



**City of Kingston  
Report to Council  
Report Number 18-071**

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**To:** Mayor and Members of Council  
**From:** Lanie Hurdle, Commissioner, Community Services  
**Resource Staff:** Paige Agnew, Director, Planning, Building & Licensing Services  
**Date of Meeting:** July 10, 2018  
**Subject:** Next Steps - City Building, Planning Policies

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**Executive Summary:**

The community conversation about how intensification is implemented has primarily taken place through the update of the Official Plan but has also been raised through other major policy projects and neighbourhood consultation on specific development applications. In the last decade, the City has been confronted with some of the lowest rental vacancies in the Province but also with opportunities to greater intensify the urban core to what has been seen in the past. There are different ways to implement intensification and a tailored made-in-Kingston strategy is required to help refine and provide clearer direction how the City needs to intensify. The location, context of existing built form, transportation considerations as well as architectural design requires careful contemplation in guiding a City's approach to intensification.

A special Council meeting was held on January 17, 2018 with planning expert Brent Toderian to discuss approaches and best practices for urban intensification, which is also referred to as 'city building'. Mr. Toderian provided a thought provoking presentation, which sought to challenge Kingston's perceptions about densification with a goal of shifting the conversation from a tall versus short buildings to a richer and more complex understanding of key urban design principles highlighted with examples of density done well. Since that time, Mr. Toderian has been working in a technical advisory capacity with City staff related to key planning policy matters as well as providing input related to major development applications currently under review.

Staff have identified some gaps not only in planning policies but in approaches to some elements of the technical review process for planning applications. While some areas of the City, like Williamsville, have been subject to a main street re-development plan, the portion of the City's downtown south of Division Street is regulated by some conflicting policies in the Official Plan and a zoning by-law that does not fully implement the vision of the 2017 Official

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Plan. Some areas of the City are also missing guidance from clear urban design expectations related to built form and the public realm.

To address the deficiencies identified, staff have outlined a strategy with several steps to be accomplished within the next 12 months. These steps include a finalized guideline for Community Benefits being presented to Council with implementing Official Plan policies, a new approach to obtaining Peer Reviews for major development applications, new terms of reference for the various technical studies required as part of the development approvals process, and the development of a set of “tall building” policies for the Official Plan, which will clearly identify areas where taller buildings can be accommodated along with a set of guiding urban design principles.

Staff wish to continue building upon the synergy of technical work they have been able to accomplish over the past five months working alongside Brent Toderian. Staff have received a scope of services from Toderian UrbanWORKS to complete the “tall building” policies at a cost of \$53,900.00 exclusive of HST and travel expenses, with staff working to complete the remainder of the projects outlined above. In accordance with By-Law Number 2000-134, A By-Law to Establish Purchasing Policies and Procedures, Council approval is required, as staff recommend entering into a sole source contract that exceeds \$50,000.

**Recommendation:**

**That** the Director of Planning, Building & Licensing Services be authorized to sole source, pursuant to By-Law Number 2000-134, A By-Law to Establish Purchasing Policies and Procedures, the preparation of tall building policies with Toderian UrbanWORKS, at a total cost of \$53,900.00, exclusive of HST and expenses; and

**That** Council authorize the Mayor and Clerk to execute an agreement between the City of Kingston and Toderian UrbanWORKS for the preparation of tall building policies for the City of Kingston Official Plan at a total cost of \$53,900.00, exclusive of HST and expenses, in a form satisfactory to the Director of Legal Services.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

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**Lanie Hurdle, Commissioner, Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

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**Gerard Hunt, Chief Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Denis Leger, Commissioner, Corporate & Emergency Services	Not required

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**Options/Discussion:**

The City of Kingston has recognized the need for greater intensification and smart growth within its urban boundary in order to maintain the existing urban boundary, maximize corporate investments and build a more sustainable and resilient community.

Staff have outlined a strategy with several steps to be accomplished within the next 12 months. These steps include a finalized guideline for Community Benefits being presented to Council with implementing Official Plan policies, a new approach to obtaining Peer Reviews for major development applications, new terms of reference for the various technical studies required as part of the development approvals process, and the development of a set of “tall building” policies for the Official Plan, which will clearly identify areas where taller buildings can be accommodated along with a set of guiding urban design principles.

**Community Benefit Guidelines**

The exchange of increased height and/or density in return for Community Benefits, otherwise referred to as “density bonusing”, is a powerful planning instrument available to municipalities. The process is regulated by Section 37 of the *Planning Act* and allows the City to approve site-specific rezoning applications that request an increase in height and/or density, in exchange for the provision of “facilities, services or matters” (Community Benefits).

In order to take advantage of Section 37, municipalities must have enabling policies in their Official Plans to allow increases in height and/or density in exchange for Community Benefits. The City of Kingston Official Plan contains the requisite enabling policies in Sections 9.5.25 to 9.5.30, inclusive.

In order to ensure that the use of Section 37 is grounded in fair, clear, transparent, predictable and specific requirements, staff prepared a set of implementation guidelines similar to those used in many other municipalities in Ontario. The draft Community Benefit Guidelines include a decision-making framework, valuation procedure and administration details. The following are guiding principles for how the draft guidelines have been structured:

- Community Benefits will only be applied to larger projects;
- A nexus between the development and Community Benefit must be established;
- The “uplift value” is the increase in land value that is likely to result from an increase in the height and/or density of a project permitted to occur beyond the prescribed height and/or density limits of the implementing zoning by-law;
- The value of a benefit must be a reasonable proportion of the uplift value;
- Community Benefits cannot be used to replace existing requirements such as the payment of development charges or the dedication of parkland; and
- A proposal for increased height and/or density must be supportable from a planning perspective.

As part of the consultation and preparation of the draft guidelines, staff hosted a non-statutory Public Meeting ([Report Number PC-17-096](#)), a public open house and several workshops with community groups and members of the development industry. Based on the feedback received,

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staff are in the process of having the draft guidelines Peer Reviewed by Toderian UrbanWORKS. Once the Peer Review is complete, staff will bring forward a set of revised Community Benefit Guidelines for Council's consideration, before the end of 2018.

The use of these guidelines is proposed to be reinforced through amendments to the City's Official Plan which will establish the requirements for evaluating potential Community Benefits, consulting with the public, and executing Section 37 (legal) agreements. The amendments will also add to the list of eligible Community Benefits that may be sought through the approvals process.

### **Terms of Reference for Supporting Studies and Assessments**

As indicated in Section 9.12 of the Official Plan and enabled by the *Planning Act*, the City may require applicants to provide supporting information in the form of studies or assessments in order to consider a *Planning Act* application complete. These studies or assessments are in addition to the prescribed information and material that is required to be submitted for various types of *Planning Act* applications.

The supporting information enables staff and Council, or its designated approval authorities, to assess the technical aspects of a development proposal and to make informed recommendations and decisions. The supporting information also ensures that the public and other stakeholders have access to all relevant information early in the planning process. A list of the required supporting information in order for an application to be considered "complete" is provided to an applicant during the City's pre-application consultation process.

There have been several instances where incomplete information has been submitted by applicants or where the required supporting studies or assessments do not contain the appropriate level of analysis required to determine the potential impacts of a project and any associated mitigation measures. As a way to address this gap and to clearly establish the Municipality's expectations related to the quality of technical studies, staff have prepared a revised set of terms of reference for the following:

- Planning Justification
- Urban Design Study
- Heritage Impact Statement
- Archeological Assessment
- Landscaping Plan
- Tree Preservation and Protection Plan
- Shadow Impact Study
- Lighting Study or Plan
- Parking Study
- Transportation Study
- Noise Impact Study
- Record of Site Condition
- Hydrogeological Study
- Geotechnical Study

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- Phase 1 and 2 Environmental Site Assessment
- Servicing Report
- Erosion and Sediment Control Plan
- Floodplain Analysis
- Stormwater Management Report

The terms of reference are meant to provide clear direction to applicants with respect to the City's expectations on the content of each of the studies or assessments from the outset of a project. It is anticipated that the terms of reference will be rolled out by the fall of 2018. Terms of reference may also be prepared for other studies and assessments where deemed necessary.

Staff are also taking a critical look at the rationale used to determine which studies are required in support of applications.

### **Peer Reviews**

In some cases, particularly for complex development applications, the City may require some of the supporting studies to be peer reviewed. A Peer Review is an independent review of a study by a qualified professional in that field of study. Typically, studies such as urban design, market impact or environmental impact assessments for large developments are peer reviewed. The applicant is responsible for the cost of the Peer Review.

The current process to retain a peer reviewer includes the following steps:

- Planning staff obtain quotes and scopes of work from three qualified professionals;
- The scope of work is reviewed by Planning staff and revisions are made by the qualified professionals, as necessary;
- The quotes and scopes of work are forwarded to the applicant;
- The applicant selects their preferred peer reviewer and submits the required fee to the City.

This process is often time-consuming for staff and can also significantly delay the technical review process for applications. It is often challenging for staff to obtain Peer Review quotes from consultants, requiring repeated follow-up. In order to help streamline the process, staff are working on a new policy for obtaining Peer Reviews, which may include a 'roster based' approach that has been championed by other municipalities. Having a common set of Peer Review consultants will also assist with ensuring consistency of approach and content for applicants.

### **Tall Building Policies**

The City of Kingston has struggled with low rental vacancy rates for several years, most recently being identified as having the lowest rental vacancy rate in the province at 0.7%. As a result of low market supply, as well as Council's decision to embrace 'smart growth' through densification, the City has been confronted with opportunities to greater intensify the urban core beyond what has been seen in the past, especially as it relates to high rises or "tall buildings".

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The location, context of existing built form, transportation considerations as well as architectural design requires careful contemplation in guiding the City's approach to intensification. While some areas of the City, like the Williamsville Main Street, have been the subject of an area-specific re-development plan, other areas of the City, such as the portion of the City's downtown east of Division Street, are regulated by conflicting or ambiguous policies in the Official Plan and outdated zoning by-laws that do not fully implement the vision of the Official Plan.

In order to provide a clear framework against which to consider tall buildings in the City, staff will be collaboratively developing tall building policies for the Official Plan and wish to continue building upon the synergy of technical work they have been able to accomplish over the past five month working alongside Brent Toderian. Staff requested a scope of work from Toderian UrbanWORKS to assist with the completion of this work.

The tall building policies will clearly identify areas where height can be accommodated along with a set of urban design expectations. The scope of work includes the preparation of draft policies related to the floor plate, tower setbacks from the podium, public realm interface, podium height, articulation and arrangement of balconies on the tower which will build upon key principles of urbanism achieved by Cities who do 'density well', while being appropriate and sensitive to the Kingston context. This work will lead to amendments to the Official Plan and will include a public engagement strategy.

Staff has completed a comparative review of other municipal approaches to tall buildings, which will be provided to Mr. Toderian as background information.

Mr. Toderian's work will include a public engagement strategy co-facilitated by City staff. The draft policies will be presented at a Public Meeting of the Planning Committee before a final version is presented for Council's consideration.

Toderian UrbanWORKS has requested a budget of \$53,900.00, exclusive of HST and expenses, to assist with the completion of this work. Mr. Toderian is an internationally renowned planning professional with a skillset that is not readily available in the market. In accordance with By-Law Number 2000-134, A By-Law to Establish Purchasing Policies and Procedures, Council approval is required, as staff recommend entering into a sole source contract that exceeds \$50,000.

**Existing Policy/By-Law:****Provincial***Planning Act*

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan

City of Kingston Zoning By-Laws

By-Law Number 2000-134, A By-Law to Establish Purchasing Policies and Procedures

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**Notice Provisions:**

Not applicable

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

The proposed contract related to the creation of Tall Building Policies will be funded from the existing Planning, Building & Licensing Services approved budget.

**Contacts:**

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**Other City of Kingston Staff Consulted:**

Not applicable

**Exhibits Attached:**

Not applicable