

Issues and Impacts of the Development Permit System

Centre for Urban Research and Land Development

Ryerson University
October 20, 2014

Joe D'Abramo



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Development Permit System

An Alternative to Zoning... but is it
any better?

A Little Zoning History

Zoning: Process or Land Use Planning Tool?

Answer: Process

Comprehensive vs Specific

Answer: 478,000 zoning bylaws



Comprehensive vs Specific

Answer: 478,000
zoning bylaws

Question: How many zoning bylaws can the City of Toronto have?



City of Toronto
Planning and Development
Department





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LAND USE CONTROLS AND RELATED ADMINISTRATION

Zoning by-laws

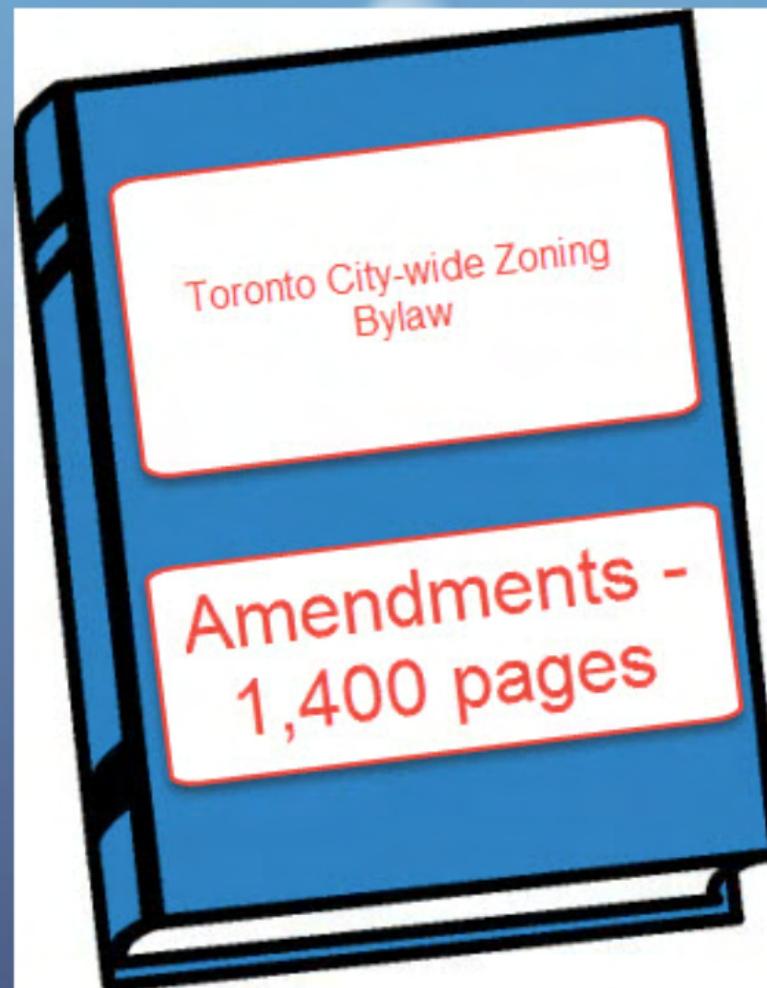
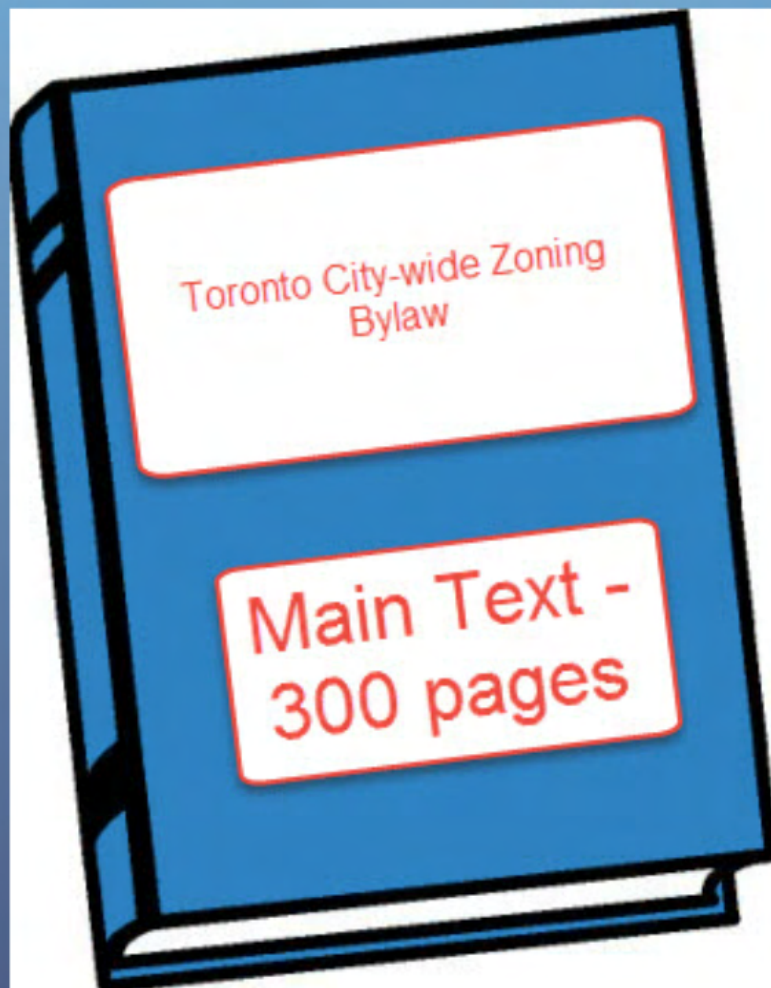
34. (1) Zoning by-laws may be passed by the councils of local municipalities:

Restricting use of land

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

Restricting erecting, locating or using of buildings

2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.



"Spot Zoning" has been around in Ontario for awhile

“The difficulty in defending the general zoning bylaw is finding an example of its use. Clearly the 41 Ontario municipalities rarely use it. The Research Supervisor feels driven to the conclusion that the general bylaw is simply not a political reality or likelihood in Ontario.”

J. B. Milner

"Development Control - Some Less Tentative Proposals"
1969

Mr. Milner discovered that in 1966, 80% of the apartment units in Toronto, 95% of the multiple family units in North York and 80% of the multiple family units in Etobicoke were developed by way of site specific amendments.

Toronto's first "zoning bylaw"

No map

No Plan

No. 4378. A BY-LAW

*To prevent the erection and use for laundries, butcher shops, stores and manufactories of any building on any property fronting or abutting upon
Sherbourne Street, between Queen Street and the
northern terminus thereof, or upon Moss
Park Place.*

[Passed May 9th, 1904.]

Whereas by the Municipal Amendment Act, 1904, the Councils of cities are authorized and empowered, by a vote of two-thirds of the whole Council, to pass and enforce such By-laws as they may deem expedient to prevent, regulate and control the location, erection and use of buildings for laundries, butcher shops, stores and manufactories, except buildings now erected or used for any of the purposes aforesaid, so long as they continue to be so used:

Therefore the Council of the Corporation of the City of Toronto enacts as follows:

I.

No building shall hereafter be located, erected or used for laundries, butcher shops, stores or manufactories upon the properties fronting or abutting upon either side of Sherbourne Street, from Queen Street northerly to the northerly terminus thereof, or upon either side of Moss Park Place. Provided, however, that this section shall not apply to any building now erected or used for any of the purposes aforesaid, so long as they continue to be used as at present.

The strength of comprehensive zoning bylaws was understood from the onset

or slum conditions. The fact that there are about 2,000 amendments to existing residential by-laws places the responsibility for this condition generally upon the government of the City. If the proposed new by-law is to achieve its purpose, it must be definitely protected with provisions that make its amendment impossible except where it can be shown to be in the general public interest so to do.

1939 report on the City of Toronto's first comprehensive zoning bylaw

Town Planning Problems in Toronto

The Planning and Development Act and Its Operation in Toronto Discussed in Paper Presented at a Recent Meeting of the Toronto Branch of the Engineering Institute of Canada —Need for Comprehensive Zoning Scheme in Toronto— City and Suburban Plans Act

By T. D. leMAY

City Surveyor, Toronto.

THIS subject of town planning has been very often and very variously defined. The Town Planning Institute says that it is "The scientific and orderly disposition of land and buildings in use and development with a view to obviating congestion and securing economic and social efficiency, health and well-being in urban and rural communities."

But whatever be the true significance of the phrase, I think that if everyone did his duty towards his neighbor, in this case the community, town planners and those in control of municipal affairs, would be saved a lot of deep thinking and a lot of worry. After all most of our town planning worries are caused by the individual who wants to get a little, or a lot, more than his proper share of things such as light and air, street accommodation and so on which are common property, or puts his own land to a use which depreciates that of his neighbor.

Advantages of Zoning

This is the fundamental thing in town planning and as you know is called zoning. To develop the matter in a kindergarden manner it will doubtless be agreed that where there is no population there is no use for streets, and as

population increases the use for streets increases. Following that if could be predetermined where the people are going to live and work, and play, the daily and hourly movement can be estimated with sufficient accuracy to ensure adequate transportation and traffic facilities.

movement can be estimated with sufficient accuracy to ensure adequate transportation and traffic facilities. The ideal to be aimed at is an intermingling of residential and industrial areas such that everyone could walk to work in contrast with the condition in Toronto where the majority of our industries are situated along the southerly and western. A comprehensive zoning scheme for Toronto should embrace industrial areas in its northern and eastern sections, reach the scene of their daily occupations. A comprehensive zoning scheme for Toronto should embrace industrial areas in its northern and eastern sections.

the same time you establish for all time a height and bulk limitation that is in conformity with your street accommodation.

Town planning thought at present is in Canada largely centred in the small body of enthusiasts with headquarters at Ottawa organized as the Town Planning Institute of Canada with small branches in some of the principal cities. Lacking the impulse of public opinion, municipal councils are generally apathetic. In the United States some 800 cities have adopted zoning ordinances and about half that number have complete town planning schemes for future development; it may be that the comparatively small population of this Dominion has not generally created situations sufficiently acute to enforce drastic actions, but these situations are being created wherever people congregate in sufficient numbers and will continue to be created under such conditions, and it must be someone's duty to take hold in the interest of future generations. The \$35,000,000 major operation recommended for Toronto is sufficient evidence of the need. Personally, I think the Provincial Government ought to take a hand and function along the following lines. First: Propagation; Second: Supervision, and Third: Compulsion.

Educating the Public

The success of a town-planning movement in any country must to a great extent depend upon propaganda, or education, systematic and persistent, and upon uniformity of aim and practice. Different methods and ideas in different cities cannot induce that public confidence in the outcome which will supply the motive power for the inception and completion of comprehensive schemes of zoning and planning. Unless there is created in each province some form of central bureau for the co-ordination of town planning and dissemination of the town-planning spirit it must continue, for some time at any rate a haphazard effort of a few of the more enlightened urban centres.

Town planning is neither infectious nor contagious to any marked degree and only seems to flourish as the result of

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of our industries are situated along the southerly and western boundaries of the city, and the workers largely have to be transported to reach the scene of their daily occupations. A comprehensive zoning scheme for Toronto should embrace industrial areas in its northern and eastern sections.

NYC's 1916 "Districting" Bylaw is considered the first comprehensive zoning bylaw. It was considered as much a plan as a bylaw

This committee has given such consideration to the recommendations and plans of the Districting Commission as the time at its disposal permitted. While the report and plans had been in the hands of the members of the committee for too short a time to enable them to make a thorough study of them, all of the members of the committee were quite familiar with the work of the Commission and most of them attended the public hearings which have been given, particularly those at which consideration was given to the boroughs represented by them. All of the members of the committee are convinced of the great need of restrictive regulations governing the height of buildings, the use to which they may be put and the proportion of the plots which may be occupied by them, and the need of them (regulations) to insure better control of future growth.

To prevent undue congestion of population.

To insure better sanitary conditions.

To simplify the problem of traffic regulation.

To lessen the danger and delay of movement in the City streets which is due to mixed traffic.

To simplify the transit problems of the City.

To insure the permanent character of the City by insuring the proper design of the new transit lines now being constructed.

To insure the proper development of City streets through a decrease in the width of streets and roadways where the size and consequently the number of buildings are restricted.

To insure the permanency of the character of districts when once established, and, Finally, to make the City a more orderly and convenient place in which to live and do business.

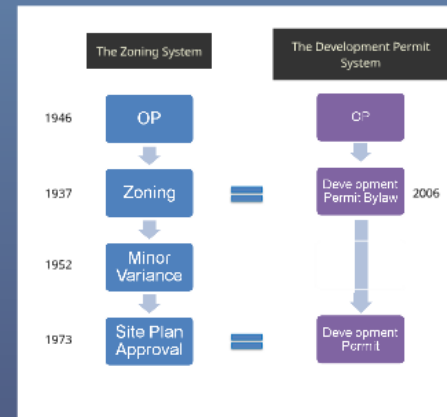
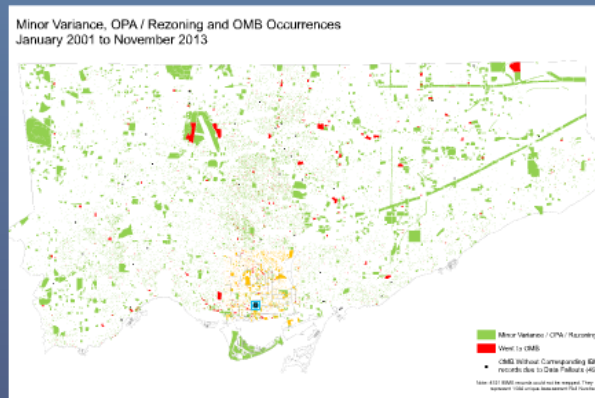
The Committee realizes the magnitude and difficulty of the task imposed upon the Commission and is impressed by the results which have been accomplished by it within the time which has elapsed since it was created, by the thoroughness of its investigation of existing conditions and by its obvious efforts to avoid anything which would seriously affect present values. It has not attempted to correct the mistakes of the past, but, to avoid the repetition of similar mistakes in the future, so that its efforts have been a constructive

Zoning: Process or Land Use Planning Tool?

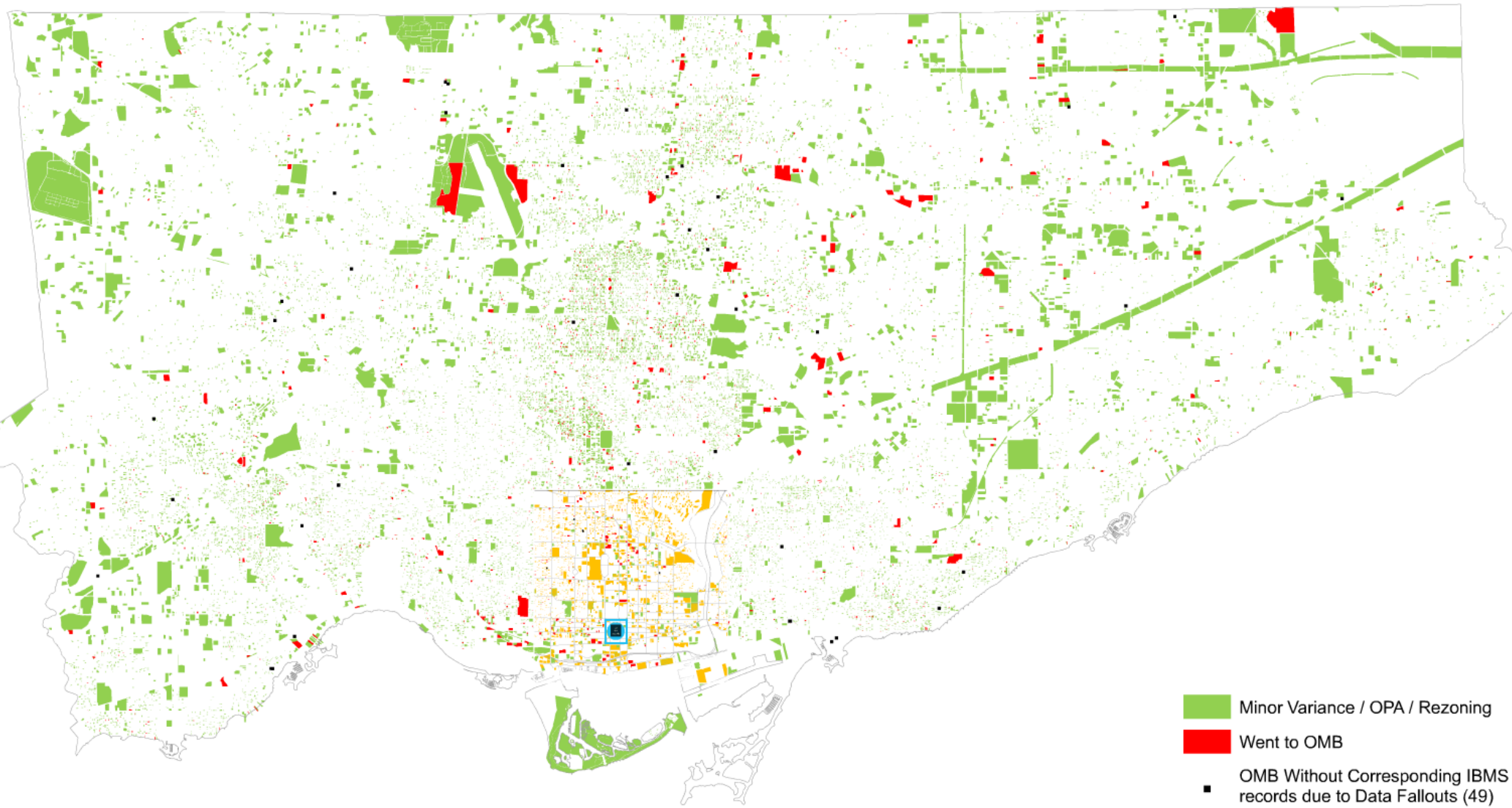
Answer: Process

Zoning as a process...

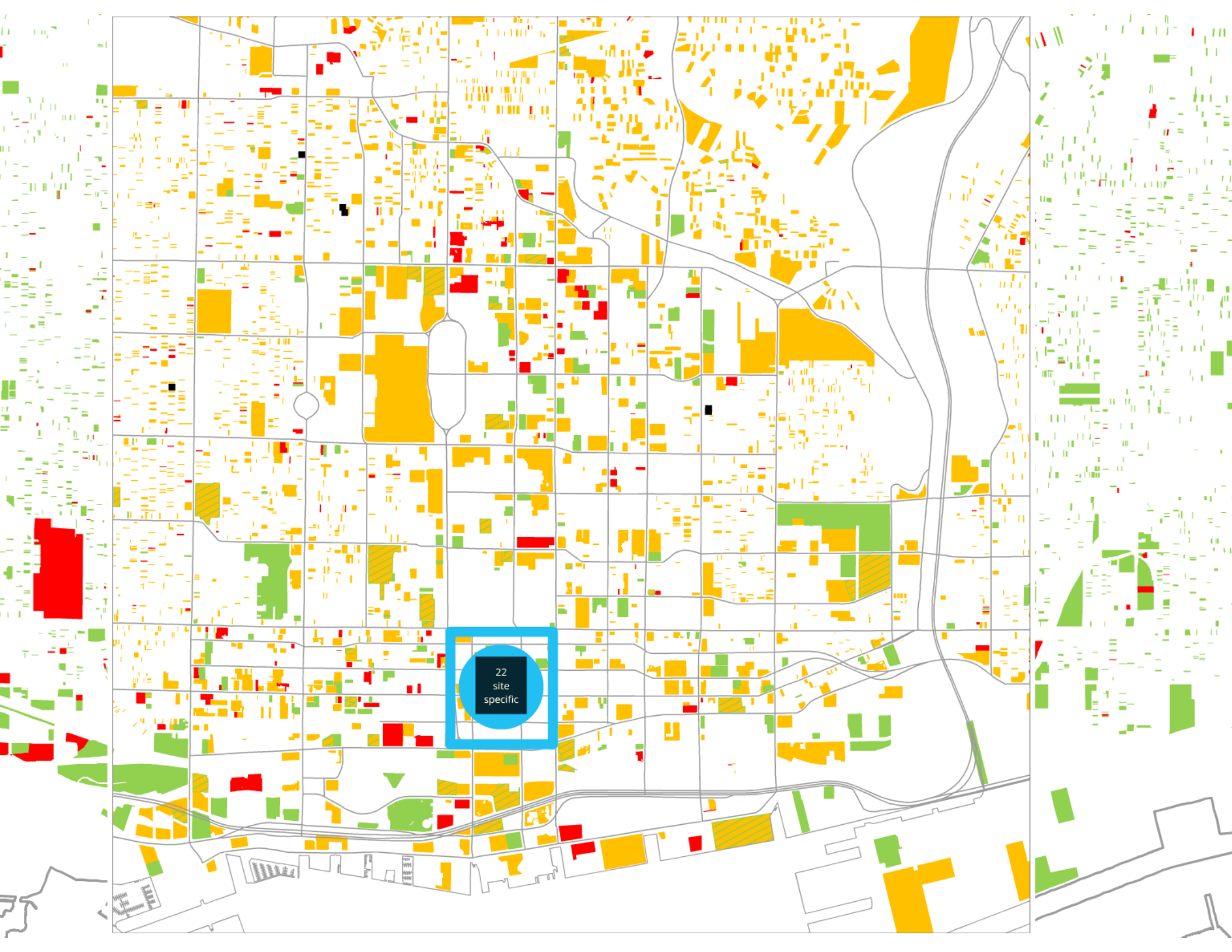
is not predictable when approved site by site



Minor Variance, OPA / Rezoning and OMB Occurrences January 2001 to November 2013



Note: 4321 IBMS records could not be mapped. They represent 1694 unique Assessment Roll Numbers.



The Zoning System

1946

OP



1937

Zoning



1952

Minor
Variance



1973

Site Plan
Approval



The Development Permit System

OP



Development
Permit Bylaw

2006



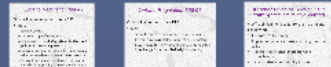
Development
Permit

DPS may be tailored to a city's needs

Unlike zoning, the Planning Act requires Official Plan policies for the implementation of a DPS

Ontario Regulation 608/06

requires specific official plan policies



DPS applied area by area in Toronto

4 steps in implementing a DPS bylaw



Ontario Regulation 608/06

requires specific official plan policies

Ontario Regulation 608/06

Official Plan requirements for a DPS

- Must
 - Identify area
 - Set out scope of delegation
 - Statement of the city's goals, objectives and policies in proposing a DPS
 - Set out the types of criteria for determining whether any development may be permitted
 - Set out the type of conditions that may be included in approving a development permit

Ontario Regulation 608/06

Official Plan options for a DPS

- May
 - Set out complete application requirements
 - Exempt any class of development or use of land
 - May require the provision of community benefits in exchange for a specified height or density

The purposes of the Development Permit System are to be explained

- Official Plan Policies tailor DPS to that city
- For Toronto:
- **Alternative** to zoning
 - Applied on an area basis at a neighbourhood scale
 - Able to reflect local character and distinctiveness
 - Incorporates a community vision

Ontario Regulation 608/06

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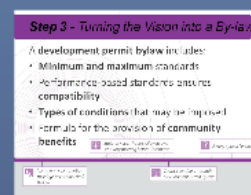
- Official Plan Policies **tailor** DPS to that city

For Toronto:

- **Alternative** to zoning
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- Incorporates a community **vision**

DPS applied area by area in Toronto

4 steps in implementing a DPS bylaw



Step 1 – Official Plan Policies

Official Plan policies are required to enable the Development Permit System – procedural policies

Timeline of Events

Look for these icons to find out when you can get involved!



Community Consultation



City Council Decision



Appeal Opportunity

You are here



Public meetings & open houses in March 2014



Statutory open house



City Council considers OP policies on July 8 & 9, 2014



Draft policies and reports sent to Dec 4, 2013 PGM



Report on public consultation to April 10, 2014 PGM



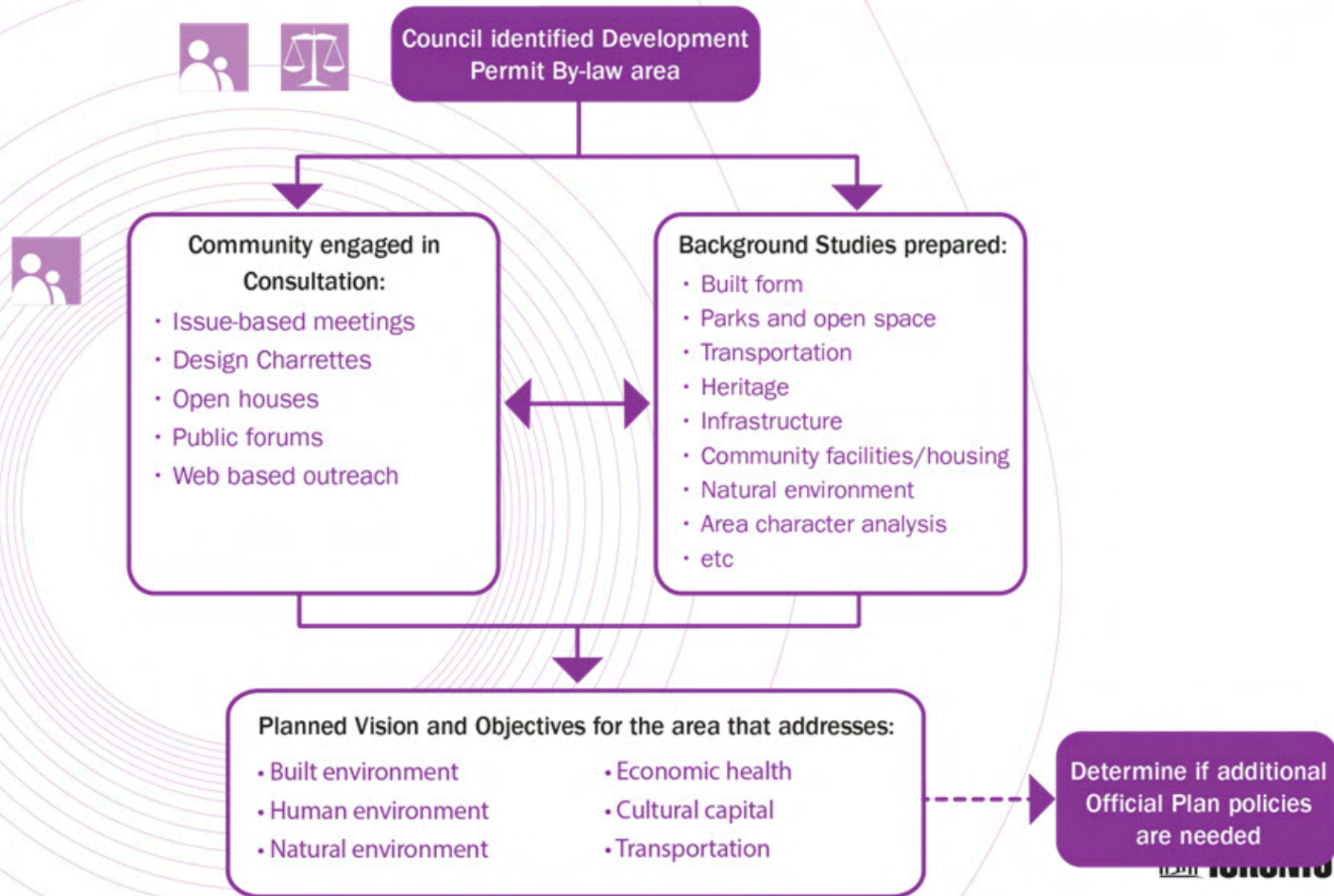
Draft Official Plan policies at June 19, 2014 PGM



20 - Day Appeal Period

Step 2 – Community Visioning

Area-based analysis
and consultation



Step 3 - Turning the Vision into a By-law

A **development permit bylaw** includes:

- **Minimum and maximum** standards
- Performance-based standards ensures **compatibility**
- **Types of conditions** that may be imposed
- Formula for the provision of **community benefits**



Statutory open house followed by a statutory meeting before Committee



20 day appeal Period



Community consultation meetings to consider draft By-law



Council considers the draft Development Permit By-law

Step 4 - Development Permit Applications

Process for Development Permit Application

- Development Permit required before Building Permit can be issued
- Complete application requirements must be met
- Statutory 45 day review period
- Proposal reviewed for compliance with the By-law standards and criteria
- Development Permit application may be:
 - ☐ Refused
 - ☐ Approved
 - ☐ Approved with conditions
- Development Permit decision may be appealed by the applicant/owner only

*Permit refused, approved or
approved with conditions*

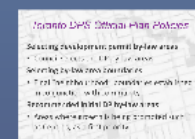
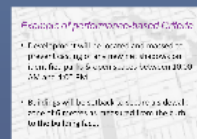
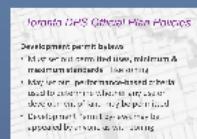
*Complete application for a
Development Permit must
be submitted*

*The proposal must comply
with all By-law standards
and criteria*

*Must build in
accordance with
approved plans*

COT DPS OP policies

towards neighbourhood planning



Conclusions:

- comprehensive zoning bylaws no longer serve the purpose of as-of-right certainty in development-intensive communities
- remainings are an ineffective means of planning for future infrastructure needs and improvements
- the DPS can be tailored to suit a city's needs
- DPS bylaws applied on a small area basis can reflect a detailed community vision
- a DPS bylaw can provide for as-of-right permissions while ensuring predictable outcomes

Toronto DPS Official Plan Policies

Goals

Goals

- **implement** the Official Plan
- **engage community** in creating a planned vision
- **establish a framework** that facilitates development appropriate for the area
- **ensure outcomes are predictable** and development consistent with planned vision

Objective

- To provide for an alternative land use regulatory framework that implements the Official Plan and achieves the Goals stated above.

Toronto DPS Official Plan Policies

Development permit bylaws

- Must set out permitted **uses, minimum & maximum standards** – like zoning
- May set out '**performance-based criteria**' used to determine whether any use or development of land may be permitted
- Development Permit by-laws may be **appealed** by anyone as with zoning

Example of performance-based Criteria

- Development will be located and massed to prevent casting of any new net shadows on identified parks & open spaces between 10:00 AM and 4:00 PM.
- Buildings will be setback to secure a sidewalk zone of 6 metres as measured from the curb to the building face.

Toronto DPS Official Plan Policies

- **Amendments**

- Any amendment must be considered in the context of the **entire by-law area**
- Amendments to the standards, criteria or conditions must be **supported by a comprehensive planning rationale** and include:
 - Area studies
 - Public engagement and consultation strategy
 - Demonstration of changes in the area since enactment of the original DP by-law
- Will be considered **only** after engagement and consultation strategy is completed

Toronto DPS Official Plan Policies

- **Development Permits** (site plan approval)
 - Any use or development of land **must first comply** with the permissible uses, standards and criteria
 - If there is compliance, then a permit may be issued **with conditions** imposed
 - Each by-law may describe the type of public notification and involvement including public meetings
 - **Council may delegate** permit issuance to a committee or body appointed by Council or an employee

Toronto DPS Official Plan Policies

Community benefits

- Applied at a “specified” height – no increases in height beyond max permitted
- Must be proportionate to and in exchange for a specified height or density

Toronto DPS Official Plan Policies

Selecting development permit by-law areas

- Council selects the DP by-law areas

Selecting by-law area boundaries

- Final “neighbourhood” boundaries established in conjunction with community

Recommended initial DP by-law areas

- Areas where growth is being promoted such as Centres, as a first priority

Conclusions:

- comprehensive zoning bylaws no longer serve the purpose of as-of-right certainty in development-intensive communities
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