



## REPORT FOR ACTION

# TOcore: Planning Downtown - Legislative Tools to Support Growth

**Date:** January 4, 2017

**To:** Executive Committee

**From:** Chief Planner and Executive Director, City Planning Division and the City Solicitor, City Legal Division

**Wards:** Wards Nos. 20, 27 and 28

## SUMMARY

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TOcore: Planning Downtown is an inter-divisional study led by City Planning. Building on Downtown's extensive planning framework, TOcore's purpose is to ensure growth positively contributes to Toronto's Downtown as a great place to live, work, learn, play and invest. The study will result in a new Secondary Plan for Downtown, a series of physical and social infrastructure strategies, and a financial strategy. Additional information including all background reports can be found on the study website, [www.toronto.ca/tocore](http://www.toronto.ca/tocore). This report discusses the following:

- a. available planning and legislative mechanisms to manage growth including those available during the course of planning studies;
- b. the feasibility of expediting the completion of TOcore; and
- c. a description of the tools that will be considered as part of the TOcore financial strategy, the development of which will be co-led by Corporate Finance, Financial Planning and City Planning and will include stakeholder consultation.

At its November 15, 2016 meeting Toronto and East York Community Council (TEYCC) directed staff to bring forward this report to the January meeting of TEYCC. Given the future financial implications of the TOcore financial strategy, staff are providing this report to the Executive Committee.

## RECOMMENDATIONS

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1. The Chief Planner and Executive Director, City Planning Division and the City Solicitor recommend that Executive Committee receive this report for information.

## FINANCIAL IMPACT

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Receipt of this report has no financial implications. Future expenditure and funding strategies which will form part of TOcore will have financial implications. These will be highlighted in future reports.

## DECISION HISTORY

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At its December 2016 meeting, City Council adopted a staff report entitled "TOcore: Planning Toronto's Downtown - Proposals Report - Secondary Plan Directions and Update." The report brought forward the proposed policy directions that will inform the development of a draft Downtown Secondary Plan, and contained updates on the Phase 2 consultations, population growth projections, and the infrastructure strategies. The staff report and the Proposals Report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE20.18>

At its December 2015 meeting, City Council adopted a staff report entitled "TOcore: Planning Toronto's Downtown – Phase 1 Summary Report and Phase 2 Directions." The report summarized the first 'taking stock' phase and provided an overview of the Study's directions. The report recommended the development of a Secondary Plan for the whole of the Downtown geography to be accompanied by several infrastructure-related strategies and assessments aimed at better aligning growth with the provision of infrastructure needed to support liveability. The report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE12.43>

At its May 2014 meeting, Toronto and East York Community Council considered a staff report entitled "Comprehensive to the Core: Planning Toronto's Downtown." This report launched this Study, now called TOcore: Planning Downtown. The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE32.47>

In addition to the staff report, a background report entitled, "Trends, Issues, Intensification – Downtown Toronto" was presented that provided background information and data on the Study building blocks. This background study can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2014/te/bgrrd/backgroundfile-69192.pdf>

## COMMENTS

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Downtown is the most prominent location for development activity in the City and contains the largest percentage of proposed development. Thirty-seven percent of the residential units and 45% of the non-residential gross floor area proposed in the entire City is accounted for Downtown. The population is projected to more than double from 200,000 in 2011 to a potential population of 475,000 by 2041.

The majority of development in Downtown Toronto is occurring on infill sites, and small sites surrounded by existing buildings, streets and open spaces. One development, on a single development site, may not generate the entire requirement for a new piece of infrastructure although cumulative development may have this impact. One of the challenges of TOcore is to determine how best to use the available tools as we "master plan in an infill context". Establishing a planning framework that requires coordination between multiple owners, on multiple sites, to provide the required infrastructure generated by developments is one of the key challenges.

The TOcore Secondary Plan, in conjunction with the implementing infrastructure strategies, will provide the geographic-specific planning framework to guide the prioritization of resources and investments within Downtown based on the needs identified through the study. The prioritization of resources will be manifest in the development of the capital plans of the implementing City Divisions.

This pattern of growth is evident in other areas of the City as well (Yonge-Eglinton, Mimico etc.) and the strategies developed for TOcore will be transferable elsewhere in the City.

## **Legislative and Planning Mechanisms to Manage Growth and Change**

The City of Toronto is empowered by the *Planning Act* to establish land use directions and controls to achieve the goals, objectives and policies outlined in its Official Plan. The City, in partnership with other orders of government and service providers, is responsible for providing transportation infrastructure, municipal servicing, utilities, community infrastructure and other supports for a liveable urban community. The City's 10-Year Capital Plan prioritizes projects that protect the health and safety of citizens, meet legislated requirements, and maintain the City's infrastructure in a state of good repair to support cost-effective service delivery in the context of aging infrastructure and a growing population.

### *Policy and Legislative Direction*

#### Planning Act

The *Planning Act* outlines the responsibilities of planning authorities and provides tools to coordinate the phasing of development and infrastructure investment. Section 2 of the *Planning Act* directs municipalities to have regard to, among other priorities: the supply, efficient use and conservation of energy and water; the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems; the orderly development of safe and healthy communities; the adequate provision and distribution of educational, health, social, cultural and recreational facilities; the adequate provision of employment opportunities; and the appropriate location of growth and development.

## Provincial Policy Statement

Policy 1.1.3.7 (b) of the 2014 PPS directs planning authorities to establish and implement phasing policies that will "enable the orderly progression of development within designated growth areas and the timely provision of the infrastructure and public service facilities required to meet current and projected needs." Pursuant to Section 3(5) of the Planning Act, any decision of Council must be consistent with the Provincial Policy Statement.

## Growth Plan for Greater Golden Horseshoe

Policy 3.2.1 of the Growth Plan states that, " infrastructure planning, land use planning, and infrastructure investment will be coordinated...infrastructure includes but is not limited to transit transportation corridors, water and wastewater systems, waste management systems and community infrastructure." Specifically for community infrastructure, Policies 3.2.6.2, 3.2.6.3 and 3.2.6.4 require that growth and the provision of infrastructure are linked to ensure the creation of complete communities through the creation of community infrastructure strategies.

## City of Toronto Act, 2006

Section 69 of the *City of Toronto Act*, 2006 directs the City to supply a building with a water or sewage public utility if the building lies along a supply line and if there is a sufficient supply of water for the building or sufficient capacity for handling sewage from the building. There is no similar provision for community infrastructure.

## Conditional Zoning

Section 113(2) of the *City of Toronto Act*, 2006 permits the City to employ conditional zoning. When the associated regulation is issued by the Province and provided the City has official plan policies in place respecting the use of this tool, the City could enact by-laws requiring an owner of land to which the by-law applied, to meet certain conditions as part of a development. The legislation also provides for agreements which can be registered on title to secure the condition.

## *Planning Tools (under the Planning Act)*

Under the *Planning Act*, the City has a number of tools to guide development and ensure that required physical and social infrastructure is provided as development occurs. The available tools can be very effective when used in master planned developments where one landowner is building a new complete community. Toronto has many examples of master planned areas including the St. Lawrence neighbourhood, Warden Woods, and Lawrence Heights. In these examples development is phased to ensure the provision of infrastructure is linked with the growth. It may be more difficult to match future infill growth, as occurs in the Downtown, with the associated infrastructure improvements.

The following are tools available under the *Planning Act* that can be used by the City to manage growth.

## Section 34(5) - Requirement for Services

This provision empowers municipalities to prohibit the use of land or the erection or use of buildings or structures unless municipal services are available to service the uses or buildings to be erected. A prohibition pursuant to Section 34(5) must be set out in the zoning by-law. It is generally included in site-specific by-laws and has been added as a general provision to Zoning By-law 569-2013. The result of this provision is to permit the City to withhold the issuance of a building permit unless municipal services as set out in the by-law are available.

## Section 36 - Holding Symbols

City Council can pass a by-law and append a hold or "H" to the by-law which spells out conditions that must be met before the "H" symbol is removed and the lands can be developed. Section 5.1.2 of the Official Plan contains policies directing that there may be instances where the intended use and zoning are known for lands but development should not take place until specific facilities are in place or conditions are met, including, for example, transportation or servicing improvements, parks and open space, recreational facilities and community services and facilities.

The specific conditions of a holding provision by-law are informed by a detailed review of planning and infrastructure issues. The work being completed through TOcore will result in this type of detailed review. A holding provision by-law can only be used when the principle of development has been clearly established and cannot be applied retroactively to approved applications. The condition for lifting the "H" must be clearly set-out in the zoning by-law. This approach has been routinely used in redevelopment areas such as the Railway Lands and the Waterfront.

## Section 28 - Community Improvement Plans

The Community Improvement provisions of the *Planning Act* give the City a range of tools to actively stimulate revitalization and address deficiencies in an area designated as a Community Improvement Project (CIP) Area. Plans would be prepared setting out the planning issues to be addressed (e.g. the adequacy of infrastructure) and provide direction on specific strategies to achieve targeted outcomes (e.g. public private partnerships).

As part of the TOcore study, there may be an opportunity to define a Community Improvement Project Area and identify the needs for that area.

## Section 38 - Interim Control By-laws

Section 38 of the *Planning Act* allows the use of an Interim Control By-law ("ICBL") to prohibit uses, which are already permitted by the existing zoning, for a one-year period with a second year as an option at Council's discretion. The intent of an ICBL is to provide the municipality with time to complete a review or study in respect of land-use planning policies in the municipality or a defined area when the existing zoning allows a land use that has now become a concern. An ICBL passed by City Council is

appealable to the Ontario Municipal Board. It is important to note that once an ICBL is put in place, the Act precludes another ICBL to be put in place within the same area for a period of 3 years.

## Section 47 - Minister Zoning Order

A Minister's zoning order can control the use of land, sets specific requirements for new development, and may also restrict certain types of development. A zoning order could potentially be used to control land use in any area of the province although they are rarely used where municipalities have existing zoning by-laws, unless they are protecting a provincial interest. It is at the discretion of the Minister of Municipal Affairs as to where, when and how to make a zoning order.

## Expediting the Completion of TOcore

TOcore is a comprehensive study, both in content and geography. Currently there is an integrated dedicated staff team working on TOcore comprised of a Project Manager, Senior Planners, Senior Urban Designers, and a Senior Transportation Planner. The targeted date to bring a draft Secondary Plan and the associated draft infrastructure to Toronto and East York Community Council is June 13, 2017. Final Infrastructure Strategies will be completed by the fall of 2017 and the final Secondary Plan (the statutory meeting) and financial strategies are targeted to be complete in early 2018. The consultation plan that will inform both the draft and final versions of the Secondary Plan includes public engagement and stakeholder consultation with a variety of groups that represent a wide variety of interests.

In addition, the adoption of the new Secondary Plan for Downtown will not simply add an additional layer of policy onto the study area. The new planning framework for Downtown will rationalize the policy framework and integrate it with infrastructure strategies. Given the amount of public engagement and stakeholder consultation that is required over the next year, the project's complexity, and the comprehensive nature and long-term horizon of the Plan, it is not feasible to expedite the work.

However, as the study has progressed a number of "quick starts" have been brought forward to address the emerging gaps in the planning framework. Three quick starts have flowed from the work of TOcore:

- the tower separation site and area-specific policy and zoning by-laws - passed at City Council in November;
- the initiation of the Official Plan Amendment and technical analysis for Rail Deck Park; and
- the launch of the King Street Visioning Study.

There are also numerous aligned initiatives that are both informing and being informed by TOcore that continue to progress. These are listed in Attachment 1.

## **Development of TOcore Enhanced Financial Strategies**

The development of the Financial Strategy for TOcore will be co-led by Corporate Finance, Financial Planning, and City Planning. The Financial Strategy will consider the overall timeline for the Downtown Secondary Plan (to 2041), the available planning tools and capital budgets of the participating City Divisions, and options for revenue generation including a dedicated levy system and locally generated development charges and park land levies. The Financial Strategy will be developed in consultation with key stakeholders.

### *Financing Tools*

#### Development Charges

Development charges (DCs) are imposed on land development and redevelopment projects to help pay for capital costs or infrastructure that is needed to service new development. In Toronto, DCs help pay for growth-related capital costs for the following municipal services: the Spadina subway extension; transit; roads and related infrastructure; water; sanitary sewers; storm water management; parks and recreation; libraries; subsidized housing; police; fire; emergency medical services; development-related studies; civic improvements; child care; health; and pedestrian infrastructure. DC revenues may be used to partially fund the growth-related share of eligible project costs and various projects throughout the Downtown.

It is important to note that DCs can only be used for the infrastructure linked to growth; they cannot be used to provide infrastructure for existing populations. This is key given the infill nature of the development occurring Downtown and the fact that any new infrastructure would be used not only by the "new" population generated by a specific development project, but would also be used by a portion of the existing population.

Although Toronto has historically adopted a city-wide charge, it may be appropriate to consider an area-specific DC in Downtown to support various city building initiatives within it. An analysis of the advantages and disadvantages of this approach in the context of the TOcore study will be undertaken.

#### Front-ending or Cost-sharing Agreements/Development Charge Credits

The Development Charges Act also provides for the creation of front-ending agreements to allow a landowner to "front-end" the costs of constructing infrastructure for municipal services and to recover those costs when other landowners develop lands that benefit from these services.

#### Sections 37 and 45(9) of the Planning Act

The City can pass a zoning by-law to grant a height and/or density increase for a particular project that is greater than the zoning by-law would otherwise permit in return for community benefits. Agreements securing community benefits will promote the city-building objectives of the Official Plan and can provide for the needs of the new residents, workers and local communities.

Section 37 community benefits are capital facilities and/or cash contributions toward capital facilities, above and beyond those that would otherwise be provided under the provisions of the Planning Act or the Development Charges Act. Servicing conditions may be included in a Section 37 Agreement as a legal convenience and may address what is required to provide adequate servicing and how the improvements will be paid. The scope of Section 37 Agreements is determined through negotiations and is limited in its ability to address broad capital needs.

Section 45(9) of the Act permits a minor variance approval to be subject to such terms and conditions as considered advisable provided it is directly related to the variance being granted. The City can require that an agreement be entered into to secure any conditions of a variance approved under Section 45.

### Section 42 of the Planning Act

Section 42 of the Planning Act provides municipalities with the tools to acquire new parkland as a condition for approving a development application. It provides for either the conveyance of land or a cash-in-lieu payment. Through development review, where the City determines that the size, shape or location of land proposed for parkland dedication is unsuitable for parks or public recreation purposes, Council may require payment of cash-in-lieu. This payment is based on the value of the land that would have otherwise been conveyed and is collected by the City at building permit issuance.

In accordance with Section 42, the Toronto Municipal Code requires that a higher “alternative rate” be applied for the calculation of cash-in-lieu dedications in parkland priority areas such as Downtown Toronto. The incremental revenue (i.e. above the base five percent dedication) collected through the alternative rate is allocated to the local area of the development. The payment of cash-in-lieu is capped based on the size of the development site. For sites less than one hectare in size, which represent the vast majority of sites in the Downtown, the maximum cash-in-lieu payment is ten percent of the value of the site, net of any conveyances for public road allowances.

The City is examining how its alternative rate policies can be enhanced to better address parkland needs in high growth areas, such as the Downtown. This review of the alternative rate policies will involve assessing the City's opportunity to better leverage growth-related revenues to fund new parkland. For example, the review has the potential to generate a series of location-specific alternative rate policies that may be tailored to the acquisition opportunities in parkland deficient areas of the City, with small site parcel fabric and high land values.

## Other Financial Tools and Models

Additional tools such as local improvement charges, philanthropy and conservancy models will also be considered where appropriate.

## **CONTACTS**

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## **SIGNATURES**

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City Planning Division

## **ATTACHMENTS**

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Attachment 1: Aligned Initiatives Summary

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Aligned Initiative	Proposal Report Chapter	Aligned Draft Direction	Status
Alternative parkland rate (S.42) dedication policy review	Parks and Public Realm	C29	Completion Q2 2017
Bathurst Quay Neighbourhood Plan	Various	Various	Completion in 2017
Bloor Corridor/Annex Block Planning Study	Various	Various	Completion in Q1 2017
Bloor Yorkville OPA Phase 1	Various	Various	Completion in 2017
City-wide Parkland Strategy	Parks and Public Realm	C27	Completion Q2 2018
College Street Study	Various	Various	Completion in Q1 2017
Complete Streets	Transportation	G1	Draft Guidelines complete
Curbside Management Study	Transportation	G22, G23	Completion in 2017
Davenport Triangle Review - Built Form	Building for Liveability	Various	Completion Q2 2018
Distillery District/Triangle Lands OPA	Various	Various	Completion in Q1 2017
Downtown Public Squares Review	Parks and Public Realm and Culture	C14, C15, I5	Completion Q2 2017
Growing Up: Planning for Families in Vertical Communities	Housing	F1	Draft Guidelines Q2 2017
Heritage Conservation District studies: - Garden District - Historic Yonge - King-Spadina - St. Lawrence - Kensington Market - Distillery District - Madison Avenue	Heritage		Various stages of approval/study
King-Spadina Secondary Plan Update	Various	Various	Completion in Q2 2017

<b>Aligned Initiative</b>	<b>Proposal Report Chapter</b>	<b>Aligned Draft Direction</b>	<b>Status</b>
Large Site Policy Review	Housing	F2	Ongoing in conjunction with emerging legislation on Inclusionary Zoning (Bill 7)
Lower Yonge Precinct Plan	Various	Various	Completed 2016
Lower Yonge Precinct Transportation EA	Various	Various	Completion in Q2 2017
More Moss Park	Rebalancing Parks and Public Realm and Enhancing Community Services and Facilities	Various	Feasibility Report Q2 2017
North Downtown Yonge Site and Area Specific Policy	Various	Various	Partially in-force, OMB hearing 2017
Outdoor Café Design Guidelines	Transportation	G2	Completion in Q1 2017
Parks and Recreation Facilities Master Plan	Community Services and Facilities	H3, H5, H6	Completion Q2 2017
Queen-River Secondary Plan	Various	Various	Completed 2016
Scadding Court Master Plan - Phase 2	Rebalancing Parks and Public Realm and Enhancing Community Services and Facilities	Various	Completion in 2017
Spadina Avenue Character Area	Various	Various	Completion in 2017
St. James Town Community Improvement Plan	Parks and Public Realm	Various	Completion in 2017
The Bentway	Parks and Public Realm	C12, C33, C35	Ongoing
Toronto Ravine Strategy	Parks and Public Realm	C4, C18	Completion in Q2 2017
TransformTO: Climate Action Plan	Energy	J4, J5, J7	Ongoing

<b>Aligned Initiative</b>	<b>Proposal Report Chapter</b>	<b>Aligned Draft Direction</b>	<b>Status</b>
Transit Studies: - Relief Line Assessment Study - Waterfront Transit Reset	Downtown Mobility	G13, G15 - G19	Various stages of approval/study
U of T Secondary Plan Review	Land Use, Scale, Economy	B15 and others	Completion in late-2017
Union Station Pedestrian Planning	Downtown Mobility	G2 and G20	Completion in 2017
Waterfront Sanitary Servicing Master Plan	Water		To be completed in early 2017
Wayfinding 360	Transportation	G4	Completion in Q2 2017