



STAFF REPORT ACTION REQUIRED

Feasibility of a Community Improvement Plan to Support Rebuilding on the Queen Street West Fire Site

Date:	May 19, 2009
To:	Executive Committee
From:	Chief Planner and Executive Director, City Planning Division Deputy City Manager and Chief Financial Officer
Wards:	Ward 20
Reference Number:	ec090023

SUMMARY

This report responds to Toronto and East York Community Council's request for staff to report on the feasibility of establishing a Community Improvement Plan (CIP) to provide financial assistance to support replacement retail space on the six properties at 611 to 625 Queen Street West that were destroyed by fire on February 20th 2008. In the absence of a CIP, property taxes on the redeveloped properties will be substantially higher than before the fire, because the property taxes for these properties were capped, and because the new buildings are likely to have a higher value than the old buildings.

A CIP targeting traditional retail uses would represent a significant financial policy change, even if it could be limited to the circumstances of the Queen Street West fire. It could set a precedent that would result in lost tax revenue for the City if it were to be applied more broadly. There is no existing City policy framework to guide the development of such a CIP. To date, tax incentives (TIEGS) have not been offered to retail commercial uses (unless they are in transformative projects or eligible office buildings). The only grants available to traditional retail strips have been through the Façade Improvement Program for BIAs. In addition, ground floor commercial development is not exempt from paying full Development Charges, unlike most other non-residential development.

RECOMMENDATIONS

The Chief Planner and Executive Director of the City Planning Division and the Deputy City Manager and Chief Financial Officer recommend that Council:

1. not proceed with a CIP to provide financial assistance for the redevelopment of the properties at 611 to 625 Queen Street West.

Financial Impact

There are no direct financial impacts associated with the adoption of the staff recommendations contained in this report.

Should Council instead decide to proceed with a CIP to provide grants to offset tax increases for the properties at 611 to 625 Queen Street West, in this limited circumstance, the grants would be funded from the increase in taxes that would not otherwise have occurred in the absence of the fire, with no negative impact on the City's operating budget.

However, should this initiative lead to other policies and programs to assist with redevelopment of retail properties by providing grants to offset property tax increases, then the City will lose some of its tax revenue from assessment growth that has historically been strong and driven by local needs rather than the availability of incentives. Municipal tax revenue growth from the commercial sector has averaged \$15-20 million over the past 3 years in the absence of incentives. Street-level retail represents about half of the City's commercial establishments.

DECISION HISTORY

In November 2008, the Toronto and East York Community Council directed the Chief Planner and Executive Director, City Planning, in consultation with the Deputy City Manager and Chief Financial Officer, to report on the feasibility of establishing a Community Improvement Plan to provide financial assistance for the redevelopment of the properties at 611- 625 Queen Street West with ground floor commercial space and in a building form that is consistent with the Guidelines for the Queen West Heritage Conservation District.

<http://www.toronto.ca/legdocs/mmis/2008/te/decisions/2008-11-18-te20-dd.pdf> at P94-5)

Although the direction to report came from Toronto and East York Community Council, this report is before Executive Committee because it requires a policy decision on whether or not to use a CIP to offset tax increases for the properties on Queen Street West, and Executive Committee that recommendations to Council on tax policy.

ISSUE BACKGROUND

The Fire of February 2008

Six buildings at 611 to 625 Queen Street West were destroyed by fire on February 20th 2008. The buildings consisted of ground floor retail space with residential uses on the second and third floors. They were part of a traditional shopping street that stretches along most of Queen Street.

Since the fire, all owners have applied for the property tax relief that is available for vacant properties. Following the fire, the City incurred demolition and debris removal costs to secure and make the fire zone safe, to allow for fire investigations to proceed and to restore the street for vehicular and pedestrian access. The Owners have paid the bills for Toronto Buildings to install hoarding for public safety, but none of the owners have paid for demolition bills from Toronto Fire. If the bills are not paid, the City could place a lien on the properties impacting the ability to secure financing or sell the property. Approximately \$204,600 is owed to the City for the six properties.

Heritage Conservation

The properties are part of the Queen Street West Heritage Conservation District (HCD), which runs from Simcoe Street to Bathurst Street. The Guidelines for the HCD indicate that ‘commercial uses at grade ... have always been part of the character of Queen Street West’ and that ‘new and renovated buildings must be characterized by one storey commercial facades’ (*Queen Street West Heritage Conservation District Plan*, p65). The Guidelines (p57) also require that new buildings ‘be sympathetic to the distinct heritage attributes, through massing, rhythm of solids and voids, significant design features and high quality materials.’

The HCD Guidelines address the building form and character, but not the specific uses in the buildings. They do not require ground floor commercial uses – only that the building has a one storey commercial façade. Although use is not regulated in this instance, general heritage conservation practices encourage that a use be maintained if possible. The Council-adopted *Standards and Guidelines for the conservation of Historic Places in Canada* indicate, under standard 5, that the owner should, “find a use for a historic place that requires minimal or no change to its character defining elements.” This can be extended to the district and be interpreted to mean that where possible, the current uses prevalent in the district should be encouraged and maintained in order to best preserve the historic character and cultural heritage values of the area.

Zoning

The zoning for the site is MCR T3.0 H16.0, which permits commercial and residential uses to a maximum density of 3 times the area of the lot and a maximum height of 16 metres. The mix of uses may range from 100% commercial to 100% residential and any combination in between. The height regulation limits the height of the building to 13 meters at the front lot line increasing to 16 metres under a 45-degree angular plane based on the street centre line. With ground floor commercial, this effectively supports three

storeys at the front rising to four storeys at the back of the building, in keeping with the HCD guidelines.

Space for Small Business

The traditional shopping strips in the City provide relatively inexpensive spaces for small businesses and for new businesses in the City and its neighbourhoods. They act as informal retail incubators. This is an important function of the retail spaces on the Queen West strip, particularly as a relatively high proportion of stores on the strip are occupied by chain stores, with the consequent reduction of opportunities for independent businesses.

Property Tax Issues

The property taxes for the buildings were all subject to tax caps for their commercial components, so that the annual taxes paid were less than the full Current Value Assessment (CVA) based taxes, as Table 1 shows. The effective taxation level for the commercial components – the ‘Commercial Taxation Level’ - ranged from about 33% to about 63%. Table 1 also shows that the education taxes payable to the Province accounted for nearly half of the total commercial taxes. The full tax situation of the six properties in 2008, including their residential taxes, is shown in Attachment 1 at the end of this report.

Table 1: 2008 Commercial Property Taxes, 611 – 625 Queen St West.

	2008 CVA	CVA Taxes	Actual Taxes	Commercial Level (%) ¹	CVA less Actual	Actual Tax Portions	
						Municipal	Education
623-625 Queen West	654,975	26,598	8,671	32.6	17,927	4,468	4,203
619 Queen West	958,370	38,919	24,335	62.5	14,584	12,540	11,795
617 Queen West	369,600	15,009	5,884	39.2	9,125	3,032	2,852
615 Queen West	494,000	20,061	7,181	35.8	12,880	3,700	3,481
613 Queen West	355,800	14,449	5,984	41.4	8,464	3,084	2,901
611 Queen West	358,230	14,547	6,140	42.2	8,408	3,164	2,976
Total - Six Properties	3,190,975	129,583	58,196	44.9	71,388	29,989	28,207

¹ The Commercial Level is the actual commercial tax paid as a percent of the CVA commercial tax

In the absence of the fire, the tax cap protection for these establishments would have been reduced each year by 5% of the previous year’s CVA taxes applicable to the property. The six properties would have reached their full commercial taxation level sometime after 2016.

Under current legislation, new buildings or substantially reconstructed buildings will be required to pay property taxes at the full CVA tax rate and will not be eligible for capping protection. As Table 1 shows, if the new buildings have the same CVA assessment, this requirement will result in tax increases for each property of up to \$18,000 per year (at 2008 tax rates), or increases ranging from 60% to over 200%. As it is likely that new buildings will have higher CVAs, the tax increases are expected to be even larger.

Authority for a CIP

The Planning Act authorizes municipalities to prepare Community Improvement Plans for Community Improvement Project Areas providing that the Official Plan contains provisions relating to community improvement in the municipality.

The six properties on Queen Street West are included in the City-wide Community Improvement Project Area which was designated by By-law 516-2008.

Section 5.2.2 of the Official Plan states that “Community Improvement Plans will be prepared to promote the maintenance, rehabilitation, revitalization and/or conservation of selected lands, building and communities facing challenges of transition, deficiency or deterioration or for any other environmental, social or community economic development reason”.

The Official Plan further provides that CIPs will be prepared to provide direction regarding ... allocation of public funds, in the form of grants, loans or other finance instruments, for the physical rehabilitation or improvement of private land and/or buildings including rehabilitation of contaminated properties.

The City-Wide CIP Providing Financial Incentives for Economic Development

In 2008, Council adopted a Community Improvement Plan to provide financial incentives to stimulate investment in targeted economic sectors in the City (‘The Toronto Community Improvement Plan for Brownfield Remediation and Development of Prescribed Employment Uses’). The incentives take the form of Tax Increment Equivalent Grants (TIEGs), where the size of the subsidy is based on the increased property taxes yielded by the investment.

The incentives focus on sectors that:

- generally produce goods and services traded outside the region thus providing new economic wealth,
- generally provide higher wages,
- have existing concentrations within the City,
- have international linkages, and
- create higher than average employment densities.

The targeted sectors included manufacturing, information and communications technology, environmental industries, biomedical operations, creative industries, tourism attractions and transformative projects. Grants are also available for incubators, and corporate head quarters and office buildings under certain conditions.

Locally focussed economic activities such as retailing, personal and household services, and warehousing are not eligible for assistance under this CIP, unless they are in transformative projects or eligible office buildings. They were excluded because:

- they do not generate wealth from outside of the region,
- they tend to offer lower paying jobs, and
- they are primarily driven by residential growth (not footloose) and as such would develop in the community regardless of incentives.

<http://www.toronto.ca/legdocs/mmis/2008/pg/bgrd/backgroundfile-12573.pdf> at pages 19-20.)

COMMENTS

The City's Interest

Rebuilding the fire site is important for the health and liveability of this section of Queen Street West, and ideally the new buildings will continue the functions of the lost buildings – ground floor retail with residential on the second and third floors. This is consistent with the City's Official Plan and the HCD guidelines noted above.

An obstacle to achieving the desired future for this area of Queen Street West is the impact of the higher property taxes on the marketability of the rebuilt retail space, especially for small / independent / start-up businesses. In order to cover the taxes, rents may need to be significantly higher than in other stores in the neighbourhood. It should be noted a newer building in itself may be more attractive to tenants and yield higher rents to the owner. There are already significant vacancies in the area, however, and these higher rents may not be attainable in the short term. These are challenges to the potential redevelopment of these destroyed buildings.

Many City objectives can be and are achieved without specific financial incentives being offered. In terms of mixed-use redevelopment in particular, market forces have proven to be highly successful, especially in the Downtown area.

It is important, when considering intervening in the marketplace through the use of incentives, to carefully consider the extent of any impediments to redevelopment in accordance with the HCD and the extent to which these circumstances are unique. If the disincentives to redevelopment are not unique, the case for broader application will be difficult to resist.

Financial Assistance Through a CIP

The only means for the City to mitigate the higher tax burden for the Queen Street properties is to use the authority provided by the Planning Act to provide grants or loans for community improvement. Other more direct forms of financial assistance would be considered bonusing, which is prohibited by the City of Toronto Act.

Essentially a CIP could be used to provide an annual grant to the owner to help cover the difference between the taxes payable for the new building and those that would have been

payable if the building had not burned down. Such a CIP would assume that owner will use insurance or other monies for the purpose of property redevelopment.

Existing Policy Does Not Support Financial Assistance

Staff are concerned, however, that it may be difficult to limit the applicability of such a CIP to the circumstances of the Queen West fire site, particularly since the City's existing policy framework provides little guidance for the development of such a CIP.

The City has over the last several years established clear policies and direction to provide incentives for employment in key sectors, and during these deliberations, Council has made a conscious decision to exclude retail from such incentives. Specifically, retail is ineligible to receive grants through the City-wide Tax Increment Equivalent Grant Program (IMIT program), unless it is in major transformative projects or eligible office buildings. Similarly, ground floor non-residential development is the only type of non-residential development for which Development Charges (DC) exemptions do not apply. Ground floor commercial must pay the City's DC's.

It is noted, however, that grants would be available if the space were used for one of the targeted sectors such as the creative industries, or information and communications technology businesses.

Potentially Widespread Application

A CIP providing grants to support redevelopment on the fire site could set a precedent that may end up having negative financial impacts for the City if it is applied more broadly.

The challenges of redevelopment along some traditional shopping streets are not limited to these six properties. Vacant lots and empty stores and occasional fires detract from the attractiveness of other strips across the City, and higher taxes for new buildings may be a deterrent to redevelopment in these cases as well. The proposed CIP could be seen to offer a template to stimulate redevelopment in other locations.

Widespread application of a street-related retail program would have unpredictable impacts on the City's finances in the absence of a clear policy framework for identifying other circumstances where a similar CIP grant program may be appropriate. Street-level retail represents about half of the City's commercial establishments, and in the absence of incentives municipal tax revenue growth from this sector has averaged \$15-20 million over the past 3 years.

In the Queen West case it is clear that the owners would not need grants to offset higher taxes if the fire had not occurred. In other situations, however, it may be difficult to determine if the redevelopment would not have occurred 'but for' the grants offered by the CIP program. The grants may simply be a 'windfall' for owners for something they were going to do anyway. As well, owners who build new ground floor retail in other locations may feel that they are being treated unfairly if they are not eligible for similar grants. Designing a program around losses through fire is also of concern. It may not be

in the City's interest to signal the availability of incentives where buildings are lost in this manner.

Other Relevant City Policies

While other City Policies provide general support for actions that would maintain healthy and liveable retail strips such as Queen Street West, they offer little in the way of a more specific implementation framework, particularly the tools to achieve this.

The Official Plan: The Official Plan supports healthy neighbourhoods and a strong Downtown and reinforces the role of traditional shopping streets as the retail fabric of the City continues to evolve. As noted above it also authorizes the use of Community Improvement Plans to provide grants for rehabilitation, without setting any particular limits on the types of uses or specific places where the tool may be used. CIPs are used to deliver the Façade Improvement Program for BIAs, which are the only grants available to traditional retail strips.

Heritage Conservation District: The HCD guidelines for Queen Street West require commercial facades. While it is the built form that is key and not the use, the commercial character of the street is a key element of its heritage character. The HCD guidelines encourage commercial uses as well as requiring commercial built form. While a grant could be restricted to ground floor commercial floorspace, it should be noted that the grant is not needed to ensure that the new buildings adhere to the heritage guidelines.

The Agenda for Prosperity: One of the Implementation Actions of the Agenda for Prosperity is to improve main streets, districts and neighbourhoods, particularly through partnerships with BIAs.

The Environmental Agenda: Generally, strong traditional shopping streets support walking and transit and deter auto use, which is consistent with reducing auto emissions and greenhouse gases. There are many kilometres of pedestrian strips in the City, however.

Tax Policy: As part of the City's Agenda for Prosperity, Council has commenced accelerating tax reductions for businesses and industries as a whole, with an emphasis on smaller business first, together with an accelerated phasing out of the inequities caused by the capping and clawback system, so that ultimately all businesses are treated equally. As of 2009, this policy has been further accelerated so that businesses, and all non-residential properties for that matter, will see their municipal taxes be reduced to 2.5-times the residential rate by 2013 for small businesses, and 2017 for all other non-residential properties.

The Policy Choice

In summary, then, re-establishing and maintaining the retail space on the fire site is important for the health and liveability of this section of Queen Street West. However, subsidizing retail development on Queen West is unlikely to provide a City-wide benefit.

Demand for retail is primarily driven by residential growth and as such would develop in the community regardless of incentives; and support for retail in one location may simply reduce its viability in other locations.

In this light, Council should give careful consideration to whether or not it wishes to proceed with a CIP for the Queen West fire site. A CIP of this nature would represent a significant departure from current policy, and there is risk that other areas could later be identified that would look to this as a positive precedent. On balance, staff do not support proceeding with a CIP.

Should Council wish to embark on this policy change, the CIP would need to be carefully proscribed, and Council would have to approve the CIP through the public process required by the Planning Act. In addition, staff should be requested to report further on the principles and draft content of a CIP.

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ATTACHMENTS

Attachment 1: 2008 Property Taxes, 611 – 625 Queen Street West

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ATTACHMENT 1

2008 Property Taxes, 611 – 625 Queen Street West

	2008 CVA	CVA Taxes	Actual Taxes	Commercial Taxation Level (%) ¹	CVA less Actual	Actual Tax Portions	
						Municipal	Education
623-625 Queen West							
Commercial	654,975	26,598	8,671	32.6	17,927	4,468	4,203
Residential	438,025	3,832	3,832		0	2,676	1,156
Total	1,093,000	30,430	12,504			7,144	5,359
619 Queen West							
Commercial	958,370	38,919	24,335	62.5	14,584	12,540	11,795
Residential	407,630	3,566	3,566		0	2,490	1,076
Total	1,366,000	42,485	27,902			15,030	12,871
617 Queen West							
Commercial	369,600	15,009	5,884	39.2	9,125	3,032	2,852
Residential	246,400	2,156	2,156		0	1,505	650
Total	616,000	17,165	8,040			4,537	3,502
615 Queen West							
Commercial	494,000	20,061	7,181	35.8	12,880	3,700	3,481
Residential	156,000	1,365	1,365		0	953	412
Total	650,000	21,426	8,546			4,653	3,892
613 Queen West							
Commercial	355,800	14,449	5,984	41.4	8,464	3,084	2,901
Residential	237,200	2,075	2,075		0	1,449	626
Total	593,000	16,524	8,060			4,533	3,527
611 Queen West							
Commercial	358,230	14,547	6,140	42.2	8,408	3,164	2,976
Residential	239,770	2,098	2,098		0	1,465	633
Total	598,000	16,645	8,238			4,629	3,609
Total - Six Properties							
Commercial	3,190,975	129,583	58,196	44.9	71,388	29,989	28,207
Residential	1,725,025	15,093	15,093			10,539	4,554
Total	4,916,000	144,676	73,288			40,527	32,761

¹ The Commercial Taxation Level is the actual commercial tax paid as a percent of the CVA commercial tax.