



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: FEBRUARY 12, 2018

FROM: Planning Services Department

DATE: January 22, 2018

SUBJECT: Recommendation Report, Zoning By-law Amendment regarding Rooftop Terraces - By-law 2018-017

LOCATION: Town wide

WARD: Town wide

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RECOMMENDATION:

1. That the proposed town-initiated zoning by-law amendment (File No. 42.25.18, Rooftop Terraces) be approved on the basis that it is consistent with the Provincial Policy Statement, conforms to all applicable Provincial Plans, the Region of Halton Official Plan and the Livable Oakville Plan, has regard for matters of Provincial interest, and represents good planning for the reasons set out in the report from the Planning Services department dated January 22, 2018;
2. That By-law 2018-017, a by-law to amend Zoning By-law 2014-014 to make modifications to Rooftop Terrace Regulations affecting all Zones, be passed; and
3. That the notice of Council's decision reflect that Council has fully considered all of the written and oral submissions relating to this matter and that those comments have been appropriately addressed.

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.
- A Public Information Meeting (PIM) was held on June 13, 2017, attended by two residents.

- A Statutory Public Meeting regarding a Study of Zoning Regulations for Rooftop Terraces and Balconies was held on September 11, 2017. All comments in regard to rooftop terraces made by the public related specifically to a development application on 2210 Marine Drive.
- The proposed Zoning By-law Amendment is intended to clarify and update existing zoning regulations for rooftop terraces.
- The public meeting held September 11, 2017 satisfied legislative requirements and allowed Planning staff to receive input from the public regarding the proposed changes to Zoning By-law 2014-014.

BACKGROUND:

Policy and Regulatory Context:

Regulations for rooftop terraces are contained within section 4.6.6 of Zoning By-law 2014-014 that implements the policy direction of the Livable Oakville Plan (2009), which conforms to all applicable Provincial Plans (2017) and the Region of Halton Official Plan (2009) and which is consistent with the Provincial Policy Statement (2014).

The **Provincial Policy Statement** [PPS] (2014) provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the PPS sets the policy foundation for regulating the development and use of land. The new PPS took effect on April 30, 2014, and all planning decisions made on or after this date are required to be consistent with the PPS (2014).

The **Growth Plan for the Greater Golden Horseshoe** [Growth Plan] (2017) – together with the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan and the Niagara Escarpment Plan -- build on the policies of the PPS and establish a land use planning framework that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. The Growth Plan came into effect on July 1, 2017, and all planning decisions made on or after this date are required to conform to the Growth Plan (2017).

The **Halton Region Official Plan** [ROP] (2009) is Halton's guiding document for land use planning. It contains the goals, objectives and policies that manage growth and direct physical change and its effects on the social, economic and natural environment of the Region. Regional Official Plan Amendment 38 was adopted by Regional Council on December 16, 2009 and was Halton's conformity exercise with

the previous 2006 Growth Plan. The Region is undertaking an official plan review, which will include conformity with provincial plans and its overall growth management strategy under the new Growth Plan (2017).

The **Livable Oakville Plan [LOP]** (2009) establishes the desired land use pattern for lands within the Town of Oakville that are located south of Dundas Street and north of Highway 407. The LOP was adopted by Town Council on June 22, 2009 and by Regional Council on November 30, 2009. A number of parties appealed the Region's approval of the LOP to the Ontario Municipal Board (OMB Case No. PL100058), with the Board approving the Plan with further modifications on May 10, 2011.

Zoning By-law 2014-014 (2014) implements the policy framework and direction of LOP. On February 25, 2012, Town Council passed By-law 2014-013 to adopt Official Plan Amendment 4 and passed By-law 2014-014 as the new comprehensive zoning by-law. The Town received 64 appeals of Zoning By-law 2014-014 from various appellants

Issue Context:

On April 11, 2016 the Ontario Municipal Board approved amendments to Zoning By-law 2014-014, which introduced the following 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.*

This report explains how the proposed Zoning By-law Amendment updates and clarifies the existing zoning regulations for rooftop terraces.

COMMENT / OPTIONS:

Rooftop terraces provide opportunities for outdoor amenity spaces in urban areas. When designed well, they can contribute to an increase in tree canopy coverage and reducing the heat island effect and storm water run-off. Rooftop terraces that incorporate vegetation can provide shade and remove heat from the air through evapotranspiration, thereby reducing temperatures of the roof surface and the surrounding air. On hot summer days, the surface temperature of such a roof can be cooler than the air temperature, whereas the surface of a conventional roof can be up to 90°F (50°C) warmer.

Roofs with vegetation can reduce energy use by absorbing heat and acting as insulators for buildings, thus reducing energy needed to provide cooling and heating, and therefore also reducing air pollution and greenhouse gas emissions. Vegetation can also reduce the quantity and improve the quality of stormwater runoff at the source.



Private rooftop terraces with vegetation help reduce the heat island effect and storm water run-off.

The existing zoning regulations for 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 conditions. 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

may have considerable impacts on the viability of a building's design and the functionality of the amenity space created.

Staff undertook a review of the existing regulations and evaluated their effectiveness. Staff determined that some updates and clarifications to the existing regulations would result in more functional and inclusive designs for rooftop terraces.

Study Inputs:

A detailed assessment of factors influencing the design and development of rooftop terraces has been completed by staff, based on research of applicable regulations in neighbouring municipalities in the Greater Golden Horseshoe, an assessment of existing developments featuring rooftop terraces, and an analysis of the findings.

A review of the zoning by-laws of the City of Mississauga, Town of Milton and City of Burlington indicate that none of these municipalities prohibit rooftop terraces. Of note, the City of Mississauga encourages rooftop terraces, especially on multi-unit developments, to provide more amenity spaces for residents, to decrease the urban heat island effect and to reduce storm water run-off.

The Town of Oakville's zoning by-law defines a rooftop terrace as:

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

When the zoning by-law regulations were being developed, staff were focused on rooftop terraces located on the roof of the top storey of a building. Staff did not differentiate between a rooftop terrace on the top storey versus an amenity space accommodated on the roof of a building podium or on a structured parking facility. When applying the current regulations to a podium condition, the result greatly restricted viable designs and impacted functionality, which was not the intent.

Through this study, staff assessed how the regulations could be modified to include rooftop terraces on parts of a building other than the roof of the top floor. Of note, a podium is the lower portion of a building, usually 1-4 storeys in height, from which the higher storeys are setback to allow for more sunlight on the public streets, to provide a transition to the lower buildings on adjacent lots, and articulation of the built form.



Rooftop terraces on podiums assist in animating public streets while providing additional amenity spaces for residents.

In addition, during the development of the zoning by-law regulations staff was focused on minimizing impacts of rooftop terraces on adjacent low density residential properties. As a result, there are several zones, such as some commercial and employment zones and institutional zones, that were not included in the regulations.



With appropriate screening along the edges, rooftop terraces create quiet, secluded outdoor areas minimizing any overlook condition.



Study Results:

Regulation 4.6.6 a) currently states:

- 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;*

Through the study, staff assessed the regulations and determined rooftop terraces should be permitted in additional zones, and subject to the revised and clarified regulation. (refer to Appendix A, item #1) Staff recommend permitting rooftop terraces in all zones, except for Residential Low -0 Suffix zones, as follows:

- a) A rooftop terrace is permitted on a lot in any Zone, except for Residential Low -0 Suffix Zones;***

Regulation 4.6.6 b) currently states:

- b) A rooftop terrace is not permitted 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 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 a rear yard amenity areas. Rooftop terraces over the attached garages can provide important private amenity spaces for these residents, without creating negative impacts on the adjacent properties. (refer to Appendix A, item #2) Staff recommend revising the regulation to prohibit rooftop terraces on the roof of a single storey structure in Residential Low and Residential Medium Zones, as follows:

- b) A rooftop terrace is not permitted on the roof of a one storey building in any Residential Low and Residential Medium Zones;***

In addition, staff recommend including regulations related to the location and depth of a rooftop terrace in Residential Low Zones (refer to Appendix A, item #4), as follows:

- j) In Residential Low Zones, a rooftop terrace is only permitted on the roof of the first story of the dwelling having two or more storeys, subject to a maximum 1.5 m depth, measured from the main wall.***

Staff consider these as minor changes that add greater clarification to better address and achieve the original intent of the regulation.

Regulation 4.6.6 c) currently states:

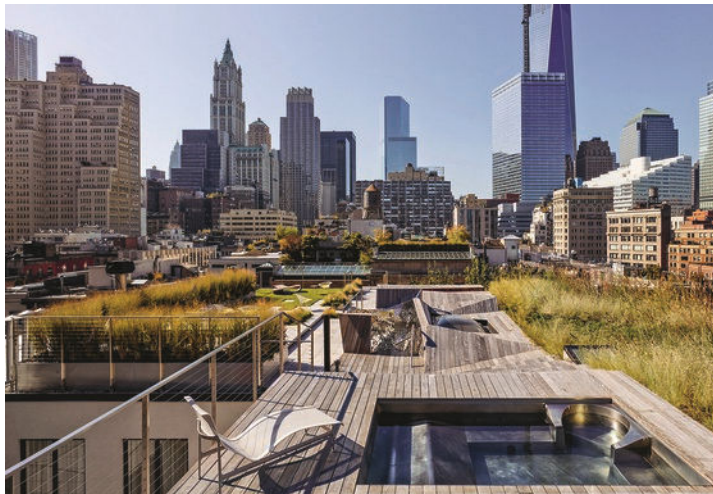
- c) The minimum setback for a rooftop terrace from the edge of a roof shall be 2.0 metres;*

Staff noted considerable constraints to the design and functionality of rooftop terraces located on a podium roof when applying this setback regulation. Through review and analysis, staff determined that rooftop terraces on podiums would not generate an overlook condition that would be worse than an overlook condition from the balconies on the remainder of the building above. Through this analysis, staff recommend applying the 2.0m required setback only on a rooftop terrace located on the roof of the top storey of the subject building where it is abutting a Residential Low Zone (refer to Appendix A, items #3) as follows:

- c) A rooftop terrace that is located on the roof of the top storey of a building shall be setback a minimum of 2.0 metres from the edge of the roof of that part of the building that faces the interior side and/or rear lot lines abutting any Residential Low Zone;**



In dense urban areas, rooftop terraces provide valuable outdoor amenity spaces.



Consultation:

A Public Information Meeting (PIM) was held on June 13, 2017, attended by two residents. Staff did not receive any comments related to the study and findings for rooftop terraces.

A Statutory Public Meeting regarding a Study of Zoning Regulations for Rooftop Terraces and Balconies was held on September 11, 2017. Based on comments received, staff provide the following responses and rationale for the comments made and issues raised:

Comment(s) received: A letter was received related to the proposed Zoning By-law Amendment and Official Plan Amendment on 2220 Marine Drive (File: ZBA and OPA 1727.04) from seven residents residing at 2180 Marine Drive. These residents identified several matters they were opposed to with this application, including privacy issues and potential for noise intrusion caused by the roof top terraces on the proposed development.

Staff response: Rooftop terraces are currently permitted on the subject site (Residential High Zone). If the development application proceeds with the rooftop terrace amenity, specific regulations and design measures could be incorporated to mitigate the privacy concerns. However, such screens would only mitigate the views onto the proposed rooftop terraces from the lower storeys of the existing high rise building on the adjacent lot. In regard to the privacy of the higher storeys, the proposed rooftop terrace amenity space is not significantly different from a private rear yard amenity space. Staff were not able to source studies that suggest that rooftop amenity areas would create more noise than private rear yards. Furthermore, the Town's Noise By-law 2008-098 regulates noise impacts with the intent of mitigating noise disturbances in neighbourhoods.

Of note, additional design measures can be required by staff to mitigate overlook and noise concerns, which would occur during detailed review of the site-specific development applications.

Comment(s) received: During the Statutory Public Meeting, a delegation from a resident at 2180 Marine Drive, adjacent to 2220 Marine Drive development application, was heard. The delegate outlined the negative impacts of permitting rooftop terraces on buildings located below high- rise buildings, with residents of these existing taller buildings being able to view down onto the terraces.

The delegate stated that the current By-law is missing regulations regarding ... “the number of individual, private rooftop terraces that can be installed in any specified area; the nature and quality of building materials to be used in these open amenity

and entertainment areas; the number, size, and total coverage of built structures on a rooftop area; environmental restrictions related to invasive elements like noise, smoke, music, smells, etc.; and restrictions or prohibitions on whatever renters or residents house or display on their terraces e.g., BBQs, pet cages, bird houses, patio lights, picnic tables, entertainment devices, waste and garbage containers, even washing, etc.).”

The delegate suggested that staff should ... “investigate the issues connected to: number of terraces, the building materials, the staircase access structures, the mechanical structures, the walls between private terraces, the total coverage of the rooftop terrace by various structures, the situation of residents who overlook rooftop terraces and who are held hostage to whatever the residents of a proposed development choose to display or store or house or hang on their terraces, hence violating privacy and quality of life, and the prospect of open terraces surrounded by residents who are subject against their will to the vagaries of residents of these open air playgrounds.”

The delegate requested that ... “staff conduct an in-depth review of rooftop terraces from the alternate perspective – that of residents of high rise buildings forced to suffer open air rooftop terraces, hold a well-publicized meeting for residents to review the situation with regard to their privacy and quality of life, and review the situation with regard to the possibility of unintended consequences. “

Staff response: The maximum number of individual rooftop terraces was not proposed to be regulated as it depends on the design of the building and the surrounding context. Larger multi-unit condominiums typically do not have individual rooftop terraces, rather creating a few larger amenity areas shared by and accessible to all building residents. Townhouse development typically feature a fewer number of units and are often designed to provide a separate rooftop terrace amenity space for every top floor unit.

Regarding rooftop terrace design, including the character, scale, appearance, designed features, and exterior materials, are assessed in detail by staff through the Site Plan Review process, to ensure compliance with the Livable Oakville Plan policies and compatibility with the Livable by Design Manual design direction.

Regarding size, structures proposed on rooftop terraces are limited to 20% of the overall area of the rooftop terrace (Section 4.6.6.f).

Through the study and review of other jurisdictions, staff did not uncover any instances in which complaints were received about noise or privacy loss or other nuisance in regard to rooftop terraces. In staff's opinion, rooftop terrace amenity

space is not significantly different from a private rear yard amenity space. Further, noise impacts are controlled by the Town's Noise By-law 2008-098, which regulates noise and attempts to minimize noisy disturbances. In addition, the Nuisance By-law 2007-143 prohibits or regulates public nuisances, vibration, odour, dust and illumination impacts.

Of note, since the rooftop terraces are mostly found on apartment buildings, the design features and permitted activities/furnishings are typically regulated by the owner of the rental property or by the Condominium Corporation for appearance and consistency purposes, whereas this is not controlled in a privately-owned rear yard.

Comment(s) received: A letter was received from the president of the Condominium Corporation on 205 Lakeshore Road West (Windermere Manor). The comments refer to a site specific condition of this condominium's rooftop terrace. The comment states that having an outdoor space in an urban setting on a rooftop terrace is valuable. This letter specifically requests an increase in the permitted percentage of any enclosed space on the rooftop terrace. In their opinion, such a change would benefit their site specific situation in allowing more amenities and better use of roof top space, without any significant change or negative impact.

Staff response: *Staff is not proposing changes to the regulation for structures on a rooftop terrace. It is recognized that in some instances, a larger structure than the permitted 20% of the total area of the rooftop terrace might be appropriate, without causing any negative impact on the surrounding neighbourhood. A site specific evaluation of such instances would be necessary – whether through a Site Plan Application process or through a minor variance application for an existing development. Such an approach would ensure an appropriate assessment of potential impacts on neighbouring properties on site-by-site basis.*

Comment(s) received: A letter in support of rooftop terraces was received from Bessant Pelech Associates, Inc. They state that rooftop terraces play an important role in providing amenities for users of a building, improving the lifestyle and living experience of residents, and benefits to the broader community.

“From a planning and community-building perspective, balconies and roof-top terraces draw life to the outside of the building. They encourage residents to venture into the semi-private or semi-public zones, thus allowing these outdoor amenity spaces to bring the ‘eyes to the street’.” Several other important assets of the rooftop terraces are mentioned, such as environmental qualities and benefits for people with varied abilities.

Based on their planning and architectural design rationale, they ask that Planning and Development Council:

- a. encourage outdoor amenities by permitting them in all zoning categories;
- b. provide for regulations (zoning performance standards) that would allow railings, rooftop stairs and elevators, along with deck trellises, canopies and arbours, and by extension would allow such features to be excluded from the calculation of the building height, area and setbacks; and
- c. ensure that balconies and roof-top terraces are excluded from site coverage, building area and related zoning calculations.

Staff response: The proposed zoning regulations would permit rooftop terraces in all zoning categories except for the Residential Low -0 Suffix Zones.

Rooftop terraces are currently not included in the site coverage or building area calculations. General regulations regarding rooftop stairs and elevators are contained in Section 4.6.4 Rooftop Mechanical Equipment and Mechanical Penthouses. Staff is not proposing to change the regulation for structures on a rooftop terrace. It is recognized that in some instances, a structure larger than the permitted 20% of the total area of the rooftop terrace might be appropriate without causing any negative impact on the surrounding neighbourhood. Site specific evaluation of such instances will be provided through a development application process. Such an approach would ensure appropriate assessment of all potential impacts.

CONCLUSION

A detailed evaluation of the existing regulations and their effectiveness have been provided by staff. The proposed revisions to the existing regulations are considered minor in nature, as outlined in the 'Appendix A - Description of Revisions Proposed by Staff', and are intended to provide for more functional and creatively designed rooftop terraces that result in valuable outdoor amenity spaces.

CONSIDERATIONS:

(A) PUBLIC

A Public Information Meeting (PIM) was held on June 13, 2017. A statutory Public Meeting was held on September 11, 2017. Project updates were available via the project page on the Town of Oakville website. Comments

from the public are addressed through this report. A courtesy notice for the recommendation meeting has been provided to those who participated in the process.

(B) FINANCIAL

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

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Coordination with staff in the Building Department is ongoing. Since the proposed changes to the Zoning By-law in effect might affect the design and development of Town lands and facilities, staff in other related departments were consulted throughout this project.

(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 are reflected in the proposed modifications to the Zoning By-law.

APPENDICES:

Appendix A - Description of Revisions Proposed by Staff'

Prepared by:
Jana Kelemen, MCIP, RPP
Urban Designer, Urban Design

Recommended by:
Christina Tizzard, MCIP, RPP
Manager, Urban Design

Submitted by:
Mark H. Simeoni, MCIP, RPP
Director, Planning Services