

Transit-Oriented Communities Update on Downtown Proposals and Affordable Housing

Date: January 13, 2025

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

Confidential Attachment 1 to this report is about criteria to be applied to negotiations carried on or to be carried on by or on behalf of the City of Toronto and the Province as represented by Infrastructure Ontario.

Confidential Attachment 2 to this report contains commercial information supplied in confidence to the City of Toronto which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with contractual or other negotiations of the Province as represented by Infrastructure Ontario with potential development partners at the King Bathurst Transit Oriented Community.

SUMMARY

This report provides an update on the Province's Ontario Line South Transit Oriented Communities (TOC) proposals at Exhibition, Corktown, King-Bathurst and Queen-Spadina and seeks authority from City Council for the City Manager to conclude negotiations on, and enter into, a site-specific TOC Memorandum of Understanding (MOU) for Queen-Spadina generally in accordance with updated terms. (City staff will seek updated authorities related to the updated Exhibition and Corktown TOCs in late Q1/Q2 2025.) Changes in the Toronto housing and office markets have led Infrastructure Ontario to revise the TOC proposals at these sites that were previously presented to City Council in April 2022, requiring changes to MOU terms.

The report outlines the Province's confirmed approach to managing tenant displacement and rental housing replacement in TOCs. The report notes that the Provincial approach does not comply with policies of the Official Plan. City staff have communicated this to the Province and have advocated for the Province to comply with the City's policy.

Additionally, the report responds to direction from City Council to assess the feasibility of achieving 20% of units in TOC projects as affordable housing. The Province's primary objective of the TOC program is to generate revenue for the Province to offset the capital cost of new major transit projects.

The Province's TOC program is not part of an affordable housing program. Nevertheless, based on the terms of the Value Allocation Framework agreement between the City and the Province, the Province will make a value contribution from each TOC site that will support some affordable housing. These contributions are not available to typical private developments. City staff continue to explore options with the Province on how to leverage these contributions to achieve better community benefits outcomes, including affordable housing. Among the options are to pool contributions from several TOCs to achieve better outcomes where costs are lower, or to provide financial assistance at certain TOC projects to position them to qualify for City incentive programs.

The Province retains sole authority to allocate TOC value contributions. Further, the Value Allocation Framework specifies that the Provincial contribution would be "up to" 8% of the value of the TOC. While Infrastructure Ontario consults with the City on how best to do so, the Province retains discretion on how it will use the funds. Likewise, the value contributions will not be provided to the City but rather will be deployed directly from the Province to the provider of the community benefit(s) funded by the contributions. Finally, with language of "up to" 8% as the amount of Provincial value contribution, the City has no certainty what the actual contribution will be, which could potentially be zero percent.

City Planning staff retained specialized consulting services to undertake an analysis of several known TOC proposals to understand what might be required to reach 20% affordable housing. Results of the assessment indicate that achieving 20% affordable housing in TOCs is not feasible without making significant changes to the development proposals, discounting of land value and/or providing additional direct funding.

The Housing Secretariat has been consulted in the preparation of this report.

RECOMMENDATIONS

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

1. City Council direct the City Manager to seek a firm commitment from the Province that the Additional Community Benefit, as defined through the Transit Oriented Community Value Allocation Framework, will be 8% of the value of a Transit Oriented Community rather than "up to 8%".
2. City Council authorize the City Manager or designate to negotiate and execute a Memorandum of Understanding for the Queen-Spadina Transit Oriented Community proposals generally in accordance with the terms and conditions set out in Confidential

Attachment 1, and on such other terms as may be satisfactory to the City Manager and in a form acceptable to the City Solicitor.

3. City Council direct that Confidential Attachment 1 remain confidential at this time as it pertains to criteria to be applied to negotiations carried on by or on behalf of the City of Toronto and be made public following the execution of the site specific Transit Oriented Community Memorandum of Understanding for the Queen-Spadina Transit Oriented Community.

4. City Council direct that Confidential Attachment 2 remain confidential at this time as it pertains to contains commercial information supplied in confidence to the City of Toronto and be made public upon confirmation to the Deputy City Manager, Development and Growth from the Province that the King Bathurst Transit Oriented Community Letter from the Province is no longer required to remain confidential.

5. City Council direct the Chief Planner and Executive Director, City Planning, in consultation with the Executive Director, Housing Secretariat and the Deputy City Manager, Development and Growth, to work with the Province to maximize the affordable housing outcome that can be realized by leveraging the Provincial value contribution from Transit Oriented Community developments to assist in qualifying projects with best cost per door results for City affordable housing incentive programs.

6. City Council direct Deputy City Manager, Development and Growth, the Chief Planner and Executive Director, City Planning, and the Executive Director, Development Review to advise future Transit Oriented Community development partners of the City's affordable housing incentive programs in the context of future applications for development of the Transit Oriented Community sites.

7. City Council direct the Chief Planner and Executive Director, City Planning, in collaboration with the Executive Director, Housing Secretariat and the Deputy City Manager, Development and Growth, to continue to assess opportunities to enhance affordable housing outcomes for all Transit Oriented Community proposals as housing programs continue to evolve.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

The Chief Financial Officer and Treasurer have reviewed this report and agree with the financial impact information.

DECISION HISTORY

On April 6th, 2022 Council adopted with amendments EX31.2 Ontario Line Transit Oriented Communities report, which directed staff to finalize negotiations and execute

an agreement on a Value Allocation Framework for the Province's TOC program and to enter into a series of Memorandums of Understanding with the Province at each Ontario Line station to document City and Provincial commitments. Further direction was provided to engage with the Province to review Minister's Zoning Orders that would authorize TOC developments to ensure accuracy, correct interpretation of zoning parameters, and to advance City interests related to site plan review. City Council further directed to conclude negotiations on affordable housing at each TOC site and enter into agreements as required, and to make recommendations on the planning requirements necessary to include, expand or improve the quantity of affordable housing on TOC lands.

Link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.EX31.2>

On April 27, 2023 Planning and Housing Committee adopted PH3.23 Affordable Housing in Transit Oriented Communities, which directed Staff report back to the Committee “with details on the percentage of affordable housing currently proposed at each Transit Oriented Community (TOC), and the number of affordable units that would be created if each proposal had 20 percent affordable units or the Housing Now standard of 30 percent affordable units.”

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH3.23>

On July 5, 2023, Planning and Housing Committee adopted PH5.4 - Affordable Housing in Transit Oriented Communities - Update. The Committee received the item for information only.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH5.4>

On May 9, 2024, Planning and Housing Committee adopted PH12.5 - Transit-Oriented Communities Status Update. The item directs City Planning to report on additional financial analysis, resources and staffing required to advance City objectives related to the delivery of affordable housing on Transit-Oriented Communities sites.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PH12.5>

On November 13, 2024, Council adopted EX18.2 - Build More Homes: Expanding Incentives for Purpose Built Rental Housing which establishes a New Purpose-Built Rental Homes Incentive Stream under the City's Rental Supply Housing Program to support the development of rental homes. The report seeks financial support from the provincial and federal governments for rebates and incentives to deliver affordable rental homes that meet the requirement of the Rental Housing Supply Program.

<https://www.toronto.ca/legdocs/mmis/2024/ex/bgrd/backgroundfile-249853.pdf>

COMMENTS

Update on Downtown TOC Proposals

The Deputy City Manager, Infrastructure and Development Services reported to Council in April 2022 on TOCs at Exhibition, Corktown, King-Bathurst and Queen-Spadina stations on the Ontario Line, seeking authority to conclude site-specific MOUs. The Province issued Minister's Zoning Orders on April 9, 2022, in relation to each of these sites.

EX31.2 contained draft terms of site specific MOUs and sought City Council authority for the City Manager to execute the MOUs consistent with the terms. Since 2022, market conditions have changed significantly and the Province has evolved its thinking regarding the nature of the TOC developments and a number of MOU terms. The Province is changing its approach to the development of three of these TOC sites, and as such, modifications to the terms previously presented to Council are required. The proposed modified terms for Queen-Spadina TOC are attached as Confidential Attachment 1.

The Province has informed the City that current market conditions do not support the development of significant office GFA in these TOCs. The City's Office Space Needs Study, reported through [PH17.13](#), corroborates that current City-wide office demand is well below office supply and in many cases represents a burden to feasibility for development that includes office space. The Exhibition and Corktown TOCs are affected which will result in revised proposals that may include increases to residential density and reduction or elimination of office components in the proposals.

At Queen-Spadina, early thinking by Infrastructure Ontario to require one tower to be developed as purpose built rental has since changed, although TOC developers will still be free to pursue rental developments at their discretion. No changes are anticipated to the King-Bathurst TOC. Changes at Exhibition and Corktown can be expected to require amendments to the in-force MZOs.

The Province wishes to conclude and execute the downtown TOC MOUs in Q1 2025. This report seeks authority from City Council for the City Manager to execute the Queen-Spading MOU based on the updated terms.

At King Bathurst, the Province went out to market to select a development partner. The City and Province were not able to conclude terms for an MOU for this site prior to this as several terms had changed since the terms were approved by City Council in April 2022. As a result, the Province chose to conclude the terms with the City through a formal letter to the City outlining the commitments as discussed to that point. The letter from the Province related to King Bathurst is attached as Confidential Attachment 2.

Going forward, City staff hope to avoid this unilateral approach by the Province to concluding TOC negotiations. Through an MOU, the City has a better opportunity to confirm key commitments from the Province and to secure interests with the future TOC development partner.

TOC proposals received and reviewed by the City in late 2023 and reported on through PH12.5 continue to progress, although on differing timelines. TOCs at Gerrard Carlaw South, Eastern and Thorncliffe Park have been revised and the second round of public consultation has been completed. The Province continues to work with City staff to address outstanding comments and will also initiate work on the authorizing zoning as well as the site specific MOUs. The TOCs at Pape, Cosburn and Lawrence-McCowan are each working through additional complexities which has delayed their progress. Revised concepts are not expected until spring of 2025 for these proposals, at which time the Province will host a second round of public engagement for these projects.

City staff thus expect to report to Council at least two additional times in 2025 to provide final positions on these TOCs.

At Gerrard Carlaw North the City and Province are working through a draft MZO and MOU, both of which are expected to be finalized in early 2025.

Tenant Displacement and Rental Replacement

The Province has not agreed to follow the City's approach to tenant displacement and rental replacement. Rather it has outlined its own approach to tenant displacement in properties needed for subway projects. Unlike most developments in the city where tenant displacement and rental replacement are managed by a single entity (the developer), there are two actors involved in transit projects - Metrolinx and IO.

Metrolinx's approach to relocation assistance for displaced tenants includes providing a relocation specialist to explain the process, assess tenant needs, and assist with searching for and moving to a new home. Metrolinx provides financial compensation which includes rent differential payments, inconvenience payments, early possession incentives, moving costs, and reimbursement of legal fees.

There will be a significant amount of time between when displacement occurs as part of the subway project and when replacement units can be built through a TOC and available for rent; up to ten or more years in most cases. Due in part to this extended time lag, the Province is not prepared to require TOC development partners to replace existing rental housing and provide a right to return for previously displaced tenants at similar rents, because the displaced tenants would have long since been rehoused elsewhere. Some TOCs may be purpose-built rentals, and the City expects to see affordable housing provided in some TOCs.

City staff have noted to the Province that its position does not comply with the policy framework in the Official Plan, and have advocated for the Province to comply with City policy.

Affordable Housing and TOC Program Objectives

The Provincial TOC program proposes mixed-use high-density developments connected to, integrated with or adjacent to major transit stations. TOC proposals generally exceed existing development permissions, in some cases significantly beyond what the City has contemplated. The upzoning of TOC sites by the Province has increased their value for Metrolinx who in most cases is the owner of these sites. This better enables these properties to be sold to TOC development partners which in turn generates revenue for the Province. The Province intends to maximize this revenue to off-set the capital cost of transit construction and in the process deliver new housing supply.

The TOC program objectives make reference to affordable housing and the Province has committed to contributing toward affordable housing through its value allocation. However, TOCs are not part of an affordable housing program. Rather, TOCs are primarily about new development helping to pay for the transit. Nevertheless, City staff continue to advocate for securing some level of affordable housing in TOCs and have been directed by Council to aim to achieve 20% of TOC units as affordable.

A key difference in TOCs versus typical developments is that the Province will make a value contribution of up to 8% of the value of the TOC to secure community benefits. This is in addition to the 4% value that the City will receive through the Community Benefits Charge (CBC) By-law. The Province's contribution will not be a cost to the developer like the CBC but rather a contribution from the revenue generated by the Province through the sale of the land. It is a reinvestment of proceeds of the program.

As outlined in the Value Allocation Framework between the City and the Province, the Province retains sole control over both the quantum of the TOC value contribution and how the TOC value contribution is allocated. The Province has consulted with the City on this matter for each of the TOCs. Based on the Framework, the Province is only required to contribute "up to" 8% of the land value which means there is no certainty for the City in terms of an amount. This report recommends that Council direct City staff to achieve a firm commitment from the Province to allocate at least 8% to each TOC.

The general approach agreed to between the City and Province regarding allocation of the Province's contribution is that unless the City identifies a different use for the contribution, these funds would go to secure affordable housing. City staff analysis suggests that 3-5% affordable units would be achieved if the full 8% value contribution from each TOC were invested at the same site. There has also been discussion of pooling the TOC value contributions from several TOCs to achieve a better affordable housing outcome in certain locations, noting that unit cost per door varies significantly across the City.

The Province has also indicated that it will reserve up to 22% of units in each TOC for purchase at market prices by housing providers or governments, who may then offer the units at affordable rates. It should be noted that this option would require significant additional funding. To date no source of this funding has been identified.

An alternative option to buying back units might be to apply the value contribution funds as an offset to the land transaction cost, thereby discounting the land value. The amount of the discount might then be used to secure affordable units. As discussed below, discounting of land value is a common strategy to achieve affordable housing.

A third option might be to pool TOC value contributions and provide them as a form of financing to TOC development partners that are interested in applying for a City affordable housing incentive program, but where the feasibility of doing so is not quite in reach. In this scenario the value contribution could contribute to a better affordable housing outcome in conjunction with a City incentive program, similarly to how the Rental Housing Supply Program envisions its second phase.

How the City Secures Affordable Housing

Affordable housing is costly and typically requires funding and/or incentives to be feasible. The City's Housing Now program leverages the value of City-owned land to fund affordable units. The land cost to the developer is discounted or the land may be provided at nominal cost thereby freeing the project from bearing this cost. The savings along with other incentives are then reinvested in securing affordable units in the

development. However, even with discounted land value, in recent years significant additional incentives, tax waiver and grant funding have been required to realize affordable housing, even on public lands.

The Province, as owner of these TOC Sites, has not indicated an intention to provide TOC lands to its development partners at discounted rates. Rather, all indications are that the Province intends to optimize their returns on land through the TOC program in order to help fund the cost of delivering new transit infrastructure.

In the case of private developments, the City has secured affordable housing through the planning process, either as an in-kind community benefit or through land-use policies (such as affordable housing requirements where employment uses are converted to residential).

The City has also secured affordable housing through incentives and/or development fee and property tax waivers such as those offered through the Rental Housing Supply Program (RHSP), and the former Open Door program. City Council recently adopted changes to the Rental Housing Supply Program which were intended to help ensure the value of incentives more closely offset the value of affordable housing being delivered by housing providers. The City could still offer incentives to developers of TOC Sites if they meet the Program requirements.

The City has also adopted an Inclusionary Zoning framework, which imposes a requirement for affordable housing to all developments in certain market areas. With a predictable and uniform requirement, the intent is in part to influence the market price of land to account for the affordable component. Under Provincial Legislation, Inclusionary Zoning only applies to new developments in Protected Major Transit Station Areas. These areas have been delineated and approved by City Council but also require Provincial approval, which has not yet been provided. As such, Inclusionary Zoning is not operational at this time. Furthermore, Minister's Zoning Orders to authorize TOCs have thus far specifically exempted the TOCs from the City's Inclusionary Zoning requirements.

Financial Feasibility Analysis

To support the City's negotiation with the Province on TOCs, City Council directed staff to conduct a financial feasibility assessment of Council's direction to secure 20% of units at each TOC as affordable. The assessment began with the preparation of baseline proformas at representative TOC sites. A 20% affordable housing requirement was then applied in the proforma, following which the effects of increasing density and converting office to residential use (where applicable) were assessed as mitigation measures to improve feasibility. An exploration of the Rental Housing Supply Program was also undertaken. Where a 20% affordable housing requirement is not feasible even with mitigation measures a calculation was made to estimate what further cash investments would be required to achieve the 20 percent target. The Consultant also considered how the differences between ownership (condominium units) and rental tenure may impact the financial feasibility of affordable housing in TOCs.

The analysis considered TOC proposals across the City in different Wards and with different contexts. The proposals are:

- Queen-Spadina TOC (Ward 10, Spadina-Fort York);
- Gerrard-Carlaw South TOC (Ward 14, Toronto-Danforth);
- Pape TOC (Ward 14, Toronto-Danforth);
- Thorncliffe Park TOC (Ward 15, Don Valley West); and
- Lawrence East TOC (Ward 20, Scarborough Centre).

In the modelling work, feasibility is expressed through Internal Rate of Return (IRR). This is a common measure used by the development industry to assess whether an investment in a development is worth pursuing. IRR requires making assumptions of market conditions over time, which becomes more difficult as timeline horizons stretch further into the future. TOCs will have long delivery timelines due to the delay they will encounter while their related transit projects are under construction. This increases uncertainty which is likely to be factored in as a cost by TOC bidders.

Results

The assessment reveals that 20% affordable housing would require a significant investment to make feasible. This could take the form of the Province foregoing significant revenue from TOC land transactions, direct subsidies or altering the TOC proposals. It is unlikely that the Province would agree to include a 20% affordable housing requirement at the time that it markets the TOC lands if there is no commitment of a financial investment by the City.

In the baseline condition, a low number of affordable units could be achieved at some TOC sites while maintaining project feasibility, but at other sites no amount of affordable housing would be feasible. After imposing a 20% affordable housing requirement it was found that only one TOC could absorb such a requirement and remain feasible as currently proposed, that being one building at Thorncliffe Park TOC. The baseline condition assumes no discounting of land value.

The baseline proformas highlighted a range of variables that impact the performance of developments, whether TOC or not, across the City. Some key variables include the amount and mix of residential density versus non-residential uses, location, construction costs and complexity, land values, and local, regional, and national market conditions such as the cost of financing. It is noted that most of these variables change over time and the feasibility study can be expected to produce different results if conducted again in the future. It should also be noted that the market for all developments is particularly challenged at this time.

The consultant estimated the total financial gap and resulting cost per door for subsidies that would achieve the 20% affordable housing target and still remain feasible. The TOCs with the largest impacts to feasibility required the greatest amount of funding per door. These costs ranged from a low of \$132,000 per unit to a high of \$377,000 per unit. However, the overall subsidy that would be required to achieve the target would be between \$33 million and \$35 million. This is due to the different scales of the TOCs and the corresponding higher number of affordable units that could be achieved at larger scales with lower costs per unit.

Also modelled in the feasibility report is an assessment of the viability of TOC proposals as purpose built rental developments under the RHSP versus a 100% market

condominium option. In all cases studied a 100% market condominium development is feasible while the purpose built rental option with City incentives under the RHSP is not, although some TOCs come close. For some developers a lower IRR may be acceptable and they may still choose to proceed as purpose built rental projects with an affordable component.

The City's recent introduction of a 15% tax reduction for purpose built rental, combined with development charge relief, has produced encouraging results. These new incentives were not available at the time of the feasibility study and thus were not modelled. The additional incentives have proven to be feasible and may offer a way to improve the feasibility of TOC projects under the RHSP.

Sensitivity Analysis

To understand how the financial impact of requiring 20% affordable housing units in TOCs could be offset, the consultant conducted a series of sensitivity analyses to test options that could be applied to improve development feasibility. The options are a density bonus of 25% and, where applicable, the conversion of proposed office GFA to residential GFA. Retail GFA was not considered for conversion. The sensitivity analysis indicated these changes would allow a number of the TOCs, but not all, to remain feasible and also deliver 20% of units as affordable.

Staff note that most TOCs already propose residential heights and densities that are beyond those contemplated in the City's existing as-of-right zoning permissions. Permitting further increases in density may not be supportable in all cases. Conversion of non-residential GFA to residential GFA greatly lowered the funding gap to achieve the 20% target, but in most cases would not eliminate it. In those TOCs where both GFA conversion is available and density is increased the 20% target may be achievable.

Conclusion

The results of the TOC affordable housing feasibility study indicate that in most cases it is unfeasible for the TOCs to provide 20% affordable housing units. To improve feasibility and bridge the financial gaps, the TOC proposals would require either significant changes to density and land use permissions, a significant funding commitment, or some combination of these measures. As demonstrated in the findings, each TOC site has many variables that affect financial performance and thus their ability to deliver affordable housing.

The TOC program is challenged to deliver affordable housing by the Province's mandate to optimize land sale revenues at the TOC sites. This mandate is at odds with strategies typically used to secure affordable housing. TOCs are further affected by the complexities of their proximity to large scale transit infrastructure, long time lags to construction that depend on transit project delivery schedules, and balancing City and Provincial interests through the project delivery process.

Notwithstanding these challenges, the study results point to some options that City staff can explore further with the Province. Notably, Provincial value contributions may be pooled to purchase a higher number of units at TOC projects that offer lower unit prices. Alternatively, once TOC development partners are identified, negotiations may be

initiated to explore allocating Provincial value contributions to bridge funding gaps (if needed) for TOC developments to qualify for City incentive programs.

A firm commitment from the Province to provide at least 8% as a contribution towards each TOC site (rather than "up to" 8%) would significantly assist in achieving improved affordable housing outcomes by providing value and certainty. Optimizing how this value contribution is deployed could further improve these outcomes.

Market conditions for development in the GTA are particularly challenging at present. This can be expected to improve over time. Since TOCs will be subject to long timelines for delivery, there will be additional opportunities to explore options for affordable housing when development partners are secured. City incentive programs to secure affordable housing will be available to TOC development partners. New sources of funding may also be available at that time, such as through the second phase of the Rental Housing Supply Program.

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ATTACHMENTS

Confidential Attachment 1: Draft Terms of Site Specific Transit Oriented Communities Memorandum of Understanding for Queen-Spadina Transit Oriented Community

Confidential Attachment 2: King-Bathurst Transit Oriented Community Letter from the Province