

Re-zoning

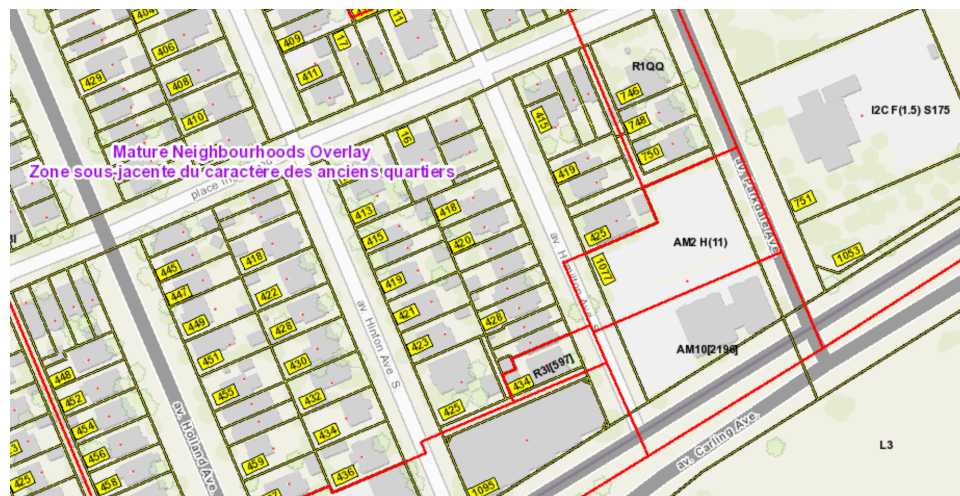
The authority under Canada's constitution for land-use planning is the Province. It has delegated many decisions, including zoning, to cities with the process and rules set out in the Planning Act.

Zoning describes how big a building can be and to what use it can be put.

Every property in the city has zoning. That zoning has to conform to the Provincial Policy Statement, the Official Plan, any relevant Secondary Plan, and any guidelines and policies passed by Council that affect zoning.

Zoning changes less often than the Provincial Policy Statement and Official Plan. Zoning can often be decades behind the most recent version of those higher-level plans. Zoning evolves according to the evolution of higher-level plans - not vice-versa.

Every landowner has the right to request a re-zoning by Council, and the Planning Act sets out deadlines by which Council must render a decision.



The zoning process

The re-zoning process is largely a technocratic one, with final confirmation of City planners' recommendations through a Council vote (via the Planning and Housing Committee).

The applicant must submit the required studies set out in the Official Plan, and make an argument to the Planning Department that the zoning they're seeking conforms to the Provincial Policy Statement, the Official Plan, and other Council-approved guidelines and policies.

Planning staff evaluate the application and arguments. The public and other stakeholders are given the opportunity through consultation to also make arguments to the City that the application does or doesn't conform to the City's and Provinces plans and policies. The City planners will often provide early guidance to the applicant and then guidance throughout the process with respect to what changes they consider would be necessary in order to issue a report recommending Council approve the re-zoning. They provide this advice to the applicant based on arguments made to them by internal and external stakeholders with which they agree.

If a developer is given guidance by the planner that they are considering a refusal recommendation, the developer will usually change their proposal. The public will usually have the opportunity to comment on significant revisions.

Once an application has taken a form that the planner considers meets with the Provincial Policy Statement, the Official Plan, and other Council-approved policies and guidelines, the planner will issue a report for consideration by the Planning and Housing Committee with a recommendation to approve. Planning and Housing Committee members will vote on it after listening to members of the public, and then in turn make a recommendation to City Council.

If Council refuses an application for a re-zoning, the developer can appeal that to the Ontario Land Tribunal, which will make its own determination as to whether the re-zoning conforms to the Provincial Policy Statement, Official Plan, and other Council policies and guidelines.

What re-zonings aren't

Re-zonings do not hinge on resident acceptance or support of the development.

Re-zonings are not an evaluation of multiple options; they are consideration of whether a single application does or does not conform to the Provincial Policy Statement, the Official Plan, and Council-approved policies and guidelines.

Re-zonings don't depend on a particular benefit to a particular community.

Re-zonings are not determined on the basis of the affordability of the resulting housing or commercial space, whether those are freehold, condo or rental, or intended to house any particular group.

Re-zonings are not a "social contract".

What to present

When supporting or opposing a development, arguments should be grounded in the Provincial Policy Statement, the Official Plan, and other Council-approved policies and guidelines.

The documents that you will most likely cite for this development are:

- The Official Plan
- The Urban Design Guidelines for High-rise buildings
- The Urban Design Guidelines for Development Along Arterial Streets
- The Transportation Master Plan
- The developer's traffic study

The most effective arguments will be one of two main types: disputing with thoughtful argument the developer and planner's interpretation of conformity with the City's plans and policies, or novel, thoughtful arguments about considerations not raised in the planning rationale or by the planner. It is legitimate to argue that a re-zoning will result in undue adverse impacts and to dispute the planner and developers' assessment of those impacts

What not to present

Don't raise arguments that create the spectre of "people zoning".
Certain arguments will undermine your efforts to sway the planner and Committee:

- "This is a family-friendly neighbourhood."
- "Renters are not as invested in the community."
- "Apartments will diminish the residential character of the neighbourhood."

Presentation strategy

Be mindful that Planning and Housing Committee meetings can often go long, and councillors are people.

Multiple presenters making the same case are less effective than fewer presenters making different arguments.

Councillors' attention is captured by novel arguments and sound analysis. Chapter and verse citations of the relevant policies are compelling.

Councillors will circle the wagons if planners' or colleagues' reputations are besmirched.

Questions?

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