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June 6, 2019

**To:** Mayor Tory and Members of City Council

**cc:** City Manager, Deputy City Managers and Division Heads

**From:** Gregg Lintern, Chief Planner and Executive Director, City Planning

**Re:** **Ministry's Approval with Modifications of Official Plan Amendment 406 (Downtown Plan) – Staff's Preliminary Assessment**

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On June 5, 2019, the Minister of Municipal Affairs and Housing issued two Notices of Decision under the *Planning Act* approving Official Plan Amendment No. 405 (Yonge-Eglinton Secondary Plan) and Official Plan Amendment No. 406 (Downtown Plan). **The Minister's approval is final and not subject to appeal.**

Each Notice of Decision made a number of modifications to the respective Secondary Plan approved by City Council. The Minister made 194 modifications to the Yonge-Eglinton Secondary Plan and 224 modifications to the Downtown Plan.

This memo identifies themes common to both Decisions followed by an initial summary of the main modifications to the Downtown Plan. A memo with respect to the Yonge- Eglinton Secondary Plan (OPA 405) will be forwarded under separate cover.

City Planning staff are continuing to assess the Minister's modifications and will provide updates as that work advances. A copy of the Decision which contains the modifications to OPA 406 was distributed under separate cover yesterday. Copies of the Secondary Plans which incorporate the modifications are in the process of being prepared including a redlined version.

### **Key Points**

The following highlights the common themes on both Secondary Plans resulting from the Minister's Decision:

- Alignment with Bill 108 provisions and the Bill's stated objective of making it easier to increase the supply of housing. Modifications speak to the need for residential intensification throughout the Secondary Plan; enable taller buildings than originally adopted by the City and in more locations; reduce requirements on development such as open space and building massing requirements; limit heritage conservation; and remove

the ability to secure an alternative parkland requirement and Section 37 community benefits.

- Establish policy direction for Bill 108's new Community Benefit Charge, in advance of draft provincial regulations, by identifying that community services and facilities, public art, and public realm improvements, such as street trees, landscape setbacks, privately-owned publicly-accessible spaces (POPS), some of which are site plan matters provided by development will be in accordance with the applicable legislative framework for the provision of community benefits.
- Emphasize transit infrastructure and investment as primary drivers for more intense development. Modifications insert new 'transit optimization' policies, add 'transit-supportive development' and increased density language around transit station areas, and encourage bigger buildings in proximity to transit irrespective of local context.
- Result in less policy direction and more policy guidance. For example, prescriptive words such as "will", "preserve" and "ensure" replaced with more permissive wording such as "may", "generally" and "encourage", and minimum requirements, such as minimum floor area requirements for 2 and 3 bedroom units, deleted.
- Remove requirements for new development to provide additional space for jobs and businesses and only require the replacement of existing office uses; providing less certainty around the capacity of land and land use to deliver new employment space to accommodate forecasted job growth.
- Remove the specificity that identified minimum requirements for the design of buildings and siting of development, such as minimum setback requirements, and replaces the requirements with general direction.
- Reduce sunlight protection for public spaces, including parks and sidewalks by only requiring 'adequate' sunlight on specific parks rather than no net new shadow.
- Direct the City to provide infrastructure in tandem with development, while deleting policies that link growth directly to the provision of infrastructure through development approval.
- Introduce more permissive policies allowing increased intensification generally while removing area-specific policy directions related to holding provisions and other measures introduced to ensure development does not outpace infrastructure. Both Plans were undertaken as integrated planning processes and were accompanied by a series of infrastructure plans, strategies and assessments that were calibrated to the anticipated growth set out in the Plans. The Minister's Decisions will necessitate additional analysis on the infrastructure needs for the two areas.

## **Key Modifications to the Downtown Plan**

### **Linking Infrastructure with Growth to Support Liveability**

An overall theme of the Downtown Plan was to link the provision of infrastructure to growth and the increase in residents and jobs. The intent of this link was to ensure that Downtown remains strong, liveable and healthy. The Decision has removed this direct link by deleting or amending policies that made this link clear. Examples include:

Policy 3.1 *amended* – "Growth will be accompanied by the *community service facilities*, parkland, *green infrastructure* and *physical infrastructure* required to support *complete communities*..." This has been amended to: "The provision of *community service facilities*, parkland, *green infrastructure* and *physical infrastructure* is encouraged to support *complete communities*..."

Policy 3.18 *deleted* – "The provision of infrastructure – *community service facilities*, parkland, *green infrastructure* and *physical infrastructure* – will be commensurate with the intensity of development and the number of residents and workers generated".

Policy 5.2 *deleted* – "Development will be evaluated based on the availability and provision of *community service facilities*, parkland, *green infrastructure* and *physical infrastructure* relative to the number of people it will generate, to provide for the achievement of *complete communities*."

### **Protecting Space for New Jobs**

The Council-approved Downtown Plan contained a number of policies to ensure there was sufficient space to accommodate long-term employment growth and support the expansion of healthcare and other institutions. The Decision has reduced protections that prioritized non-residential land uses in the Financial District and Health Sciences District, as well as in the King-Spadina and King-Parliament areas where creative industries and the culture sector are clustered. Examples include:

Policies 6.2.3 and 6.15.2 *deleted* - In the Financial District and Health Sciences District, the Downtown Plan limited residential development to the existing zoning permission.

Policies 6.8.2 *amended* - In the King-Spadina and King-Parliament Areas a minimum of 25% of the area of new buildings was required to be for non-residential uses. The Decision has removed this requirement and replaced it with a policy that encourages the replacement of existing non-residential gross floor area in any redevelopment.

### **Scale of Development on Main Streets**

The Council-approved Downtown Plan defined *Mixed Use Areas 3* as those areas with a mainstreet character where midrise buildings are the appropriate scale of development, generally with heights the width of the right-of-way and setbacks to provide a pedestrian scale and sunlight on sidewalks. The Decision allows tall buildings in *Mixed Use Areas 3* and deletes policies that would have ensured transition in scale to adjacent areas and maintained sunlight on sidewalks. Examples include:

Policy 9.30.4 *deleted* – This policy required that buildings in Mixed Use Areas 3 generally fit within a 45 degree angular plane to transition in scale to adjacent neighbourhoods.

Policy 9.9 *deleted* – "Development will generally site, mass, and design base buildings to maximize sunlight access on public sidewalks between March 21<sup>st</sup> and September 21<sup>st</sup> around mid-day."

### **Intensity of Development Adjacent to Rapid Transit Stations**

The Council-approved Downtown Plan provided that a study would be undertaken for areas within 500 metres from planned rapid transit station (Policy 6.35). The Decision has added policies to this section of the Plan that require the City to plan to accommodate higher density development around existing and planned transit stations to optimize return on public investment in transit. New policy language has also been added that development in these areas will be supported by fostering collaboration between the public and private sectors and the provision of alternative development standards.

### **A Walkable Downtown**

The Downtown Plan required that buildings be setback to ensure a minimum of 6 metres from curb to building face in most areas of Downtown to achieve wider sidewalks for pedestrians (Policy 9.5). This policy has been deleted. The City may now request the setback be provided, but public access is not required and any easement secured will be deemed a community benefit.

### **Protecting Parks from Shadow**

The Downtown Plan identified 44 parks and open spaces that were protected from additional shadow to ensure these places remain comfortable for people as new buildings become taller and more people rely on these spaces. The Decision has weakened this protection as follows:

Policy 9.19 – "Development will not cast net-new shadow as measured from March 21st to September 21st from 10:18 a.m. – 4:18 p.m. on parks and open spaces indicated on Map 41-13." The underlined portion now reads, "adequately limit net-new shadows." (Policy 9.19 as amended).

### **Transition between areas and buildings of differing scales**

The Downtown Plan set out detailed guidance on how transition between scales of development should be expressed, in a context that is seeing an increasing number of tall buildings. The Decision has weakened the requirement for transition and one such example as amended by the Minister now states that:

Policy 9.27 *amended* – "Built form adjacencies, such as the following, may require a review to determine if any transition to the planned context is required to achieve compatibility...."

### **Securing Childcare and Replacement of Community Services Space Lost to Redevelopment**

The Downtown Plan required that a childcare facility be provided in any development where it could be accommodated (Policy 10.9). The Plan also required the replacement of any existing on-site community service facilities to ensure no loss of this type of space that

provide human and social services (Policy 10.5). The Decision removed the policy related to the provision of childcare and added a new sentence to the explanatory non-policy text. The Decision has also removed the requirement to replace community service facilities lost through redevelopment.

### **Providing Family Housing in Vertical Communities**

The Downtown Plan included requirements for 2- and 3-bedroom units in buildings with more than 80 units (Policy 11.1). The Decision maintains the policy for 10% 3-bedroom, 15% 2-bedroom and 15% convertible units, but has removed the minimum size requirements of these larger units.

### **Community Benefit Agreements**

The Downtown Plan contained a policy that encouraged the use of Community Benefit Agreements to achieve local, community-based social and economic benefits through development (Policy 14.15). The Decision has deleted this policy.

### **Central Waterfront Secondary Plan Removed**

The Decision has removed the areas covered by the Central Waterfront Secondary Plan from the Downtown Plan (roughly the area between Bathurst and the Don River, south of the Gardiner Expressway, plus the West Don Lands). The Financial District Policies and any policies related to identified and planned transit still apply within this area. This does not materially impact on the Secondary Plan as the policies pertaining to the Central Waterfront Secondary Plan remain as approved previously.

### **A Long-Range Vision for Downtown**

Despite the modifications noted above that change how the plan will be implemented, this Decision has brought into force a long-range planning vision and a series of aspirational goals for Toronto's Downtown for the next 25 years. It also has put in place other important policies pertaining to Downtown's shift toward sustainable transportation, improved public space networks, support for arts and culture, and transformation towards a low-carbon and more resilient future.

### **Conclusions**

Staff will continue to assess the impact of the modifications on the Secondary Plan adopted by Council and will report to the July Council meeting on the impact of the modifications.

Implementation of elements of the Minister's decision on OPA 406, especially those pertaining to the Community Benefits Charge, is dependent on staff knowing the content of Regulations pertaining to Bill 108. Staff will provide the Mayor and Council with additional analysis once the regulations have been released and reviewed.



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