

## **Temporary Use Zoning By-law for Public Spaces on Private Property - Wexford Pilot Project**

**Date:** March 14, 2024

**To:** Scarborough Community Council

**From:** Director, Zoning, and Secretary-Treasurer, Committee of Adjustment and Director, Community Planning, Scarborough District

**Wards:** 21 - Scarborough Centre

### **SUMMARY**

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PlazaPOPS, a not-for-profit organization, supports the transformation of parking lots and other under-utilized spaces into free, safe and accessible gathering places for the community and are proposing several public spaces on both public and private property in the Wexford Heights Business Improvement Area (BIA). However, Zoning By-law 569-2013 does not permit the reduction of lawfully existing parking spaces to accommodate these public spaces.

This report recommends a temporary use by-law pursuant to Section 39 of the *Planning Act* for three years to permit public spaces to occupy parking spaces or drive aisles leading directly to those parking spaces adjacent to commercial uses in the Wexford Heights Business Improvement Area (BIA). This will support planned public spaces to be installed and maintained in Wexford by plazaPOPS, a not-for-profit organization.

The proposed temporary use by-law will apply to all lots in the Commercial Residential (CR) Zone abutting Lawrence Avenue East between Victoria Park Avenue and Canlish Road. The by-law will also limit the size of these public spaces to 400 square metres per lot and permit entertainment such as performance, music or dancing, subject to a maximum size of 10% of the lot area and a minimum distance requirement of at least 10 metres from the Residential or Residential Apartment Zone categories.

Enabling public spaces on private property creates opportunities to support and animate the public realm, contribute to complete communities by providing places for rest, recreation and socialization, revitalize commercial main streets, and to be an asset for local businesses. Enacting a temporary use by-law will provide temporary permission for public spaces in Wexford as a pilot project, where staff can monitor the impacts of these spaces and consider potential amendments to zoning regulations on a city-wide basis.

The proposed temporary use by-law is consistent with the Provincial Policy Statement (2020) and conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe and the Official Plan.

## **RECOMMENDATIONS**

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The Director, Zoning and Secretary-Treasurer, Committee of Adjustment and Director, Community Planning, Scarborough District, recommends that:

1. City Council enact the temporary use zoning by-law amendment with respect to temporary public spaces substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 1 to this report.
2. City Council direct the Interim Chief Planner and Executive Director, City Planning, to report back to the Planning and Housing Committee prior to the expiration of the temporary use zoning by-law amendment on potential permanent city-wide modifications of zoning regulations for public spaces on private property.
3. City Council direct the City Solicitor to make such stylistic and technical changes to the temporary use zoning by-law amendment as may be required.
4. City Council direct the City Solicitor and appropriate staff to attend and support the temporary use by-law in its current form, should it be appealed to the Ontario Land Tribunal within the statutory timeframe of the *Planning Act*.

## **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years. The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

## **EQUITY IMPACT STATEMENT**

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The city is home to many equity-deserving groups including Indigenous Peoples, women, immigrants and refugees, racialized communities, persons with disabilities, LGBTQ2S communities, youth, persons with low income and undocumented Torontonians. Each equity-deserving group faces barriers that prevent them from fully contributing to and participating in the social, cultural, economic and political life of the city and from accessing the benefits that are available to others.

The recommendations of this report may have a positive impact on persons with low income as these public spaces do not require a fee to enter them or any purchase of goods. Poverty is also gendered and racialized: Census data show that recent

immigrants, Indigenous people, female lone parent families, members of racialized groups, people with disabilities, and immigrants have higher rates of poverty than the general Toronto population. Racialized individuals and families are 1.5 to 3 times more likely to live in poverty.

The recommendations of this report may have a positive impact on people who are experiencing social isolation, as public spaces provide opportunities for members of a community to meet and interact with each other. A lack of social networks and supports as well as a lack of a sense of identity and belonging are particular barriers for immigrants, refugees and senior citizens. Over one quarter of all seniors in the city live alone. Women are almost twice as likely to live alone than men.

## **DECISION HISTORY**

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At its meeting on October 1, 2023, City Council adopted Item EC24.3, and authorized the General Manager, Economic Development and Culture or the Deputy City Manager, Community and Social Services to negotiate and execute, on behalf of the City of Toronto, funding, partnership, training and/or service agreements with plazaPOPS, among other groups, related to Main Street Recovery and Rebuild Initiative programs. <https://secure.toronto.ca/council/agenda-item.do?item=2021.EC24.3>

At its meeting on November 28, 2023, City Council adopted Item PH7.2 with regard to expanded permissions for outdoor patios as part of the Review of Zoning Regulations for Outdoor Patios on Private Property, which included recommendations based on the enhancement of the City's public realm. <https://secure.toronto.ca/council/agenda-item.do?item=2023.PH7.2>

## **RECOMMENDED TEMPORARY USE BY-LAW**

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Staff recommend the enactment of a temporary use zoning by-law to permit public spaces to occupy lawfully existing parking spaces or drive aisles leading directly to those parking spaces, on all lots abutting Lawrence Avenue East between Victoria Park Avenue and Canlish Road in the Commercial Residential (CR) Zone. The temporary use zoning by-law will be in-effect for three years from the date the By-law is in full force and effect.

The temporary permissions will support PlazaPOPS, a not-for-profit organization that supports the transformation of parking lots and other under-utilized spaces into free, safe and accessible gathering places where already existing vibrant culture, community and businesses can continue to thrive. The recommended temporary use by-law would allow for the implementation of temporary public spaces on parking spaces adjacent to low-rise commercial plazas in the Wexford Heights BIA supporting the intended PlazaPOPS programming for the Summer/Fall of 2024.

## **POLICY AND PLANNING FRAMEWORK**

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### **Planning Act**

Section 2 of the *Planning Act* establishes matters of provincial interest to which the City shall have regard, including: The orderly development of safe and healthy communities; the accessibility for persons with disabilities to all facilities, services and matters to which the *Planning Act* applies; the adequate provision and distribution of educational, health, social, cultural and recreational facilities; and the promotion of built form that is well designed, encourages a sense of place and provides for public spaces that are high quality, safe, accessible, attractive and vibrant.

Enabling public spaces on private property can contribute to complete communities by providing open spaces that are publicly accessible.

### **Provincial Policy Statement (2020)**

At the time of writing this report, The Provincial Policy Statement (2020) ("PPS" herein) is in effect and provides policy provincial-wide direction on matters of provincial interest on land use planning and development to promote strong healthy communities, wise use and management of resources, and the protection of public health and safety.

Section 1 of the PPS: "Building Strong Healthy Communities" establishes policy for healthy, liveable and safe communities by accommodating recreation uses, parks and open spaces to meet the long-term needs of a community. It also establishes policies to promote healthy and active communities by planning and providing for public spaces and facilities to be safe, to meet the needs of pedestrians, to foster social interaction and to facilitate active transportation and community connectivity. Healthy, active and safe communities should also be promoted by planning and providing for a full range and equitable distribution of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open spaces areas, trails and linkages, and, where practical, water-based resources.

Enabling public spaces on private property can contribute to complete communities by providing open spaces that are publicly accessible.

The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these provincial policy documents into a single policy instrument, the Provincial Planning Statement. The outcome and policy implications of this initiative will not be known until the Ministry introduces the single policy instrument.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)**

The Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan" herein) provides a strategic policy framework for managing growth and development while supporting economic prosperity, protecting the environment, and helping communities achieve a high quality of life within the Greater Golden Horseshoe, of which the City of Toronto forms an integral part.

The Growth Plan describes "complete communities" as "places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities.

Section 2.2.1 of the Growth Plan describes the application of the Plan's policies to support the achievement of complete communities that improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes. Applying the policies of the Growth Plan also supports the achievement of complete communities by expanding convenient access to an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities as well as providing for a more compact built form and a vibrant public realm, including public open spaces.

The Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform to the Growth Plan.

Enabling public spaces on private property can contribute to complete communities by providing spaces for people of all ages, abilities, and incomes to enjoy.

At the time of drafting this report, the Growth Plan (2020) remains as a relevant provincial plan, to which it is necessary to have Official Plan policies and Zoning By-law regulations conform. The Ministry of Municipal Affairs and Housing has introduced a proposed change to the Growth Plan (2020) and the Provincial Policy Statement (2020), to combine these provincial policy documents into a single policy instrument, the Provincial Planning Statement.

## **Official Plan**

The Official Plan establishes the urban structure of the city, policies to guide decision-making based on the Plan's goals for the human, built, economic and natural environments, and establishes land use designations and implementation methods. The plan is founded on a growth management strategy which steers growth and change to some parts of the city, while generally protecting others from more significant change.

Chapter Two lays out the structure of growth in the city into the *Downtown, Centres, Avenues and Employment Areas*, as shown on Map 2 - Urban Structure.

The lands to which the proposed temporary use zoning by-law to permit public space installations in the Wexford Heights Business Improvement Area are designated *Mixed Use Areas* in the Official Plan. Section 4.5.1 states that *Mixed Use Areas* are made up of a broad range of commercial uses, among other uses, with which public spaces are also compatible.

Section 3.1.1.2 of the Official Plan states goals and objectives of the City's public realm including: fostering complete, well-connected, walkable communities and employment areas that meet the daily needs of people and support a mix of activities; provide a comfortable, attractive, vibrant, safe and accessible setting for civic life and daily social interaction; contribute to the identity and physical character of the City and its neighbourhoods; provide opportunities for passive and active recreation; and contribute to the City's climate resilience.

Enabling public spaces on private property can enhance the City's public realm by providing comfortable and vibrant places for relaxation and social interaction. Where public spaces occupy parking spaces, they also have an opportunity to increase the City's climate resilience by reducing its carbon footprint by using space in a different way than vehicle parking, including planting native plants and other soft landscaping components.

Section 3.1.1.20 of the Official Plan states that Privately Owned Publicly-Accessible Spaces (POPS) are spaces that contribute to the public realm but remain privately owned and maintained, and that POPS do not replace the need for new public parks and open spaces.

## **Zoning By-laws**

City-wide Zoning By-law 569-2013 applies to most of the City of Toronto. The lands to which the proposed temporary use zoning by-law will apply are in the Commercial Residential (CR) Zone and are entirely within the Zoning By-law 569-2013. An amendment to the former general by-law (Wexford Community By-law No. 9511) is not required.

Regulation 1.40.40(2) and (3) of Zoning By-law 569-2013 states that the purpose of the Commercial Residential (CR) Zone is to permit uses associated with the *Mixed Use Areas* designation in the Official Plan, including retail, service, commercial, office and residential uses, often in mixed use buildings. "Place of Assembly" is listed as a permitted use subject to conditions in the CR Zone.

Zoning By-law 569-2013 defines *Place of Assembly* as ". . . premises used for social, cultural, educational or trade events, such as a banquet hall, convention or trade centre, or a hall used for bingo or other lottery events licensed by the City of Toronto for charitable purposes." The proposed public spaces are captured within this defined term of *Place of Assembly*.

Regulation 200.5.10.11(1)(C) states that the number of lawful parking spaces for a lawfully existing building may not be reduced. This prevents any use, including outdoor places of assembly, to be installed over a parking space.

## COMMENTS

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### PlazaPOPS

PlazaPOPS is a not-for-profit organization that supports the transformation of parking lots and other under-utilized spaces, into free, safe and accessible gathering places where already existing vibrant culture, community and business can continue to thrive.

Past installations have largely been located along suburban main streets. PlazaPOPS partners with local community groups, landowners and businesses, to support and celebrate the community connections and vital small businesses that exist in these areas. Past installations have also resulted in the creation of temporary part-time jobs for the maintenance of the public spaces, or apprenticeship training during the construction of the structures for the public spaces. PlazaPOPS is partnered with the City of Toronto as part of the Main Street Recovery and Rebuild Initiative.

PlazaPOPS is proposing temporary public spaces on parking spaces adjacent to low-rise commercial plazas in the Wexford Heights Business Improvement Area. PlazaPOPS requires the proposed temporary use by-law to implement their full intended programming for the Summer/Fall of 2024.

### Main Street Recovery and Rebuild Initiative

To assist small businesses recovering from the impacts of the COVID-19 pandemic, the City of Toronto has partnered with the Government of Canada, through the Federal Economic Development Agency of Southern Ontario (Fed Dev Ontario), to deliver a suite of supports to businesses, BIAs and not-for-profits under the banner of the Toronto Main Street and Rebuild Initiative (MRRI). The City is receiving \$18 million in funding for MRRI programs from Fed Dev Ontario between July 2022 and March 2025. MRRI funding of \$1 million is supporting up to 15 plazaPOPS installations.

One of the objectives of this program includes advancing small business and retail growth, BIA formation, and community development in lower income suburban neighbourhoods. Staff in the City Planning Division have engaged with staff in the Business Growth Services Section of the Economic Development and Culture Division during the initiation of this Review and will continue to work collaboratively with them during implementation of the pilot project including monitoring impacts of the program.

More information on the Toronto MRRI can be found from the initiative website below:

<https://www.toronto.ca/business-economy/business-operation-growth/business-incentives/toronto-main-street-recovery-and-rebuild-initiative/>

### PlazaPOV: Strip Plaza Study

In a related initiative, City Planning staff are also studying commercial strip plazas (or "strip malls") across the City to understand their role serving local communities with considerations for economic, social and cultural factors, as well as the impacts of their loss through redevelopment. The PlazaPOV Study is exploring four key areas: 1) the relationship between strip plazas and the functions they serve for both local and ethnic

communities, 2) how affordable space in strip plazas incubate and support small business and contribute to a diverse economy, 3) how the loss of affordable commercial space can be mitigated to avoid displacement through redevelopment, and 4) how the physical environment of strip plazas can be improved or retrofitted to contribute to a vibrant public realm and support their role as social hubs.

More information on the PlazaPOV Strip Plaza Study can be obtained from the study website:

<https://www.toronto.ca/city-government/planning-development/planning-studies-initiatives/strip-plaza-study/>

## **Public Spaces on Private Property**

Public spaces on private property are spaces that are fully accessible to the public and usually do not require a fee or the purchase of any products to enter the space. They are often composed of seating, tables, shade structures, play structures, landscaping, soft landscaping or public art. These spaces are often available to be accessed on 24/7 basis although some public spaces have limited hours. The defined land use in Zoning By-law 569-2013 that best captures this function as a principal use is *Place of Assembly*.

Public spaces on private property may be secured as part of new developments or as spaces that are temporarily established in parking spaces adjacent to a commercial use (e.g., eating establishment) or other under-utilized spaces. Staff will monitor the implementation of the proposed temporary use by-law in the Wexford Heights BIA and determine if it is appropriate expand these permissions on a city-wide basis.

## **Preliminary Issues Identification**

Zoning By-law 569-2013 does not permit the reduction of lawfully existing parking spaces, except for an outdoor patio combined with a business. Parking regulations have changed for new developments so that parking is generally not required (except for residential visitor and accessible parking). However, existing developments, like the many existing low-rise commercial plazas in the Wexford Heights BIA, are required to maintain their lawfully existing parking spaces.

## **Public Consultation**

A virtual community consultation meeting for the proposed temporary use zoning by-law to permit public spaces on private property adjacent to commercial uses in the Wexford Height BIA was held on February 13, 2024. Residents from the Wexford and Maryvale neighbourhoods, Members of the Wexford Heights BIA, business owners, public space organizations, and academic researchers on public space were invited to attend. 13 people attended the consultation and staff from the Ward Councillor's office were also in attendance.

Participants expressed other commercial areas of the City, beyond the proposed Wexford Height pilot project area, where public spaces on private property may be



beneficial. Participants also stated their overall support for either past or proposed plazaPOPS public space installations.

Participants had questions with regards to which specific measures will be used to identify whether the pilot is successful, if there would be fees associated with the project, and who is responsible for maintaining the public spaces.

## **Monitoring Impacts During the Pilot Project**

City Staff have identified, on a preliminary basis, the following areas as the basis for determining impacts of the pilot project:

- Qualitative experiences and perceptions;
- Contribution to the public realm;
- Number of jobs created to implement and maintain the public spaces;
- Skills developed (such as apprenticeship training);
- Public feedback, in the form of either compliments or complaints;
- Data or research from the Plaza Point of View (POV): Strip Plaza Study; and
- Data or research, including research from previous years, from plazaPOPS.

Additional monitoring criteria may be identified.

## **CONCLUSION**

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Public spaces are spaces that are fully accessible to the public and usually do not require a fee or the purchase of any products to enter the space. They can support and animate the public realm, contribute to complete communities by providing places for rest, recreation and socialization, revitalize commercial main streets and be an asset for local businesses.

City staff have identified that the city-wide zoning by-law does not permit these public spaces to occupy (or reduce) the number of lawfully existing parking spaces. This is a regulatory barrier to their implementation, though potentially not impactful to the function of the local businesses to which the parking belongs. Therefore, as a pilot project, staff propose a temporary use zoning by-law for three years to permit proposed public spaces in the Commercial Residential (CR) Zone on lands abutting Lawrence Avenue East in the Wexford Heights BIA.

The proposed pilot project will provide an area for City staff to monitor the impacts of these public spaces to the surrounding community as part of a city-wide review. Staff will report back to the Planning and Housing Committee prior to the expiration of the temporary use by-law with final recommendations for any city-wide amendments to zoning regulations.

## **CONTACT**

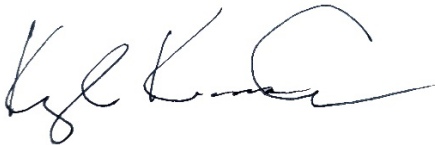
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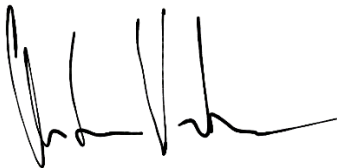
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## **SIGNATURE**

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## **ATTACHMENTS**

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Attachment 1 - Proposed Temporary Use Zoning By-law for Public Spaces on Private Property in the Wexford Business Improvement Area

## **Attachment 1 - Proposed Temporary Use Zoning By-law for Public Spaces on Private Property in the Wexford Business Improvement Area**

(Attached separately as a PDF)