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Subject: Fwd: PG32.10 Development Permit System
Attachments: CORRA - 2014 March 30 - DPS Addendum-v 5.pdf

April 3RD, 2014

Planning and Growth Management Committee (PGMC) Meeting– Agenda Item PG32.10

Draft Official Plan Policies for Implementing a Development Permit System

Outcome of Consultation

Attention: Ms. Nancy Martins, Secretariat Contact for PGMC

Please find attached the Addendum to CORRA's DPS Discussion Paper. The Discussion Paper represents CORRA's initial response to the Staff Report and Draft Official Plan Policies attached to agenda item PG29.5 of PGMC's meeting on December 4, 2013. The Addendum is CORRA's response to the revised draft DPS Official Plan Policies released during the Open Houses and Public Meetings held in March 2014.

As with the Discussion Paper, CORRA is requesting this submission also be part of the public record for PGMC Agenda PG32.10.

Thank you,

CORRA Executive Team

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**ADDENDUM to the CORRA Discussion Paper:
What is the Development Permit System?
And Should Toronto Aim to Implement this System?**

Released by CORRA Executive – March 31, 2014

**City's Proposed Official Plan Policies – Development Permit System (DPS)
Section 5.2.3 Development Permit System**

During the open house and public meetings, City Planning staff distributed revised Official Plan (OP) Policies to permit the use of a Development Permit System (DPS) to implement the City's Official Plan, that differ in certain respects from those released as part of the Staff Report brought before Planning and Growth Management Committee on December 4, 2013. CORRA's DPS Discussion Paper, last updated February 6, 2014, was based on the original proposed DPS-OP Policies, the current legislation and other documents.

CORRA is now releasing an addendum in order to do the following:

- A. Identify the differences between the two draft Official Plan Policies, and address what impact these changes have both on the content of the proposed DPS policy and on the discussion in the February 6, 2014 CORRA paper.
- B. Flag four new concerns, not mentioned in the February 6 paper, resulting from the revised DPS-OP Policies and the City's mid-March open houses and public meetings.

The primary revisions brought forward by City planning staff are as follows:

1. **Removal of 5 year “no DPS area by-law amendments” time frame**. In the original DPS-OP Policies, following the adoption of a DPS area by-law, the DPS area by-law could not be amended for a period of 5 years. The revised DPS-OP Policies remove the 5 year reference; evidently the five year limit was incompatible with the Provincial regulation.

Impact to content of DPS-OP Policy: Once a DPS by-law is adopted, the City, developers and others can apply to amend the DPS area by-law earlier than 5 years.

Impact on concerns mentioned in CORRA paper: none to speak of.

2. **Removal of explicit reference to “base standards” (for example, height or density) and “range of possible variations to the base standards”**. In the original DPS-OP Policies, the structure of a DPS by-law was presented, following the Provincial regulations, as involving “base” standards specifying a minimum and maximum within each standard (such as height) without S37-style benefits, and a possible “range of variations to the base standards” up to a second maximum where S37-style benefits would be required. In the revised DPS-OP Policies, any variations to the base standards associated with S37-style benefit variations are subsumed under a single maximum. So, for example, the maximum in a mid-rise area might be 11 storeys; up to 3 storeys no benefits are required, and for heights between 4 and 11 storeys, benefits are required proportional to height.

Impact to content of DPS-OP Policy: It is now assumed (as opposed to merely permitted) that S37-style variations will be part of the DPS by-laws. The same criteria or “performance standards” (e.g., concerning shadow impact) will be in place, whether or not S37-style benefits are at issue.

Impact on concerns mentioned in CORRA paper: There are two impacts – one for the better, one for the worse. Including S37-style benefit ranges (in height or density, for example) under a single maximum mitigates the previous concern (discussed in S2.2) that residents would be uncertain, under a DPS by-law allowing for variations above the base standards, what (e.g., height) would be allowed on a given site. Now residents and others will know for certain what the absolute maximum will be for height, density, and other standards.

However, the change exacerbates the concern (discussed in S3.2) that areas subject to a DPS area by-law will get significantly “up-zoned” (beyond their existing zoning), since the DPS by-law standards are now anticipated to deem “as-of-right” heights and other parameters associated not just with minor variance and zoning amendments but also with S37-style overages.

3. **Expanded delegation of authority:** The original DPS-OP Policies specified that Council could delegate its decision-making authority on development permit applications to the Chief Planner. The revised DPS-OP Policies reflect the Provincial regulations that Council may delegate its decision-making authority to a Committee of Council, a body appointed by Council, or an employee of the City, by name or position.

Impact to content of DPS-OP Policy: Expanded delegation possibilities.

Impact on concerns mentioned in CORRA paper: The concern remains (as discussed in S2.3) that fast tracking of permit application processing from 120 days for a regular zoning by-law amendment down to 45 days under a DPS area by-law will place pressure on Council to delegate its decision-making authority, in a way that unsatisfactorily removes elected public representatives from engagement with specific planning decisions.

Four New Concerns

1. **Ontario’s version of the Development Permit System is almost entirely untested.** The DPS has been tested in Ontario in very limited fashion, in rural areas (e.g., Lake of Bays) in order to protect shoreline vegetation and control cottage development, small towns (Carleton, Gananoque) in order to control infill development, and in small portions of downtown Hamilton and downtown Brampton (the latter is not even a full implementation---doesn’t set out design standards, for example). City staff have yet to demonstrate that the DPS makes sense as applied to a large, built-up, highly contextual city like Toronto.

Reflecting the lack of solid evidence, **topmost Toronto planning experts disagree about the answers to even basic questions about how to implement the DPS**---for example, whether the DPS should be piloted in high- or rather low-growth areas. Michael Mizzi, who until 2013 had spent more than 7 years as effective head of Planning in downtown Toronto, said last December that he would not pilot the DPS in a high-growth area: **“I don’t think it’s something**

you want to pilot in an area undergoing great change," he says. "Possibly in a heritage conservation district ... somewhere where it's a little more known what the built form is." ([Ottawa Citizen](#))¹ **This is the opposite of what current Toronto City Planning officials are proposing.** In particular, the amended recommendations to PG25.19 propose piloting the DPS in the high-growth King-Spadina planning district---a suggestion that Chief Planner Keesmaat spoke favorably of on The Agenda. And when Joe D'Abramo was informed of Mizzi's comments at the downtown DPS open house, his response was simply 'I don't agree'.

Such discrepancies in expert opinion are evidence of lack of evidence, which again supports taking a conservative approach to implementing this "fundamental shift" in Toronto.

2. **Vancouver's Development Permit System has led to unsatisfactory results and huge citizen unrest.** Toronto City Planning sometimes point to Vancouver, which has a "development permit system" also involving a front-end process of consultation followed by rezoning, as providing a test case of successful implementation of a DPS in an urban environment.

But if anything, the evidence from Vancouver points the other way. In the last months there has been a huge wave of citizen unrest about what is widely seen as a "disaster" of a planning process. There have been large protests at [City Hall](#);² and late last year, neighbourhood associations covering almost the entire City of Vancouver recently banded together to form the Coalition of Vancouver Neighbourhoods, in response to "outrage" expressed by "virtually every neighbourhood in Vancouver" subject to their version of the Development Permit System, whereby "faux "engagement" circuses" are followed by rezoning greatly departing from what communities in fact called for. From the October 24, 2013 [CVN press release](#):³

"Virtually every neighbourhood in Vancouver has suffered through the disaster that is development and "community engagement" under the present planning process. [...] the outrage expressed by the affected communities has been the same. [...] The disenfranchisement of neighbourhoods must end. The Coalition will not accept with equanimity any more faux "engagement" circuses in which "consultation" produces nothing but disappointment and damaged communities. Communities demand genuine involvement and the right of local residents to have the highest level of influence over the future of their own communities."

Toronto City Councillors would do well to carefully consider the significant likelihood of unsatisfactory outcomes of "consultation" processes, and associated citizen unrest, attending the implementation of the DPS in Toronto.

Indeed, in Toronto we have already seen similar cases where extensive front-end consultation resulted in planning decisions highly antithetical to the explicitly stated "vision" of the affected community. **A recent local case in point is the Mimico Secondary Plan**, currently being appealed by residents and ratepayers. After 5 years of community meetings, charettes and visioning studies, during which the community repeatedly communicated its "vision" as involving preservation of Open Space designation in the Official Plan for private lands, and low-mid-rise built form (8 storey maximum), the community was given a plan which redesignated half the Open Space and private open space as Mixed Use, and involved multiple 25 storey buildings. In the end it was the developers' and planners' vision, not the community's, that prevailed.

3. **The identification of “the entire City of Toronto” as a Development Permit area is premature.**

The revised proposed OP Policy states that “The entire City of Toronto is identified by this policy as a Development Permit area. The Development Permit System will be implemented by by-law in selected areas of the City.”

Notwithstanding the codicil that the DPS will be implemented “in selected areas”, it is premature for the DPS-OP to deem the entire City of Toronto a development permit area. Given the lack of empirical evidence in Ontario, the disagreement about how even to go about testing the DPS, and the negative evidence from Vancouver, we should proceed cautiously, if at all, with its implementation.

4. **Will constraints of cost and staff resources lead to DPS “templates”?** Not long ago, when the “Avenue” designation was discussed in the OMB settlement discussions (resulting from the appeal of the Official Plan), City planning staff promised concerned members of the public that 4 to 6 Avenues would be studied a year, and that any Avenue that came under anticipated development pressure would be moved up the list to be done. Instead of following through on this commitment, the Avenues & Mid-Rise Buildings Study was commissioned, and now these informal guidelines are being used to justify development on Avenues, not to mention major and main streets, antecedent to proper study of the local area context.

CORRA is concerned that implementation of the DPS will follow a similar pattern, with cost- and-staff intensive DPS by-laws giving way to DPS “templates” for different sorts of areas, resulting in widespread significant up-zoning (see DPS OP change no. 3, above) that is similarly insufficiently sensitive to local area context.

Endnotes:

¹ See

<http://www.ottawacitizen.com/business/City+mulls+streamlined+development+approval+process/9316100/story.html>

² See <http://www.cbc.ca/news/canada/british-columbia/city-delays-rezoning-plans-in-vancouver-neighbourhoods-1.1871813>

³ See <http://cityhallwatch.wordpress.com/2013/10/24/coalition-of-vancouver-neighbourhoods-cvn-media-release/>