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## Strategy to Address City Growth and Intensification

**To:** Planning and Priorities Committee

**Date:** 13 June 2018

**Report No.:** 06-18-3448

### Strategic Directions

- Make every school an effective school.

### Recommendation

It is recommended that the Director be directed to:

- a) Ensure that future planning policy documents reflect the TDSB's interests in the provision of school accommodation as a component of a complete community. Such interests to reflect in policy the principle that development cannot proceed unless adequate school accommodation can be provided;
- b) Take any and all measures to ensure future development proposals are phased to align with the adequate provision of school accommodation;
- c) Seek redress from proponents of development in the form of assets that can contribute to the provision of school accommodation;
- d) Take any and all measures to minimize adverse impacts resulting from development adjacent to school sites;
- e) Meet with development proponents early in the planning process to ensure the TDSB's accommodation needs are understood; and

- f) Report periodically to the Board, at a minimum annually, to provide a general overview and highlights of the various land use planning matters in which the TDSB is involved.

## **Context**

The purpose of this report is to describe how the TDSB will move forward with a multi-pronged approach to strengthen and enhance the TDSB's role in the municipal planning process to better serve school communities, and to meet the TDSB's infrastructure needs. This report also provides an update on a series of topics described in the previous staff report regarding Strategy to Address City Growth and Intensification, presented to the Board in April 2017.

## **Executive Summary**

The Strategy to Address City Growth and Intensification is based upon four primary components to strengthen the role of the TDSB in the land-use planning process. The increased presence and influence is necessary to ensure that the TDSB is able to provide appropriate long-term accommodation for students as well as to ensure the effective stewardship of its assets.

The four components of the Strategy are:

### **I. Affecting Change within the Municipal Policy Making Process**

TDSB staff will pursue a consistent position that approval of development by the City of Toronto must consider the ability of the local schools to accommodate enrolment growth on a timely basis and recognize the role of schools in contributing to a complete community.

### **II. Representation at the Local Planning Appeals Tribunal (LPAT)**

The Ontario Municipal Board (OMB) has now been replaced by the Local Planning Appeal Tribunal (LPAT). TDSB staff will modify how and when they participate in the land-use planning process on both City-wide policy initiatives and development applications. The new process will require stakeholders, such as the TDSB, to participate in the consultation sessions as well as provide

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comments in the form of written submissions supported by expert opinions in limited time frames.

**III. Greater Participation in the City’s Development Application and Approval Process**

TDSB staff will request greater involvement in the development application process to include early meetings with the City and developers to highlight the TDSB’s concerns as they relate to student accommodation and/or land-use planning. In the case of developments near school sites, a set of standard terms and conditions for construction management will be provided to the City and developers.

**IV. Affecting Change within the Provincial Policy, Funding and Regulatory Context**

TDSB staff will advocate for changes to Provincial policy and funding practices to ensure that the TDSB is able to provide adequate accommodation for students in intensifying urban areas. This includes changes to the Provincial funding model to recognize the unique challenges of school construction in dense urban areas, as well as ongoing advocacy for equitable funding stipulating that *growth should pay for growth*.

Each component will be further described.

**I - Affecting Change within the Municipal Policy Making Process**

TDSB Planning staff has taken a more prominent and active role in the City’s development of municipal policy documents. These policy documents, which include Official Plan Amendments, Site and Area Specific Policies, and Urban Design Guidelines, regulate, inform and guide how the city grows and intensifies. It is critical that within these studies the TDSB asserts that schools are assets to achieving complete communities, and that they need to be given much greater consideration in the development of these documents.

To date, TDSB Planning staff has been, or continues to be, actively involved in approximately twenty policy studies across the city, many in key growth areas that will

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impact long-term school accommodation. Examples of policies that have been achieved in recent major municipal planning documents include:

- **Yonge-Eglinton Secondary Plan:** supporting policies for new elementary school capacity, satellite schools, minimum tower separation distances from school sites, shared use of future parks, minimizing shadow impacts on school sites, and the appropriate phasing of development (City Council approval pending);
- **TOcore Downtown Plan:** supporting policies for satellite schools, limiting net-new shadows on school sites and new elementary school capacity. City Council also approved motions that support the TDSB in advancing planning for school facilities facing enrolment pressures in areas targeted for growth, and that collaborative work occur with Provincial ministries to explore a special funding strategy to meet the capital requirements of the TDSB in areas approved for growth to support local and timely provision of school facilities;
- **Bloor West Village and High Park Neighbourhood Character Area Studies:** supporting policies for appropriate phasing of development, satellite schools and the use of holding provisions (City Council approval pending).

The role of TDSB staff in these studies is to analyze the proposed urban structure, built form, land-use designations, population and demographic information and determine the impact on school accommodation and/or on existing TDSB assets. These impacts are being shared with City staff and draft policies are developed to ensure that the accommodation requirements of the TDSB are met, and that existing TDSB assets are not adversely impacted. Examples of adverse impacts include: inadequate capacity to accommodate growth-related increases in student populations locally; excessive building heights and densities; and non-complimentary land uses adjacent to school sites.

## **II – Representation at the Local Planning Appeal Tribunal**

The Ontario Municipal Board (OMB) has now been replaced by the Local Planning Appeal Tribunal (LPAT). Any land-use decisions made by municipal Councils are now subject to the newly-reformed process of the LPAT. This new appeal process and the associated changes to the Planning Act will impact how the TDSB functions as a commenting agency in the planning process.

The Strategy to Address City Growth and Intensification includes a number of new steps that will ensure that the TDSB is well positioned to participate in the process, should action be required. Changes to the process of the LPAT and the impact on the TDSB Strategy are described below.

Key highlights of the LPAT that most directly impact the TDSB are as follows:

- 1) The 'Tests of Appeal' are based on consistency with the Provincial Policy Statement and conformity with other Provincial Policies and City Official Plans.

**Significance to the TDSB Strategy:** It is now important that policies that provide for new educational facilities and the phasing of growth be embedded in the City's policy documents as these will become the tests of appeal for development applications. TDSB staff will take an active role in developing and commenting on these planning documents. TDSB staff will ensure that any comments submitted to the City about a planning application focus on consistency / conformity with applicable Provincial and municipal policy. This will require significantly greater resources than in the past.

- 2) Hearings may now occur through written, electronic or oral means and must rely on the record as presented to and considered by City Council.

**Significance to the TDSB Strategy:** TDSB staff will provide thorough and timely comments to the City on planning applications in advance of their consideration by Council. It is extremely important that the TDSB is part of the City's record on an application because, in the case of an appeal, any submission by the TDSB will be forwarded to the LPAT and will represent the TDSB's position.

- 3) LPAT hearings now occur through a two-stage process. If it is determined by the LPAT that the Council decision is not consistent or does not conform to the applicable policy, the matter is referred back to City Council for review and modification. The LPAT may substitute a decision only upon the second appeal if the tests of conformity have still not been met or if Council fails to make a decision within the statutory timeframe.

**Significance to the TDSB Strategy:** City Council now has greater authority to resolve matters that previously would have rested with the OMB. TDSB staff will

work closely with the City to ensure that the issue of student accommodation is clearly articulated. The TDSB will continue to work in close partnership with the City on specific development applications where student accommodation or land-use planning issues exist.

- 4) As part of an appeal process, there is now mandatory participation in a case management conference in advance of the first LPAT hearing for matters in relation to an Official Plan, Zoning By-law or Plans of Subdivision.

**Significance to the TDSB Strategy:** The case management conference is essentially a mediation process seeking to resolve issues. To this end, TDSB staff (or representatives) will be prepared to participate in such a process. TDSB staff will develop a 'Principles of Settlement' document that will frame the TDSB's participation in this process.

### **III - Greater Participation in the City's Development Application and Approval Process**

Development applications are circulated by the City's Planning Department to various municipal departments and external agencies, such as the TDSB, for comment. The City's Planning Department is responsible for receiving the comments and seeking resolution to impacts that have been identified about the proposed development application.

A large volume of development applications (more than 150 applications per year) are circulated to the TDSB that require review and comment from TDSB Planning staff. These applications include Official Plan Amendments, Zoning By-law Amendments, Site Plan Applications, and Draft Plan of Subdivision applications.

#### Development Applications in Areas where Local Student Accommodation is not Available

When circulated a development application, the standard TDSB practice was to notify the City on the status of space availability in local schools (either sufficient space is available or is not available). If the development application was located within an area where local school capacity was not available, the TDSB would provide this notice to the City and request that a sign be situated on the development site and a clause

included in the agreement of purchase and sale. For the vast majority of these developments, no further action was taken.

As part of the Strategy to Address City Growth and Intensification, this practice has been expanded and strengthened where developments are proposed within areas of the City where no reasonable local student accommodation is available. TDSB staff will now include a statement in the response letter that clearly states “*The TDSB does not support the application in its current form*”. This is a much stronger statement that highlights the phasing of growth and student accommodation as an issue to be addressed through the development process, and provides a foundation for the TDSB’s appeal rights should a matter proceed to the LPAT.

The TDSB has followed through in its opposition to proposed residential development by seeking and receiving party status to appeals before the LPAT based upon the lack of local accommodation for students.

As part of the Strategy, TDSB staff will continue to strengthen comments to the City where development is proposed within areas where no local accommodation is available. TDSB staff will work with the City and developers on solutions to address this issue on a site by site basis. TDSB staff has been successful in achieving language supporting the use of holding provisions, which prohibit development from proceeding until certain conditions are met.

Development Applications in Close Proximity to School Sites

There are situations where development applications are for sites that are in close proximity to TDSB schools. These developments may have direct operational impacts on the schools by way of shadowing the school yard, generating increased traffic near the schools, or building within a required setback from the school properties.

TDSB staff is currently in the process of creating a set of standard conditions and best practices that will be provided to both the City and the developer of any property adjacent to, or within a close proximity of, a TDSB site.

As reported in April 2017, the practice for TDSB staff has been to work through the City’s Planner assigned to the application. TDSB staff provides comments that outline how school operations will be compromised, including access to sunlight, student safety

from increased traffic and noise, and what measures the school will need to incur should the pending development application be implemented.

A meeting with the City Planner and applicant is also requested to establish a dialogue to seek remedies to the perceived impacts on the school. The City encourages an applicant to meet with all agencies and departments that have expressed a concern to a development application. For TDSB staff, these meetings allow the operational impact of a school to be fully communicated to the applicant. It is ultimately up to the applicant to respond to the TDSB's (and other agencies') concerns and modify their development application accordingly, should the applicant seek consensus resolution.

As an example, TDSB staff recently worked collaboratively with a developer in the Yonge-Eglinton area to mitigate shadow impacts on North Toronto CI. After discussions with TDSB staff the applicant revised the application to lower the proposed tower heights, reduce the size of the podium floor plate, and re-orient the placement of the tower. The net-new shadow impact on the adjacent TDSB site was eliminated.

TDSB staff will ensure that any concerns and/or issues related to the development application are clearly communicated in writing to the City to protect the TDSB's appeal rights to the LPAT, should the need arise.

#### Early Participation in the Development Application Process and Relationship Building

TDSB staff will continue to advocate for earlier participation in the development application process where applications are proposed adjacent or within close proximity to TDSB properties. This will provide the TDSB with an early opportunity to identify concerns and allow time for the developer to address them. Early participation in the process will also be an important avenue to communicate concerns relating to student accommodation in areas experiencing significant enrolment growth. It is at this time when the TDSB would communicate the need for a 'hold', or request that the development be phased in such a manner that allows for appropriate student accommodation.

To this end, TDSB staff will work with the City's community planning staff to arrange working sessions where the TDSB's role in the planning process can be articulated, clarified and understood. These working sessions have been held with the City's policy planning staff with great success. These working sessions allow for open

communication, relationship building and a deeper understanding of TDSB issues. As a result, the City's community planning staff would be better positioned to articulate the TDSB's position on development through the application and approvals process.

**IV – Affecting Change within the Provincial Policy, Funding and Regulatory Context**

Delivering School Capacity in Advance

The TDSB will need to build new school capacity in advance of having a critical mass of students 'in hand', to accommodate enrolment growth in high-density, urban settings where holding solutions are not available.

The TDSB receives funding for major capital projects from the Ministry of Education through the annual Capital Priorities process. This is the process where funds are secured to address accommodation pressures through new schools, additions to existing schools, or deep retrofits. The criteria outlined by the Ministry state that primary consideration will be given to projects where the accommodation pressure exists now, and is demonstrable; i.e. a fully-utilized school with multiple portables on site. Secondary consideration will be given to projects where the accommodation pressure is projected to emerge within five to ten years.

This approach is problematic in high-density urban areas where existing school sites are small or constrained, and do not have the ability to accommodate portables (i.e. demonstrating a current need). Areas of the city such as Yonge-Eglinton and High Park are currently experiencing significant enrolment growth, which will continue as thousands of new residential units become occupied.

To date, the TDSB has undertaken numerous accommodation studies in these areas to mitigate the pressures and to achieve a balance of enrolment among local schools. Boundary changes, grade changes, program relocations/augmentation and capital projects have all been implemented as a means to accommodate this enrolment growth. There is no longer an ability to accommodate or 'hold' students locally.

Moving forward, the Ministry's funding approach needs to reflect that there are high-density areas of the city that will require the TDSB to build in advance of the students. When all of the local schools are operating at or above their respective capacities,

portables are not feasible, no 'holding' option exists, and other accommodation measures have been exhausted, new school capacity is critical. Building new school capacity in advance of the students being 'in hand' will be necessary in these situations. This approach will be particularly important when integrating a new school into a mixed-use development, as the TDSB will not have the ability to control the timing of construction.

### Building Flexible Space to Address Growth Needs Over Time

In high-density areas of the city where appropriately sized, standalone school sites are unavailable, the TDSB is exploring the integration of new schools into mixed-use developments. The proposed elementary school at 55 Lakeshore Boulevard (Lower Yonge Precinct) is an example of this model.

Schools need flexible space to accommodate growth in enrolment over time. For standalone schools, this includes space for portables and future additions. Schools in mixed-use developments will not have these opportunities. These schools need to be designed with 'raw' space for the school to expand into when required. This raw space would be fit-up as classrooms only when required to accommodate additional students. Business cases would be submitted to the Ministry of Education at key intervals to get the funding to convert the raw space.

### Participation in the Ministry's Urban Intensification Work Group

In the fall of 2018, the Ministry of Education is launching an 'Urban Student Accommodation Engagement', which will focus on supports for pupil accommodation in urban areas experiencing rapid intensification and growth.

This engagement provides an opportunity for the TDSB to advocate for the changes necessary to accommodate growth in high-density urban environments. TDSB staff will participate as part of this initiative and work collaboratively with the Ministry to affect the necessary changes as described above.

Ministry of Education staff has indicated that the group will include representatives from other key ministries, such as Municipal Affairs and Housing, who oversee the Provincial Planning Act, and Ministry of Infrastructure, who play a lead role in developing funding strategies and regulations. With these stakeholders at the table, the TDSB has an

opportunity to advocate for the tools necessary to support the city growth and intensification.

Funding to Support the Acquisition of Land

The TDSB will continue to advocate for access to Education Development Charges (EDC's) to provide a mechanism to appropriately plan for and accommodate long-term enrolment growth. The Ministry of Education has confirmed that EDC's will be discussed as part of the Urban Intensification Work Group described above. In the meantime, the TDSB will continue to move forward with its EDC challenge through the courts. The EDC Judicial Review Application was filed with the Court on 23 February 2018. The Province is expected to provide responding materials sometime mid-summer with the hearing now expected to occur by the end of the year.

The Ministry of Education announced in April 2018 that up to \$100M will be made available to school boards across the Province to support the acquisition of land. While insufficient to support the needs of the TDSB, TDSB staff will continue to submit business cases, when and where appropriate, to access these funds. Most recently, funding of up to \$24M was allocated to the TDSB to support the purchase of the Canadian Tire Lands site, located within a high-density urban community along the Sheppard Avenue corridor.

**Conclusion**

The Strategy to Address City Growth and Intensification provides a multi-pronged approach to strengthen the role of the TDSB in the land-use planning process. As the city continues to grow and intensify, it is critical that the TDSB is well positioned to provide adequate and appropriate accommodation for students. Taking steps to move forward within the four key areas described within this report will ensure that public schools continue to be embedded within the fabric of our high-density communities.

**Action Plan and Associated Timeline**

Land-use planning matters, as described within this report, will become part of the Toronto Lands Corporation (TLC) mandate. Beginning in the fall of 2018, the strategy, as outlined in this report, will continue to be actioned by the TLC.

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## **Resource Implications**

External legal support and expert planning advice will continue to be sought until a new staff structure is developed at the TLC in the fall of 2018. It is anticipated that these external resources will continue to be required over the short to mid-term.

## **Communications Considerations**

Communication strategies will be developed as required.

## **Board Policy and Procedure Reference(s)**

None

## **Appendices**

None

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