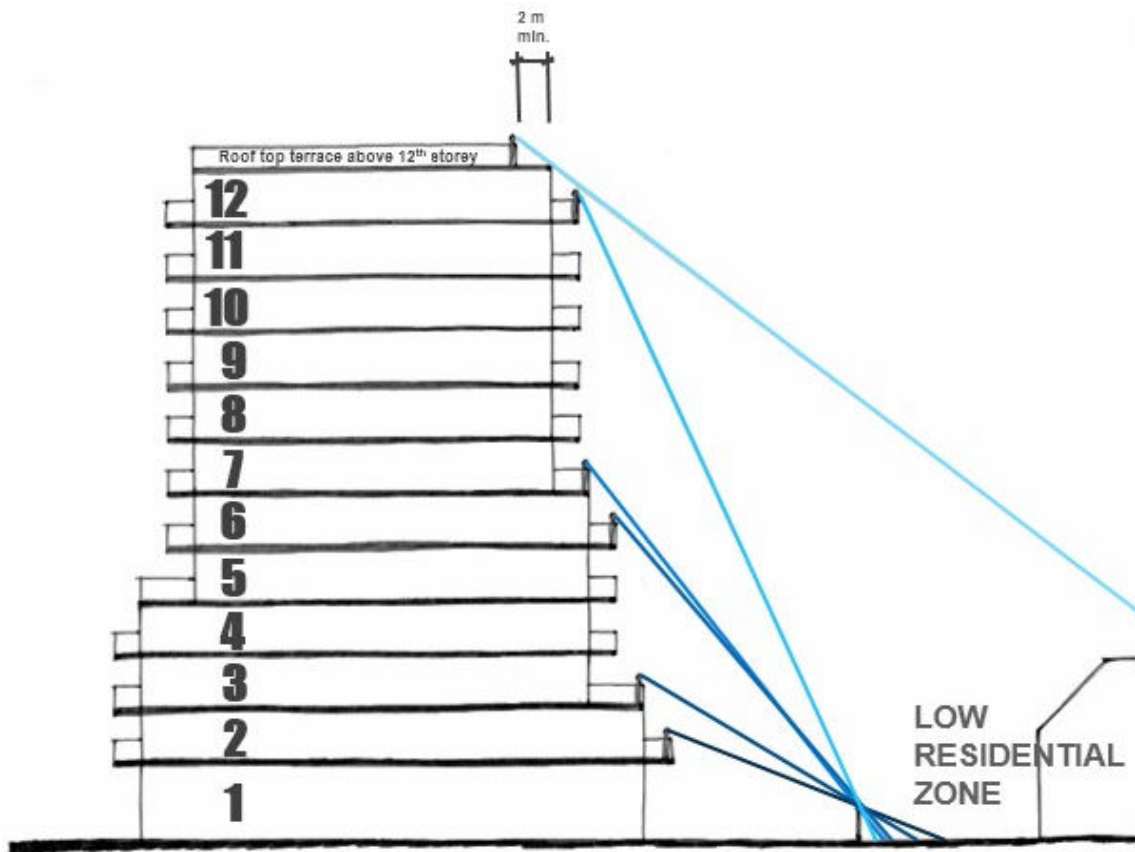


Figure 5

**NEXT STEPS:**

Based on comments received, staff will prepare a final recommendation report and a Zoning By-law Amendment. A Recommendation Report to Planning and Development Council is anticipated in November of 2017.

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**CONSIDERATIONS:**

**(A) PUBLIC**

A Public Information Meeting (PIM) was held on June 13, 2017. Comments will be collected and updates made available via the project page on the Town of Oakville website.

**(B) FINANCIAL**

This project will be completed by Town staff. There are no financial implications arising from this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Coordination with Zoning staff in the Building Department is ongoing. This project may result in changes to the Zoning By-law in effect. Since the changes might affect the design and development of Town lands and facilities, staff in other related departments will be informed about the project findings and outcomes.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- be the most livable town in Canada

**(E) COMMUNITY SUSTAINABILITY**

The project works to enhance the built environment of the community. The Town's sustainability goals and objectives will be reflected in any proposed modifications to the Zoning By-law.

**APPENDICES:**

Appendix A – Description of Revisions Proposed  
Study of Zoning Regulations for Rooftop Terraces  
and Balconies

Prepared by:  
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