

OVERCOMING OBSTACLES TO PARKLAND ACQUISITION:

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AN ANALYSIS OF THE CITY OF TORONTO'S PARKLAND ACQUISITION TOOLS,  
WHY THEY HAVE FAILED THE DOWNTOWN, AND WHAT CAN BE DONE ABOUT IT

By  
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ABSTRACT

Since the mid-1900s, municipal parkland acquisition in North America has occurred largely through the development process. This paper asks how well Toronto's existing acquisition tools and policies are meeting the needs of present and future populations in the downtown. Research was conducted through a review of the literature, policy and budgetary analysis, and twelve key informant interviews with municipal parks staff, councillors, developers, a planning consultant, and community advocates. The research finds that there are many factors that have impeded parkland acquisition in the downtown, including lack of a strong planning framework, historical disbursement of cash-in-lieu funds city-wide, governance challenges, underfunding of existing operations, limited land supply, a perception of land as overpriced, inability to purchase at market price and in a timely fashion, and limited knowledge of existing tools. The paper acknowledges what has worked and concludes with recommendations to improve the City's parkland acquisition and development framework.

Key words: parkland acquisition, exactions, Parks Levy, development charges, parkland dedication, financing growth, urban parks

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## LIST OF ABBREVIATIONS

CIL	Cash-in-lieu of parkland
FOI	Freedom of Information
ha	Hectare
LPAC	Local Parkland Assessment Cell
OMB	Ontario Municipal Board
PASDR	Parkland Acquisition Strategic Directions Report
PF&R	Parks, Forestry and Recreation Division
DCs	Development Charges
s.37	Section 37 of the <i>Planning Act</i>
s.42	Section 42 of the <i>Planning Act</i> , also referred to as the “Parks Levy”

# 1 INTRODUCTION

The Toronto region is of critical importance to our regional, provincial and national wellbeing. At 5.6 million people, the Toronto Census Metropolitan Area (CMA) contains 43% of Ontario's population. The region is the number one settlement destination for new Canadians and is growing rapidly.<sup>1</sup>

At the core of the region is the City of Toronto and its downtown area forms the financial and cultural epicentre. Toronto's downtown has long included vibrant mixed-use neighbourhoods but has been experiencing a strong injection of redevelopment activity in the form of high-rise condominiums.

Population growth in the downtown core is occurring at a staggering pace. The pace of growth from 2006-2011 tripled compared to the previous three census periods, outstripping growth in the surrounding regions of Peel, York, Durham, and Halton (See Figure 1). With many more large projects under construction and in the development pipeline, growth is certain to continue in the near future. Elections Canada is currently subdividing the two downtown ridings in order to account for this dramatic population increase.

Growth has been comprised largely of young, highly educated professionals who are attracted to the downtown for its proximity to jobs, transit and amenities (City of Toronto, 2012b).

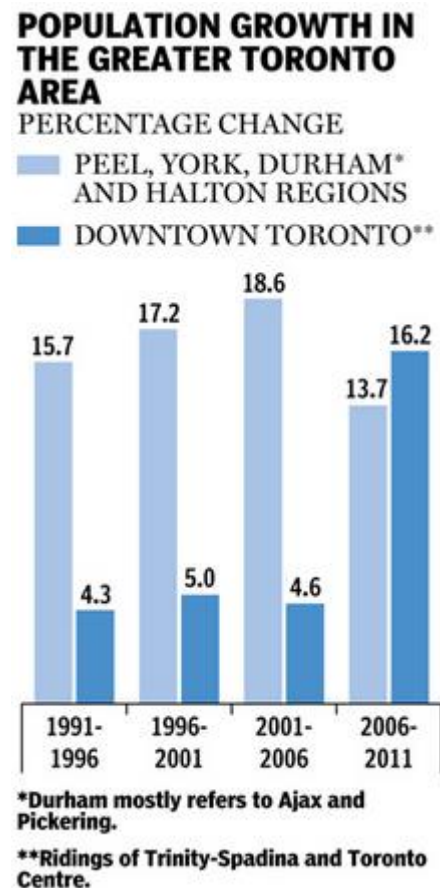


Figure 1: Growth in Downtown Toronto vs. regions

Source: Rivait, J. (Jan 22, 2013). A Return to the Core. *National Post*.

<sup>1</sup> Between 2006-2011, Toronto CMA grew 9.2%, compared to the Province of Ontario's growth of 5.7% and nation-wide growth of 5.4%. (Statistics Canada. 2012). Focus on Geography Series, 2011 Census.

Provincial and municipal policies have also stoked this growth. The Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”, 2006) directs growth to established “urban growth centres,” of which Downtown Toronto is one. The Plan stipulates that a minimum of 40% of development within municipalities across the region must happen within existing municipal urban boundaries by 2031 and set a minimum target of a combined 400 people and jobs per hectare in the downtown. Simultaneously, the *Green Belt Act*, *Oak Ridges Moraine Act*, and *Niagara Escarpment Act*, have restricted growth around the edge of the region to protect prime agricultural land and the region’s watershed. These factors have limited land supply and resulted in increased land prices and a greater price differential between low-rise and high-rise housing (Tuckey, 2013), further incentivising high-rise development. The City of Toronto’s Official Plan supports the policy direction in the Growth Plan and identifies the downtown as an area of major change where intensification is encouraged.

Infrastructure has not kept pace. And this infrastructure includes access to a sufficient amount of quality parkland. A healthy parks system is an important element of cities. Parks contribute greatly to quality of life, to human and mental and physical health, to social cohesion and civic life, to air quality and environmental health and to a city’s economic development. Experientially, urban dwellers comprehend the tremendous value of a quality urban parks system. Developers know having a good park next to their building or within close proximity will increase sales.

The fact that parks are important is not contested, but planning effectively for an intensifying city’s parkland needs is a complex task. This research paper describes and analyzes the City of Toronto’s parkland acquisition strategy with respect to how it administers development exactions for the purpose of acquiring and developing parkland. The paper seeks to:

- Provide clarity to an area of municipal policy that is not widely understood;
- Identify the factors that have impeded parkland acquisition in the downtown;
- Acknowledge what has worked well; and finally,
- Offer recommendations that may improve parkland acquisition and development in the downtown.

### *Project Background*

This project was inspired from two events. First was my involvement in the development process through following an application at an Ontario Municipal Board (OMB) hearing. I represented my local neighbourhood association at the hearing. Through this process, the association expressed interest in obtaining funds from the local development for a park across the street. The lawyers and professional planners at the hearing did not understand the details of the way that funds get collected or even the amounts collected. The Board in its Decision recommended that using funds obtained through Section 42 for the local park would be appropriate but noted that allocating such funds is usually a function of municipalities (*6545411 Canada Inc. vs. Garden District Residents Assn.*). The local councillor, who was very new at the time, did not understand the way that Section 42 funds were administered and referred me to the Planning Division and they in turn referred me to the Parks, Forestry and Recreation Division. It took speaking with numerous staff before finally connecting with somebody who understood the basics of the program. I wondered, why do so few people intimately related to the development review process seem to know this information?

The second factor that played a role was facilitating numerous community action planning meetings spearheaded by Toronto Centre MPP Glen Murray between the fall of 2010 through winter 2012. Insufficient quantity and quality of green space was a repeatedly-raised concern across downtown neighbourhoods. If there is so much development taking place and such high need, I thought, why is the City not buying land? Is the City simply not collecting enough money from development to buy land or are there other factors?

It was at these meetings in early 2011 that I first learned about the effort to turn 2.1 acres of provincially-owned lands at 11-Wellesley into a park. There was a strong desire from the community, MPP Glen Murray and Local Councillor Kristyn Wong-Tam to make this happen. Unfortunately, when the province declared these lands as surplus, it chose to put them on the market available to the highest bidder rather than convey them at a discount to the City for public use. The City ultimately determined that it could not compete with the open market. With all the recent and proposed development in the downtown and in this neighbourhood in

particular, and with the City collecting money from all these developments for parkland, I wondered, why could it not afford to bid?

Collectively, these experiences inspired me to research the City's parks funding acquisition strategy and funding model.

## 2 LITERATURE REVIEW AND BACKGROUND

This chapter summarizes the key reasons why parks are important for a livable, competitive downtown; discusses tools for assessing and quantifying parkland provision levels; provides a brief overview of the history and literature surrounding the funding growth-related infrastructure through development; outlines Ontario's enabling legislation for funding parkland through development, and outlines the findings of studies of on parkland exaction programs in other jurisdictions.

### 2.1 THE IMPORTANCE OF PARKS FOR A LIVABLE, COMPETITIVE DOWNTOWN

Parks are essential components of livable, sustainable, healthy, cohesive, and economically and socially vibrant communities. The immense value of urban parks is well documented. Parks have the capacity to foster social cohesion by bringing together people from diverse cultures and across economic classes on common ground (Peters, 2010). They provide environments that enable strangers to meet and community ties to be formed (Thompson, 2002). Numerous studies demonstrate the benefits of urban parks for individual physical, mental and spiritual wellbeing (Thrift, 2005; Orsega-Smith et al, 2004; Blanck et al., 2005). Access to parkland with opportunities for active recreation has been associated with a decrease in obesity in surrounding populations (Blanck et al., 2005). Green space improves air quality and significantly reduces the heat island effect of dense urban centres (Yu, 2006).

The economic dividends of investing in high quality parkland are substantial. The vast majority of studies show a positive correlation between proximity to parkland and surrounding property values (Crompton, 2000). High quality parks also draw tourists, and help to attract and maintain a highly skilled workforce. Frederick Law Olmsted, considered by many as the father of landscape architecture and developer of many of North America's finest parks, such as Central Park in New York and the Boston Commons, foresaw that investing in acquiring and developing high-quality urban parkland made good economic sense. He predicted that the increase in real estate prices on land surrounding Central Park would more than pay for the park and was

proven right; fifteen years later, property taxes collected from surrounding properties increased by 900 percent (Fox, 1990, in Garvin, 2011).

There are many more recent examples. The opening of Millennium Park has not only emerged as a must-see draw for tourists visiting Chicago and a remarkable public space for residents but is also credited with an enormous increase in development activity and rent increases in surrounding properties. Achieving such greatness came at a cost of \$490 million and required tremendous vision and extraordinary execution. The dividends however, have been substantial. An economic impact study commissioned by the City of Chicago credits Millennium Park with 1.4 billion dollars of real estate investment in the adjacent area (Goodman Williams Group, 2005). At least 10 condominium projects, five hotels and 78 million dollars in tax revenue have been attributed to Millennium Park (Uhlir, 2012). High quality parks and open space are popular destinations and can attract millions in tourist dollars. San Antonio's Riverwalk Park is the City's most popular attraction and makes a large contribution to the city's 3.5 billion tourist industry (Lewis, 2002, in Sherer, 2006). What would a vacation to New York City be without visiting Central Park?

The positive economic externalities of parks can be measured in real time as a park is created. A 2005 study of real estate values along the still-developing 550 acre Hudson River Park in Lower Manhattan found that property values along the portion that had been completed increased 80 percent between 2003-2005 compared to an increase of only 45 percent in condominiums along the uncompleted sections (Real Estate Board of New York and the Regional Plan Association, 2007, in Garvin, 2011).

Certainly, good parks maintenance and quality design is essential to maximizing park's economic and social benefits. Well-designed and maintained urban public spaces attract people to them and invite them to stay. Poorly maintained parks may be detrimental to surrounding property values (Crompton, 2000). Poor maintenance combined with problematic design turned New York's Bryant Park into a substantial liability. By the mid-1970s crime in the park had become a major problem and the park even risked being closed. Intervention through redesign, increased maintenance and a change in the park's governance structure has

transformed the park from a liability into a significant community asset. The park's regeneration has been credited with a significant increase in surrounding rents and it is now a thriving oasis in the heart of Manhattan (Garvin, 2011; Bryant Park Corporation, n.d.).

Parks and the public realm are important aspects of any community, but investment in parks and the public realm in downtowns deserve special consideration due to their strategic importance to the entire city, high residential and employment densities, and the fact that private access to green space is limited.

The vast majority of new residential development in Toronto (96% in Q42011, City of Toronto, 2012d) is in the form of high-rise condominiums. According to Urbanation Inc. (Urbanation, 2012, in CBC, 2012), the average size of the condominiums units slated for completion in the former City of Toronto (pre-amalgamation) in 2014 is only 695 square feet. New buildings tend to have little outdoor amenity space. The City's Downtown Tall Buildings Vision and Performance Standards Design Guidelines (2012c) promote building the base of tall buildings to property lines, leaving scant room for landscaping in front of buildings. Planning regulations require that apartments and condominiums provide amenities which can include things such as roof decks or plazas, but typically they do not provide access to a substantial quantity of outdoor space to recreate and so residents and their dogs must seek these amenities elsewhere. There is a critical need to invest in municipal public parks and open spaces to continue to support a high quality of life in the downtown.

Globalization has led to an increasing drive for municipal competitiveness. Fostering a vibrant, attractive downtown is a good competitive strategy for 21<sup>st</sup> century cities (Florida, 2005). Amenities, including parkland are important to attracting a talented workforce. A survey by the City of Toronto (2012b) found that young urban professionals are attracted to the downtown for its proximity to work, transit, and amenities such as culture, entertainment and shopping. Insufficient quantity of parks and open space was the fifth-ranked reason cited for leaving the downtown after affordability, noise, congestion and homelessness (*Ibid*).



## 2.2 ASSESSING PARKLAND PROVISION: STANDARDS AND ALTERNATIVES

How can a city determine whether or not it is effectively meeting the parkland demands of its current and future residents? Targets and indicators can be useful tools.

Targets and indicators are measures that cities can use to quantify service levels, assess how well objectives are being achieved, and compare service provision levels over time and across jurisdictions. There are four main ways that parkland provision levels are measured in North America, including (1) parkland density in comparison with population or relative to a city's total land area, (2) facilities available per population, (3) the distance that residents must travel in order to reach their nearest park, and (4) how much money a city spends on parks on a per person basis or as a percentage of a city's budget.

*Urban parkland provision level standards emerged in North America in the 1930s in response to declining political momentum for aggressive parkland acquisition (Harnik, 2010). Between the mid-1800s up until the 1920s, there was substantial political momentum for investing in urban parks. However, beginning in the 1930s—with a bit of resurgence during government make-work projects of the Great Depression—the political support for urban parks waned (Ibid.). More families acquired automobiles and there was a mass exodus of populations to the suburbs where residents enjoyed private backyards, partially replacing the need of urban parks. Larger, iconic National Parks captured the imaginations of politicians and the public. Supporting urban parks with public revenue became a less urgent political role.*

In an attempt to maintain some degree of continued parkland acquisition, parks advocates responded by devising a rational-scientific model of parks provision levels.

### *Land Area per 1000 Residents*

The early standard in the United States was 10 acres per 1000 persons (*Ibid.*). Standards were similarly set for other recreation infrastructure such as miles of multiuse trails (one per 8000 people), and even the number of picnic tables per acre (10-15) and the minimum amount of water per sailboat (one acre/four sail boats) (*Ibid.*, 14).

These standards have since been adjusted various times. In 1943, the American Society of Planning Officials proposed lowering the standard to 10 acres for every 3000 in cities with populations above a million people (*Ibid.*)—an early recognition of how maintaining a parkland density based on population in large urban centers may be unrealistic.

The health benefits of parks through the role that urban parks play in supporting active recreation gained attention in the 1970s. The (U.S.) National Recreation and Park Association published three papers on service provision levels (in 1971, 1983, and 1995), which articulated detailed and highly researched standards. The Province of Ontario similarly emphasized recreation standards in the 1970s. However, such thresholds fail to reflect the complexities of urban life and the myriad of factors that affect demand for parks and recreation, such as housing types, culture, language, the location of schools, land use, income, and so on.

There is a wide difference in the amount of parkland per population across municipalities in Canada and the United States; however, such differences do not necessarily reflect the ability of the parks system to meet the needs of the city (*Ibid.*). Since the 1990s, literature and municipal parks master plans have increasingly supported the position that rigid parkland provisions standards are not realistic and are not effective measures for assessing service levels across various jurisdictions. Leading parks advocates (such as Harnik, 2010; Garvin, 2011) tend to agree that there is no one-size-fits-all answer to the question of ideal service provision rates.

The density of an urban area affects park uses and should be an important consideration in assessing parkland needs (Harnik, 2010). Peter Harnik, Director of the Trust for Public Land's Center for City Park Excellence, points out that it isn't practical to expect the same parkland rates in dense urban areas as in the suburbs. "Is it realistic to expect that lower-density cities or suburbs will be able to pack in as much diversity of culture, retail, culinary opportunity, entertainment, and architecture as dense cities? Can every community provide a comparable level of service in every commodity to every resident? Parks make cities better, but at a certain point too much parkland means too little city" (*Ibid.*, p. 19).

Despite the limitations of measuring land area relative to population counts, the measurement hectares of parkland per 1000 residents remains a popular benchmark across North American municipalities.

#### *Parkland as a percentage of city land area*

Another way of measuring quantity of parks in a city is measuring the total quantity of parkland relative to a municipality's total land area. One challenge of this measurement is that it is hard to quantify this amount meaningfully in cities that contain undeveloped land or large industrial areas. It also doesn't factor in demand for parkland or assess the amount of land available for recreation. Some parkland areas may include large swaths of industrial land or parks with large areas that are valuable ecologically as natural spaces but are not accessible for active recreation.

#### *Facilities per population*

Similar to measuring parkland available per person, measuring facilities available per person, such as 20,000 people per arena, is another tool that has been used to assess parks and recreation provision levels and was highly promoted by recreation associations in the 1970s. However, demand for recreation facilities and parks design will differ depending on local demographics, such as age and culture.

#### *Nexus*

A more helpful way of analysing parks provision is considering how far residents of a city need to travel in order to reach parkland. The distance one may be inclined to travel to a park is different depending on the circumstance. Are you trying to get to an outdoor space for a 30-minute office lunch break? A team sports game? Playing after school with the kids before dinner and homework time? Letting your old dog out to pee? Each situation will have different parameters that affect the possibility of accessing a park.

Measuring in terms of distance, rather than in blocks or in minutes travelled is more informative. In intense urban areas, where many residents do not have access to a vehicle,

distance to parks facilities should be measured with regard to the amount of minutes required to walk or bicycle to a local park. Few American cities have distance standards but some have created objectives (*ibid.*). Mayor Bloomberg has set out an objective of a park within a 10-minute walk for New Yorkers. Chicago has set a goal of having parks within a half-mile of its residents (*ibid.*).

Measuring access to parkland can be useful but it is also important to consider what sorts of amenities are available within the parks. What sorts of needs do the parks serve? Do they provide for a range of demographics, access to nature, to culture, to active and/or passive recreation opportunities, etc.? Not every park will provide the same amenities, particularly when it comes to smaller parks or parkettes in an urban setting, so it is helpful for a municipality to map out an inventory to understand which parks provide which services and identify gaps within a defined area.

#### *Money Spent Per Person*

A further way of analysing a city's service levels is by looking at the dollars per capita that a city spends on parks. This money can be analyzed with respect to the percentage of the city's operating and capital budgets. Certainly, using this metric does not assess the quality of services provided or how effectively funds are used, but it can indicate where parks and open space sit on a municipality's list of priorities.

#### *Shortcomings of Standards*

Parkland provision standards are controversial. Standards apply a common denominator to all parks, whereas each municipality and the neighbourhoods within them have different characteristics and needs. Standards may be more appropriate for recreational facilities but, even so, the needs for certain facilities differ depending on user demographics and preferences. Another major shortcoming of quantitative measurements is that they fail to address the quality of parks.

Nevertheless, parkland provision rates are often useful as benchmarks when planning for development-related parks fees (City of Kamloops, 2012, p.29-30). They also allow a city to

assess its parkland provision rates over time and to compare service provision levels to some degree with other municipalities.

#### *Alternative: Assessing and Anticipating needs*

Assessing and anticipating community needs is more important than attempting to apply artificial standards, particularly in urban areas (Harnik, 2010). Understanding needs effectively requires an intimate understanding of local community preferences and changing demographics trends. A needs-based assessment must also consider where future demands on parkland are likely to occur. This can occur by estimating population growth through demographic trends and careful attention to development applications in the 'pipeline' as well as regard for what areas of the city encourage growth.

In sum, parkland provision assessment tools are imperfect, but recognition that universal standards are inadequate should not prevent municipalities from setting and assessing their own targets or stop planning. Anticipating and planning for the future needs of an intensifying community is essential when figuring out how much money or land will be required in order to provide adequate levels of service in growing communities.

Clear objectives are important to achieving visions for a strong, vibrant parks system. But, as Harnik (2010) and others have noted, what is far more important than standards is politics (*ibid.*). This responsibility lies with all the players that contribute to the workings of the city. Achieving great parks requires strong grass roots advocacy and nimble, visionary politicians who comprehend the value of a strong parks system and know how to maximize the existing tools that are available. While not the only tool, wisely leveraging the development process for strategic parkland acquisition presents a major opportunity.

### 2.3 FUNDING PARKLAND ACQUISITION THROUGH DEVELOPMENT

Like all infrastructure, parks have carrying capacities. After a point, the addition of more users puts stress on existing parkland and can detract from the experiences of users or it may simply not be available in sufficient quantity to meet the demand. Ensuring that adequate quantity of parkland is provided to meet the demands of new growth resulting from development is an

important policing power to protect existing residents from the deterioration of existing service levels and also to ensure that there are necessary services available to new residents.

The following section describes the history of exactions for funding infrastructure, including parkland, discusses Ontario's current tools, outlines some of the broader considerations for using exactions as a funding tool, and discusses what factors impede parkland conveyance programs from reaching their full potential through a review of studies from the United States and Australia.

### *2.3.1 BRIEF HISTORY*

Prior to the 1950s, most municipal infrastructure was financed by municipalities through a combination of property taxes at the general mill rate and district-specific capital levies (Mahadevan & Wood, n.d.). Since the 1950s, there has been a trend increasingly in support of the position that development should pay its own way; that is, development should shoulder the costs that are incurred as a result of growth. Concurrently, there has been a decreased political appetite for paying for infrastructure through taxes. These factors have resulted in a transfer of the responsibility for the financing of public growth-related infrastructure expenditures from the public to the private sector (Slack & Bird, 1991; Slack 2009; Crompton, 2010b).

The years following WWII saw a large increase in population growth across North America. This resulted in a substantial amount of residential development in the suburbs and a correlating need for the provision of additional municipal infrastructure. Municipalities initially took on the task of paying for this new infrastructure but this resulted in increasingly burdensome debt loads (Mahadevan & Wood, n.d.). The Province of Ontario and municipalities developed ways to finance this growth by permitting the imposition of conditions and/or fees as a condition of development (*Ibid.*). The *Municipal Act* first addressed subdivision agreements in 1958 and the *Planning Act* was amended in 1959 to regulate subdivision agreements. Subdivision agreements and developer cost-sharing agreements in the 1950s and 1960s allowed municipalities to require new developments to finance the hard infrastructure costs necessary for the

development to take place, such as roads and sewage, and also to convey a portion of the subdivided land to municipalities for parks purposes. While there were many disputes between municipalities and developers about subdivision agreements resolved at the OMB, developers were often willing to assist in providing or paying for such services as it allowed for their projects to be approved and achieved faster (*Ibid.*).

The 1970s began to see municipalities collect fees for “soft services” such as libraries, community centres, recreation police services, etc. in addition to hard services through lot levies (*Ibid.*). Lot levies were applied to both infill developments and subdivisions. By the 1980s, most Ontario municipalities had lot levy policies (*Ibid.*). The enactment of the *Development Charges Act* in 1989 reflects what may be considered as “a codification of the lot levy system with procedural safeguards” (*Ibid.*, p, 15).

In 1973, the Province amended the *Planning Act* to allow municipalities to collect cash-in-lieu (CIL) of land and also provided municipalities with the option of establishing an alternative requirements of up to one hectare per 300 units in order to ensure adequate parkland provision in dense communities (Ontario, 1981). The amount of one hectare per 300 units reflects an extrapolation on a provincial standard of one hectare per 1000 people (Ontario, 1981).

A prime purpose of amending the *Act* was to enable municipalities to amalgamate contributions from smaller developments in order to make meaningful-sized parks and also to ensure that adequate amounts of parkland would be available in high rise communities (*Ibid.*). The amendment made it possible for built-up urban areas to obtain money to increase their parkland provision and also to improve and maintain parkland.

## 2.4 CURRENT LEGISLATIVE TOOLS FOR FINANCING GROWTH-RELATED PARKLAND NEEDS

The Province of Ontario recognises the provision of parks, open space and recreation opportunities as matters of provincial significance. This interest is expressed in the Provincial Policy Statement (see Policy 1.5, Public Spaces, Parks and Open Space) and the *Planning Act* (see Section 2.i., adequate provision and distribution of educational, health, social, cultural and

recreational facilities) as well as through enabling municipalities to require land or cash-in-lieu of land through s.42, s.51.1, and s.53 of the *Planning Act*.

The Province's Growth Plan for the Greater Golden Horseshoe (2006) is most known for its intensification and anti-sprawl policies, but it is equally focused towards a goal of creating "complete communities" (1.2.2) of which "community infrastructure including...recreation and open space" (Chapter 7) plays an integral role. The plan views cultural amenities and recreation as important to regional competitiveness through its ability to attract knowledge workers (1.1) in addition to their benefits for livability. The Plan also encourages municipalities and partners to "develop a system of publicly accessible parkland, open space and trails" (4.2.1(4)) and to "establish open space systems" (4.2.1(5)).

There are two standard ways through which Ontario municipalities use developments to pay for parkland and parks facilities: conveyance of parkland and Development Charges. In addition, some municipalities, such as Toronto, Ottawa, Richmond Hill and Mississauga, have chosen to create policies that make parkland an eligible beneficiary of density bonusing. The ability to use these tools is expressed through the *Planning Act*, *Development Charges Act* and *Municipal Act*.

#### *2.4.1 CONVEYANCE OF LAND FOR PARKS PURPOSES*

Setting aside land at the time of development for parkland or paying an amount in cash-in-lieu of land is the primary way that Canadian (Lindsay, 2004), American (Harnik & Yaffe, 2005) and Australian (Searle, 2011) municipalities acquire parkland.

All Canadian provinces and territories and the majority of American states have legislation in place that permit municipalities to exact land as part of the development process (Lindsay, 2004). In Canada, basic provincial parkland dedication rates vary from 2% to 10% for residential developments (*Ibid.*, p.5). All provinces except four permit base-rate exactions of up to 10% (*Ibid.*). Ontario sits at the lowest end of the spectrum with an industrial land dedication rate of 2% and a basic residential dedication rate of 5% (*Ibid.*).

Ontario's *Planning Act* gives municipalities the authority to require a portion of land to be developed to be conveyed to municipalities for parkland. This tool is sometimes called an



“exaction” and is authorized through Sections 42, 51.1, and 53(13) of the *Planning Act*. In the City of Toronto, this tool is commonly referred to as the Parks Levy. Each section addresses parkland at a different stage of a development. Section 51.1 addresses parkland provision during the subdivision of land, Section 53 (13) deals with parkland provision at the time of consent, and Section 42 addresses parkland provision during the development of land. Land or cash-in-lieu of land may only be collected by a municipality once; in other words, a municipality may not require land or cash-in-lieu of land at both the sub-division stage and the development stages. While the administration of each section of the *Act* differs, all are similar in their purpose: to enable a municipality to ensure that adequate parkland is available to serve the needs of future residents resulting from ensuing population growth. Section 42 is what is relevant to the development of land in an urban setting such as Toronto.

Section 42 of the *Planning Act*, Conveyance of Land for Park Purposes is, as its heading suggests, devoted entirely to the administration of conveyance of land or cash-in-lieu of land to the municipality for parks. It permits municipalities to enact a bylaw that requires the conveyance of up to 2% of lands that are to be developed for industrial purposes and up to 5% of land to be for residential development for parkland as a condition of development (s. 42 (1)).

#### *Alternative Requirement*

In addition to the basic rate as set out above, the *Act* permits municipalities to use an alternative rate of up to one hectare per 300 units for land to be developed for residential purposes (s. 42 (3)). This maximum rate has not changed since it was first set in 1973. Before municipalities may use the alternative rate provision, they must pass a bylaw and have official plan in effect which “contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement” (s. 42 (4)). All official plans are subject to ministerial approval and are eligible for appeal at the Ontario Municipal Board. Therefore a municipality’s alternative rate is also subject to an appeal at the time of approving an official plan. This was an intentional move by the Province in order to ensure that there is an opportunity for public debate and appeal when the policies are being adopted (Ontario, 1981).

If it is determined that a developer is to pay cash-in-lieu rather than convey land, the *Planning Act* specifies that the amount payable is to be determined at the time of the building permit. All cash-in-lieu must be set aside in a “special account and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes” (s.42(15)). Municipalities may sell parkland at any time (s.42(6)) but monies from such sales must be deposited in this “special account” (s.42(14)).

There is a wide range to how Ontario municipalities’ apply the alternative Rate. Some municipalities, such as Burlington, Richmond Hill and Mississauga, apply the maximum rate permitted in the *Planning Act* of one hectare per 300 units (City of Ottawa, 2008, Table 2). Others, including the City of Toronto, cap their maximum alternative rates much lower. Hamilton uses an upper maximum of 0.6 ha per 300 units for developments with densities greater than 75 per net ha (*Ibid*). Guelph uses a maximum upper limit of 7.5% for developments with densities between 5—100 units per ha and a 10% of land for developments denser than 100 units per ha (*Ibid.*). Markham applies a more sophisticated sliding scale based on population whereby the additional amount payable per unit decreases to try to capture the general decrease in people per unit that tends to transpire in high-rise buildings (Planning Partnership, 2012).

A number of municipalities have been reviewing and are considering reducing their alternative rates in recognition of the fact that a rate of one hectare per 300 units can quickly encapsulate the entire development site of a high density development, making the policy “fundamentally flawed” (*Ibid.*). The Building Industry and Land Development Association (BILD), has been lobbying municipalities and the Province vigorously against the application of the maximum parkland alternative rate and has made doing so a strategic objective of the association.

Early provincial documents were clear municipalities must demonstrate a careful evaluation of its parkland needs and contain clear policies on the use of s.42 alternate rate funds in its Official Plan in order to justify its alternative rate. A brochure by the Province in 1974 noted that, when a municipality develops an alternate rate, “It must be stressed...that the minister must be

satisfied that the standards selected, particularly in the central city and redevelopment areas, are reasonable and attainable and are not set extremely high to purposely discourage development” (Ontario, 1974). While the initial guidelines were quite clear about justifying rates, some municipalities have taken a more lax approach towards creating clearly defined rationales for their alternative rates. The ability of municipalities to use the maximum alternative requirement without justification was challenged successfully by a developer at a OMB pre-hearing on Richmond Hill’s Official Plan review (*Yonge Bayview Holdings Inc. vs. Richmond Hill*, 2012, PL110189 (O.M.B.)). The case is currently before the Ontario Court of Appeal (Garrett, 2012).

The ability to charge exaction fees on the basis of residential density is sometimes criticized for acting as a disincentive towards density and therefore encouraging sprawl (see for example, Blais, 2010). Proponents of density-based exactions, however, argue that allocating land or CIL on the basis of density is appropriate as, like one planner said in an interview, “every person generates a need for parkland.” Regardless, it is important to acknowledge that development rights tend to be capitalized in the value of the land so, for example, a property zoned for 15 times coverage will be required to pay more than the same property that permits only five times coverage, even if a municipality caps the required amount of land at a maximum percentage of the total land value.

#### *Reductions and Exemptions in Section 42*

The *Planning Act* permits municipalities to reduce the amount of parkland required under s.42 in exchange for providing sustainability features on site (s.42(6.2 and 6.3)), such as a green roof or publically accessible private space on site (also see provincial guidelines). Should a municipality choose to pursue such sustainability incentives, they must be laid out in their official plan (s.42(6.2 and 6.3)).

Municipalities may also exempt certain types of developments from requiring a parkland conveyance or cash-in-lieu of parkland in their by-law. For example, the City of Toronto and Hamilton exempt industrial uses. Municipalities may similarly reduce or exempt certain uses from paying Development Charges.

### *Impositions to Exactions Reaching their Full Potential*

While it is intuitive to focus heavily on the amount of land or cash-in-lieu required, it is important to note that exaction rates do not necessarily equate to a municipality's level of parkland acquisition. In a report on the success of American municipal parkland conveyance programs published by the Trust for Public Land's Center for City Excellence, Peter Harnik and Laura Yaffe emphasize that "the ultimate test of any program is not in the details of the formula but rather the outcome: how much land was expected and how much was actually obtained" (Harnik & Yaffe, 2005). Their comparative study found that in almost all cases the amount of parkland obtained by municipalities was less than expected. The exception to this was Portland, which exceeded expectations. Portland had borrowed money by issuing bonds and used expected future development levies towards assuring payback of the bonds. This approach allowed the municipality to purchase land early in the development process while it was still relatively affordable (*Ibid.*). While a study by Evergreen Foundation in 2004 provides a comparison of exaction rates across Canadian provinces (Lindsay, 2004), no study has been done that measures the amount of parkland achieved through exaction programs across Canada.

Harnik & Yaffe (2005) identified four factors that frequently impede the success of municipal exaction programs: requirements to locate parks close to the development sites, a.k.a. nexus; high cost of land; competition between spending cash-in-lieu funds on the improvement of existing parks versus acquisition; and the exemption of certain developments from paying development charges and exaction fees.

John Crompton (2010) looks at parkland ordinances through a more political lens. He argues that parkland ordinances in the United States are "grossly underused," by which he means that they are not set at high enough rates to meet the future demand for parkland generated by growth and not used by all Texan municipalities. He cites both political and administrative "inertia" and strident opposition from the development industry as the primary reasons for this (*Ibid.* p. 41). He notes that some municipal parkland ordinances in Texas have been around for decades and have never been changed and that only 25% of cities have any requirement to

review the ordinance regularly. Furthermore, he outlined that the public is unlikely to engage in debates around parkland conveyances because “they have little awareness or understanding of parkland ordinances and do not recognize that they will be *adversely* impacted if they are merely nominal” (emphasis in original, p. 43).

Insufficient funding of existing parks is a deterrent to urban parkland acquisition (Crompton, 2010; Searle, 2011). Poor maintenance also deters public use. As Jane Jacobs observed, a park that is not well maintained can become a dangerous place and begin to detract rather than add to a city’s greatness (Jacobs, 1961). Good design and proper maintenance of existing facilities is essential to ensuring a high-quality, high-performance parks system. It is tempting for municipalities to dedicate revenue that becomes available through development to maintain existing facilities. Struggles to keep up a state-of-good-repair of existing facilities can make the prospect of acquiring additional assets daunting (Crompton, 2010).

But, as Crompton points out, maintenance represents a short-term view that is reflective of the political and economic realities of the day. Parkland dedication, on the other hand, reflects a long-term vision for capital infrastructure investment and is a one-time opportunity. He argues that, “if a current council decides not to construct new parks, then it has pre-empted the right of future residents to have them because there will be no land available retrospectively to construct them” and that “not to proceed with a parkland dedication ordinance because of concerns about future operation and maintenance costs would be myopic and arrogant since the future ability to meet such costs is unknown” (*Ibid.* p.45-46). He suggests that, even if money does not currently exist to develop parkland, land should be set aside so that it can be developed in the future as land prices tend to escalate.

In a study of municipal land exaction programs in the Australian State of New South Wales, Glen Searle (2011) found that many local councils were either asking for less than the maximum allowable conveyance and that many councils, particularly in denser inner council areas, were directing cash-in-lieu collected towards parkland embellishments rather than acquisitions. Sydney Council was a noted exception. It was spending the majority of funds (73%) on

acquisition and had a developed plan which included strategies such as acquiring former industrial properties. Searle cites a number of factors influencing the lack of acquisitions, including reluctance from councils to increase development costs due to already high prices, a privileged position of developers, insufficient public funding available to maintain existing parkland assets due to reduced state transfers which was putting increased pressure on municipal finances and resulting in the future maintenance of acquisitions being perceived as a burden; and finally, the cost of land and low availability of land had made some local councils give up on the prospect of acquiring new open space altogether. This has resulted in a continual reduction in parkland provision levels in areas with already low parkland provision.

### *Sustaining Adequate Funding*

Parks and recreation divisions comprise one of the few discretionary areas of municipal budgets. Despite their known economic, health, environmental and social benefits, parks and recreation are frequently viewed as optional rather than essential services. This may be due to a perception of recreation as “something we do with leftover time and leftover money” (Mickey Fearn, 2013). The perceived discretionary nature of parks and recreation makes them vulnerable to funding cuts.

In the United States, a number of alternative finance models have emerged to increase the financial sustainability of urban parks. Examples of such initiatives include parks conservancies, funnelling on-site revenue-generating activities such as selling food and rental income back into a park’s funding, and implementing a dedicated tax source separate from general taxes. Dedicated tax sources may be enacted through a referendum and applied city-wide or parks betterment taxes may be levied in the immediate vicinity of a park for its improvement. This paper does not go into details on these alternative finance models, but seeking out sustainable, diversified funding sources outside of general property taxes are important considerations for ensuring the financial sustainability of an urban parks system. There are a number of excellent resources that provide more information (see CABE, 2010; Garvin, 2011; Harvey, 2010; Trust for Public Land, 2008).

#### 2.4.2 DEVELOPMENT CHARGES

The *Development Charges Act* (1997) enables municipalities to impose development charges via a by-law on the development of land in order “to pay for increased capital costs required because of increased needs for services arising from development of the area to which the by-law applies” (1997, c. 27, s. 2 (1)).

In order to impose Development Charges, municipalities must first create a development charge by-law and assess existing service levels to figure out the marginal cost increase resulting from the development. Funding for certain hard infrastructure can be fully levied from development but most infrastructure, including any soft infrastructure, can only be levied at a maximum of 90% of the total cost. In its first rendition, municipalities were allowed to charge rates at the highest level of service provided over the previous 10 years but in 1997 the Act clarified that municipalities may only impose Development Charges at the average service provision rates over the previous decade. Municipalities may either prescribe Development Charges evenly across the city or may charge them on a district-specific level but they may not be negotiated on a site-by-site basis (Tomalty, 2003). The *Act* permits acquisition of land for recreation centres but does not permit land acquisition for parks.

Conveyance of land for parks purposes is based along the same rationale as Development Charges (Kitchen, 2002). New developments generate demand for public open space and therefore ought to provide public space either on site, off site or pay an equivalent amount in cash-in-lieu to provide the supply for this increase in demand. Parkland ordinances date back many decades but have not received nearly the same degree of attention in Canadian planning literature as Development Charges, however the same considerations of equity and efficiency apply (*Ibid.*).

### *The Incidence of Development-Related Charges*

There has been a lot of academic interest in the incidence – or who ultimately assumes the burden – of development-related charges. Unfortunately, the literature tends to be theoretical and conclusive empirical evidence is lacking. Theoretical explanations suggest that market conditions and whether or not Development Charges are levied at the same rates across a region will affect which party ultimately absorbs the additional costs (Bird and Slack, 1991). Depending on the circumstances, development-related charges may be capitalized in the price of land through a reduction in land prices, be absorbed by the developer, or passed on to the future buyer through an increase in home prices, a reduction in the quality of the development, or a reduction in unit size (Slack & Bird, 1991, Slack 1994; Evans-Cowley, 2006; Crompton, 2010). In poor market conditions, increased development costs may make development unviable (Slack 1994) and deflate what is an important economic sector in many municipalities. Compton (2010b) argues that in such circumstances, the cost of development would be capitalized in a reduction in the price of the land. Certainly, with respect to redevelopment in a built-up downtown area, it is probably fair to say that increased development-related charges could deter redevelopment of already profitable income properties.

A major focus of the literature on development-related charges is devoted to a concern that increases in the costs of development will be ultimately reflected in the sales prices of homes. Robust markets with high demand for housing tend to be more tolerant of development charges and in such circumstances the costs will be passed on to the homebuyers (Slack & Bird, 1991). Theorists tend to conclude that, because housing supply is more elastic than demand, the burden of paying development-related charges will eventually fall upon new homeowners in the long run, even if it doesn't occur immediately (Slack, 1994; Slack, 2009). This consideration raises questions of affordability and fairness (Slack & Bird, 1991; Slack, 1994; Amborski, 2011). Higher house prices may price some prospective buyers out of home ownership market. Literature in the 1990s raised questions of intergenerational fairness, as earlier generations did not need to pay these costs when buying their first homes (Slack & Bird,



1991, Slack 1994). At this point, this issue is less cogent since development-related charges for hard and soft infrastructure have been around for more than a generation.

However, if development does not bear the full cost incurred by growth, infrastructure must be financed through other means or else existing service levels will suffer. Is the public prepared to increase taxes to subsidize growth?

The property tax is the primary revenue-raising tool of most municipalities around the world. This tax, however, is highly visible and inelastic and is therefore the subject of much political scrutiny (Slack, 2009). Development-related charges on the other hand are much less visible. Furthermore, future home buyers are not always current residents and therefore are even less likely to advocate for lower development-related fees (Slack, 1994). These reasons make financing growth through development far more politically palatable than increasing property taxes to pay for growth.

How money collected from development is spent is of equal importance as the amount collected. If charges from development are obtained but spent in a way that transfers responsibility for financing existing services from the tax base onto development (and future homeowners) without investing in infrastructure expansion, existing service levels will continue to suffer due to an overall lack of investment oriented to meeting future demands of an increasing population. This is particularly relevant in the case of land provision.

With respect to fairness, if new homeowners are able to enjoy the infrastructure or parkland that they have financed, then the charges will have achieved the principle that those that benefit from services should pay. If charges are dispersed throughout the city and parkland provision in the area of new development is already lacking, then present and future residents in the local area will be adversely impacted. This issue is especially urgent in areas that already have low levels of parkland provision and are expected to accommodate a high volume of intensification in the near future.

For these reasons of fairness and ensuring adequate investment in future infrastructure, state and provincial governments set parameters around the permitted uses and amount of monies collected from developments for growth-related infrastructure through legislation.

### *2.4.3 DENSITY BONUSING*

Density bonusing is a planning tool whereby a city permits a developer to build additional density on a parcel of land in exchange for community benefits. It differs from land conveyances and development charges in important ways, namely in its rationale and application.

Density bonusing is primarily a form of land value capture tool which enables a municipality to receive back, or ‘capture’, some of the value it has theoretically created for the land owner through the action of rezoning a property. It can also be used as a means of compensating surrounding properties for the adverse externalities, such as shadowing and decreased privacy incurred by surrounding properties as result of a permitted increase in density.

Ontario enables density bonusing through Sections 37 and 45 of the *Planning Act*. To use s.37, cities must develop implementation guidelines and have them reflected in their official plans. Parks and public realm improvements are common beneficiaries of density bonusing across Ontario cities.

Density bonusing is a popular tool and is used in many American states and some Canadian provinces. Some of the major North American cities that use density bonusing include Chicago, New York, Boston, Calgary, Vancouver, Portland, Washington, Denver, Ottawa and Toronto.

Density bonusing works best when it is possible to prescribe and maintain a market for added density. Many jurisdictions, such as Ottawa, Calgary and Vancouver, have established a market for density bonusing, such as a designated amount payable in cash or in-kind contributions per square foot of additional density. The City of Toronto does not have a designated rate. Agreements are negotiated on a case-by-case basis with strong input from the local councillor. This has given Toronto a reputation as the “wild west” for planning and has made contribution values highly unpredictable.

### 3 STUDY METHOD

This paper describes and analyzes the City of Toronto's parkland acquisition strategy with respect to how it administers development exactions for the purpose of acquiring and developing parkland. It seeks to provide clarity and context to area of City of Toronto policy that is not widely understood, identify the factors that have impeded parkland acquisition in the downtown, acknowledge what has worked well, and finally, provide recommendations that may improve parkland provision in the downtown.

#### 3.1 SOURCES

Research for this paper was conducted through a review of the literature and relevant legislation and provincial guidelines, policy and data analysis, key informant interviews and additional communications with municipal staff to obtain general information.

Literature and background information was collected through a review of academic journal articles and reports related to parkland acquisition and stewardship in Canada, Australia and the US; academic literature on exaction tools; a review of relevant legislation and supporting papers; and books, media, journals, presentations and dissertations related to parks financing and the importance of parks.

The City of Toronto case study included three major components:

1. Analysis of existing policy;
2. Data analysis on the City's municipal parkland acquisition and the spending of Section 42 funds in the downtown; and
3. Key informant interviews

The first stage of the research sought to gather the many policies that inform the City of Toronto's current parkland acquisition and development program. The emphasis was on gaining a comprehensive understanding of what policies guide parkland acquisition in Toronto. While the focus was on collecting a factual portrait, attention was also paid to any rationale

provided in support of the policy direction. Policy analysis looked back to 1998, the year that six former municipalities were amalgamated into the current City of Toronto. The initial gathering process involved an online search on the City's website and email correspondence with Parks, Forestry and Recreation Division policy staff. Staff reports often provided references to earlier reports and so those sources were also consulted. A search of the City's Open Data website revealed additional documents, such as Auditor General's reports that supplemented the policy analysis.

Data analysis consisted primarily of a review of the 2013 Parks, Forestry and Recreation operating and capital budgets and a staff report from 2010 outlining acquisitions from 1998-2010. Only limited data analysis was conducted on earlier budgets because pertinent appendices are missing from the online versions and requests to obtain these additional appendices were unsuccessful. Additional information was gained through three Freedom of Information requests and correspondence with city staff to gather general information.

The third part of the research consisted of key informant interviews. The interviews sought to collect a range of vantage points of people who interact with development-related parks acquisition tools. A total of twelve interviews were held, including key informants from City Parks, Forestry, and Recreation Division staff, executives and managers of development companies engaged in high-rise residential development in downtown Toronto, parks advocates, city councillors, and a planning consultant with experience in parks policy. Interviews consisted of a semi-structured format based around eight standard questions and lasted approximately 30 to 90 minutes.

### 3.2 STUDY AREA

This research defines the "downtown" using the parameters of the Downtown and Central Waterfront, an area delineated in Map 6 of the City's Official Plan (see Figure 2). The downtown is a prime location for both retail and residential development. Thirty-five percent of all non-residential GFA and 45% of residential units in Toronto's development pipeline for applications received during 2007-2011 are situated within in the downtown, amounting to nearly 1.3

million square feet of non-residential GFA and 68-thousand residential units (City of Toronto, 2012d). Only 30% of applications in the development pipeline had received building permits as of October, 2012 (*Ibid.*), which indicates that significant future growth should be anticipated for the downtown.

This geographic area is diverse in its character and includes the Financial District, many vibrant traditional main streets, mixed use residential and commercial areas, apartment neighbourhoods, and a few low-rise residential neighbourhoods. This geography was chosen for its basis in the City's planning policy and because it is large enough to understand parkland acquisition at a lens beyond the level of discrete neighbourhoods. In addition, the City Planning Division collects and analyses data on the Downtown and Central Waterfront which provided valuable information.

While the data and policy analysis in this paper focuses on the Downtown and Central Waterfront, the issues pertain primarily to the area north of the railway tracks (which are visible on Figure 2). This is because, until the turn of the millennium, the area south of the railway tracks was generally not used for residential purposes. The land south of the railway was generally developed in a somewhat more comprehensive way than the land to the north. In addition, most parkland in the southern edge of the downtown has been developed by the tri-partite government agency called Waterfront Toronto, which continues to steer development, including the development of parkland on east of the Central Waterfront. North of the railway lands, most development since amalgamation – with a few exceptions, notably College Park, the Distillery District and the Toronto Community Housing Corporation redevelopment of the Regent Park neighbourhood – has occurred as a result of site-by-site spot rezonings.



Figure 2: Downtown and Central Waterfront (City of Toronto Official Plan, 2006, Map 6)

### 3.3 LIMITATIONS

Limitations of this study include data and time. Data analysis was restricted by the information that was available. Initially, the research sought to map and analyze the collection and spending of s.42 money geographically to illustrate the relationship of funds collected and spent, but this was not feasible as there is no data source that provides a breakdown of money collected from developments through s.42 by project.

The number of key informant interviews was limited by time. Councillors interviewed all came from the Downtown and Central Waterfront area. Community advocates interviewed came from only three neighbourhoods and do not necessarily represent the experiences of other neighbourhood associations or advocates. Nevertheless, the interviews provide valuable insight into what has worked well and the many challenges of parkland acquisition in the downtown.

## 4 OVERVIEW OF TORONTO PARKS

This chapter provides a brief history of Toronto's park system, outlines the governance structure of Toronto's green space system, and provides an overview of funding of the Parks Forestry and Recreation Division's funding structure, with an emphasis on development-derived capital funding.

### 4.1 HISTORY OF TORONTO'S PARK SYSTEM

Many of Toronto's earliest parks were acquired as donations or were early school properties. Riverdale Park, Toronto's first park, was opened in 1856 on the east side of the Don River. Its first recreation program—for boys only—was opened in 1897 (City of Toronto, 2004). Queen's Park sits on what is formally University of Toronto land which was leased to the Province on a 999-year term in 1854 and subsequently worked out a deal with the City in 1859 to lease the land for \$6000 per year (OnZone, 2012). Island Park, which is built on shallow marshes and lagoons and was filled in with garbage and covered by green lawn, was given to the City in 1867 by the Dominion government (City of Toronto, 2004). The first 67 ha of High Park were deeded by John Howard in 1874 (City of Toronto, 2004). Originally, the City wasn't very interested in the land because it was outside of the built-up area and was inaccessible to most, but it gradually acquired adjacent lands until it reached its present size of 167 ha (*Ibid.*). Trinity Bellwoods Park was first the site of Trinity College and was subsequently purchased by the City when the college moved (Taylor, 2012). The site of Grange Park was bequeathed to the Art Gallery of Ontario in 1910 and in 1911 an agreement was reached between the City and the gallery to maintain the land as a public park (Grange Park Advisory Committee, n.d.).

The vision for the present ravine system was first articulated in Toronto's 1934 Master Plan. This plan envisioned a U-shaped conservation area connecting the Don and Humber River and protecting their streams. Regional parks planning became possible through the formation of Metro Toronto in 1954. 2,700 ha of park were established along the rivers. Tommy Thomson, the first Metro Parks Commissioner, articulated a vision to preserve nature rather than remodel

it (City of Toronto, 2004). Today, Toronto's ravine system is celebrated by many as Toronto's most distinguishing feature (Golden and Knowles, 2013).

Neighbourhoods in what is known as the streetcar suburbs such as the Annex tend to not have large parks but the homes are often surrounded by backyards which offer private green space (City of Toronto, 2001).

Post-WWII neighbourhoods typically have more neighbourhood parks. This was made possible through changes in the *Planning Act* permitting land exactions (*Ibid.*). Not all post-war neighbourhoods in the area that forms the present City of Toronto have been developed with the same parkland standards. This is because, prior to the amalgamation, each former municipality had its own parkland dedication by-laws (*Ibid*). The City of Toronto finally consolidated the parkland acquisition by-laws across the former municipalities in 2010.

Toronto is built out and so the majority of growth that has occurred since amalgamation has been through redevelopment. The City has acquired some municipal parkland in this period from on-site dedications and land purchased using funds obtained through the planning process. All municipal parkland purchased by the City since amalgamation has been funded by cash-in-lieu obtained through the development process; no new municipal parkland has been acquired directly by the City through tax dollars (Doolittle, 2012, confirmed by city staff).

Parkland acquisition along the waterfront has occurred under the leadership of Waterfront Toronto, a tri-government agency. Some parkland has been acquired through brownfield restoration in conjunction with neighbourhood development (see De Sousa, 2003). Evergreen Foundation, a not-for-profit organization dedicated to connecting people with nature in cities, provided the vision for an exciting ravine park and community hub, the Evergreen Brick Works.

## 4.2 GOVERNANCE OF TORONTO'S GREEN SPACE SYSTEM

Toronto's Green Space System includes municipally-owned and/or operated parks, ski hills, golf courses, cemeteries, publically-accessible private or institutional space, street landscaping,



private green space and federally-owned parks such as Rouge Park and Downsview Park (City of Toronto, 2006). This paper is focused on the City's municipally-owned and managed parks.

The City of Toronto's Parks, Forestry and Recreation Division (PF&R) is its own division within the City's organizational structure and reports directly to one of three deputy managers. The Division is broken into six branches, including Community Recreation, Parks, Urban Forestry, Management Services, Parks Development & Capital Projects, and Policy & Strategic Planning (City of Toronto, n.d.). It has a very large mandate, which includes "the development and delivery of recreation programs to all ages; facility management and maintenance; community development, parks, horticulture and forestry programs, park and open space planning and environmental initiatives; and the operation of specialized services, including the ferries, golf courses, waterfront and regional parks system" (*Ibid.*).

The Division manages an estimated 5.5 billion dollars of assets and is responsible for maintaining approximately "8,500 km of parkland, 580 km of trails and pathways, 63 indoor and 59 outdoor pools, 183 water play areas, 40 indoor arenas and 51 artificial ice rinks, 134 community centres, 5 golf courses, 868 playgrounds, 4 stadiums and 265 tennis courts and sports pads" (City of Toronto, 2012g). Some of these assets are not owned by the City but are managed by the Division. Such lands include the ravine system and parts of the waterfront which are owned by the Toronto Region Conservation Authority (TRCA) and Waterfront Toronto.<sup>2</sup> Others may be managed by the City and used as parkland but may be owned by another City division, such as the Transportation Services. The City also leases other lands for parks purposes, such as some church yards.

Parks is one of three branches within the division (the other being Forestry and Recreation branches). It has units which manage each of the four city districts (North York, Toronto and East York, Scarborough, and Etobicoke York, which are also referred to as North, South, East and West Districts), as well as a Waterfront District. The branch also has units for Horticulture

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<sup>2</sup> Waterfront Toronto parks will eventually be handed over to the City after development. According to staff, some parks have already been conveyed.

and Greenhouse Operations, Standards and Innovation, and Community Gardens and Urban Farm.

The Waterfront District supports Waterfront Toronto's parks developments in keeping with its master planning framework. The remainder of the parks within the Downtown and Central Waterfront fall generically within the Toronto and East York District. The Division does not delineate its operations of within the downtown from the rest of the Toronto and East York District. PF&R staff do not use a standard definition for the downtown and were unfamiliar with the term Downtown and Central Waterfront.



Figure 3: City of Toronto District Map

Retrieved from: <http://www.toronto.ca/planning/urbdesign/districtmap.htm>

#### 4.3 FUNDING TORONTO'S MUNICIPALLY OWNED AND/OR OPERATED PARKS

Funding for PF&R expenditures is separated into operating and capital budgets. The annual operating budget of the division is funded through property taxes and user fees such as permits. The capital budget is funded through a combination of debt which is paid off gradually through tax revenue, development-related charges, and donations and partnership funding.

PF&R has struggled with cost inflation, budget cuts and the additional operation costs associated with new assets. The Division's *Our Common Grounds* report (2004) laments that "until the 1990s, with the exception of the Great Depression, Toronto always found the money

to keep up our common grounds, our beautiful parks and natural areas. But after a hard recession at the beginning of the last decade, all levels of government entered a long period of budget cutting, forcing the City to let go thousands of talented people who'd made Toronto known as New York Run By The Swiss, or, The City That Works" (City of Toronto, 2004, p.7). According to a paper by David Harvey (2010) PF&R budget cuts in the 1990s and 2000s were detrimental to the Division's morale. Increases in more recent years have somewhat improved staff morale and parks maintenance (*Ibid.*).

There is no up-to-date Canada-wide comparative research on municipal parks expenditures. However, a 2004 study published by Evergreen Foundation found that the City of Toronto ranked last out of 20 Canadian cities with respect to the percentage that of the municipal budget spent on parks and recreation (Lindsay, 2004). At 2.4%, the City fell far below the national average of 10.8% (Lindsay, 2004). In 2013, PF&R comprised 5% of the City's 2013-2022 Capital Budget and Plan and 4.2% of the City's 2013 Operating Budget (City of Toronto, 2013, p. 48).

The City of Toronto currently funds a substantial part of the PF&R capital budget using development-related charges. For example, out of the recommended program financing of \$154.4 million for 2013, approximately 60% will be funded through development-related charges, including: Development Charges (\$20.6 million or 13%), s.42 reserve funds (\$36.3 million or 24%), and "other internal" funds, including s.42 Alternative Rate above the basic rate, s.37 and s.45 (\$35.3 million or 23%). The remainder is funded by debt (\$48.3 million or 31%), recoverable debt (\$4.1 million or 3%) and "other external" amounts, such as partnerships and donations (\$9.8 million or 6%). Debt comprises the taxpayer-funded portion of the PF&R capital budget (City of Toronto, 2012g p 21).

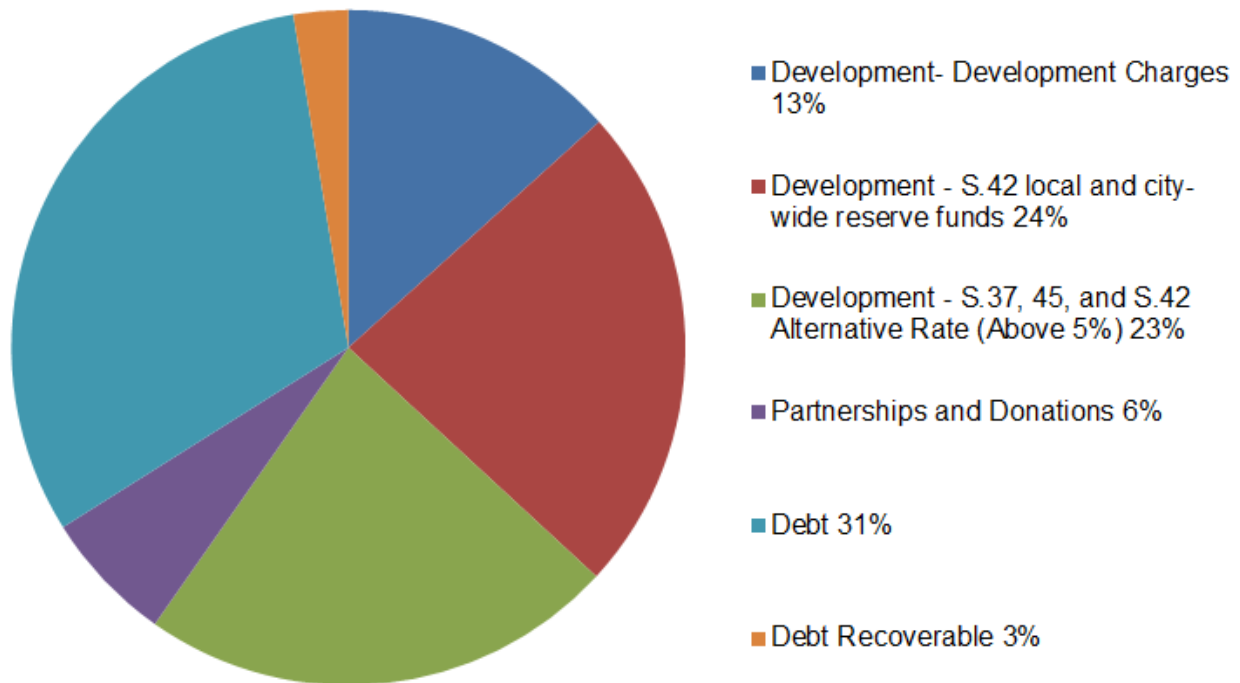


Figure 4: Funding sources for 2013 capital expenditures (City of Toronto, 2012g, p. 21)

Over the 10 year Capital Budget and Plan, 61% is anticipated to be funded through debt, with most of the remainder being funded through development (City of Toronto, 2012g, p.6). However, it is hard to anticipate development revenues over the long term as well as actual expenditures so this plan could easily be adjusted. A report from the Auditor General in 2009 noted that PF&R spent between 48-65% of approved capital budgets in any given year during 2001-2008 (City of Toronto, 2009). Under spending is typical; the City of Toronto's average spending rate in 2008 was 65% (*Ibid.*).

Development-related charges are sometimes used to offset debt that was otherwise built into the PF&R capital budget. For example, the 2012 Parks, Forestry and Recreation Capital Budget Analyst Notes explains that, by maximizing the development charges in 2011 after being frozen for two years, required debt funding was reduced by \$27 million over the 10-year capital period (City of Toronto, 2011, p. 21). Essentially, instead of using the increase in Development Charges to further invest in growth-related initiatives, the City chose to reduce its existing debt burden.

Section 42 funds form the largest portion of development-related charges in the PF&R capital budget. This paper studies the City of Toronto's administration of s.42 in detail in Chapters 6 and 7 but lays out a brief overview here on how Development Charges and s.37 also contribute to funding parks and recreation.

#### *4.3.1 DEVELOPMENT CHARGES*

Development Charges (DCs) comprise a considerable portion of PF&R capital funding. 15.85% of all residential Development Charges and 1.23% of non-residential Development Charges collected in the City are allocated towards parks and recreation purposes (Toronto Municipal Code, Ch. 415, Art. I, Sched. A & B). In the 2013-2022 Capital Program, approximately \$126.7 million or 16% of financing is estimated to come from Development Charges (City of Toronto, 2012g, p. 11).

The City of Toronto's Development Charges currently sit below the maximum permitted rate. Part of the rationale for this was based on the City's desire to remain competitive and encourage construction during the recession. Development is a considerable player in Toronto's economy. In 2009, the City opted to freeze Development Charges for a period of two years (City of Toronto, 2011). The former mayor, David Miller cited reasons of supporting jobs in the construction sector as well as the environmental benefits of curbing sprawl through encouraging intensification within Toronto as the rationale for freezing the rates (The Bulletin, 2012). The freeze on Development Charges was lifted in 2011 (City of Toronto, 2011).

Whether through keeping low, competitive rates or otherwise, the recession has certainly not hindered the tremendous boom in Toronto's estate development sector, nor have home prices dropped. Toronto is presently experiencing more high-rise construction than any other city in North America (Perkins, 2012).

While there has been some economic stimulus money provided through provincial and federal governments, the City has not raised sufficient revenue to make up for the shortfall of covering its growth-related costs. Perhaps, considering the relatively inelastic demand for housing (Slack & Bird, 1991), incentives could have been used more efficiently to promote the same objectives

of job creation in construction and environmental benefits by offering inducements that promote heritage restoration and renovation of the City's older buildings.

There are many planned projects in the 10-year capital budget that are expected to draw from s.42 funds but which could be funded more heavily through Development Charges. Good candidates include plans to build new community centres and arenas. The City is currently evaluating its Development Charges. Raising Development Charges could free up s.42 money for parkland acquisition.

#### *4.3.2 DENSITY BONUSING (S.37 AND S.45)*

Contributions through sections 37 and 45 of the *Planning Act* together comprise the next largest development-related contributor to the City's Parks and Recreation capital budget. Section 37 of the *Planning Act* permits municipalities to provide extra density from what otherwise would be permitted in exchange for community benefits. Section 45 of the *Act*, which deals with minor variances, similarly allows for negotiated benefits. This section of the *Act* is less talked about in the media because the amounts are typically smaller than for s.37. In contrast to a poor understanding and media coverage of s.42 of the *Planning Act*, density bonusing is a hot-button topic, and is frequently written about in local newspapers and is well known to councillors, planners, developers, and community advocates alike.

Contributions to parks and recreation facilities are some of the most popular s.37 beneficiaries. Of all s.37 cash-in-lieu contributions collected by the City of Toronto from 2007-2011, approximately \$22.5 million (26% of the total funds collected) were dedicated towards parks (Moore, 2012). It is difficult to establish what percentage of the capital budget comes from s.37 contributions as they comprise only one portion of an "other" category in the PF&R capital budgets.

Section 37 as currently administered in the City of Toronto cannot be relied upon for funding parks. Its ad-hoc administration, which relies entirely on negotiation, is neither transparent nor a reliable source of funding. The Ontario Municipal Board is inconsistent in requiring s.37 contributions. Sometimes the Board will require contribution but other times it approves

developments that the City was already not in favour of without requiring any contribution. Nevertheless, the fact that such a high percentage of s.37 funds have been allocated towards parks demonstrates the tremendous political appetite and need to improve local parks.

## 5 MUNICIPAL POLICY GUIDING PARKLAND ACQUISITION

This chapter provides an overview and analysis of the policy framework that guides the City of Toronto's approach to parkland acquisition and development.

### 5.1 OVERVIEW

The City of Toronto does not have a parks master plan or an official parkland acquisition plan. It does, however, have a number of adopted policies and strategic reports that collectively shape the City's parkland acquisition outlook. The most recent high-level parks planning policies are reflected in its 2006 Official Plan (OP) but it only contains part of City's policies related to parks acquisition. It is also necessary to look back historically at the policies to understand the parks planning framework comprehensively and to gather the various components.

Parkland conveyance and cash-in-lieu through s. 42 of the *Planning Act* is the City's primary tool for acquiring parkland (City of Toronto, 2010b). As required by the *Planning Act*, the City has a by-law that enables it to use this tool which is contained within its Municipal Code (s.415, Art. III). The amounts of parkland dedication or CIL required are summarized in Table 1 as background for the discussion.

Development Type	Amount of Parkland Dedication or CIL Required
<b>Industrial</b>	Exempt
<b>Commercial</b>	2%
<b>Residential</b>	5% Basic Rate or Alternative Rate (if in a PAPA) of 0.4ha per 300 units up to a maximum of: 10% of site if site <1 ha 15% of site if site is 1-5 ha 20% of site if site is < 5 ha

*Table 1: Amount of parkland dedication or cash-in-lieu required*

### 5.2 CASH-IN-LIEU OF PARKLAND ALLOCATION POLICY (1999)

City Council adopted an interim Cash-in-lieu of Parkland Allocation Policy in July, 1999 to establish city-wide parameters for allocating funds collected through parkland conveyances (s42, 51.1 and 53). This policy was initially established to direct how funds accruing from CIL



would be allocated for the years 2000 and 2001 (City of Toronto, 1999). It was initially envisioned as an interim policy until the time that other planning exercises were completed (*ibid.*; City of Toronto, September 1999); however, it continues to be used to this day. The adopted policy reads that:

As of January 1, 1999, funds accruing from revenues for cash-in-lieu of parkland be allocated in the Capital Budget Program for the years 2000 and 2001, as follows:

- (a) 50 percent for the purpose of acquisition of land for park purposes:
  - (i) of this amount, half (25 percent of the total) of these funds to be retained to acquire land for park or open space purposes in the district where the funds are generated and deficiencies have been identified; and
  - (ii) the remaining half of this amount (25 percent of the total) to be allocated on a city-wide basis to purchase land for park or open space purposes in other areas of the City where deficiencies have been identified; and
- (b) 50 percent for the development and upgrading of parks and recreation facilities:
  - (i) of this amount, half (50 percent) of these funds to be retained for the development and upgrading of parks and recreational facilities in the district where the funds are generated and deficiencies have been identified; and
  - (ii) the remaining half of this amount (50 percent) to be allocated for the development and upgrading of parks and recreational facilities on a city-wide basis, in areas where deficiencies have been identified.

(emphasis added, City of Toronto, 1999)

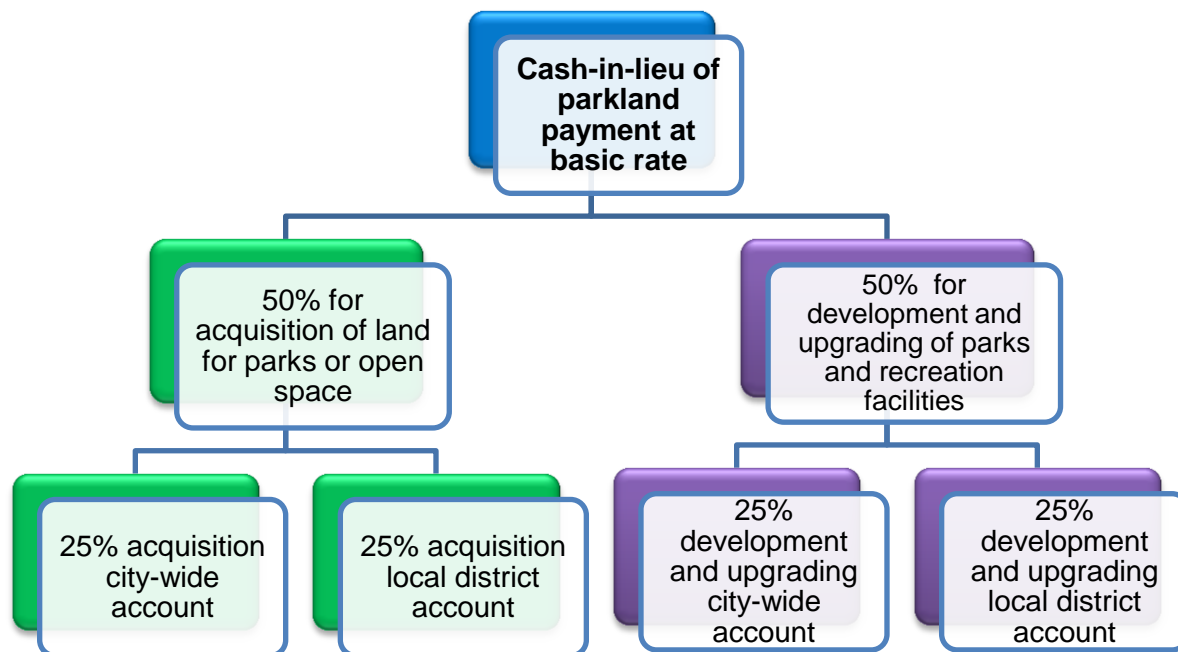


Figure 5: Distribution of the cash-in-lieu parkland contributions at the basic rate

This interim policy was the second formal attempt by City staff to arrive at an acceptable policy. In 1998, staff had recommended that all money collected under S.42 be allocated in city-wide accounts, with a 50-50 allocation towards land acquisition and development and spent with regard to both local and city-wide needs. This recommendation was not adopted.

The adopted 1999 policy was considered a compromise. In its justification, the staff report explained that:

The above noted interim criteria are intended to balance the need to provide parkland and recreational services in areas of the City where new growth is occurring and which are not adequately serviced, with the need to equalize the service provision in those areas that have been historically under serviced and have been identified as priority areas. In an effort to ensure fairness and equity across the City, these interim criteria would be reviewed on an annual basis by staff and any deviations would be reflected in the Capital Budget reports submitted for the years 2000 and 2001, in order to ensure that any high priority needs or unique opportunities are addressed appropriately.

More permanent criteria will be developed for the five year Capital Budget Program, once all of the afore-noted studies and plans are completed. At that time, a report on these criteria will be submitted for consideration by the appropriate Standing Committees (City of Toronto, 1999a, p. 9-10).

This allocation proposal was fiercely debated by Council but was adopted with two amendments. The first was to provide community councils with “the option of recommending that up to 100 percent of their cash-in-lieu allocations be used to acquire parkland, if they deem it necessary” (City of Toronto, Sept 20, 1999b, p.1). Council also requested that an additional report from staff be submitted “no later than October 1999” regarding adjustments to the adopted policy to build in initiatives for acquiring parkland in park deficient areas of the City (*Ibid.*).

Staff pushed back, cautioning that there were important additional planning studies that needed to be carried out and that further adjustments to the City’s newly adopted interim policy would be premature prior to understanding the results of such planning exercises (*Ibid.*). A staff report from September, 1999, concludes that:

The debate over the allocation of funds collected in-lieu of parkland dedication through Section 42 of the *Planning Act* has diverted attention away from the larger questions associated with parkland adequacy and acquisition. A rational framework for priority setting, tailored to the new City of Toronto, will address these questions and provide direction with respect to the allocation of cash-in-lieu revenues. Further adjustments to the City's interim cash-in-lieu policy are premature until this rational framework is in place (*Ibid.* p.3).

Some policy development recommended in the above commentary has been achieved (such as *Our Common Grounds*, 2004; *Parkland Acquisition Strategic Directions Report*, 2001). However, the more comprehensive, action-based planning exercises have not. According to interviews, this policy has not been revised or formally reconsidered since.

What does half of the CIL collected going to the district where funds were generated look like? At the time of the Cash-In-Lieu of Parkland Allocation Policy (1999), each former municipality was a district. In 2004, the six districts were consolidated into four: North (North York), South (Toronto and East York), East (Scarborough) and West (Etobicoke York) (Recall Figure 3). The Downtown and Central Waterfront lies within the former City of Toronto and is situated within the South District. There are still parkland acquisition Reserve Fund accounts remaining from each of the former municipalities containing money that was collected prior to 2004. Such districts are very large geographically; indeed, prior to 1998, each was one or two municipalities. This has resulted in a very broad distribution of CIL funds at the basic rate across the city.

### 5.3 ALTERNATE RATE (IN EFFECT 2008)

What *has* changed subsequent to 1999, and which has had significant impacts in the allocation of funds, is the establishment of an Alternative Rate. The Alternate Rate was adopted by Council in 2005 and came into effect in on January 1<sup>st</sup>, 2008 (City of Toronto Municipal Code, s.415-30).

The City's Alternative Rate applies to most residential developments within identified Parks Acquisition Priority Areas (PAPAs). Replacement structures and not-for-profit housing, are exempt from paying the Alternate Rate (Municipal Code, s.415-29). The Downtown,

Employment areas, Mixed Use Areas, and Avenues—essentially all areas that the Official Plan directs intensification towards—are all designated as Parkland Acquisitions Priority Areas (City of Toronto Municipal Code, s.415-21).

The Alternative Rate is set at 0.4 ha per 300 units up to a maximum of 10% of site if the site is less than one ha, 15% if the site is between one and five ha and 20% if the site is greater than five ha (recall Table 1). Developers and City staff confirmed that the Alternative Rate was negotiated with the development community during the official plan review.

In reality, most high-rise residential developments in the downtown will pay 10%. This is because almost all development sites in the downtown are smaller than one ha and proposed densities quickly reach the maximum parkland provision cap. The Figure 5 below displays the distribution of CIL funds collected at the Alternate Rate.

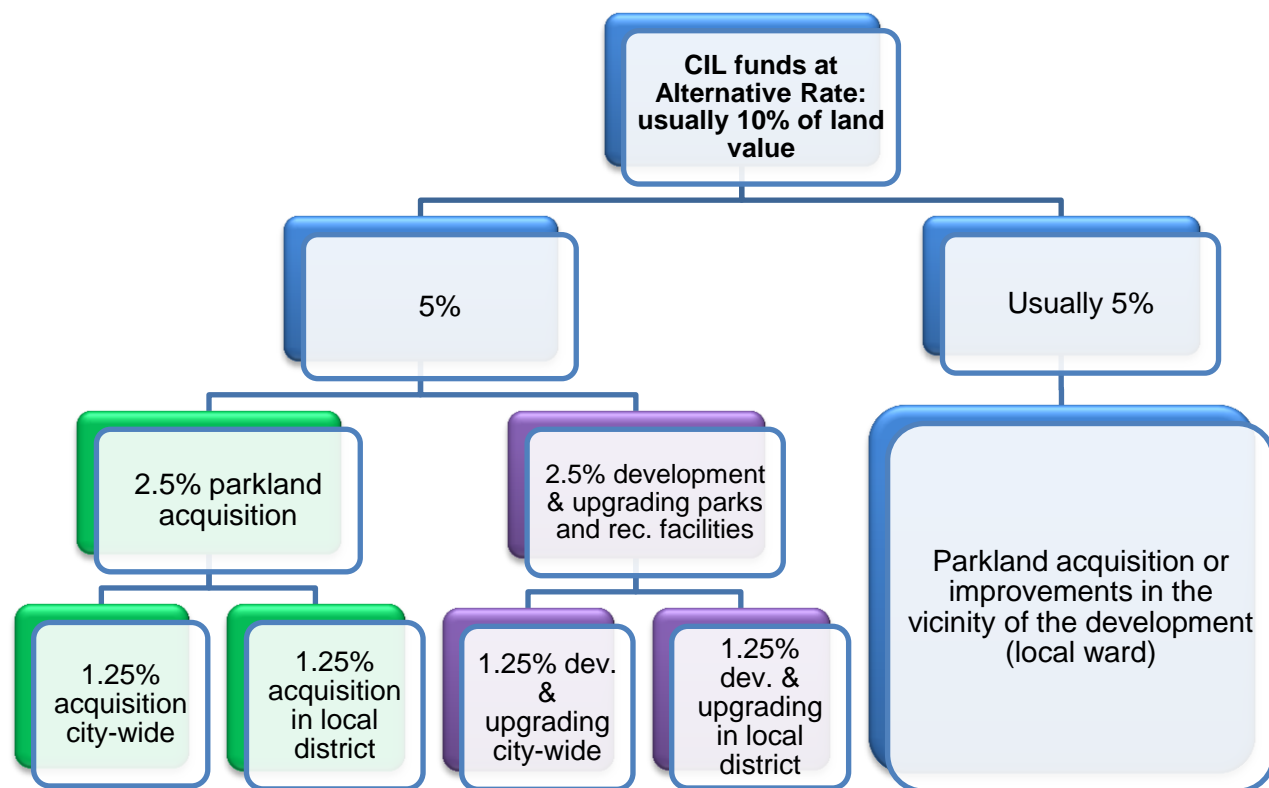


Figure 6: General practice of allocating CIL funds collected at the Alternative Rate

As shown in Figure 5, only 1.25% of the value of the land for residential developments, both at the basic rate and at the Alternative Rate, is committed to acquisition of parkland in the local district. The City's Municipal Code does permit Council to allocate 100% of funds towards parkland acquisition in the vicinity of a development (s.415-25), but this is not common. Funds collected under the Alternative Rate above 5% may also be allocated towards land acquisition but they have not been used for that purpose thus far. Another aspect of Official Plan policy on the use of the Alternative Rate is that, unlike the Cash-in-Lieu of Parkland Allocation Policy (2009), it does not mention recreation facilities; funds are to be used only to "acquire parkland" or to "improve parks" (s.3.2.1 – Policy 5(h)). Section 5.6 of this paper argues that the above allocation practice is not consistent with the City's Official Plan and does not adequately respond to the policy objectives of acquiring parkland in areas of existing parkland provision.

#### 5.4 PARKLAND ACQUISITION STRATEGIC DIRECTIONS REPORT (2001)

In 2001, City Council adopted a Parkland Acquisition Strategic Directions Report (PASDR). This report provides the most detailed framework for approaching parkland acquisition in the City of Toronto to date. The report shares authorship by the Economic Development Culture and Tourism Department and the Policy and Development Division, a partnership that demonstrates the interest of parks to many departments and the importance of parkland to the success of the city as a whole and also the different position of parks within the organizational structure of the City at the time. This report was intended to "represent the first steps in a course of action to ensure that communities have access to a diverse and high quality parks and open space system" (City of Toronto, 2001, p.1). Like any good planning report, it outlined that it should be interpreted as living plan and be modified to respond to evolving needs.

The PASDR did not outline what tools should be used for obtaining parkland or set parkland provision goals, but it did provide useful principles, a strong baselines assessment and recommended concrete steps that City should follow in order to optimize its parkland provision. The PASDR was created in anticipation of the City of Toronto Official Plan (of which the first draft was completed in 2002) and approaches city building and parks planning through

the lenses of 'major change areas,' 'gradual change areas' and 'stable areas,' in keeping with the developing direction of the Official Plan. The PASDR emphasized the importance of parkland acquisition in areas of anticipated major change, in particular the Downtown, Central Waterfront, and the Centres (see Figure 7). The report identified 'local' (see Figure 13), 'district' (see Figure 14) and 'city' parkland acquisition priority areas. The Downtown and Central Waterfront areas are identified as both 'local' and 'district' parkland acquisition priority areas (see Figures 12 and 13). The PASDR also looks at active development applications (see Figure 8) and population projections as indicators of anticipated future growth (see Figure 9).



*Figure 7: Areas Identified in PASDR (2001) as potential opportunities for growth*

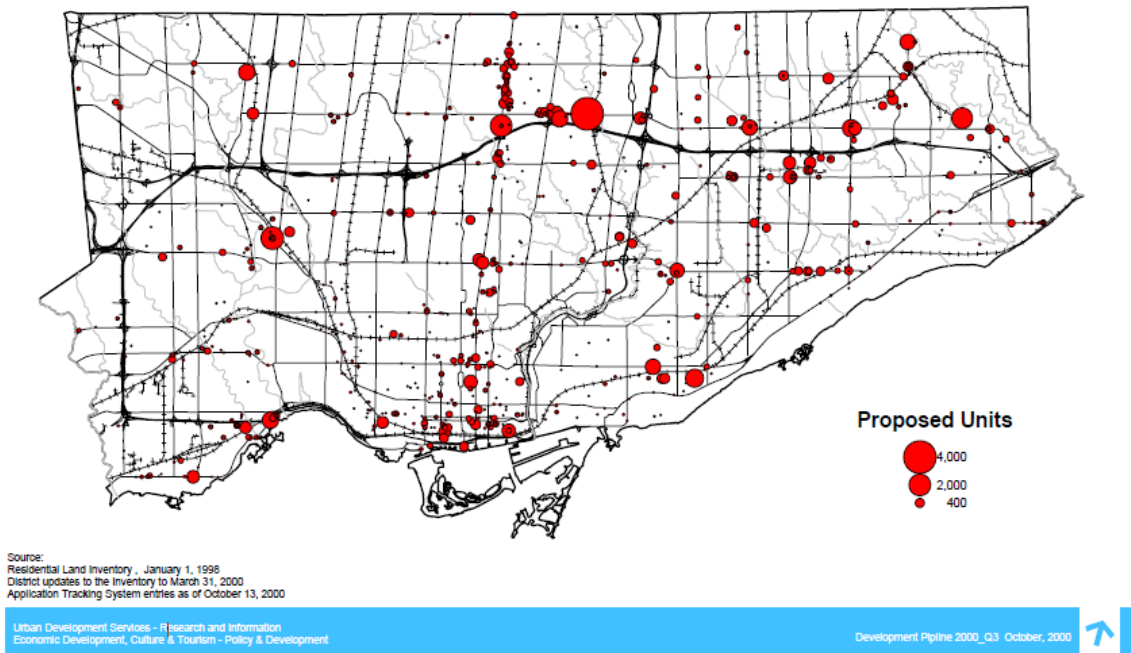


Figure 8: Active development applications identified in PASDR (2001)

City of Toronto  
Projected Change in Population Growth  
Between 1996 to 2011

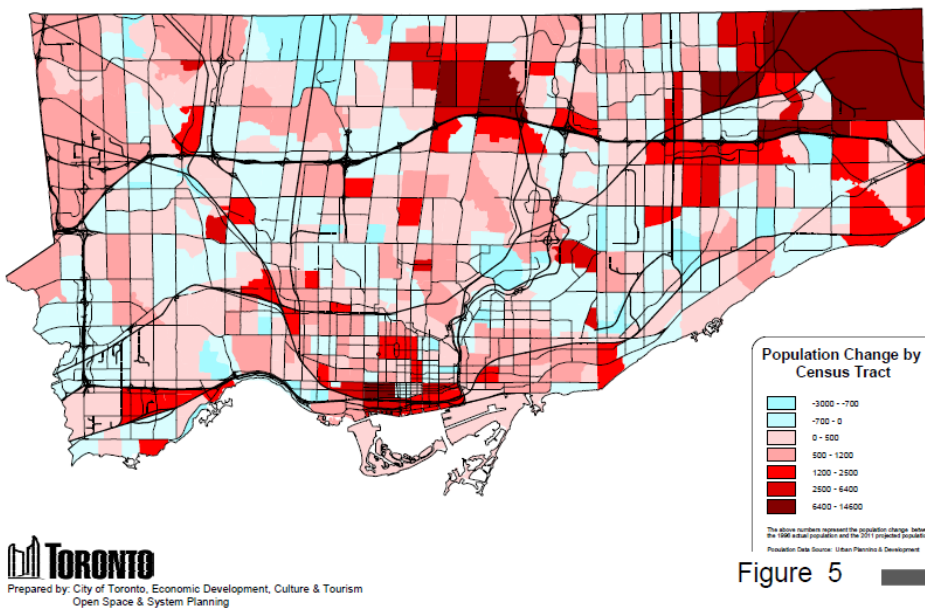
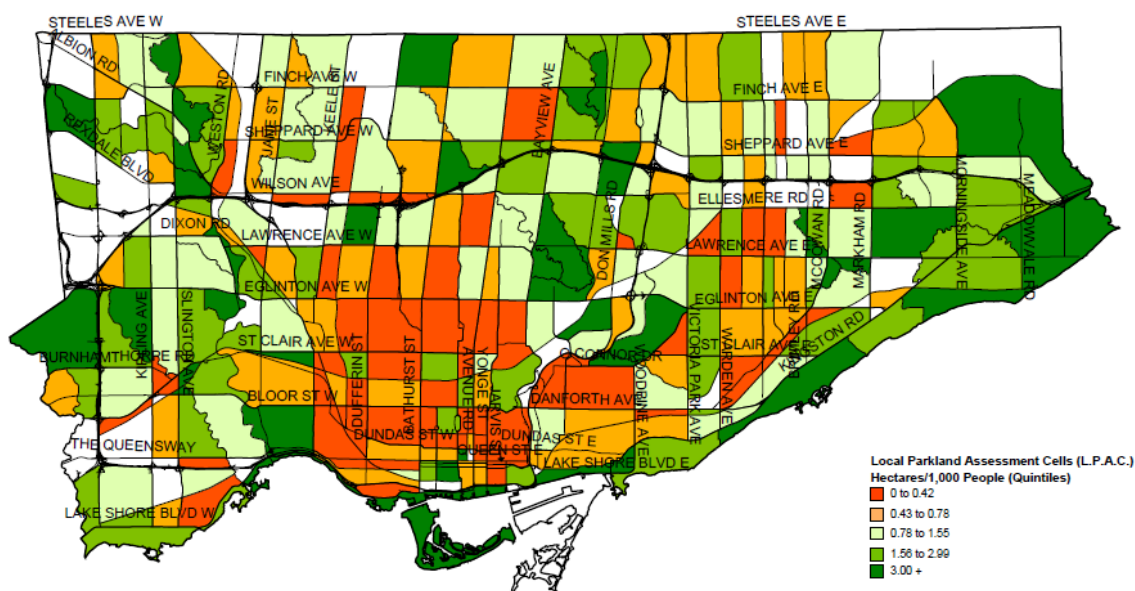


Figure 5

Figure 9: Projected population change by census tract illustrated in PASDR (2001)





Population: Statistics Canada, 1996 Census.  
Note: Areas with population less than 300 are removed from the assessment.



Figure 10: Local Parkland Assessment Cells based on 1996 Census data



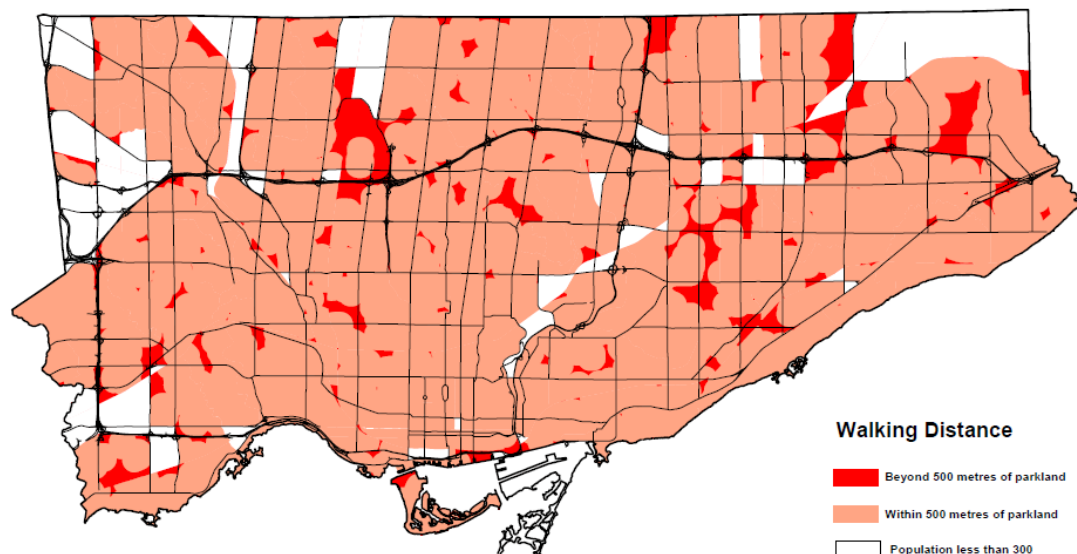


Figure 11: City area that is within and beyond 500m of parkland (PASDR, 2001)

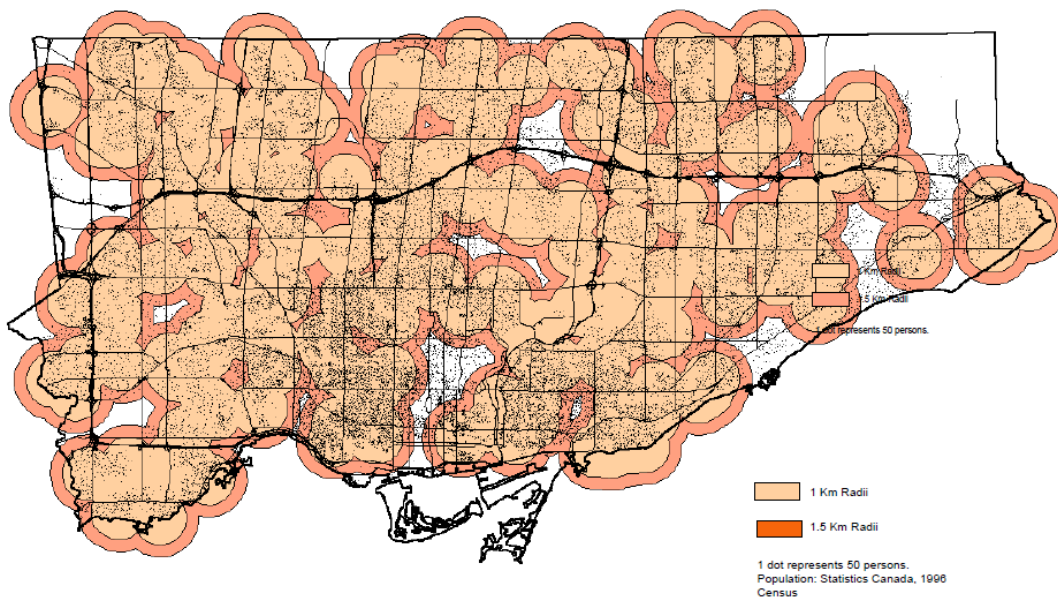
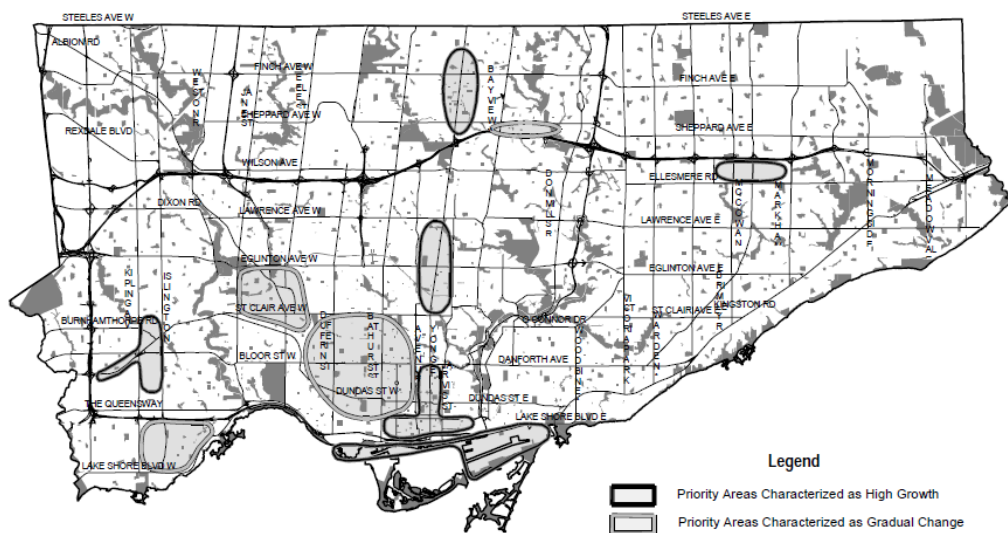


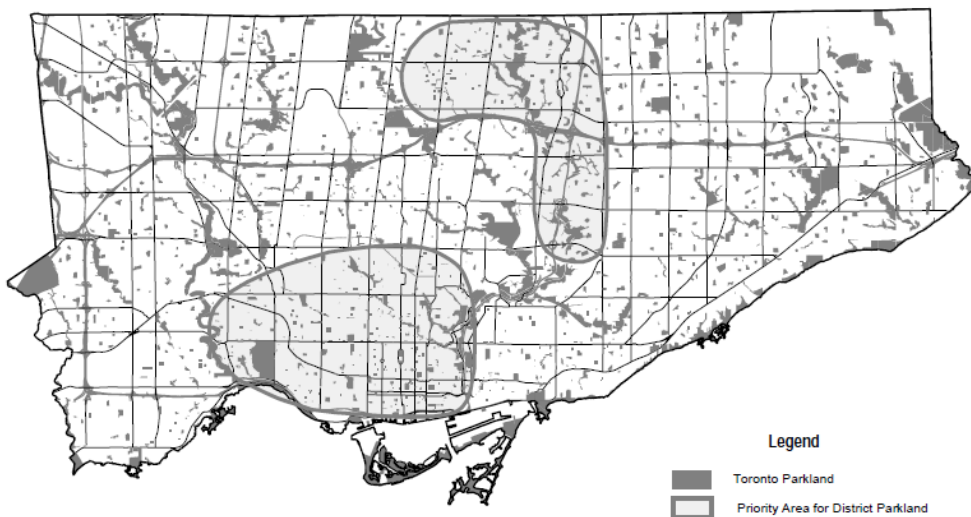
Figure 12: City area that is within 1km and 1.5km of district parkland (PASDR, 2001)



Economic Development, Culture & Tourism - Policy & Development



Figure 13: Local parkland acquisition priority areas identified in PASDR (2001)



Economic Development, Culture & Tourism - Policy & Development



Figure 14: District Parkland Acquisition Priority Areas identified in PASDR (2001)

The PASDR sets out immediate, short-term and long-term priorities. One of two immediate priorities outlined in the PASDR is to “conduct detailed assessments of identified priority areas and establish parkland acquisition requirements (i.e., parkland service levels)” (*Ibid.*,p.48). A short-term priority is to “develop a direct acquisition program based on the parkland acquisition objectives and principles as well as the results of the detailed assessments of the priority parkland areas” (*Ibid.*, p.47). These critical steps have not occurred.

#### *5.4.1 HOW DOES TORONTO ASSESS ADEQUATE SERVICE PROVISION LEVELS?*

The City does not have a mandated way of assessing park provision levels. The PASDR outlined, as this paper does, the shortcomings of prescribing parkland provision standards. Nevertheless, the PASDR applies two lenses in its analysis of the City’s baseline conditions: hectares of parkland per 1000 people and the proximity of residents to parkland. Hectares of parkland per 1000 are assessed both city-wide and within Local Parkland Assessment Cells (LPACs, see Figure 10). LPACs are geographic areas separated by physical barriers such as major streets. To assess physical access to parks, the report maps the City according to which areas are within and outside of a 500 m radius (see Figure 11) and to any parkland within 1km and 1.5 km of a ‘district’ park (see Figure 12).

The PASDR discourages using standardized parkland provision goals city-wide. It suggests that, should the City choose to adopt standards, it may consider applying modified standards to various areas. For example, it posits that the City may choose to apply a lower standard within the Centres and the Downtown and a higher standard in the remainder of the city. The report cautions, however, that this approach “would imply that the range of standards are achievable, affordable; applicable city-wide; and that those areas below the standard offer deficient parkland when in fact a more detailed analysis may indicate that parkland needs are adequately addressed” (*Ibid*, p.10). The report also cautions that “Given the interest in achieving more compact urban areas and the fact that land values are in the millions of dollars per hectare in some areas, it becomes apparent that achieving even the more modest standards may be prohibitive in many areas of the city” (*Ibid.*, p 11).

The PASDR states that, “Within the context of a diverse, changing city as well as the context of fiscal restraints, a more flexible ‘performance’ based approach to assessing and planning parkland acquisition requirements is worth developing” (*Ibid.*, p.11). Rather than applying quantitative standards, a performance-based approach would use developed corporate vision, principles, objectives, etc. to guide parkland acquisition. The report acknowledges that such an approach requires “detailed assessments of parkland needs and opportunities” (*Ibid.*, p. 11) but that it would also offer advantages of flexibility and responsiveness to community needs. The report recommends that, once communities’ needs are better understood, quantitative standards could develop but, until then, standards should be used only as general benchmarks (*Ibid.*, p. 11).

The City continues to track hectares of parkland available per 1000 people within LPACs. City staff in interviews expressed the same basic frustrations with using LPACs as a way of assessing parkland provision standards as were raised more than a decade earlier in the PASDR report.

While there have been some policy developments since the PASDR, notably the City of Toronto Official Plan, there has been no public detailed assessment of parkland needs and opportunities within the Downtown and no further articulation of parkland provision standards. In conclusion, while the PASDR set out a good framework as a launching pad from which to work from and recommended concrete steps with potential to move the City’s parkland acquisition strategy forward, the City has failed to act on these key recommendations that are necessary to further developing this framework and turn vision into reality.

## 5.5 OUR COMMON GROUNDS (2004)

The City’s Parks and Recreation Strategic Plan, *Our Common Grounds*, was adopted by Council in 2004. This plan envisions Toronto as “City within a Park.” *Our Common Grounds* makes 52 recommendations, such as to enhance the maintenance and health of city trees; increase revenues to the parks and recreation system; create more opportunities for community education, outreach and engagement; increase the number of sports fields and opportunities for recreation along the waterfront; and create a parks master plan.

The plan recognizes that population growth in the city will create more demand for parks and open space. To meet future needs, the strategic plan recommends capitalizing on existing assets through enhanced programming and creating better access to the ravine system over costly acquisition. It also acknowledges the City's "housing first" policy that prioritizes the provision of affordable housing on public lands, inferring that use of lands for housing may take precedence over parkland. The plan provides useful information, but it reads somewhat like a diary and its laundry list of recommendations perhaps wasn't the most effective means of communicating a strategic plan to politicians.

## 5.6 CITY OF TORONTO OFFICIAL PLAN (2006)

The City of Toronto Official Plan (2006) stresses the importance of the parks and open space system and Waterfront to the city's social and environmental vitality. References to parks and open space are peppered throughout many chapters of the Plan. Policies encourage the preservation, enhancement and expansion of the Green Space System and Waterfront and Parks and Open Space Areas.

Areas designated as *Parks and Open Space Areas* include "parks and open spaces, valleys, watercourses and ravines, portions of the waterfront, golf courses and cemeteries..." (s.4.3 – Policy 1). Parks and Open Space Areas are mapped according to categories of *Natural Areas*, *Parks* and *Other Open Space Areas* (*Ibid.*). In addition to lands designated as "Parks and Open Space Area," the Plan recognises the contribution of publically accessible space, plazas, community gardens, etc., as integral and important components of Toronto's public realm.

The Official Plan states that "planning for Downtown communities and facilities cannot follow a broad city-wide template" (Chapter 2-9) and acknowledges some of the constraints of acquiring and servicing parkland in the Downtown:

The fine-grid pattern of *Downtown* streets and blocks and the density of development generally make it difficult to plan for the acquisition of new parkland. Opportunities to create better outdoor spaces throughout Downtown should be sought through the enhancement of existing parks and through agreements that give the public access to private outdoor space associated with commercial development as well as through the acquisition of new parks where feasible (*Ibid.*).

Policies state that the “quality of the *Downtown* will be improved by

- a) Developing programs and activities to maintain and upgrade public amenities and infrastructure;
- b) Recognising the high maintenance needs of streets, open spaces and City services in this heavy demand area;
- c) Enhancing existing parks and acquiring new parkland where feasible; and
- d) Preserving and strengthening the range and quality of the social, health, community services, and institutions located *Downtown* (s.2.2.1- Policy 3).

Chapter 3, Parks and Open Spaces, deals primarily with policies related to the acquisition and development of parkland and contains policies that guide the prioritization of funds obtained through the development process. The Official Plan makes no reference to the 1999 interim Cash-in-Lieu of Parkland Allocation Policy, nor does it mention anything in support of distributing CIL funds district or city-wide.

Policies include parkland land acquisition strategies, stipulate the amount of land or cash-in-lieu required from developments, the timing of payment, details on the application of the Alternative Rate, and that any amount applied at the Alternative Rate must be used to acquire land or improve parks in the vicinity of the development. Acquisitions should have regard for the amount of existing parkland, facilities, open space and natural amenities; population growth and demographic changes; anticipated development; provision of areas for children to play; opportunities to create linkages in the parks system; urban form; and land availability and costs (s.3.2.3 - Policy 2). In addition, the policy stipulates that in areas of low parkland provision (as defined in the LPAC maps, recall figure 10) will be used to “require, whenever possible, that new parkland will be provided when development occurs in areas low parkland provision” (*Ibid.*). The policy also states that, in order to maximize opportunities for new parkland, land dedication is preferable to CIL, particularly when dealing with large development sites (s.3.2.3 – Policy 5(g)).

The Official Plan stipulates that CIL collected at the Alternative Rate above 5% will be used to “acquire parkland that is accessible to the area in which the development is located or to improve parkland in the vicinity of the development” (s.3.2.3 – Policy 5 (h)) The plan doesn’t

define what is meant by “in the vicinity” or “accessible to the park area,” but the prevailing practice is that CIL collected above the 5% basic rate is available to be spent within the ward which generated the money. The local councillor is notified when funds become available so that he or she may have a role in allocating them. The enactment of the Alternate Rate (2008) has resulted in a dramatic increase in available capital for parkland within wards experiencing growth.

The Official Plan does not address the allocation of CIL at the basic rate but Section 3.2.3, Policy 6 states that:

The specific combination of land and/or cash-in-lieu of land will be determined by the City as part of the consideration of each specific proposal. In areas of low parkland provision, being the lowest two quintiles shown on Map 8(B)<sup>3</sup>, priority will be given to the creation or improvement of parkland that, wherever possible, is located in or accessible to the park planning area in which the development providing the required parkland contribution is located (3.2.1 – Policy 6).

The second part of Policy 6 has frankly not been implemented in practice. Whereas the Official Plan emphasizes maintaining a nexus between where funds are collected and where they are allocated, the City’s allocation practice at the basic rate does not. CIL collected at the basic rate continues to be allocated into the four separate reserve funds set out in the 1999 interim allocation policy (recall Figure 5), with half going to city-wide reserve funds and the other half going to the broad category of local district (North, South, East or West) reserve funds, regardless of whether or not a development is occurring in an area of low parkland provision.

According to correspondence with staff and the result of an unsuccessful Freedom of Information request, PF&R Division and Accounting Services do not track park levies by development. Without tracking of s.42 funds collected by development, ensuring that “in areas

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<sup>3</sup> Map 8B shows the LPACs (See Figure 10). The maps in the 2006 OP were based on data from the 1996 census. Much of the Downtown and Central Waterfront was already designated as one of the two lowest quintiles in 1996. This map was updated in July 2012 based on the 2006 census and the number of LPACs in the Downtown and Central Waterfront that are now in the two lowest quintiles has increased. If updated to reflect 2011 census data, the amount of LPACs in the lowest quintile in the Downtown and Central Waterfront will have increased again.

of low parkland provision...priority will be given to the creation or improvement of parkland that, wherever possible, is located in or accessible to the park planning area in which the development providing the parkland contribution is located” (*Ibid.*) is unfeasible.

The City’s current allocation formula for distribution (see Figure 6) is out of alignment with the Official Plan (2006) as it does not respond to whether or not a development is occurring in an area of low parkland provision. The 1999 policy is reflected in the Municipal Code (By-law No. 1020-2010); however, the Official Plan would have precedence over a municipal by-law since the *Planning Act* requires municipal by-laws to conform with official plans (s. 24 (1)). If the City wishes to continue this allocation practice, it should be reflected in its upcoming Official Plan. This is not recommended, however, as distributing CIL funds broadly across the city hinders the improvement of parkland provision in growing areas that are already underserved.



## 6 QUANTITATIVE PERFORMANCE OF THE PARKS LEVY

This chapter contains quantitative analysis on parkland dedications and CIL obtained by the City of Toronto through s.42, s.51.1 and s.53 of the *Planning Act* (the Parks Levy). It looks at what parkland acquisitions have been achieved, how CIL funds are being spent, and what funds remain available for parkland acquisition in the downtown. Information for the period 1998-2009 and, where available, 1998-2012, has been used to identify broad patterns. Unless otherwise stated, all data in this chapter was obtained through Freedom of Information (FOI) requests.

### 6.1 CASH-IN-LIEU FUNDS COLLECTED, 1998-2012

The City of Toronto collected an aggregate total of \$303.8 million from Parks Levies plus accumulated interest between 1998 and 2012.<sup>4</sup> In addition, \$27.4 million was available in reserve accounts at the time of amalgamation and \$9.2 million was deposited from “other” sources. At the time of writing, it is not clear what comprises the “other” category. Therefore, the total amount of CIL deposits to reserve accounts from 1998-Sept 2012 was \$340.4 million.

A total of \$137.8 million has been transferred from reserve accounts to capital in the same time period. The remaining balance in reserve accounts as of September, 2012 was \$202.6 million. This amount does not include interest income accrued for 2012. A large portion of the existing funds are committed to future development and maintenance-related capital expenditures in the PF&R 2013-2022 Capital Budget and Plan; however, considerable funds remain that could be used for parkland acquisition, as will be discussed in Section 6.5.

The downtown has generated a substantial portion of the City’s total amount of Parks Levy reserve funds produced since amalgamation due to the large volume of development that has occurred and its high land valuations.

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<sup>4</sup> This number also takes into consideration any refunds given

## 6.2 PARKLAND ACQUIRED CITYWIDE THROUGH THE PARKS LEVY, 1998-2012

A staff report in 2010 provides an analysis of municipal parkland acquisitions from 1998-2009 that were achieved through the Parks Levy. During this period, the City acquired 190 properties which generated 110 ha of parkland (City of Toronto, 2010b). Fifty-seven ha were obtained through land dedications and 53 ha were purchased using CIL revenues (*Ibid.*). Twenty-five properties were acquired in the following three years (2010-2012), which generated just under 10 ha of parkland. Ten of these properties (totalling 7.3 ha) were obtained through purchases and 15 properties were obtained through land dedications (totalling 2.5 ha).

The staff report breaks down its analysis of acquisitions into the periods before the PASDR (1998-2001) and after (2002-2009) in order to analyse the acquisitions in relation to the policy direction provided in the report. Figure 15 shows a map of all parkland acquisitions that occurred during 1998-2009 as a result of the Parks Levy.

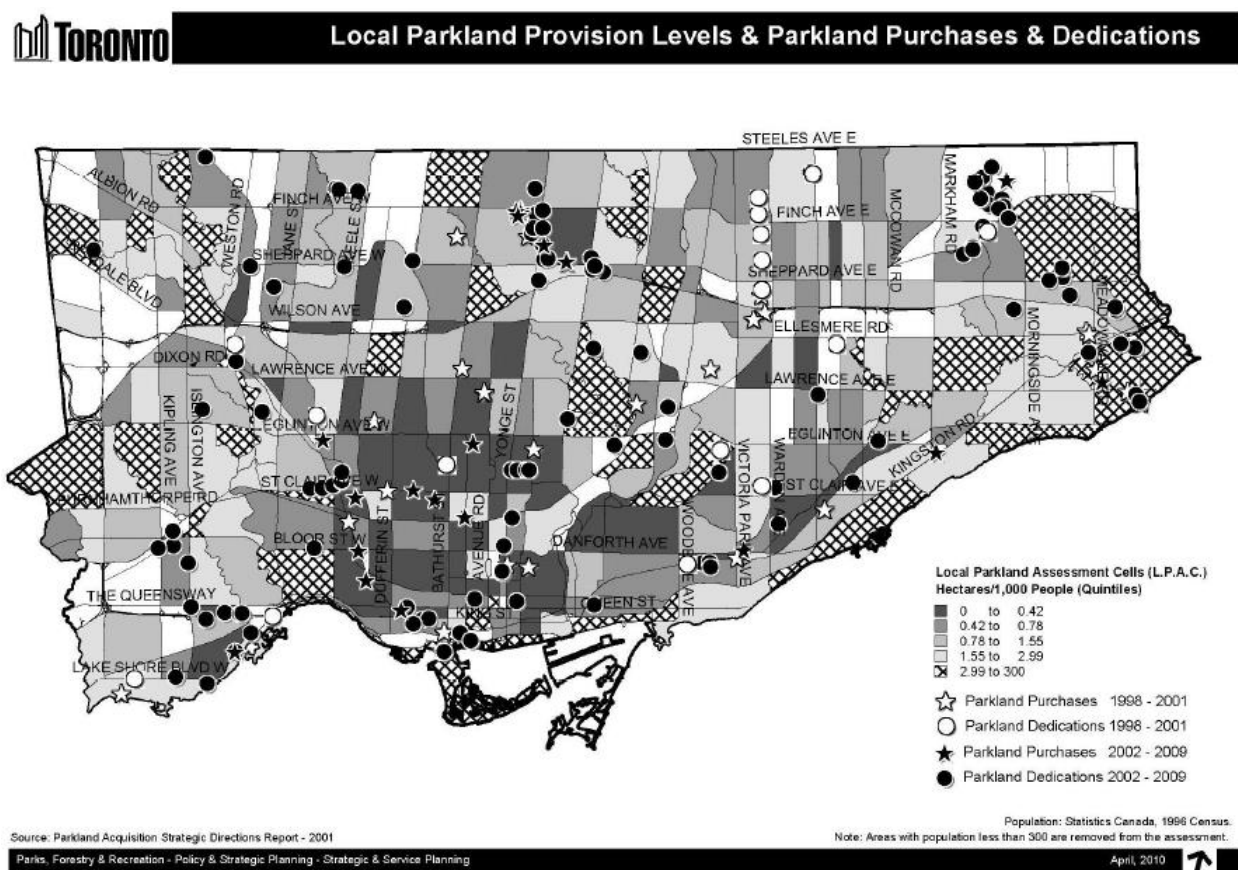


Figure 15: Purchases and Land Dedications in the Downtown & Central Waterfront, 1998-2009 (City of Toronto, 2010b)

In addition to land acquired through the levy, some parkland and open space has been acquired or made available to the public through Waterfront Toronto, jurisdictional transfers, inter-jurisdictional agreements, and privately-owned but publicly accessible open space.

### 6.3 ANALYSIS OF CITY-WIDE PURCHASES, 1998-2009

More purchases took place and more hectares of land were acquired in the first four years of the new City of Toronto than in the following eight years (City of Toronto, 2010b). Thirty-five land purchases took place from 1998-2001, which produced 35.41 ha of parkland. For the period 2002-2009, 27 purchases were made totalling 18.2 ha of parkland (*Ibid*). The staff report does not outline acquisition costs for 1998-2001 but notes that the purchases that occurred during 2002-2009 were made at a total cost of \$26.7 million (*ibid.*). This spending compares with \$73.7 million that was collected in city-wide and district parkland acquisition reserve accounts<sup>5</sup> during the same period (FOI data). None of this money was spent downtown.

The staff report cites the policy direction in the Official Plan and PASDR which promotes prioritizing parkland acquisition in areas of low parkland provision levels as depicted through the LPAC map (recall Figure 10). The report does not refer at all to the local and district parkland acquisition priority areas articulated in the PASDR (recall Figures 13 and 14).

Twelve purchases were made in the lowest two LPAC quintiles for a total cost of approximately \$11 million (*Ibid*). Thirteen purchases occurred in medium and higher LPAC areas and two purchases in areas with no LPAC designation during the same period at combined cost of \$15.7 million (*Ibid.*). On sum, it appears that while the City acquired quite a number of land dedications in low LPAC areas in the eight years following the PASDR, it has not been successful in emphasizing land purchases in areas of low parkland provision. Outside of land dedications, the City's use of CIL funds is simply not achieving the strategic direction proposed in the PASDR to focus on acquiring land in local and district priority areas.

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<sup>5</sup> This figure is comprised of total levies collected plus total interest minus any refunds of parks levies. In addition, \$1.4 million was deposited from "other".

This observation is not to imply that purchases made in areas with relatively more parkland available per person should not have occurred. As the staff report explains, purchases that occurred in medium and high LPAC quintiles took place for a range of reasons frequently related to seizing opportunities to purchase parkland when they arose. Seizing opportunities can generate positive results. Such purchases included surplus school sites and a heritage conservation initiative.

#### 6.4 PARKLAND ACQUIRED THROUGH SECTION 42 IN THE DOWNTOWN AND CENTRAL WATERFRONT, 1998-2012

Fourteen acquisitions have taken place through s.42 in the downtown since amalgamation for a total of 3.66 ha. This total is comprised of 11 dedications and three purchases. Tables 2 and 3 provide a breakdown of these acquisitions.

##### *Land dedications*

Year	Ward	Address	Description	Size (ha)
2002	20	14 Stadium Rd	Stadium Road Park	0.85
2003	27	25 Breadalbane St	Breadalbane Park(South Side)	0.17
2004	27	50 Pricefield Rd	Pricefield Park	0.31
2004	27	78 Mutual St	Cathedral Square Park	0.22
2005	27	20 Yorkville Av	Town Hall Square	0.15
2006	20	4 Grange Rd	Grange Park (addition)	0.10
2006	20	RR Lands West	Northern & Southern Linear Park extensions & Local Park (unnamed)	0.00 (sic.)
2007	20	32 Stadium Rd	Stadium Road Park and Martin Goodman Trail reinstatement	0.01
2007	27	30 Breadalbane St	Breadalbane Park(North Side)	0.20
2009	20	350 Lake Shore Blvd W	Southern Linear Park East (Railway Lands)	0.55
2012	20	Linear Park abutting the rear of 476 Brenmer Blvd and the rail corridor	Northern Linear Park Block 29	0.21
Total				2.77

*Table 2: Parkland dedications in the Downtown & Central Waterfront, 1998-2012 (FOI request)*

Land dedications in the downtown are concentrated in the southern portion of Ward 20 and are distributed more broadly throughout Ward 27. There have been no land dedications in Ward 28 or the portion of Ward 19 that lies within the Downtown and Central Waterfront.

### *Purchases*

Year	Ward	Address	Description	Size (ha)	Amount
1998	27	17X Gloucester St.	James Canning Gardens (aka Dundonald Parkette) addition	0.05	Not available
1998	28	495 Sherbourne St.	Wellesley Community Centre site	0.72	\$2,722,000
2010	27	50 St. Joseph St.	Purchase to supplement land dedication for condo on University of Toronto site	0.12	\$565,000
Total				0.89	\$3,287,000

*Table 3: Parkland purchases in the Downtown & Central Waterfront, 1998-2012 (FOI Request)*

Quality on-site parkland dedications are difficult to obtain in the downtown due to the small size of an average development site. Therefore, most developments have provided CIL rather than land. Unfortunately, the City has largely failed to put designated parkland acquisition reserve funds to use in the downtown since amalgamation.

Of the three properties purchased in the downtown over the past fifteen years, two took place in 1998. The largest site (0.72 ha) forms the site of the present Wellesley Community Centre. This land was bought from the Province (Ontario Realty Corporation) at a price of \$2,722,000 including tax and was approved in principle by the former City of Toronto prior to amalgamation (City of Toronto, 1998). The other was a small add-on (0.05 ha) to a linear park that runs north-south for three blocks in the Church-Wellesley neighbourhood. This piece of the park is known as James Canning Gardens. There is no financial information available for this acquisition. According to one interview, the remainder of the park is owned by the Toronto Parking Authority and could be at risk in the future should the Authority choose to sell the land.

The only parkland purchase that has taken place in the downtown since the adoption of the PASDR in 2001 was a small purchase of land (0.11 ha) adjacent to the University of Toronto campus that was conveyed in part to the City in 2010. This purchase took place as a result of

negotiations surrounding a development application rather than as a discrete acquisition. A portion of the development site was already functioning as a public parkette and was designated as University Open Space in the City of Toronto's Master Plan but it was owned by St. Michael's College rather than the City (City of Toronto, 2008a). The original development application would have resulted in the loss of the parkette. Naturally, there was very strong community opposition to this proposal. According to a staff report, 300 people came to the initial development open house and the loss of the parkette was the number one concern (*ibid.*). After negotiations, the developer resubmitted the application with a parkland component which involved refurbishing the existing parkette and expanding it into a portion of the site that was formerly a parking lot. This was achieved through a combined statutory land dedication (10% of the site as required by the s.42 Alternative Rate), a s.37 agreement, and additional land purchased by the City from the developer at a cost of \$565,000 (actual).

## 6.5 RESERVE FUNDS CURRENTLY AVAILABLE FOR PARKLAND ACQUISITION

At the end of 2013, the Analyst Notes show an estimated \$78 million dollars in combined city-wide and district parkland acquisition reserve accounts (City of Toronto, 2012g, Appendix 6). This total breaks down into \$42.1 million in the city-wide parkland acquisition reserve account plus added amounts from local district accounts. In addition, \$6.5 million remains in reserve accounts from the former Metro (*ibid.*). Money collected at the Alternative Rate may also be used for parkland acquisition, provided that the land is accessible to the area in which the funds were generated. Unfortunately, the Alternative Rate money is not clearly delineated in the capital budget, so it is difficult to determine the total amount available. More money is being collected in parkland acquisition reserves on an annual basis than is being spent and so the parkland acquisition reserves have been gradually accumulating.

### 6.5.1 FUNDS AVAILABLE FOR PARKLAND ACQUISITION IN THE DOWNTOWN

The South District and Toronto land acquisition reserve accounts held a combined total of \$27.8 million as of September, 2012 (FOI request). This total is comprised of \$26.3 million from the

South District account and \$1.6 million in the Toronto account. No funds have been withdrawn from the South District land acquisition reserve account since it was started in 2004.

Some additional funds are available for land acquisition in the downtown through funds collected at the Alternate Rate. An estimate of funds that have been generated within the South at the Alternative Rate can be attempted using the allocation formula presented in Figure 6. Assuming that a large majority, perhaps 90%, of development in the South District is residential high-rise and is occurring in Parkland Acquisition Priority Areas, and assuming that all development sites in the South District were smaller than one hectare and, therefore triggered the 10% Alternative Rate cap, then the total amount of additional funds generated can be estimated by multiplying funds deposited to the South District land acquisition reserve fund by  $4 \times 0.9$  for the years 2008 onward (the year the Alternative Rate came into force) minus funds withdrawn or proposed for parks improvements from the Alternate Rate funds. Not including interest, the South District land acquisition reserve generated \$17.5 million between 2008 and 2012 and so the additional funds generated at the Alternative Rate in the South District during 2008-20012 are likely to be around \$63 million ( $17.5 \times 4 \times 0.9$ ) plus interest. Some of these funds have been committed to various parkland improvement projects since 2008 and more capital projects using this money are outlined in the 10 year Capital Budget and Plan, but it is likely that a portion of this money has not yet been allocated.

It seems clear from the challenges in obtaining appropriate data for this analysis that the information required for informed decision-making by councillors and the public is not readily available. More transparency of funds available for parkland acquisition through better delineation in the capital budget will assist in helping councillors and the public to understand the availability of existing funds.

It is also important to note that some funds have been withdrawn from parkland acquisition reserve accounts that are not related to parkland acquisitions or reasonably related expenditures like demolitions or remediation. A breakdown of actual withdrawals for the years

2009-2012 shows that money from parkland acquisition reserve funds is sometimes spent on development of facilities and parks improvements.

It is difficult to ascertain whether or not funds from city-wide parkland acquisition reserve accounts have been spent in this manner because the reported movements in city-wide parks acquisition accounts include the aggregate total of many reserve accounts. They appear to include funds collected at the Alternate Rate, which are eligible for parks development and improvement. However, the picture is clearer for the local district parkland acquisition reserve accounts. For example, \$1.3 million was transferred to capital from the Scarborough parkland acquisition reserve account in 2010 for the Construction of the Warden Corridor Community Centre. \$1.3 million was transferred from the Scarborough parkland acquisition reserve account in 2009 for the replacement and renovation of the Stephen Leacock Arena. \$830,000 was transferred from the North York local district parkland acquisition reserve account in the same year for park upgrades and sports field improvement at Flemington Park. From the Toronto parkland acquisition reserve fund, \$111,000 was transferred to capital from the Toronto local district parkland acquisition account resurface volleyball courts at Trinity Bellwoods Park. \$194,000 was transferred for the 2011 fiscal year play equipment program from all four districts. These expenditures may represent the spending of money collected in accounts prior to amalgamation and the 1999 CIL allocation policy.

While there are significant funds that remain in parkland acquisition accounts, spending for unrelated purposes has ultimately reduced the amounts available for parkland acquisition. Expenditures unrelated to parkland acquisition may be valuable, but such withdrawals lack clarity in the budget.

## 6.6 PROPOSED SPENDING OF PARKLAND ACQUISITION RESERVE FUNDS

The 2013 Recommended Capital Budget and 2014-2022 Capital Plan identifies \$3.3 million in land acquisition spending between 2013-2022 (*Ibid*, Appendix 3, p. 2). Projects listed include five site remediation projects and one demolition, totalling \$1.1 million, which are financed



through parkland acquisition reserve funds (*Ibid.*, Appendix 5, p.1). The remaining spending comprises funding of \$2.0 million distributed evenly at \$200,000 per year for 10 years.

## 6.7 SPENDING OF PARKLAND DEVELOPMENT RESERVE FUNDS

Section 42 funds play a major role in park financing. They have funded many parks and recreation projects in the city since amalgamation and have been integral to developing and maintaining parks and recreational assets both across the city and within the downtown.

A large portion of reserve funds is allocated to building or replacing community centres and arenas. Such facilities comprise 51% of recommended spending of district and city-wide s.42 funds in 2013. Again, this excludes expenditures of funds collected at the Alternate Rate, which are grouped in the broadly defined “other” category. Headings for line budget items drawing from Alternative Rate funds do specify that they come from s.42 funds. These funds tend to be allocated more heavily towards specific parks improvements and development initiatives rather than more generic expenditures such as tree maintenance.

Items noted in the 2013-2022 Capital Budget and Plan that one would not expect to be paid from CIL reserve funds include capital planning and asset management (\$5 million), a 311 customer service strategy (\$1 million), city-wide environmental initiatives (\$8.5 million) and tree maintenance (\$3.9 million). These uses don’t naturally fit into the framework of spending reserve funds “only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes,” as specified in the *Planning Act* (1994, c. 23, s. 25).

The following table shows a breakdown of recommended spending using s.42 district and city-wide reserve accounts for 2013-2022 and includes both parkland acquisition and parkland development reserve funds. Recommended spending of s.42 funds collected at the Alternate Rate is not included.

<b>S. 42 Reserve Funds (District and City-Wide) Recommended Spending, 2013-2022</b>		
<b>Category</b>	<b>Amount (millions)</b>	<b>Major Components</b>
Community Centres	47	Building new or replacing
Playgrounds and Water Play	15.8	Playground equipment, splash pad conversions
Park Development	13.9	Parks development, tree maintenance, tree planting, dog off-leash area improvements
Arenas	11.9	Don mills arena expansion
Environmental Initiatives	9.3	City-wide environmental initiatives (8.5 million), community garden
Facility Components	6.4	Capital planning and asset management, 311 Strategy
Outdoor Recreation Centres	4.2	Sports fields
Land Acquisition	3.3	Land remediation, demolition, acquisition
Trails and Pathways	1.5	Trail extensions and improvements, lighting
Special Facilities	0.8	Guild Inn, state-of-good repair buildings and structures
Parking Lots and Tennis Courts	0.3	Parking lot expansion, state-of-good repair tennis courts
<b>Total</b>	<b>114.4</b>	

*Table 4: Overview of Section 42 reserve fund spending – district and city-wide parkland acquisition and development reserve funds (City of Toronto, 2012g, Appendix 3)*

## 7 INTERVIEWS

This chapter summarizes the findings gained through twelve key informant interviews with councillors, developers, community advocates, City staff and a planning consultant. It provides an overview of opinions towards development exactions, discusses views towards what is an appropriate amount, identifies the primary challenges to parkland acquisition in the downtown, and celebrates factors that have worked well to help achieve parkland acquisition and improvements.

### 7.1 OPINIONS OF THE PARKS-LEVY AND “GROWTH PAYING FOR GROWTH”

There was broad consensus across interviewees for this paper in support of the principle that development should finance the cost of additional parkland needs arising as a result of growth. Developers, community advocates and the planning consultant alike also felt that they were not seeing adequate investments in parkland from the City in areas of the city with which they were familiar. An exception to this was in cases where developers had been directly involved in local parkland development as components of their development agreements. Interviewees tended to recognize that, while the growth paying for growth approach is theoretically sound, it has limitations in a downtown context.

Two interviewees were in management and executive positions with significant experience working with high-rise development in downtown Toronto. Both agreed with the general concept that growth should pay for growth when it comes to parkland, although one argued that this should only be the case if the impact of new residents on parkland can be demonstrated. Both raised the issue of a lack of transparency of the use of park levy funds and expressed frustration that, from their perspectives, the payment of Parks Levy cash-in-lieu funds has not resulted in tangible improvements.

One developer initially said, “On one hand, that’s an easy question – we don’t want anyone to take any money from anyone.” However, he clearly valued parks and followed up with an acknowledgement that, since developments add density and place additional demands on

services, they should assume the related costs. This developer applied the benefit principle as a test on the appropriateness of development-related charges, explaining that, if you can show theoretically that people who are being added cause additional demands on parkland and, if development money collected is reinvested in the local area, then you are achieving the principle of user pay. “Those who are benefiting are those who should pay...Developers should pay if you can prove and maintain a user-pay principle. If you can’t, then the general population should pay.”

From a policy perspective, this manager also noted that a challenge of the Parks Levy is that it is a “blunt tool” that was created for implementation with a provincial lens, rather than being tailored to Toronto. He felt that the tool is maybe not well-suited to a downtown urban environment. “It is fine to be taking that money and use it for parks but maybe it should be different in downtown settings.”

The other developer was very forthright about the responsibility of developers to assume growth-related capital, saying point blank that “I don’t think that it is inappropriate at all...Realty taxes on homes are fundamentally there in stable communities where the realty taxes go to maintain public property in those areas....” (rather than to fund growth-related infrastructure).

However, he followed up with a lengthy qualification:

....But, what is interesting is that, when you start getting into community development, it develops capital. If you are not giving land, you are giving up money. That money goes into a pot of money that traditionally, under the *Planning Act*, was allowed only to be used to acquire parkland. But that has changed now. It allows them (the City) to take a percentage of that money that you pay in parkland to go towards parkland improvement as well as parkland acquisition. So the City is not getting enough money (through taxes) to do parkland maintenance and improvements, so they look to be able to have the opportunity to take money from parkland payments to do that. The City is not getting enough money to do parkland acquisition in the community....Interestingly enough, from new developments, we all pay Development Charges. But, in the Development Charge in general, there is a percentage of that charge that goes to park improvements throughout the city – wherever the parks are. Because they can’t rely on money in certain wards because some wards don’t get any development. And yet they

do have parkland that has to be maintained. So they use some of that money to maintain some of those parks.

On top of that, as he explained, there are sometimes opportunities, to use s.37 density bonusing agreements for parks. In sum, “You have a melting pot of money: Section 42, Development Charges, negotiated Section 37 – so it is like you are paying three times the piper.”

Furthermore, as he explained, money paid through s.42 and Development Charges have not resulted in obvious parks improvements or acquisitions:

For parkland acquisition, to be frank, I can’t remember the last time the City ever bought parkland. All of the money collected in infill development in this city will go into an account to buy parkland, and now, to some extent, allow you to do some parkland improvements. And yet they keep asking for more money and DCs to do it. But I personally have no idea how accountable that money that was put in a parkland fund is. I have no idea what they have used it for. They rarely, rarely ever buy parkland. So that money has got to be some place but... anyways that’s not the point.

This sentiment was echoed by another development manager,

You hear a common complaint from developers that you are putting money in and don’t see the result of it. You put money in and parks still look like (crap)...The common feeling is that the money is collected and we don’t know where it goes...I don’t know whether it is a misunderstanding or whether the system is actually broken.

City staff acknowledged that the growth paying for growth approach is an important tool but also pointed out that is not the only means available for providing land for parks, especially in the downtown. As one staff member explained, “We do need some form of tool and so I think that it does make sense: If you are adding population to an area then you also need to provide public benefits, such as parks. We do need some form of tool to provide that and that (s.42) is the main tool that we have.” But the staff member also acknowledged that, “In the downtown context, we maybe need to treat it special, or in a different way somehow, which we are still grappling at and working on.”

Another City staff felt that s.42 worked well in a subdivision context and that taking an equivalent in CIL is theoretically sound but also felt that the tool isn't as easily suited to the downtown:

It makes sense. (But) I think what we learned from the downtown experience is that it doesn't actually function perfectly and that, therefore, we actually need a bunch of other (tools)...It is one of the tools we use but we have a lot of different other ways to address parkland needs (such as jurisdictional transfers). So it makes sense, we use it, but it is not the only way.

All councillors in the downtown and central waterfront concurred that harnessing development to pay for growth-related infrastructure was essential. However, councillors tended to perceive cash-in-lieu funds more as a tool to improve and maintain existing parks rather than as a means through which to purchase parkland in the downtown. Councillor Vaughan saw the funds as a way of coping with evolving trends due to changes in user preferences and intensification:

The evolution of parks even as set-aside green space is changing and therefore, as populations change and as growth occurs in the city, the need to revive or revitalize existing parks is also present. And therefore parks need to harness that growth and reinvest that growth in the city because, as the city evolves, so do the park uses...So it's entirely appropriate to harness development charges, whether it is through density bonusing or development fees for as-of-right growth. All development should pay for and sustain the parks system.

Community advocate interviewees hailed from the Ward 27 and Ward 18 areas. Two had done volunteer work advocating for parkland acquisition at 11-Wellesley St. Community advocates felt that having developers pay for parkland as a result of developments was important. "It has to be done and more of it," said one community leader from the Church-Wellesley neighbourhood. However, despite the high levels of growth, they were not seeing evidence of the funds from development reinvested in their community and complained about poor parks maintenance in their neighbourhoods.

Advocates also expressed frustration for site-by-site rezoning and lack of overall vision for green space in their downtown neighbourhoods, "Considering buildings on a discreet basis and not seeing the impact on the overall community – we can see the impact on our community. And 10,000 new houses between elections even!"

One advocate spoke passionately about how the City and Province are failing the Bay corridor. The Province, as she pointed out, has policies for Complete Communities but she feels that it has turned its back on her area of the downtown, especially with its decision to sell nearby provincially owned land to a developer instead working with the City of Toronto and the community to turn it into a park. She explained that no politician, left or right, would ever conceive of building a large social housing development without any open space, because public open space is so essential for a healthy community. “Why should there be different standards (in areas like the Bay St. corridor), just because the condominiums are expensive?...I think that the downtown is taking a hit for the whole city.”

One planning consultant with experience analysing s.42 policy was interviewed. He felt strongly that developers should be paying to finance growth-related costs, including parkland. “Every person generates a need for parkland. If you can’t do it onsite, it is appropriate to pay cash in lieu (so that a city can collect enough and buy it elsewhere). People generate demand; development needs to satisfy demand.”

In his professional opinion, Section 42 of the *Planning Act* is intended primarily to acquire land for parks purposes: “It should be used to buy land. That’s what the *Planning Act*, in my mind says. I’m open to a discussion on facilities.” However he also felt that, in areas such as downtown Toronto where land is scarce, that the City should be able to use funds to improve existing parks, particularly as urban parks are incredibly expensive to build well.

He expressed that there should be a coordinated approach to using the various development-related charges for parkland. “There needs to be better coordination between s.37, s. 42, and Development Charges so that there is a strategy, a plan on what to do. It could be to buy park land with s. 42, improve it with Development Charges, and make it better through s.37.” He felt that the City of Toronto relies far too much on s. 37 and that Development Charges are too low. “The City uses s.37 money to get community centres; that’s obviously one that should be funded by Development Charges.”

He felt strongly that there should be a rational nexus between new developments and parkland improvements in the vicinity. "There is no link between intensification and the provision and improvement of parks. And there should be a link. I think that developers are getting away with murder around here (the downtown)." The planner felt that the City should be working more with developers to make private land publically accessible for recreational purposes and also that the City should be planning more proactively: "They need a coordinated comprehensive system on how to improve and expand park space."

As interviews with councillors revealed, s.42 funds have been used to revitalize a number of parks in the downtown through the Alternative Rate. However, this move has been recent and some councillors have only recently started to take an active role in allocating funds to parks within their wards so at this point many neighbourhoods in the downtown are yet to see major parks improvements as a result of this funding.

## 7.2 IS THE AMOUNT OF MONEY COLLECTED FROM DEVELOPMENTS FOR PARKLAND APPROPRIATE?

Councillors interviewed agree that s.42 CIL funds collected at the Alternate Rate have significant scope for revitalizing existing parks in the downtown but were divided on whether or not the amounts collected were appropriate. Councillors tended to consider the appropriateness of the rate through a lens of its ability to improve existing parks rather than to acquire land.

Councillor Vaughan felt the amounts for s.42 were appropriate in the downtown but that not using the Alternative Rate in the outer suburbs in an effort to incite development may be denying those areas of the means to retrofit their parks for the present needs of the community, including adequate supply of parkland and recreation components. He did feel that considering an increase in Development Charges was warranted. As he explained,

We share a lot city-wide. I think, as we review our Development Charges, I think it gives us the opportunity to review whether or not we are building adequate supply of recreational space in the outer suburbs and whether we are creating enough green



space in the downtown core and there are two different challenges there that model out based on the configuration of the city. But I think we need to look at them.

But, I think, from (my ward's) perspective we have had, over the last six years, sort of a renaissance of parks. And that is largely leveraged off of development. We have built parks for the next 25 years in this part of the city. In 25 years from now, it will be questionable as to whether or not we have the tax base to revitalize those parks all over again. They only last so long. The equipment breaks down. Uses change. So the question becomes, this explosion of growth we have now, have we built a tax base capable of sustaining the parks in the future? And that's a very complex question. Is the capital outlay there? Yes, it is. Is the operating outlay there? I am not sure that we've modeled that out properly.

Now that many of the parks in his ward have been retrofitted (he started earlier than other councillors in allocating s.42 funds), he is contemplating setting up a trust with future funds collected to help maintain parks in the ward in the years ahead as he realizes that the funds from this condominium boom will dry up as developable land in the ward becomes even more scarce. It is unlikely that such an approach would be a permitted use of s.42 funds when one considers that the emphasis on the appropriate use of development-derived funds in provincial legislation is on capital expenditures resulting from growth rather than on maintenance (recall *Planning Act* s.42(15) and *Development Charges Act* s.2(1)).

Councillor Kristyn Wong Tam, whose ward does not contain the waterfront and whose ward is experiencing some of the worst parkland deficits, wishes that the amounts were higher.

Councillor Mike Layton felt that perhaps s.42 requirements were too low for large-scale developments as he felt that they are very profitable but do not provide sufficient green space and are causing a lot of stress on existing parkland but that, in the case of mom-and-pop entrepreneurs seeking to build additional units on their properties, even the basic rate was a major, and perhaps unfair, deterrent to modest intensification.

Councillor Pam McConnell felt that the amount of money available for parks from development is appropriate. She cautioned that the City needs to consider the effect of development-related charges on housing affordability: "What is important to remember is that the monies that we take out of developers programs is the money that goes into the cost of housing. We can

always use more money for DCs, but, in terms of parkland acquisition and development (s.42), it is actually a lot of money. The question is in the allocation.”

Interestingly, all councillors recognized inadequate supply of parkland in the downtown but have written off purchasing land at market value through CIL due to land costs. This consideration and others and will be discussed in the upcoming section, “Challenges of Parkland Acquisition in the Downtown.” However, before considering any increase of s. 42 rates, it is important to consider the use of existing funds collected and what objectives the City is trying to reasonably achieve from CIL funds. It is also important to consider redirecting funds currently distributed city-wide back into communities in already parkland-deficient areas that are experiencing growth.

Funding is a very important issue but parkland acquisition in the downtown requires more than money. As one staff said, the rate could be adjusted “a thousand times” and it still wouldn’t make a difference given numerous other challenges of parkland acquisition in the downtown. Therefore, a solid understanding of the existing challenges is critical to overcoming these obstacles.

### 7.3 CHALLENGES OF PARKLAND ACQUISITION IN THE DOWNTOWN

Why has the City of Toronto purchased almost no land in the downtown since amalgamation? This research revealed that the reasons are manifold.

#### 1. *Lack of a well-articulated, action-oriented parks planning framework city-wide and specific to the Downtown*

The City lacks a Master Plan for parks both city-wide and one that is tailored to the Downtown. Similarly, it lacks a public realm strategy. As noted, previous planning exercises have set out principles and recommended directions but did not set-out a course of action for how to meet parkland needs. The PASDR (2001) recommended creating acquisition plans for the identified priority areas; however this has not happened. Without an action-oriented plan in place, it is understandable why City-led parks planning in the downtown has not happened in a comprehensive way.

As one development manager explained,

Before you know whether (the quality and quantity of parks in the downtown) is appropriate or not, we need an overarching vision of what we want to do with our parks. We have an aging population but our parks are mostly children's parks with swing sets and splash pads...We need an overarching vision: one that is sophisticated, cosmopolitan, that matches the demographics...Without a vision of what you want to achieve, it is hard to see how money is being spent and whether it is achieving a goal because we don't know what the goal is. So it is hard to measure whether you are getting value. There is nothing that is measurable as far as I can see.

This manager went on to describe a vision of downtown parks as people's outdoor living rooms, illustrating successful vibrant, cosmopolitan urban parks such as Philadelphia's Rittenhouse Square Park, where the atmosphere and park design encourages people to linger, and buskers play while people sit around on graduated steps.

He contrasted the City's lack of vision with Waterfront Toronto: "Waterfront Toronto has a big Master Plan. They know what they want to do. Results are being driven by a greater vision."

The City is currently finalizing a long overdue Parks Plan that is expected to be complete in April 2013. The extent that this parks master plan will propel parks planning in the City at large and within the downtown will depend on its legibility (the degree to which it can be understood by the public, staff and councillors), the objectives that it sets, what steps it lays out to achieve those objectives, how the plan is incorporated into the City's budget, and political will and initiative from City staff to implement the plan.

Parks planning for the downtown requires additional attention that is distinct from city-wide parks planning initiatives. As noted, the Official Plan (2006) provides some high-level policy direction on aspirations for the downtown parks and the public but the City lacks an implementation strategy.

Waterfront Toronto has led some excellent parks development along the Downtown and Central Waterfront's southern edge, and other exciting projects have transpired in certain

areas, such as Regent Park, but these opportunities are limited to certain areas and much of the downtown has been left behind.

Clearly more planning work is necessary. But, as City staff rightly point out and the literature confirms (Harnik, 2010), parks acquisition in the downtown requires more than a planning exercise. Parks acquisition requires strong political support and seizing opportunities when they come along. It's not about only having a plan; it's about "the how."

## **2. Governance challenges**

### *a. Disconnect between City divisions*

There is a disconnect between PF&R and Planning divisions, which adversely impacts the relationship of parks planning within the development process and has made parks planning a peripheral issue.

The negative impact of this detachment was raised by councillors. PF&R staff get involved after an application is formally submitted, but planning for a development starts much earlier and typically developers will meet with the local councillor and planning staff prior to submitting an application. Ward 27 Councillor, Kristyn Wong-Tam suggested that parks staff should be brought in to discussions on development applications much earlier:

We need to make sure parkland acquisition staff as well as parkland policy staff at the discussion tables when it comes to dealing with development. Because it is not good enough that all the sites that can be suited for development are so small that developers will say that 'we don't have enough space there to give you as parkland' or that the parkland is so insignificant that then parkland staff say that 'it is too small for it to be serviced so we'll take a little bit of your money based on your formula that we have for cash-in-lieu of parkland..' So that for sure is a problem.

Councillor Layton explained that, from his vantage point, "The parks dedication isn't calculated within the planning process. Nobody really talks about it. It is just something that's added in at the end."

Part of the reason for this may be the limited interaction and siloing between divisions. There are many City departments that weigh in on elements of the public realm but too frequently there is not enough collaboration. This challenge was raised during a recent Chief Planner's Roundtable event in February 2013 on public spaces in Toronto. As panelist Shirley Blumberg, partner of KPMB Architects and former City of Toronto staff, explained, "We have all these departments that are operating as silos, unhappily....I think they need to come out of their silos and work together again. And we need a shared vision...and values, and a mandate" (Toronto, 2013b).

A lack of collaboration has also led to difficulties with street landscaping due to shadowing impacts from tall buildings. Blumberg explained, "I have been asked to plant trees in areas with very little sunlight and we have to pretend that it is okay." The Common Grounds (2004) report recommended increasing the lifespan of the average city tree from 5-20 years but this has not been achieved.

b. *Large parks bureaucracy is failing to serve the unique needs of downtown parks*

Parks planning occurs at a city-wide and district level, which fails to consider local needs and preferences. This is true in terms of capital expenditures, parks management, and approaches to land acquisition. Amalgamation has made parks funding, acquisition and service provision challenging. City staff admitted that the Division has only recently begun to appreciate that the downtown area warrants special consideration. Staff noted that Official Plan consultations related to the Downtown and Central Waterfront and condominium living as well as the 11-Wellesley case have propelled this realization.

While the Official Plan recognizes the strategic importance of the Downtown and acknowledges that its unique needs require a tailored approach, this is not reflected in PF&R's governance structure. Apart from the Waterfront District unit, the governance structure of PF&R does not recognise the downtown. Indeed, the

Division does not even use an accepted geography of what constitutes the downtown. Through this research it became clear that most PF&R staff, including senior management, were unaware of the term Downtown and Central Waterfront.

On an operations level, Parks Forestry and Recreation Division fail to adequately tailor its services to different areas of the city. One example that came up during interviews is the industrial-sized plastic garbage and recycling receptacles brought to parks in the downtown this spring (see Figure 16). Such choices detract from the aesthetic appeal of Toronto Parks and their contribution to the public realm. They stand out due to their immense size and are frequently the boldest colours within a park. They have also led to operational issues, as large garbage pickup trucks drive onto parks to collect the garbage, ruining the grass. Consideration for aesthetics and ambiance ought to be an important part of parks planning and operations decisions, particularly in parks with formal gardens such as Allan Gardens and St. James Park.



*Figure 16: Large waste receptacles in St. James Park detract from its ambiance*

c. *Ontario Municipal Board: An impediment to comprehensive planning*

The challenge that Ontario Municipal Board (OMB or “the Board”) has had for planning in the City of Toronto was raised by senior planning consultants, City staff, community advocates and councillors as a major impediment to planning in Toronto.

One planning consultant expressed in frustration that developers are calling the shots in Toronto and the City does not have the gall to stand up to them. But he admitted that this fear was warranted: “The City of Toronto lives in fear of the OMB – for good reason – because they do a crappy job of planning. The City of Toronto does not plan; they respond to development applications.”

Much of the downtown lacks detailed planning at the neighbourhood scale that would typically transpire through a Secondary Plan. Those planning frameworks that the City has invested in for the downtown are difficult to maintain. For example, the City hired the consulting firm Urban Strategies to prepare design guidelines for tall buildings in the downtown. This study took seven years. But, as Councillor Wong-Tam explained during a Government Management Committee meeting (City of Toronto, 2012e), “the ink on the Tall Buildings Guidelines wasn’t even dry” before the same firm applied a highest and best use analysis for new clients – this time looking at 11-Wellesley for Infrastructure Ontario – that far exceeded the recommended densities in the planning framework which had just been established (City of Toronto, 2012f).

The City’s comprehensive Zoning By-Law 438-86 is wildly out of date. Any land in the former City of Toronto that has not been rezoned on a site-specific basis has zoning dating back to the 1980s. An attempt to pass a new zoning by-law in 2010, the first attempt to pass a true comprehensive by-law in the City since amalgamation failed as the high volume of appeals was consuming too many City resources and so the By-law was repealed.

Councillor Wong-Tam, who proposed a successful motion in 2011 to remove the City of Toronto from the OMB's jurisdiction, explained the challenge that the Board places on comprehensive planning in her downtown ward, including parkland:

I think that if we did not have the Ontario Municipal Board, if we didn't have every developer in town saying that their site is too small, that they can't accommodate public space, they can't give us this or that, I would love to plan a community in a way that makes sense from a holistic perspective, and that includes making sure that community objectives and social infrastructure, including parkland, is in place – or at least we have a plan and strategy for it.

### **3. *Politics of distribution***

Determining the distribution of development-derived funds has always been a challenge politically. As noted earlier (see Chapter 5), arriving at the interim Cash-in-Lieu of Land Allocation Policy (1999) was a struggle.

Downtown councillors generally seem to have accepted sharing the s.42 basic rate with the rest of the City – at least now that they are able to designate part of the funds generated at the Alternative Rate within their ward. As Councillor Layton explained, downtown residents may visit parks such as the Leslie St. Spit or High Park just as people city wide come to enjoy events in downtown parks, so there is some sense in sharing funds. He hopes that once development opportunities becomes scarce in the downtown and development picks up in the suburbs that the sharing of s.42 funds city-wide will continue and that funds will then flow back into the core.

Some suburban councillors in areas not experience growth are resentful of the money that councillors have to allocate through density bonusing and now, Section 42 Alternative Rate funds. Part of this, as Councillor Vaughan explained, is that certain councillors do not actually understand the way that the system works and the spirit of the law – to fund parkland acquisition and development in order to service new growth.

Councillor McConnell has worked hard to bring funds back into her ward in order to help rebalance some of the outgoing funds as is described in more detail below (see What has



Worked). However, she noted that, as money from these alternative sources dry up, she anticipates that she will be compelled to fight harder in order to keep a higher proportion of the funds generated stay in her ward: “When the waterhole gets smaller, the animals start to look at each other a little differently...(and when it happens) It will be a terrible fight.”

**4. *Cost of land is high and rapidly increasing***

Land costs in the downtown are extremely high and prices have escalated significantly in recent years. This steep increase has even been a challenge for condominium developers. They build the Parks Levy (s.42) into their pro forma analyses, however the amount owed is determined at the time of the building permit, by which point often a significant portion of units have sold. For those units, the income is fixed even if the land value has increased. Until recently, the Parks Levy had been a relatively small portion of the total development costs but it is becoming more significant as land values have increased. Developers in the downtown have begun to allocate bigger contingencies in order to account for the potential rise in cost.

Simultaneously, the dramatic increase of land costs has considerably decreased the purchasing power of CIL money collected by the City since amalgamation that is sitting in reserve funds. Reserve accounts earn interest at a variable rate, but the rates have paled in comparison with the rapid escalation of land values.

**5. *Limited land supply***

Land supply is extremely limited in the Downtown. There are few vacant sites suitable for parkland remaining in the Downtown and Central Waterfront. While this has limited the range of opportunities, it should also be an urgent call to acquire land immediately in areas of high existing and anticipated parkland needs before the remaining opportunities are gone.

6. *Lack of permission to purchase at true market rate*

The few remaining vacant lots of substantial size in the downtown are overwhelmingly held by investors who have plans for developing the land or who intend holding onto it in anticipation that it will continue to increase in value.

On principle, the City offers to purchase land at its appraised market rate. It does not overpay and it does not haggle or underpay. Once land is appraised, that is the ballpark of what City staff are able to negotiate with. Land appraisals do consider to some degree that there will likely be an increase in permitted density, but they do not view properties through a lens of highest and best use – the lens that most investors and developers owning surface parking lots in the downtown view property. Appraisals do not speculate.

Land owners are entitled to apply to up-zone their property and increase the value of their land significantly by doing so if they are successful. Even if the City decides that an application is inappropriate, a landowner may appeal to the Ontario Municipal Board. Expectations on permissibility have increased as more and more very tall buildings are approved in the downtown. And, as expectations have increased, so have land prices.

As one City staff explained,

A lot of the time the experience that we have is we go into a site and say ‘we’re interested.’ And they’ll say ‘what do you have to offer?’ We’ll say ‘it’s worth seven million dollars.’ They’ll go ‘mmm...well, I think I can flip this site and put a condo on it that exceeds what the planning regulations will allow and I’ll take the City and go to the OMB and then I’ll get, you know, 20 million.’ Well, I go ‘I can only pay seven million.’ No takers.

Because I am paying market value and we have to appraise the land on what it’s worth, not on what people are speculating, so then it means that we don’t have that much availability of land that is suitable that people want to sell to us.”

This staff seemed to feel that the City’s approach was fair but conceded that the limited room for negotiating land prices “definitely puts us at a disadvantage.”

It is not so much that land owners are not willing to sell, but rather that they are not willing to give up the rights to their property at the price that the City is willing to offer. Essentially, the City expects a discount, which is not a fair expectation.

**7. *The City's process to purchase land takes too long***

Toronto's downtown real estate is a red-hot market. The City's process for buying land takes at least six months, but the market doesn't sit still. As city staff explained,

We need all transactions to be approved by City Council and be approved in our capital budget. So I can negotiate with someone, get it to a point, but then it takes at least six months for council approval before we can actually give them a cheque. So in a hot real estate market, when a property becomes available and they are taking bids on it, I can't actually – I can only sort of discuss with them until they get Council approval. And with Toronto's real estate market, because it is at such extreme levels, people don't want to wait.

Part of the reason for this, as staff explained, is due to the need to maintain transparency and accountability, but it severely limits the likelihood of completing a purchase.

**8. *Land in the downtown is perceived as overpriced or too expensive***

None of the councillors could fathom the prospect of spending money at the same level that the market is willing to pay to acquire parkland. Councillors were resigned to the view that the City is unable to compete with the development market for land in the downtown and that purchasing land at market value was simply out of the question.

Councillor Wong-Tam, explained that, "The challenge is – and this is really important to note – can we buy land at market value? No, really: 35 million dollars for an acre of land in the South District, 30-35 million, especially in Ward 27. So it is not about whether the City can buy the land. The City cannot afford to buy land at market value." Even though her ward has contributed a substantial portion of the total funds in parkland acquisition reserves, she felt that she could not reasonably ask Council to fund the acquisition of the 0.85 ha 11-Wellesely lot which eventually sold for to Lanterra Developments for \$65 million.

Councillor Vaughan raised concern that the amount parkland in his Ward north of Front St. was scarce and strained by high usage but did not view purchasing land as an option: “You can’t compete with the condominium developers. If there is free land available, you just can’t buy it. It is too expensive.”

Councillor McConnell echoed the sentiment, “The problem with acquiring parkland downtown is that it is too damn expensive. As a result of that, people throw up their hands and say ‘we can’t buy.’ We are never looking at empty parking spaces to buy that would go for 24 million.”

Instead, she seeks other creative opportunities to obtain and maximize parkland. But she also noted that, “it doesn’t mean you don’t look,” for sometimes purchasing very expensive parkland may be necessary. But in order to do that, a councillor must first demonstrate to the rest of Council that they have exhausted all other options.

City staff also felt that when one contemplates a cost-benefit analysis of what could be purchased in the downtown versus the suburbs with the same amount of money, it makes justifying land purchases in the downtown difficult:

There is always a (consideration) that land is so expensive in downtown. You know, when you have development sites that are being sold for 50, 60 million dollars...We take money in through cash-in-lieu, and it seems like it is an appropriate amount, but it is not going to make an impact downtown. That same amount of money, if we were out in, you know, in Scarborough and Etobicoke, we might be able to buy some community parks that would be usable, and get sports fields on them, and be really exciting. But, in Toronto, we are going to invest the same amount of money and get a tiny parkette. And so we are just not able to make the same impact downtown.

The interesting thing about these perspectives is that s.42 cash-in-lieu rates are based on the value of the land, presumably so that it will be possible to purchase an equivalent amount of land within the vicinity of the development; it is not to grossly extend the purchasing power of funds generated in an expensive area to buy a large volume of land that is inexpensive yet inaccessible to the development. The emphasis on land and land value rather than on a flat fee per population added is a major difference between

Development Charges and s.42 of the *Planning Act*. To what degree ought the City have a responsibility to maintain a rational nexus between where the funds are collected and where they are spent?

**9. *Lack of (or failure) to leverage borrowing power***

The City does not borrow to buy land – although it could. This puts the City at a disadvantage to developers bidding on land who frequently finance acquisitions through borrowing.

**10. *Parks Levy funds (Basic Rate) and Development Charges collected for parks get diluted in the capital budgets and are invisible to most PF&R staff***

To recall, 50% of the base rate is allocated towards parkland development reserves but most parks staff and councillors do not interact directly with this money. According to staff, it is something that the “higher ups” do, such as the Deputy City Manager. Basically, projects that are on the capital budget are put forward and then upper management retrieves the money from eligible sources. Generally speaking, as outlined in Chapter 6, this money is treated as a general revenue source for the parks capital budget rather than being targeted towards the areas that are contributing the funds and which are currently experiencing growth.

**11. *Restrictions on accepting encumbered land***

The City of Toronto has a policy that it does not accept encumbered land as parkland unless this provision is waived by Council (Municipal code, s.415-23). City staff and developers alike agree that this has been a deterrent to onsite parkland dedication, especially in the downtown. As long as the City does not assume ownership, land does not count as an eligible s. 42 contribution.

In some circumstances, such as in a recent condominium development in Scarborough, not accepting encumbered land ultimately led to a less sustainable park. Storm water retention on-site is an objective of the City of Toronto’s Green Standards and LEED certification. This developer’s LEED project sought to put its storm water management system under the park

and have the water collected on the development site assist with watering the park. Council approved the application with a note in the final report recommending that the City accept the s.42 contribution as encumbered land, provided that this approach was supported by City staff. However, staff were ultimately unsupportive.

As the developer explained,

We said to the City, if you will allow us to put a storm water management process underground, under the park, we could give you the park as a sustainable park. And all you've got to do is just water it. And if you have this system below, it will help to maintain a lot of the green standards that you are looking for...

Well, they said no. They laughed. So we had to go back to almost building a traditional park, although we did do a lot of good sustainable work in it. And we said to the City, 'we're going to hold ownership of it for 10 years, until the project is completely built out because we don't trust you to maintain it. We want to maintain it for our ongoing sales and performance and use, and the vision of our residents in this high-rise community.' So we want to have the right to do that.

#### **12. *Lack of consideration for nexus/broad disbursement of CIL funds across city***

As described in Chapter 6, there appears to be no connection at the basic rate between where funds are collected at and where they are spent. Allocation of half of the funds by division – North, South, East and West is too broad to be considered a reasonable nexus. Of the CIL amounts collected at the basic rate, most has been disbursed with a city-wide lens. Areas experiencing the majority of growth in the city, particularly the downtown, subsidize capital projects in areas not experiencing as much growth. The Alternative Rate has been effective in ensuring a more local allocation of funds since its enactment in 2008 and will be described in more detail in the following section, What has Worked.

While a requirement to spend funds within narrowly defined nexus has been a hindrance to parkland acquisition in some U.S. jurisdictions (recall Harnik & Yaffe, 2005), Toronto's failure to consider nexus entirely has contributed to the underperformance of many downtown parks and has reduced the amount of funds available for parkland acquisition in the downtown.

### **13. *Lack of awareness of the policy tools***

There is very limited understanding of the ins and outs of the City's collection and allocation of development-generated parks funding. This includes the public, some senior city planners in the Downtown, and even some experienced councillors. This is not to say that many do not know a great deal. Some policies, such as the 1999 Cash-in-Lieu of Parkland Allocation Policy, are buried and require either intimate knowledge of the program or contentious digging for information.

Councillor's understanding of how the City uses and allocates funds collected from developments for parks is mixed. The lack of understanding amongst some councillors is evident from questions asked during the Government Management Committee meeting discussing 11 Wellesley. Questions from the Committee Chair, Councillor Paul Ainslie (Ward 43 – Scarborough East) and Councillor Crisante (Ward 1 - Etobicoke North), for example, display a poor understanding of how the collection and allocation of funds in the parkland acquisition reserve funds works (see webcast, City of Toronto, 2012f).

One councillor who has taken a very hands-on approach towards parks planning in their ward was under the impression that the money available was through the 25% "local" allocation for development derived from the first 5%, base rate; however, we determined that it is actually the money over and above the basic rate that he directs. "That would explain why there is so much money", they said. Another very savvy councillor was surprised to learn that almost 16 percent of Development Charges in Toronto go to parks and recreation.

All councillors interviewed agreed that public knowledge of s.42 is very low. All of the parks and community advocates I spoke with were knowledgeable with the basics of the tools but none were familiar with the Alternate Rate. Perhaps this may be due to the fact that at least some municipal planners that review development applications and interact with the public at development open-house meetings do not understand the details of the Parks Levy and how it is allocated.

One community leader from the Bay-Cloverhill neighbourhood explained that the local ratepayers association has recently (over the past six or so development applications) started requesting that the land be provided on-site as opposed to providing cash-in-lieu. This is because the community has not seen evidence of improvements gathered through cash-in-lieu within the neighbourhood, despite the multitude of high-rise condominium developments in the vicinity. She referred to the 5% base amount. When I mentioned that the amount would generally be 10% for a high-rise condominium in the area, she didn't believe me. Finally, I pulled out the policy in the Official Plan. "Why did they (planning staff) never correct us?", she asked. This resident was otherwise extremely knowledgeable about the planning process, city policy and the parks bureaucracy overall – knowledge gained through many years of volunteerism.

Many councillors have used the funds generated through the Alternative Rate to improve parks in their wards and to build political capacity for parks by including local residents when doing so; however, they tend not to make a point of explaining to the public where the funds have come from.

As experiences from other jurisdictions show (see Crompton, 2010), lack of knowledge of exaction programs amongst councillors is not unique to Toronto and has hindered exaction programs from meeting their full potential elsewhere. Good understanding of existing policies is critical to evaluating them effectively. Without a thorough public and political understanding of existing policies and how they work, a public conversation on how to fix the broken system is unlikely to happen.

#### **14. *Lack of transparency and access to information***

There is a serious lack of transparency and tracking of the funds collected through s.42. There is no comprehensive record keeping that tracks the money collected at the basic rate in conjunction with the developments from which they came. As described in Chapter 6, the only records that staff have access to are the amounts collected from each of the reserve funds for each of the districts. This lack of coherent record keeping has historically made it



difficult for councillors to allocate funds generated in their wards and fails to provide basic information to assess the relationship between where funds are collected and where they are spent.

This is not due to a lack of interest. Requests for information on what funds have been collected in various wards is something that councillors have asked for before and was asked again at the Government Committee meeting on 11-Wellesley (City of Toronto, 2012f).

Some councillors have turned to meticulously tracking the Alternative Rate funds generated in their wards in order to ensure that the funds don't get transferred elsewhere. It is now feasible to do this. Prior to the Alternative Rate, most councillors had no idea how much money was collected within their ward, even though they wanted to know.

Councillor McConnell explained that for most of her tenure as councillor she did not have access to information on the money generated through the Parks Levy in her ward:

I have been a councillor for almost 19 years. I have never had a spreadsheet. I remember Dan Lecky and I and Kyle Rae going after it.<sup>6</sup> (The money) was going into the central pot...I now have a full spreadsheet. It took a long time. It took 20 years to get this all straightened out....we have to do almost everything (to track the funds). Good councillors follow these dollars very carefully and make sure they are not going out of their communities and making sure money is also coming in (from other sources).

Councillor Vaughan's office started tracking the funds meticulously prior to the Alternative Rate in order to be able to direct funds in his ward. He explained that:

We used to not be involved (in allocating s.42 funds) at all. That money was hidden from us. Until we asked for it to be accounted for publicly. That happened when I came to office in 2006. We knew the money was collected but we couldn't find it; it didn't show up anywhere. We didn't know where it was going or how it was being deployed or who was making the decisions. What we started to do was to track each development and assign what park would receive additional funds...Each deposit is

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<sup>6</sup> Dan Leckie and Kyle Rae were former downtown councillors

attributed to a particular ward and must be used within that ward. So it's tracked by everybody. When we have to move money, we track which deposit slip will be used to pay for a particular project...but we have to track it. If we don't track it (pause), the parks department (pause), it just disappears. And, if it sits in an account for too long, it mysteriously gets transferred to another account and then we never see it again. They slip money out the door quite a bit. And that's what I think they were doing for a long time before I came to office.

Developers and planners all expressed that they would really like to know where the money collected through the park levy goes, but did not know. "I ask my councillor every time I see her and she doesn't know. Somebody should know that information. Where is that bank account?" said one consultant.

Parks advocates have asked as well. In 2005, Jutta Mason of the Centre for Local Research into Public Space (CELOS) wrote a piece entitled "The Parks Levies story" which outlines her frustrating attempt to understand where money from a nearby development went in order to try to pave a path in her local park (Mason, 2005).

My own request for information on a breakdown of funds collected by project was unfruitful. The original intention was to map out the collection and spending of these funds geographically. I was informed by PF&R management that I would need to submit a Freedom of Information request to retrieve the information but was refused any guidance on how to frame the questions in a feasible way. One request asked for the "total amount of cash-in-lieu (CIL) collected from development within the Downtown and Central Waterfront by year and by project (including addresses) from 1998-2012." I explained that I was flexible to adjusting the timeframe to be more recent and also was willing expand the geographic area to include all of the South District as I came to understand that the Division does not keep records delineated by that area. Either way, it was determined that obtaining such data was unfeasible. Staff concluded that, while it is possible to get a total amount of the deposits by district on a yearly basis, a breakdown of the deposits would not be possible without dragging up individual project files from the archives. Doing so, I was told, would be an enormous task at a search cost of \$30 per hour.

Certainly, many have expressed interest in this information. Public trust is essential to the social contract between government and the public. Unfortunately, a lack of coherent, publically accessible records documenting the contributions from developments has not helped to instil confidence in the management of these funds amongst developers, councillors and the public.

**15. *Jurisdictional transfers are now more complicated***

A jurisdictional transfer is when the title of City land moves from one division to another. For example if land changes hands from the Parking Authority to Parks, Forestry and Recreation. According to City staff, PF&R acquires more parkland through jurisdictional transfers city-wide than through private acquisitions.

In the past Parks, Forestry, and Recreation would often ask to be exempted from paying charges for acquiring land, but now departments are required to must purchase land from the other divisions at their assessed fair market value. According to one interviewee, this policy changed with the City of Toronto Act (2006). Councillors are sometimes surprised to hear that PF&R cannot afford to turn another division's surplus properties into parkland when it is already city-owned land.

In one case in Ward 20, municipal parkland was given freely to another department to be used as a parking lot. Now the need for parkland is greater than parking but, since the policy has changed, PF&R will likely have to purchase the land using s.42 reserve funds in order to regain use of it park.

It is somewhat surprising that there is not sufficient money to acquire land given the existing reserve funds. But the larger issue is that public assets ought to be viewed through a lens of public benefit and this lens should extend beyond a raw dollar value.

**16. *Underfunding of existing infrastructure***

A squeeze on the parks operating budget and an accumulating State of Good Repair (SOGR) backlog is a major deterrent to parkland acquisition and the development of new facilities. A portion of s.42 funds are used as a general revenue source for the PF&R capital budget

and for maintaining a state-of-good-repair of existing parks and recreation assets across the city.

Competition for funds between maintenance and acquisitions is not unique to Toronto; it is an issue shared by many municipalities (recall Searle, 2011; Crompton, 2010). The 10-year Capital Budget and Plan highlights how new additions further add to the SOGR backlog (City of Toronto, 2012g, p.6). All assets require upkeep and having more assets simply results in having more to take care of. But a growing city requires growing infrastructure, including parkland, if it is to maintain a high quality of life.

This challenge is similar to the funding of other public infrastructure such as transit: Increases in transportation infrastructure tend to attract new riders to the system but also requires ongoing maintenance. And, like public transit, the more users a park has, the more expensive it is to maintain.

One item that came up numerous times in interviews with staff and councillors alike was the enormous influx of dogs into downtown condominium communities which has resulted in tremendous demands on parks. Even Chief Planner, Jennifer Keesmaat, talks about this (see Zerbisias, 2013). Some parks have been now retrofitted with irrigation systems to wash away the high volume of urine because otherwise the smell would be overbearing (*Ibid.*). The City's 10-year capital budget and plan includes funding of \$500,000 per year for each of the next four years to pay for dog off-leash area improvements (City of Toronto, 2012g).

I would suggest that dogs coming from downtown condominiums are the non-discretionary parks users. If a park or a transit system is of poor quality, those with alternative means of recreating or getting from A to B will use them or instead choose not to travel or recreate at all. But, if one has no other options – when you've got to go, you've got to go – one will use the public services available. Many City parks are already well loved, but just imagine how much use our downtown parks would get from if all of them were designed and maintained as places where people want to come and spend the day?

## 7.4 WHAT HAS WORKED?

Despite the many challenges, there have been a number of positive public realm projects that have transpired in the downtown core since amalgamation. These initiatives have occurred primarily as a result of leadership and vision. Developer-derived funds have enhanced and enabled many of these initiatives. Interviews revealed four key factors that have enabled parks and public space improvements in the downtown including visionary leadership, be it political, grass roots or organization-led; enabling councillors to allocate funds collected at the Alternative Rate in excess of 5% within their wards; collaboration with developers; and incorporating parks into large-scale municipal redevelopment projects.

### *1. Visionary leadership*

#### *a. Political leadership*

Leadership from local councillors has been integral to many parkland acquisitions improvements in the downtown. Parks staff agree that “it helps to have a savvy councillor.” This was also recognized by developers.

Ward councillors arguably play the most important role out of anyone in the city in shaping the built form within their wards. The prevailing culture is at City Hall is that Community Councils and City Council almost always votes in tandem with a local councillor on development files and so it is a developer’s interest to work with councillors on files in a way that responds to the community’s and councillor’s aspirations. Councillors can meaningfully shape development applications to consider the public realm through influencing the concept or negotiating density bonusing agreements. Developers are often willing to work with them if their demands are reasonable. Doing so, however, requires a lot of skill, knowledge of the options available, a desire to achieve a great public realm, and making a choice to prioritize this objective.

Councillor McConnell, spoke about the importance of being creative in leveraging funding for parks and in working to bring in external funding from the City coffers and

other levels of government for parks and recreation facilities. “Councillors have to be thoughtful in terms of how to generate and use the money available and how to string this money and that money together. And when you do this, it makes these green spaces more attainable.”

Waterfront Toronto has produced excellent parks in her ward. The major redevelopment of the social housing community Regent Park into a mixed income neighbourhood has allowed her to access city-wide Development Charges, funds from other government, and also locally-generated s.37 and 42 funds for the development of the community centre and aquatic centre. She recently attained the site containing Canada’s original parliament buildings after years of hard work and creative negotiations which eventually involved expropriation and a land swap with the City (see McConnell, 2012). She envisions that, after the Pan-Am games, the site will be turned into “a pretty amazing public space”. She wants to see a reference library on site and a park, “like New York’s Bryant Park”, and a glass homage to the former parliament buildings. She has championed unusual partnerships such as between PF&R and the Transportation Division, where a highway flyover was made available as a temporary dog park at what is now called Orphan’s Greenspace. This land is not owned by PF&R but it serves recreational purposes.

She articulates a clear vision for her ward that echoes the City’s policy direction expressed in the Official Plan and which is supported by other literature on good parks planning practices. Like other councillors, she is seeking to create linkages between parks in the ward and to distinguish each park from the ones around it in order to provide a range of options for her constituents.

Part of it is to see that they are connected; to make sure that they fit into the bigger picture and work in tandem with one another. It is important that each park has a little bit of a specialty. Not every park can be a dog park, a soccer park, a baseball park. You need to make sure you have all the bases covered for someone that wants to do a lot of those activities. And make sure they are accessible within a reasonable walking distance.

Recently, there has been renewed interest in commercial development in the downtown. The challenge with these developments, as she explained, is that they don't generate as much s.42 funding. She agreed that there was logic to this based on not them generating as much demand for parkland. Nevertheless, there is a need for public space in the financial district so she is advocating for new commercial properties to include publically-accessible, yet privately-owned space as part of the site plan and the clauses of development agreements. She stressed that it is important to make sure that the public-private spaces are well connected to the public realm. "That has been a very important piece of work that is very creative." Certainly this idea is reflected in the Official Plan (2006), but it takes a good councillor to realize the Plan's objectives.

Community advocates and councillors alike expressed that working with the City's parks bureaucracy can be a challenge. One example Councillor McConnell provided was the Regent Park Aquatic Centre – which is now complete – and the soon-to-be-built Wellesley pool. PF&R staff emphatically told her that she could only have one pool – either at Wellesley or at Regent Park – but not both. Furthermore, City staff on the project were constantly telling her that it needed to be scaled back. Costs escalated over the course of the project and staff informed her many times that more money was required. Each time she asked what they needed, they would say they needed "two million dollars". So she fundraised using all sorts of avenues – the s.42, s.37, Infrastructure Ontario, matching funds from the federal government. In the end, it took \$17 million and many "2 million dollars" but it was worth it. Investing in making this facility stellar, rather than a bland standard, was critical to her:

The important part about the (Regent Park) aquatics centre is that, when you put that 17-million dollars out, it is a place for all people. It is also a place where relationships are built across a cultural divides and economic differences...All those things are pretty important in terms of what the purpose of parks and recreation is.

Once people started to see the project coming out of the ground, there was a sense of excitement from the community and a sense of pride from City staff. It

is a bit about managing people – getting people out of their office and getting them to understand (the impact of their work) to people out in the community.

Reflecting on this example, she explained her approach to getting things done:

You know, there are two kinds of people in this world: One kind of people like to say no – it is a nice word, it's simple and it ends. The other people are the yes people. What is important for park acquisition is that they need to be the yes people. What is important is that, when you get no people that you never accept that...And, when you get no people, you have to get around them, get them off their stride and eventually get them to say yes.

*b. Community-led initiatives*

Community groups in the downtown have worked hard to achieve modest additions of greenery in their communities. For example, the Bay Cloverhill Community Association successfully planted Bioswales on Bay Street to add some life to the rather cold, shadowy street. This process took four years and immense amounts of patience and perseverance from community advocates in order to navigate the City bureaucracy. This initiative obtained an initial 25,000 Grant from Live Green Toronto and subsequent money from s.37. The project risked being shelved and involved numerous bureaucratic hurdles but the result is a source of pride for the community and a more livable Bay St.

*c. Leadership by other organizations*

Other organizations, notably Waterfront Toronto and Evergreen Foundation, have developed innovative parks. Some BIAs have also made considerable improvements to the public realm along their streets.



## *2. Enabling ward councillors to allocate the Alternative Rate*

Prior to the Alternative Rate, most councillors had no direct access to funds collected through the Parks Levy. Since the Alternative Rate was brought in, local councillors have had the ability to direct the funds in their ward. Downtown councillors have assumed leadership roles within their wards in directing such funds. This access to funds is producing exciting opportunities to revitalize downtown parks.

Community associations have, in some cases, played important roles in identifying local parks priorities. In Ward 28, the St. Lawrence Neighbourhood Association has assisted with revitalizing Berczy Park and the Corktown Residents Association is currently undertaking an assessment of local park needs. Councillor Layton and Councillor Vaughan have used these funds as a catalyst for kick-starting “friends of” parks groups.

Such projects take an enormous amount of coordination and are a big juggling task. All councillors interviewed value parkland and public space highly, but some have more ambitious plans than others. Certainly, the effectiveness of this approach to allocation is dependent on the abilities and vision of the local councillor.

## *3. Collaboration with developers*

Developers understand the value of green space. They know that parkland is of value to selling their properties and is prized by the future residents of their buildings. Developers also understand that providing public space onsite is popular with politicians and ratepayers associations and can help get an application through the approval process.

There are a number of ways that good developers have been actively involved in the provision of public space:

- a. To provide on-site publically accessible private space
- b. To develop parkland
- c. To assemble and purchase parkland for the City

- a. Sometimes there is an opportunity to provide public space onsite, even if it is encumbered. As stated earlier, the City does not assume responsibility for the land when there are private uses below such as a parking lot. However, there may still be an opportunity to provide public space on-site to the extent that it serves as functional publically-accessible space. Ensuring public access to such space can be established through an easement. Tridel has built a number of park-like spaces in its condominium developments where condominium owners are responsible for maintaining the space such as cutting the grass.

It is frustrating to developers that such space is not eligible to count as a development's s.42 agreement, and in some ways may seem unfair that future owners are responsible for maintaining space that is available for the public at large; however, the positive aspect of such an arrangement from the view of the developer, and perhaps future residents, is that the condominium corporation has greater control over the site and can choose to maintain the sites at a higher standard than the City.

One interviewee referred to such a site 18 Yorkville as one of the few parkland initiatives that have occurred over the past decade in the area. However, he complained that the site was very poorly maintained. He said that you can tell that it is not managed by the development because no owner would keep a space in such poor condition.

- b. Developers have sometimes taken on the role of developing parkland as part of their developments. Sometimes this happens on land that is conveyed through s.42. Other times it is not a formal s.42 conveyance but the developer can still recover the cost of developing the park through a credit on its amount of Development Charges owed. There are a number of benefits to doing this. For one, it allows money that a developer has to pay anyways to be reinvested in their property, increasing the marketability of their project. Developing parkland themselves allows them to influence the design and ensure that the park is developed quickly. The local

community, future residents and the councillor benefit from an increase in public space in the neighbourhood and by anchoring Development Charges locally rather than having them broadly distributed.

- c. Developers can also facilitate parkland purchases for the City. It is easier for a developer to acquire land than the City because they do not have the same restrictions (recall timeline and price). Such arrangements can offer significant public benefits and make parkland acquisition a reality when it wouldn't be otherwise.

For example, in a project in a North York Community, a developer purchased three properties for the City instead of paying cash-in-lieu or a providing an on-site parkland dedication. Providing off-site land to the satisfaction of the City is permitted in the Official Plan (3.2.3 - Policy 7). The councillor requested that the developer obtain these properties because the City had been unsuccessful at acquiring them.

To a large extent, this is what will happen at the 11-Wellesley site which is now owned by Lanterra Developments. Lanterra is a major land owner in the immediate vicinity, including an adjacent property. Lanterra will use the site to pool what would otherwise be cash-in-lieu from a number of development sites that it owns in the area. Councillor Wong-tam also hopes to negotiate with Lanterra to purchase some additional land back from the developer using s. 42 reserve funds.

The drawback of such an approach is that it puts developers in a position of significant negotiating power for height and density increases that may otherwise be considered unacceptable. In the case of 11 Wellesley, the City will likely only obtain a portion of the property when there is tremendous existing need for green space. This need will only grow when the future developments proposed and under construction in the immediate vicinity become occupied.

Unfortunately, there seems to be a prevailing perception that land dedications are “free” whereas, once cash-in-lieu payments are collected, all of the sudden its

monetary value becomes visible and purchasing land at its true cost becomes much harder to justify. This is an unfortunate misconception.

*4. Incorporating Parks into Large-Scale Redevelopment of City-Owned Land*

The City has been actively capitalizing on the increase of land values in the downtown through the reconstruction of two social housing projects: Regent Park and Alexandra Park. Both are being transformed from 100% social housing to a mixture of social housing and condominiums and being significantly intensified. The Regent Park redevelopment was able to incorporate a significant-sized park, aquatic centre and community centre as part of the redevelopment. The redevelopment of Alexandra Park will similarly include a parkland component.

## 8 CONCLUSIONS AND RECOMMENDATIONS

There are many factors that have impeded parkland acquisition in the downtown, which range from policy to politics to procedures.

This research has sought to provide context and clarity to the policies and practices that have governed the City of Toronto's approach to parkland acquisition and development, to identify what factors have impeded parkland acquisition in the downtown, and to set out ways to improve the City's parkland acquisition tools.

The research found that City policy guiding parkland acquisition and development is fragmented across many staff reports and is underdeveloped. This fragmentation has detracted from the policies' legibility and may have contributed to the suboptimal understanding of the policies among some City staff, politicians and the public. The City of Toronto has been without a parks master plan since amalgamation in 1998. The interim Cash-in-Lieu of Parkland Allocation Policy (1999), which is still in place, distributes CIL funds collected at the basic rate broadly across the City and does not require funds to be spent within the vicinity of the development. This blanket policy, while reflected in the City's Municipal Code, is inconsistent with the policy direction in the Official Plan. The enactment of the Alternative Rate in 2008 has enabled more funds to stay within the wards in which they are generated. The PASDR (2001) laid out a solid foundation from which to embark on a comprehensive approach to parkland acquisition and development. While there has been subsequent progress with respect to higher-level parks policy direction, as exhibited in *Our Common Grounds* (2004) and the Official Plan (2006), the more tangible steps recommended in this report have not been taken.

Quantitative analysis was conducted on municipal parkland acquired through the development process by means of land dedications and the CIL. Less than four hectares have been acquired through s.42 of the *Planning Act* in the Downtown and Central Waterfront since amalgamation. The Downtown and Central Waterfront has contributed a substantial portion of the total CIL

funds collected city-wide since amalgamation but only one small parkland purchase has occurred in the downtown since 1998.

The majority of s.42 CIL funds spent since amalgamation have been directed towards parks and recreation facilities development and maintenance rather than land acquisition. In addition, some funds have been withdrawn from parkland acquisition reserve funds for parks and recreation purposes unrelated to land acquisition, further reducing funds available for acquisitions. Nevertheless, significant funds in parkland acquisition reserve funds remain which could be used to purchase parkland in the downtown.

Numerous factors have impeded parkland acquisition and development in the downtown. Several of these are consistent with findings of exaction programs in other cities, including municipalities in the United States and in Sydney, Australia, as outlined in the studies referenced in this paper (Harnik & Yaffe, 2005; Crompton, 2010; Searle, 2011). These include hesitance by both city staff and politicians to acquire new parkland when it is struggling to maintain existing assets; high land costs; limited land supply; and limited knowledge of existing tools.

Additional challenges identified in this paper include the City of Toronto's broad distribution of CIL funds at the basic rate across the City rather than directing funds to areas experiencing growth; an underdeveloped parks planning framework; governance challenges, including politics, the broad organizational structure of the PF&R Division which does not recognize the downtown, and the OMB; inability of City staff to negotiate purchases at a competitive market price and to close sales in a timely fashion; policies that restrict conveyance of encumbered land as City parkland; and a misconception that downtown land for parkland is unaffordable. Some of these challenges will be relatable to other cities and others will not, due to differing legal and governance frameworks.

This research confirms that politics and visionary leadership are essential to achieving parkland acquisition as identified by Peter Harnik (2010). Visionary leadership by City councillors, community associations and parks development led by Waterfront Toronto as well as

cooperative relationships with development companies have helped to overcome some of the barriers to acquiring parkland in select areas of the downtown, but there remains much room for improvement. Too much of the downtown has been left behind as intensification continues without sufficient regard for providing an adequate supply of parkland in the vicinity of development activities.

Sixteen recommendations emerged from this research and, if implemented, may assist in providing Toronto and other cities with high-quality public realm for future generations.

**1. Elect creative, energetic councillors who value parks**

Councillors have tremendous capacity to shape the public realm within their wards through their role in the development process. It is important for parks advocates to work diligently to elect local councillors who value parks, listen to their constituents, and are creative, persistent, visionary, and good negotiators.

**2. Educate councillors, civil servants and the public on the City's existing development-related funding tools and their purpose**

There is a general lack of knowledge of the City's parks funding policies and legislation amongst City councillors, the public and some municipal planners. Without a strong understanding, Council cannot hope to make informed decisions.

**3. Increase transparency of funds collected and spent from development-related charges**

Efforts should be made by PF&R and Accounting Services to document and report on the funds collected in an organized way by ward and development address. In addition, s.42 Alternative Rate funds should be clearly delineated in the Capital Budget rather than the current practice of including them within an "other category," making them almost invisible. An appendix could be provided in PF&R Capital Budget Analyst Notes providing a further breakdown by ward. All appendices in the PF&R Capital Budget Analyst notes should be accessible online (this is the case for the current year, but not for most other years). Furthermore, any money that is withdrawn from the parkland

acquisition reserve funds that is not used for land acquisition or related expenditures such as site remediation should require Council approval. Ready access to this information is essential to informed decision making, accountability, and maintaining public trust.

#### **4. Plan for parkland needs when planning for intensification**

It is important to plan for parkland and public space needs when implementing policy directions that promote significant growth. Planning should include a needs-based assessment and a detailed inventory of existing facilities and demographics and identify land acquisition required to serve future populations. The City should acquire land early when designating areas for intensification. This planning has not happened and the adverse impacts have been considerable.

While comprehensive planning is essential, the reality is that a large part of change happens through site-by-site rezonings. Therefore, it is important that City planners are well versed in s.42 of the *Planning Act* and that PF&R staff are involved in pre-consultation meetings so that planning for parkland is not an afterthought.

#### **5. Recognise the importance of the downtown parks and their unique through tailored parks planning, governance, and operations**

As delineated in the Official Plan (2006), downtown parks have special needs. They also display the city to tourists from around the world. In addition, many parks in the downtown are enjoyed as amenities for office workers and by visitors from across the city. PF&R Division should reflect the significant value of downtown parks through tailoring its parks planning, governance, and operations in a way that responds to their unique demands.

#### **6. Encourage localized parks governance**

Enabling community involvement in the redesign and governance of parks and public space helps to build constituencies for parks and ensure that parks are responsive to



local needs and preferences. Some councillors have included the public in the visioning and decision-making process when allocating development-derived parks funding. This has helped to create some “friends of” parks groups and should be encouraged.

**7. Acknowledge that the primary purpose of s.42 of the *Planning Act* is to acquire parkland in areas of population growth**

Development sites in the downtown context are often too small to provide high quality parkland on site. While it is tempting to try to get parkland “for free” through land dedications, doing so can often mean accepting land that is not the most suited to parkland (Harnik, 2010). Investing in upgrading existing parks has merit; however, the full amount of money should be readily available for parkland acquisition, particularly in areas of intense parkland needs such as the Downtown and Central Waterfront. Councillors and City staff need to recognize that the amount of funds received through CIL is based on the value of the land for the purpose of enabling municipalities to purchase parkland in the vicinity of development. When this is acknowledged, high land prices can be rationalized.

**8. Spend, don’t hoard, the money in parkland acquisition reserve funds**

The current environment of low interest rates, combined with high appreciation of land values, has led to a decrease in the purchasing power of existing funds. Every effort should be made to spend parkland acquisition reserve funds within a few years of collecting them.

**9. Leverage existing parks reserve funds for land acquisition when necessary through issuing bonds**

Acquiring new parkland is an investment that many generations will reap. Therefore, borrowing for the purpose of parks acquisition in areas that are expected to intensify rapidly is appropriate and necessary. While it is impossible to fully predict the rate of growth, it makes sense for a city to plan ahead and set aside space for parkland early on.

Development applications in the pipeline provide a short-term indication of residential growth. Section 42 is paid at the time of the building permit but an application typically takes at least two years to get to that stage. It is reasonable for the City to anticipate these revenues, acquire land supplemented by bonds and repay these bonds using future exaction revenues. Portland has been highly successful in doing this. It successfully sold bonds to augment development exaction cash-in-lieu fees and paid off the bonds using subsequent exaction funds (Harnik & Yaffe, 2005).

**10. Enable the City to purchase land at the rate that the market is willing to pay and expropriate when necessary.**

City negotiators must be empowered to bid at the rate that the market is willing to pay. Without this leverage, the City is expecting a discount, which is neither realistic, nor a fair expectation.

Municipalities are permitted to expropriate land. Expropriating is probably necessary in the downtown considering the current constraints of city staff (the extended time that it takes to get approval of a purchase from Council and their lack of freedom to negotiate the price). Expropriations take time and can be expensive but they have the benefit of enabling municipalities to acquire land that is suitable and where it is most needed.

**11. Ensure that the spending of development-related charges, especially s.42, reflects a long-term vision**

The purpose of s.42 of the *Planning Act* is to enable municipalities to prepare for the long-term needs of their future residents for parkland as a result of growth; it is not intended to be a substitute for displacing public responsibility for maintaining existing facilities. Care must be taken to ensure that the spending of funds has regard for a long-term vision. More clarity delineating funding sources in the capital budget is required to ensure accountability and to increase knowledge of how funds collected from development are being spent.

## **12. Incentivise on-site public space provision as a part of developments**

Publicly-accessible private space can benefit communities and is being achieved in some developments. Unfortunately, Toronto's recently adopted Downtown Tall Buildings Guidelines (2012) stipulate building in the downtown from lot line to lot line. Nevertheless, each application is considered on an individual basis and planning staff, councillors and the development community should seek to create opportunities for to provide a high quality public realm on-site whenever possible.

The City of Calgary recognises the public space contribution that buildings can provide by granting a Floor Area Ratio (FAR) bonus to developments that provide outdoor patio space. Many years ago New York incentivised developers to build public squares on their lots, which has resulted in many of the small squares around Manhattan. The City of Toronto's Section 37 guidelines do not allocate prescribed values to density increases. This makes incentivising density through public space provision harder because there is not the same predictability. Nevertheless, on-site public space provision is an initiative that has been incorporated successfully into a number of density bonusing agreements in the downtown and should be encouraged.

New York incentivised the building of public squares adjacent to developments by similarly permitting increased density. But, as William Whyte's research on New York's public spaces demonstrated (1980), not all such squares have resulted in equal successes; it is about quality of place, not simply provision of space. Careful attention must be paid to ensure that parks and open spaces are well designed to maximize their contribution to the public realm.

## **13. Develop guidelines that help facilitate the conveyance of encumbered lands as eligible s.42 contributions**

The City should consider developing guidelines for accepting encumbered lands as eligible s.42 contributions in order to make on-site parkland dedications more feasible. Encumbered land could be given a partial credit towards a developer's contribution

based, for example, on a percentage of the value of the land. Guidelines could be developed in order to help inform what types of encumbered lands may be appropriate as parkland and outline the terms that should be included in stratified ownership agreements.

#### **14. Pursue innovative funding models for parks acquisition**

Development exactions ought not to be the City's sole mechanism for purchasing and developing parkland. City staff working with parks acquisition and councillors should be encouraged to pursue alternative funding models and to approach parks acquisition creatively.

While not a focus of this paper, the past few decades have seen a number of alternative funding models used for parks acquisition in North America. There are many resources and case studies available that showcase successful examples of parks that have been financed in whole or in part through alternative funding models. For more information, see Merk, Saussier, Staropoli, Slack & Kim (2012), Garvin (2011) Harnik (2010), and CAFE Space (2011).

#### **15. Diversify parks operations funding**

As literature shows and this paper's research confirms, the challenge of maintaining existing facilities is a major deterrent to parkland acquisition in many cities around the world and in Toronto. Parkland operations and maintenance is one of the few areas considered discretionary in municipal budgets and is vulnerable to budget cuts. Parks advocates should encourage the diversification of funding for parkland maintenance in order to make parks funding more financially sustainable and less vulnerable to cuts. David Harvey (2010), Alexander Garvin (2011), CAFE Space (2011), Trust for Public Land (2008), and others provide excellent discussions and successful examples of diversifying parks revenue.

## **16. Reflect the tremendous value of parks through adequate parks operations funding**

On a more general level, Toronto should recognize investment in quality downtown parks as a critical investment in the quality of life of its residents and an essential part of its economic strategy. The enthusiastic uptake of s.37 for the purpose of funding parks is a testament to the political popularity of parks funding. Council should take this cue and invest adequate public funds into its park and recreation system in order to allow parks to maximize their contribution to the quality of life in the city.

The challenges are significant and many, and opportunities to secure quality parkland in the downtown are shrinking. However, this paper has set out recommendations that could assist the City to acquire land where it is critically needed, and thereby maintain an attractive, healthy, and competitive downtown for years to come.

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