



REPORT FOR ACTION

Midtown in Focus Supplementary Report – City-owned Lands and Planning Tools

Date: July 19, 2018

To: City Council

From: Chief Planner and Executive Director, City Planning and City Solicitor

Wards: 16, 22, 25 and 26

IBMS No.: 17 254453 NNY 25 OZ

SUMMARY

At its meeting on July 5, 2018, Planning and Growth Management Committee (PGMC) concluded the Special Public Meeting pursuant to Section 26 of the *Planning Act* and adopted staff recommendations, with amendments, to amend the Official Plan for the Yonge-Eglinton area, direction for additional follow-on studies and work, and endorsement of the Midtown Community Services and Facilities Strategy and Parks and Public Realm Plan. The Official Plan Amendment includes a new, updated Secondary Plan for the area. At this meeting, PGMC also directed the Chief Planner and Executive Director, City Planning with the City Solicitor to report on:

- City-owned lands located within the Yonge-Eglinton Secondary Plan area for the purpose of identifying opportunities for the provision of parkland and other city-building opportunities; and
- Planning tools including any changes that may be required to the *Planning Act* to put a pause on development to enable the development of hard and soft infrastructure required to support both the existing and projected population of the Yonge-Eglinton Secondary Plan area.

This supplementary report summarizes the opportunities identified for certain City-owned lands for parkland and other city-building purposes as part of the Midtown in Focus initiative. The report also summarizes existing planning tools available to enable the development of hard and soft infrastructure and potential amendments to the *Planning Act* that could enable a pause on development.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning and City Solicitor recommends that:

1. City Council amend the Yonge-Eglinton Secondary Plan in Attachment 1 to the report (May 24, 2018) from the Chief Planner and Executive Director, City Planning as follows:
 - a. Replace Policy 9.1.1 with "Any redevelopment of City-owned lands will advance and/or include public priorities, including but not limited to, parkland, affordable housing, community service facilities and first responder stations, over and above any minimum requirements or as determined by Council."

FINANCIAL IMPACT

There are no financial implications resulting from this report.

DECISION HISTORY

At its June 7, 2018 meeting, Planning and Growth Management Committee (PGMC) adjourned the Special Public Meeting pursuant to Section 26 of the *Planning Act* and requested staff to host a further community consultation meeting specifically focussed on reducing building heights in certain Character Areas and increasing employment opportunities in areas with a *Mixed Use Areas "A"* and *"B"* designation on Map 21-4 of the Secondary Plan. PGMC also requested staff to report on potential amendments to the Secondary Plan as a result of the consultation meeting and the inclusion of height limits in geodetic metres. Staff were also directed to report on the appropriate use of holding provisions for the provision of infrastructure.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG30.4>

On June 26, 2018, City Council adopted amended confidential instructions to staff regarding the proposed sale of City-owned land at 20 Castlefield Avenue and 565 Duplex Avenue in the Yonge-Eglinton area.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC43.20>

At its July 5, 2018 meeting, PGMC resumed and concluded the Special Public Meeting pursuant to Section 26 of the *Planning Act* and adopted the staff reports entitled 'Midtown in Focus: Final Report' and 'Midtown in Focus Supplementary Report' with amendments. PGMC directed staff to report directly to Council on parkland and other city-building opportunities associated with City-owned lands in the Yonge-Eglinton area and planning tools to put a pause on development associated with the provision of infrastructure, including any changes that may be required to the Planning Act.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.7>

COMMENTS

City-owned Sites in the Yonge-Eglinton Area

The recommended Official Plan Amendment and related infrastructure plans and strategies address a number of City-owned sites in the area, providing direction related to parkland and city-building priorities for the sites in consultation with various divisions and agencies. Some sites are identified as City-owned Opportunities Sites on Map 21-8 of the recommended Secondary Plan. In addition, Policy 9.1.1 of the recommended Secondary Plan identifies that City-owned sites, as of the date of adoption of the Plan, will be utilized to address public priorities, including, but not limited to, parkland, affordable housing, community service facilities and first responder stations.

The City-owned sites directly addressed in the Midtown in Focus study are identified on Map 1 in Attachment 1 of this report. The Map also identifies existing and approved public parks and other City-owned sites, as well as Toronto Community Housing sites. There are a number of public rights-of-way capable of being utilized for park purposes that are also identified as City-owned Opportunity Sites on Map 21-8 of the recommended Secondary Plan. Other opportunities may also present themselves as the area continues to evolve.

City-owned Sites Addressed in the Midtown in Focus Study

Canada Square

The City owns a number of properties at the southwest quadrant of the Yonge-Eglinton intersection, collectively known as Canada Square. These properties include the former bus terminal lands fronting Eglinton Avenue West and the two existing office buildings. The 2180-2210 Yonge Street lands are held in title by the Toronto Transit Commission (TTC) with active ground leases in place. A report providing an update to the ground lease for the lands with the purpose of facilitating redevelopment of the lands was adopted by Council April 24, 2018.

<https://www.toronto.ca/legdocs/mmis/2018/ex/bgrd/backgroundfile-113805.pdf>

The Canada Square lands were the focus of the Yonge-Eglinton Centre Focused Review (Focused Review) which was completed in 2009. This study identified, among others, the conceptual location for a new park, new public street, new and expanded community facilities and updated land use and height permissions for the site. A small portion of the park was secured as part of an earlier redevelopment within the block. In 2015, Official Plan Amendment (OPA) 289 was adopted by Council which addressed the public realm in the area and identified a series of squares for each corner of the Yonge-Eglinton intersection, the largest of which is to be located within the Canada Square lands.

The recommended Secondary Plan incorporates relevant Official Plan policy from the Focused Review and the policies from OPA 289. It identifies the lands as a “Special Study Area” where a comprehensive study is required to address any requests to

amend height limits for the lands. Other major city-building opportunities for this site include the provision of affordable housing and maintaining and growing office uses.

Subway Trench and Davisville Yard

The open subway trench west of Yonge Street extends from Chaplin Crescent to Berwick Street for approximately 0.6 kilometres. The recommended Official Plan Amendment proposes to change the Official Plan land use designation on these lands from *Neighbourhoods* (north of Imperial Street) and *Mixed Use Areas* (south of Imperial Street) to *Parks and Open Space Areas - Parks*. A new, two-hectare signature linear park spine is envisioned over the subway trench that would connect Midtown north and south.

The Toronto Transit Commission (TTC) Davisville Yard is used to store, service and maintain subway cars that run on Line 1 (Yonge-University) and Line 4 (Sheppard). There have also been numerous studies over the years related to its redevelopment. The site was rezoned in 1978 to allow for a mix of uses over a decked yard. The lands are designated as *Mixed Use Areas*. The recommended Secondary Plan recognizes the potential of the Yard to grow Midtown's employment offering and enable a new signature, destination park at the terminus of Duplex Avenue and linking with the potential new linear park to the north. The size of the site also lends itself to address a number of additional public priorities such as affordable housing, community facilities and improved public realm and connections, while ensuring the critical transit functions are retained.

The Midtown in Focus: Final Report recommends undertaking feasibility reviews and studies for decking over the subway trench and the Davisville Yard. The study for the Yard will include a review of TTC facility requirements, engineering feasibility, land use and built form.

1900 Yonge Street

1900 Yonge Street, adjacent to the Davisville Yard, accommodates the TTC headquarters in the McBrien Building as well as entrances to Davisville Station and public space at the corner of Yonge Street and Chaplin Crescent. The recommended Secondary Plan permits a tall building (29 storeys) on the southern portion of the site. The recommended Secondary Plan requires a minimum percentage of office, institutional or cultural space in any new development. The site also incorporates part of the Yonge Street Squares Extension public realm move with an enhanced public square planned at the corner. Any residential development on the site could also include the provision of affordable housing.

140 Merton Street

140 Merton Street is a 0.3 hectare site with a heritage designated building, part of which has been leased to a community agency (SPRINT Senior Care) since 1998. The property was declared surplus in 2016 and turned over to CreateTO for further site planning and business case development in advance of the transfer of the lands.

City staff's direction for the site envisions a mixed-use, tall building of modest height (14 to 16 storeys) incorporating the heritage structure, an affordable housing component and a net gain of community agency space – reinforcing the established community service role of Merton Street and the need for additional community agency space identified in the Midtown Community Services and Facilities Strategy.

The recommended Secondary Plan includes requirements for the replacement of office or 15 per cent of the total gross floor area for office, institutional or cultural space on this segment of Merton Street which includes a number of existing office uses and community agencies that offer a range of services. Approximately 2,400 to 2,600m² of office, institutional and cultural uses are required. Additionally, the site is adjacent to the Merton Street Promenade Public Realm Move with opportunities for additional open space and a high-quality midblock connection through the site to complement the Public Realm Move and provide additional pedestrian permeability in the area.

275 Merton Street

275 Merton Street is located to the west of Mount Pleasant Road on the south side of Merton Street adjacent to the Kay Gardner Beltline Trail. The existing building on site accommodates Toronto Water offices. A portion of the site is identified as a Park Expansion Area on Map 21-8 of the recommended Secondary Plan area. The park space would provide an improved access and presence to the Beltline Trail. The recommended Secondary plan designates the site Mixed Use Area "C" and allows for a 12 storey building. Should the site be redeveloped, other public priorities for the site could include an affordable housing component and additional community space.

125 Burnaby Boulevard

The Toronto Parking Authority (TPA) operates a surface parking lot on the lands municipally known as 125 Burnaby Boulevard. The recommended Official Plan Amendment proposes to change the Official Plan land use designation on these lands from *Neighbourhoods* to *Parks and Open Space Areas - Parks*. The redesignation enables the future development of 0.4 hectare park that would address distribution gaps in the existing parkland network and serve the Eglinton Way commercial main street, Avenue Transit Station and surrounding neighbourhoods. Public parking could be accommodated below grade or in mixed-use developments in the area.

20 Castlefield Avenue and 565 Duplex Avenue

A surface parking lot is operated by the TPA on the lands municipally known as 20 Castlefield Avenue and 565 Duplex Avenue. The recommended Yonge-Eglinton Secondary Plan proposes to designate the properties *Neighbourhoods "A"*, consistent with the Official Plan which designates the properties *Neighbourhoods*. The *Neighbourhoods "A"* designation allows for low-rise residential intensification to contribute to a diversity of building and housing types in the area. Other local, low-rise institutional uses are also permitted, such as community facilities and schools, as well as parks and open spaces. The permitted building type for the site on Map 21-11 is a Midtown Low-rise building with a height limit that is not to exceed four storeys.

The TPA entered into a conditional agreement of purchase and sale for the lands. The proposed sale of the lands was addressed in a report from the City Solicitor at the June 26-29, 2018 City Council meeting. At that meeting, City Council adopted amended confidential instructions to staff regarding the proposed sale of City-owned land at 20 Castlefield Avenue and 565 Duplex Avenue in the Yonge-Eglinton area.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC43.20>

At the June 26-29, 2018 meeting, City Council directed that notice be given to the potential purchaser that the City did not approve the conditional Agreement of Purchase and Sale between the TPA and 2500 Yonge Street Limited ("Madison"). This notice has been given. At this same meeting, Council directed staff to take all appropriate steps to remove the "City-owned Opportunity Site" label from these lands on Map 21-8 in the Yonge Eglinton Secondary Plan. As the City owns these lands, City Council has ultimate control over any sale of all or part of the property and or any uses the property is put to including uses for public purposes. The final Bills to be submitted to Council for Official Plan Amendment No. 405 will amend Map 21-8 by removing the City-owned Opportunity Site label on these lands. Removal of the label would not prevent the site from being used for parkland.

Madison served a Notice of Arbitration on the City and the TPA raising issues it claimed were in dispute under the Agreement of Purchase and Sale. The City, the TPA and Madison appeared on a motion before the arbitrator on July 11, 2018 regarding the arbitrator's jurisdiction. The arbitrator released his decision and agreed with the City that he has no jurisdiction to compel the City to arbitrate the substantive issues raised by Madison in its Notice of Arbitration including compelling the City to transfer lands to Madison.

Other City-owned Sites

In addition to the sites described above, the City owns or has an interest in a number of other properties in Midtown, as identified on Map 1 in Attachment 1 of this report. These sites include Toronto Community Housing Corporation properties, libraries and emergency services stations. The Midtown in Focus study does not provide specific direction for these sites in the immediate term. The policies in the Plan, such as land use designations, building type and height limits would govern any redevelopment of the sites. Policy 9.1.1 of the recommended Secondary Plan would ensure that should these sites redevelop in the future, that public priorities would be included as part of any redevelopment.

Policy 9.1.1 of the Recommended Yonge-Eglinton Secondary Plan

Policy 9.1.1 of the recommended Secondary Plan identifies that City-owned sites will be utilized to address public priorities, including, but not limited to, parkland, affordable housing, community service facilities and first responder stations. This policy is recommended to be amended to clarify the intent of the policy. The intent of the policy is to ensure that public priorities over and above any minimum requirements would be secured as part of any redevelopment of City-owned sites in recognition of the various

public priorities required in the area (e.g. parkland and community service facility space). These public priorities could evolve over time and as such some flexibility is suggested for the policy.

Planning Tools to Enable a Pause on Development

The *Planning Act* sets out the land use planning system for Ontario. The Province recently amended the *Planning Act* with Bill 139, which is now in effect. During the Province's consultation process for Bill 139, the City made numerous submissions recommending ways to strengthen existing municipal planning tools. The Province addressed some of the City's submissions in the final version of Bill 139.

The Province continues to stress the importance of using all available planning tools to manage growth, including making better and more timely use of updated zoning as a means of controlling development. They introduced new policies in the Growth Plan related to updated zoning and place an emphasis on integrated planning to ensure the appropriate provision of infrastructure. The *Planning Act*, as amended by Bill 139, has two tools that allow for temporary controls on development. These tools are holding provisions and Interim Control By-laws.

Holding Provisions

Pursuant to Section 36 of the *Planning Act*, City Council can pass a holding provision by-law to permit development only after specified conditions are met (e.g., the provision of identified infrastructure). The by-law specifies the use to which the lands may be put in the future when the holding symbol is removed. A holding provision can only be applied to a Zoning By-law.

In order for the City to use holding provisions, the City's Official Plan must contain policies enabling the use of holding provisions. The recommended Secondary Plan identifies a number of matters where the City may use holding provisions, including the provision of infrastructure. An application can be made to remove the holding symbol and, if City Council refuses or fails to make a decision within 150 days from receipt of the application, only the applicant may appeal to the Local Planning Appeal Tribunal (LPAT) to seek to have the holding symbol removed.

Development applications currently under review will continue to be evaluated in accordance with standard practices and be informed by the outcomes of the infrastructure assessments, inclusive of consultation with the local school boards. The Infrastructure Implementation Strategies recommended to be undertaken in the staff report (May 24, 2018) from the Chief Planner and Executive Director, City Planning will also inform any use of holding provisions. Staff will consider the use of holding symbols for sites that do not currently have active applications as part of the recommended zoning review.

For more information on use of holding provisions, see Section 6 of the report Midtown in Focus Supplementary Report (June 26, 2018) from the Chief Planner and Executive Director, City Planning:

<https://www.toronto.ca/legdocs/mmis/2018/pg/bgrd/backgroundfile-117721.pdf>.

Interim Control By-laws

Section 38 of the *Planning Act* allows a municipality to use an Interim Control By-law (ICBL) to prohibit land uses for a one year period where council has directed a review or study of land use policies in the municipality or an defined area are undertaken. ICBLs can be extended by the municipality for up to an additional year. The effect of an ICBL is to prohibit the use of land, buildings or structures within the municipality or the defined area except for purposes that are otherwise permitted by the by-law. Bill 139 changed appeal rights associated with the ICBLs. An ICBL, when first passed, may not be appealed by any person or public body. A decision to extend an ICBL for a second year may be appealed within 60 days after the date of the passing of the by-law.

The ICBL is required to be associated with a land use review or study and is intended to provide the municipality with time to undertake the study or review. ICBLs are not intended to restrict development to provide time to build infrastructure or to otherwise be used as a control on built form. Where the ICBL has expired and a municipality has not adopted updated zoning, the previous zoning will again be in force. In addition, City Council is prohibited from using an ICBL for the same area for another 3 years.

Potential Changes to the Planning Act

To permit a "pause" on development in an area in order for adequate infrastructure to be constructed and available, additional tools may be needed to be included in the *Planning Act*. A request would need to be made to the Province for such additional tools and could include amending the *Planning Act* to:

- enable municipalities to make decisions on rezoning applications that cannot be appealed in areas identified by the municipality as having exceeded provincial density targets and where a study or studies have been completed that demonstrate the need for significant investment in infrastructure to support continued intensification; or
- extend the time period during which an ICBL may be in force and allow the use of ICBLs in association with infrastructure studies and the provision of the requisite infrastructure.

In addition to potential amendments to the *Planning Act*, the City could explore asking the Province to issue regulations for the purpose of facilitating "zoning with conditions" in Midtown pursuant to subsections 113(2) and 113(3) of the *City of Toronto Act*.

Further and more extensive review of potential changes to the *Planning Act* is required to more comprehensively respond to this issue.

CONTACT

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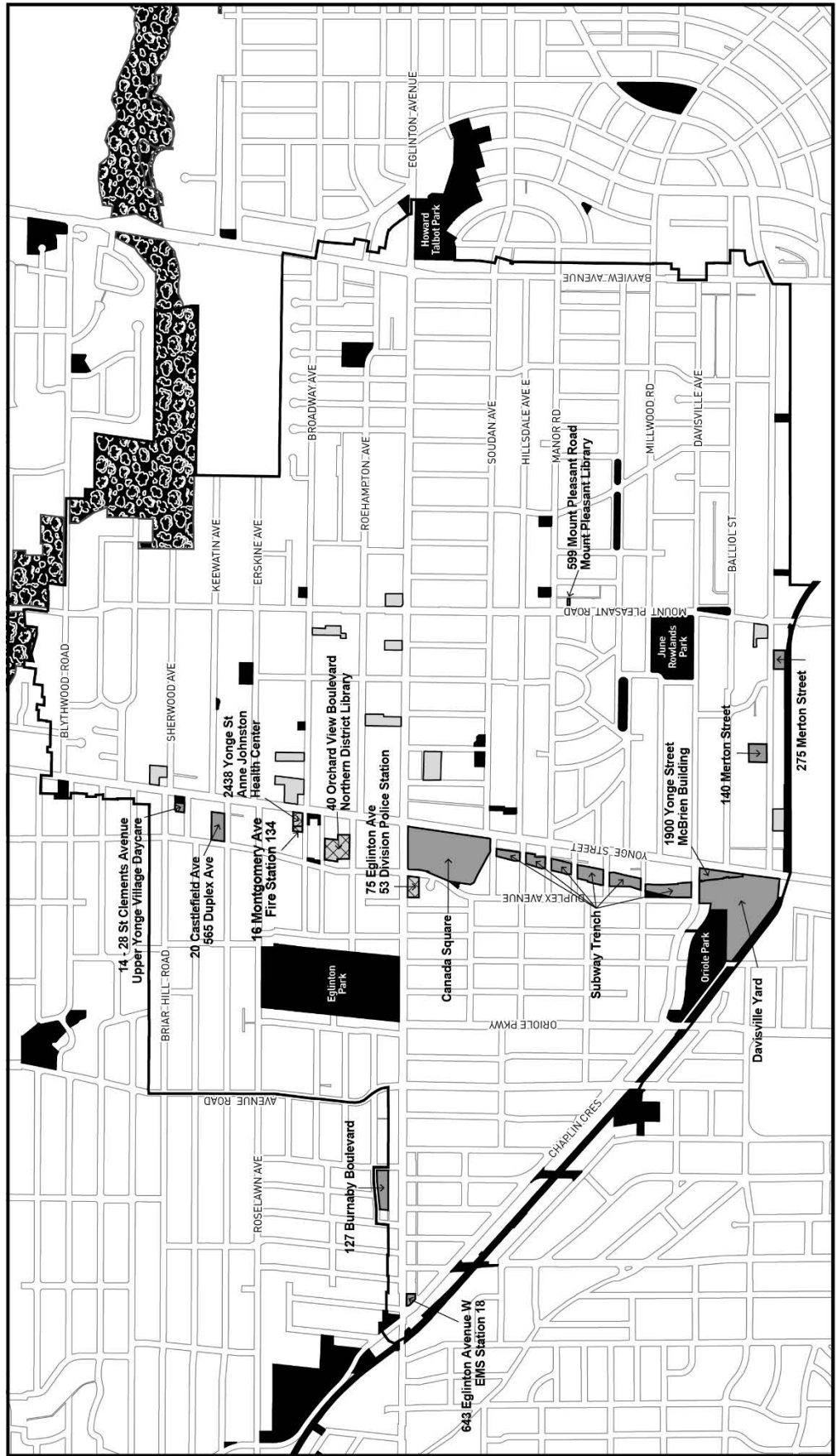
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ATTACHMENTS

Attachment 1: Map of City-owned Sites in the Yonge-Eglinton area

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City -Owned Sites



Not to Scale ↗

- City-Owned Sites addressed in Midtown in Focus
- Existing/Approved Public Parks
- Ravines/Natural Areas
- Other City-Owned Sites
- TCHC Properties

July 11, 2018