

# City of Toronto Development Permit System (DPS)

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## Background

Ontario Regulation 608/06 came into effect in 2007, enabling all local municipalities to adopt the Development Permit System (DPS). The regulation is part of the government's commitment to make Ontario's land use planning system more effective. The DPS is meant to assist municipalities in meeting today's planning challenges.

The Development Permit System (DPS) is an alternative to the use of zoning to implement the Official Plan. Toronto's City Planning department has launched Reset T.O; a multi-phase system proposal that intends on "resetting the planning process by focusing on area-based plans and rules that reflect local character and distinctiveness". The process will involve the creation of a comprehensive vision for a particular area with resident participation. The Development Permit System in Toronto will be implemented on an area-by-area basis. Since 2007, four municipalities have adopted development permit by-laws: Lake of Bays, Carleton Place, Gananoque and Brampton.

Specific and detailed Official Plan policies are required as a first step in implementing a development permit system. Even with the policies in place, a separate by-law must be passed for any area of the City that Council may want to initiate a development permit system within. The policies MUST include: area where the DP by-law may be enacted, goals of the DPS in this area, criteria for evaluations, conditions, and opportunities for delegation. The policies MAY include community benefit requirements.

Following the passage of OP policies, Council will have to identify Development Permit by-law areas. They will then be proposed in public consultations and confirmed by the community. Community consultation will be ongoing as background studies are produced on the proposed areas. Criteria for development is set and requirements are written into the area plan. According to City planning, when the 'planned vision' for an area is finalized, it must be determined whether area-specific OP policies are needed to implement the vision. This will be followed by community consultation, statutory open houses, and Council decisions on the Development Permit bylaw for that area. No third-party appeals are permitted. The process for establishing a development permit bylaw is as follows:

1. Background studies are prepared. These consider built form, heritage, public realm, Transportation needs, and community-specific factors.
2. Public Consultations are conducted. These include themed meetings, open houses, vision development, surveys and online questionnaires.
3. A Draft by-law is negotiated and rolled out. Design criteria are determined, conditions created and appeal processes determined.

## Advantages

It has been argued that a DPS would foster greater certainty for industry members as well as residents and planners. A DPS could, conceivably, streamline the approvals process and help create 'investment-ready' communities. The system combines three processes that normally all occur separately: zoning,

site plan approval and minor variance appeals. Development standards are identified in the Official Plan, and applications that meet these standards are approved.

A major advantage to a DPS is that it is more flexible than zoning. This could be accomplished by including within the DPS, stipulations that govern the kind of development that could take place within the DPS area. For example, a DPS may include a range for front yard setbacks. A certain setback length may be under the discretion of staff, while a greater length is under the discretion of Council. Applicants could try and adhere to either of these rules, since they would both conform to OP policies. It should be noted that there would not be any third-party appeals to any of these applications.

A DPS may counteract municipalities who under-zone lands in order to maximize financial benefits during the approvals process. A shift to a DPS may reduce the amount of Section 37 negotiations that would normally take place during the development process. A DPS is being discussed as a “wholesale replacement” for existing zoning practices. Existing zoning can be blended with a DPS to create a hybrid system where it can be applied in specific circumstances including planning in transit corridors, re-investment areas and employment nodes. This would foster greater economic development. Buildings, structures or site alteration within a DPZ zone must address the development permit by-law, which would include design-oriented and positively formulated criteria rather than negative constraints such as “less than” or “a maximum of”.

Another advantage would be the simple administrative efficiency in processing development applications. Projects would proceed by way of an administrative development permit. Staff can issue the majority of permits. A DPS would institute a degree of oversight over architecture and urban design, all effected administratively rather than legislatively, meanwhile combining existing related, but loosely integrated, processes. The investment to implement the system in municipal time and staffing costs would be reduced. Furthermore, there is no requirement for public notice of any application. Councils would give authority to consult on major applications as they wish. This could limit the amount of time needed in the application approval process.

The DPS as it stands requires more rigorous policies to implement bonusing, and is better suited to regulate how the bonus density and height is deployed (Section 37). It also provides a path to depoliticize deal-making. Using it would address the need to improve transparency, consistency and accountability around bonusing. It has been argued that the incentive to keep density and height artificially low to trigger Section 37 would be gone, allowing more land to be pre-zoned consistent with intensification goals of the PPS and other Provincial Plans.

#### Disadvantages

Instituting a DPS would mean a change in the operational culture of planning departments. There are comparatively fewer disadvantages with a DPS policy. A DPS bylaw would have to be written to include operational concepts such as the manner in which notice is given, permit review procedures and rules governing delegation of authority. This may make a DPS difficult to implement up-front.

Some have argued that appeal rights that are limited to applicants only, unfairly keep third parties outside of the development process. Opponents of the DPS system may argue that this ‘freezing out’ of third party actors reinforces a planning system already over-complimentary to developers.

Municipalities may be reluctant to approve a DPS strategy because Councils are not in the habit of delegating authority and power to staff. Local politicians are fearful that they may lose control of local planning issues. It has been argued that the traditional framework for Council-staff interactions is that Council sets policy and makes decisions based on strategic goals, while administrators offer advice and carry out the will of Council. Development applications and local planning issues have traditionally been ways that councillors have responded and interacted with residents. It might be expected that some Councils may not wish to grant authority to staff in certain situations, which would complicate the process and mean a certain level of uncertainty, should Council retain the authority to approve or deny an application.

Additionally, the learning curve relating to a new approvals process may be steep. Generally speaking, there is a lack of awareness of how a DPS could work, given that the system is not presently used in planning procedures. Planners may not fully grasp how it works, given that it has only been introduced in a select group of municipalities. Conversely, it may also take time for the development community to become familiar with the new process.

#### Process

Draft Official Plan policies have been presented to the Planning and Growth Management Committee of Council in December of 2013. The Committee requested staff to consult with members of the public and report back in April 2014. A staff report on the outcome of public consultations will be before Planning and Growth Management Committee on April 10th. Draft Official Plan policies will be before PGM for approval on June 19th 2014 and City Council will consider these OP policies at the July 7-9th meeting.

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