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USING ONTARIO'S DEVELOPMENT PERMIT SYSTEMS TO IMPLEMENT METROLINX'S MOBILITY HUBS IN THE GREATER GOLDEN HORSESHOE

by

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ABSTRACT

Through Metrolinx, the province of Ontario seeks to change the sprawling, car dependent character of The Greater Toronto and Hamilton Areas by introducing a vast network of rapid transit routes along a series of corridors, linked by a series of nodes, called mobility hubs. Following Smart Growth principles, these hubs should be buttressed by transit supportive land-use regulations, but the current land-use planning framework in the region makes such changes difficult. By implementing a little used tool in Ontario's *Planning Act* called development permit systems (DPS), the author argues that municipalities can better facilitate development around mobility hubs in a transit supportive manner that is keeping with the complex mobility hub guidelines outlined by Metrolinx. With both its flexible zoning criteria that focuses public consultations at the outset of the planning process and its expedited approvals process, DPS would facilitate transit oriented development at Metrolinx's mobility hubs.

Key Words: Urban Planning, Smart Growth, Places to Grow, Development Permits, Development Permit Systems, Transit Oriented Development, Urbanism Acknowledgments:

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1) Introduction:

Grappling with urban sprawl and crushing traffic congestion, the provincial transit authority for the Greater Toronto and Hamilton Area (GTHA), Metrolinx, introduced and adopted a regional transit plan that would create a vast network of major rapid transit corridors, all linked by a series of nodes called Mobility Hubs (Appendix 1). Those Hubs, and the corridors that link them, are in keeping with the regional growth plan for the area, called the Growth Plan for the Greater Golden Horseshoe. Both the provincial growth plan and Metrolinx's Regional Transit plan are the latest iterations of traditional "node and corridor" planning that have been popular both in the City Toronto, and throughout major centres in North America, which have come to be know as Smart Growth. Based on principles of integrated public transit, energy efficiency, and mixed-use development, the latest plans intend these corridors and nodes to serve as junctures that will transform the character of the Toronto and Hamilton region; from its current low-density, car dependent state, to a more sustainable one based on compact built-form that integrates the facets of city life without the overwhelming need for a private automobile. At the very least, the plans are intended to direct growth in a transit supportive manner to both help offset the capital and operating costs associated with the construction of new transit lines, and to ensure that anticipated population growth does not exasperate the region's current congestion problem by providing options for residents both new and old. As such, the Mobility Hubs have a series of policy guidelines associated with them that are meant to guide the transformation process.

While the vision outlined by Metrolinx could be transformative, the province's history includes many grand plans that never came to be. While the failure of past attempts to control sprawl through planning and build transit have many dimensions, this paper will focus on the shortcomings of the current land-use planning system throughout the GTHA. While functional, the current process is confusing to outsiders, and encourages political intervention in the minute details of the planning process. The resulting delays and frustration often cause developers to shy away from riskier projects, like those that would be required to transform many of the 51 Mobility Hubs in the regional transit plan, hindering the ability of governments to achieve their broader policy goals.

While guaranteed funding of these lines would no doubt reduce the financial risk to developers, there are instances in the GTHA when the construction of major transit lines has not resulted in the desired intensification of development. This in turn has led to lackluster ridership figures, and many of these lines being subsidized. Failure to attract development and ridership to transit corridors has many variables, one of which is the land-use planning allowances in the surrounding areas. Since the Province of Ontario has already invested approximately \$15 Billion dollars in its Regional Transit

Plan, and is looking to invest much more in the near future, effectively integrating land-use regulations with proposed transit routes is important to ensuring the Plans's success, and the regional transit system's economic viability.

Recognizing the problems associated with conventional zoning, Ontario introduced a Development Permit System into the *Planning Act* in 2007. Although long in its development, this tool is barely used in Ontario.¹ It is a policy-led, pre-zoning system that clarifies and streamlines the current process by encouraging area specific zoning that is expressly tied to larger policy goals. It does so by combining many of the current applications needed for development into one process, and by developing the requisite zoning criteria through intensive consultation with community members of all sorts. By encouraging intensive consultation and community involvement in the development of zoning criteria and design standards of a designated area, a Development Permits System removes third party appeal rights to the OMB for individual applications once those criteria are in place. It also imposes shorter timelines for municipalities to render a decision on a proposed development than the conventional planning framework.

In its policy led approach that emphasizes thorough planning, flexible guidelines and quick approvals, Development Permit Systems are a natural fit for Metrolinx's Mobility Hubs. By comparing the policies outlined by Metrolinx to the details of Development Permits Systems, this paper will strongly recommend that local municipalities use this planning tool to help facilitate development around the Greater Golden Horseshoe's Mobility Hubs.

¹ Although currently many more municipalities are investigating their use, only three jurisdictions in Ontario have enacted Development Permit By-laws. They are: Lake of Bays, the Town of Carleton Place, and Gananoque.

2) Historical Context:

2.a) Suburbia Then and Now:

Before going into how Mobility Hubs might be better implemented, it is worth explaining why they are needed in the first place. We will therefore start with a brief review of how Post-War suburban development (sprawl) came to dominate Southern Ontario's landscape, and the costs associated with urban sprawl.

As many historians have pointed out, there is nothing modern about suburban development per se; it was just a term to describe the fringes of an urban centre. The lines suburbia developed along after 1945, however, were in sharp contrast to those it had followed until that point in time. Previous to WWII, suburban developments in Toronto were relatively compact, and formed at a slow rate. They were inhabited mostly by the rich, or the poor: the wealthy professionals of the middle-class could afford the travel associated with non-urban living, while the poor could not afford the steep real estate or rents in core areas (Harris, 2004, pg. 116).

Post-World War II suburban development was markedly different from previous eras. Across North America, citizens voted for governments whose policies sought economic, social, and political stability by encouraging working-class, nuclear families to reside in low-density detached homes on relatively large plots of land. These homes were placed on winding streets, or cul-de-sacs, that were well removed from commercial and industrial activity of any sort; a separation that was strictly enforced by municipal zoning laws.² These areas were planned to rely almost exclusively on the automobile for transportation. (Ben-Joseph, 1995, pg. 504; Ford, 2001, pg. 274).

As in other parts of North America in the three decades that followed WWII, Toronto's large-scale suburban experiment seemed to work well, at least on the surface. The economy was stimulated by housing corporations that required building materials, auto manufacturers that made cars to navigate those neighbourhoods, and homes that needed to be filled with goods and appliances (Harris, 2004, pg. 121). The baby boomers and their parents were housed in spacious and affordable units.

Metropolitan Toronto continued to expand well into the 1970s. Unlike other municipalities in North America, Metropolitan Toronto's lower-tier municipalities avoided the heavy financial burden

² It is important to note that the strict separation of uses through zoning predated the Post War era by many decades. Much of the "old city" of Toronto was segregated by use, with factories in one area, retail and commercial in another, and residential in yet another. The scale of these earlier developments, however, meant that most of the functions in a neighborhood were readily accessible by foot or public transit, which was in stark contrast to development patterns after WWII.

of over built infrastructure both through its multi-level governance structure, and by encouraging clusters of apartment buildings and employment districts to be built at strategic points throughout its low-density suburbs of Scarborough, North York, and Etobicoke (Jarus, 2009, pg. 28). Up until the mid-1980s, most people in the Toronto region worked within Metro Toronto and lived both in the older and newer suburbs, commuting mostly by car, but still heavily using the TTC.

2.b) Suburban Explosion and the Cost of Congestion:

By the late 1980s and early 90s, little vacant land remained for Greenfield development within Metro Toronto itself (Bain, 2012), and so development rapidly pushed beyond the city's borders. While low-density subdivisions continued to be built, the costs associated with the post-WWII suburban model of development began to mount, both in Toronto, and its surrounding regions. Prime agricultural land throughout the region was used for housing developments that were built at extremely low densities, and without much consideration to integrated public transit. In the municipalities surrounding Toronto that lacked dense urban cores or apartment clusters, the cost of servicing their infrastructure started to grow as municipalities assumed the responsibility for infrastructure that provided capacity far in excess of the local population's needs (Miller, Glen, Lecture, 2011). Compounding the problem of economic sustainability for such development was the common practice of imposing inflated Development Charges in order to pay for the needs of existing residential infrastructure, instead of dedicating those funds to new growth (Bain, 2012; Miller, et al, 2011, pg. 21). Over time, this trend has come to threaten the economic viability of those jurisdictions: as they run out of land to develop, they are forced to impose major property tax increases on relatively small tax bases in order to pay for overbuilt infrastructure.

Compounding the problem of a large population dispersed throughout the region in low density developments has been a lack of regional coordination, funding, and governance that has seen municipalities in the GTA expand at a far greater pace than their rapid transit infrastructure. This trend has resulted in a severe lack of choice when in comes to efficiently moving throughout the geographically the region. A study by the Toronto City Summit Alliance (TCSA) demonstrated, for example, that despite public transit ridership increasing 45% in the last few decades, the corresponding increase in transit infrastructure has been just 18% (the bulk of it in the City of Toronto) (TCSA, 2012 pg. 12). In most municipalities outside of the central city, the only viable choice for residents to commute to and from work, or carry out basic day-to-day activities is by automobile. It is this lack of choice that the provincial government hopes to address through its regional transit plan by building a vast network of rapid transit routes throughout the region.

A growing number of studies over the last decade have shown the impact of the GTA's autooriented development, and its lack of alternative modes of transportation. A study undertaken by the Organization for Economic Cooperation and Development (OECD), for example, showed that residents in the GTA spent more time commuting (approx. 80 min a day) than virtually anyone else in North America (OECD, 2010, pg. 12). The Canadian Urban Institute's detailed study of the region's three decade trend towards residential and office decentralization shows that, even with housing sizes in the GTA at historic lows, the average number of cars per household has increased, as individual family members head in different directions to work (Miller, et al, 2011 pg. 10-12). Industries and jobs have followed the population out to suburban areas, (ibid),³ which has provided an even bigger incentive to drive because employment areas are dispersed throughout the region, rather than the historic patterns that followed tight pack clusters in the core city. This fact is reinforced by a CD Howe study showing that the average car in the GTA carries just 1.2 people per ride (Lindsay, 2008, pg. 2). Recent studies by the Toronto Board of Health estimate that an annual average of 410 people die prematurely from the adverse health effects of the regions smog.

The situation is such that many organizations, from the OECD to the Toronto Board of Trade, view congestion as the biggest threat to the region's competitiveness, with conservative estimates of the cost to its economy at \$2.2 billion annually (OECD, 2010, pg. 23). As high as these cost estimates are, none of them take into account the environmental damage caused by green house gas emissions being release into the atmosphere. The lack of alternatives to low-density housing and alternate modes of transportation have produced a costly and self-perpetuating cycle of development within the GTA. It is in this context that municipalities (led by Toronto) and the province began taking steps to ameliorate the effects of sprawl throughout the region by emphasizing compact built form and transportation alternatives to the automobile. By strategically clustering housing, employment, and transit around corridors and nodes, planners hope to use Mobility Hubs to provide better and more complete communities that will alleviate congestion while continuing economical growth.

2.c) Context for the Response to Sprawl

While originally well-intentioned and successful, widespread post-war suburban development in the Toronto region has produced sprawling residential and employment patterns, and that is turn has resulted in lifestyle and traffic patterns that are damaging the social, economic, and environmental

³ That is not to say that Toronto itself has been losing employment, which it has not. In fact, it has grown steadily, but the rate of employment growth compared to the outer-suburban areas has decreased (Bain, 2012).

fabric of the region. While there are peculiarities to how urban sprawl has affected the GTA, the overall trend has been in lockstep with municipalities around North America. Such a widespread problem has generated a number of popular policy responses throughout the continent, many of which have served as the underlying rationale for the Province of Ontario's recent Growth Plans. It is with this in mind that we will examine the main tenets and trends of three of the most popular responses to sprawl: New Urbanism, Transit Oriented Development, and Smart Growth. After explaining the essentials of these movements, we will better be able to examine the GGHs growth plans. *New Urbanism:*

In response to the problems posed by urban sprawl, New Urbanists called for a return to more tradition methods of city building, which they published in various documents through their organization, A Congress for New Urbanism. As author Ajay Garde discusses in his article about the merits of New Urbanism to sustainable growth, these reformers sought to curb sprawl and improve communities through strict adherence to compact built-form and high quality urban design (Garde, 2004, pg. 154). The result was a set of ascetic criteria that were almost identical in form to the Victorian-era residential neighborhoods clustered around "high streets" that are so prominent in the older sections of Toronto.

While important, New Urbanism has come under attack for substituting one overly strict and paternalistic planning regime for another; and for its obsessive preoccupation with form rather than function and performance (ibid, pg 167). For example, New Urbanist developments were often located on Greenfields, far from built-up areas, meaning their residents were just as dependent on the automobile as conventional suburban dwellers for all but the most superficial of uses. Later reformers therefore sought to better integrate compact form with the more functional aspects of city life. *Smart Growth Transit and Oriented Development:*

As reaction against post-war suburban form developed into realistic alternatives, two broad categories of planning took shape know as Smart Growth and Transit Oriented Development (TOD). It is important to note that these alternatives have not been successfully codified into hard definitions, but represent a general set of ideas with plenty of overlap. And while the term originated in Portland, Oregon, and later spreading across the continent, Smart Growth serves as an umbrella term for the type smaller scale, higher density, walk able, mixed-use developments that places like the old City of Toronto (the lower tier municipality, not the Metro government) have always used.

There is a large literature around Smart Growth, but its core ideas, as summarized by authors Knapp and Talen in their article on the subject, "New Urbanism and Smart Growth: A few words from the Academy", are as follows:

"create a range of housing opportunities and choices; create walkable neighbourhoods; encourage community and stakeholder collaboration; foster distinctive, attractive places with a strong sense of place; make development decisions predictable, fair, and cost-effective; mix land uses; preserve open space, farmland, natural beauty, and critical environmental areas; provide a variety of transportation choices; strengthen and direct development towards existing communities; and take advantage of compact building design (pg. 108)."

Transit Oriented Development (TOD) is similar to Smart Growth, and can almost be considered a more specific form of that philosophy. Like the name suggests, TOD aims to place alternative modes of transportation (public transit, cycling, and walking) at the centre of development, as outlined by Dena Belzerand Gerald Autler in their article about the development and current state of the field, "Transit Oriented Development: From Rhetoric to Reality." TOD aims to improve environmental and economic resiliency through the efficient use of land and compact development. Unlike some other post-modern planning theories such as New Urbanism, TOD has moved away from strict ascetic recommendations in favour of performance standards to guide planning.

With TOD, the type of zoning, built-form, and other regulations in a given area should be tied to specific desired policy outcomes: like the number of riders one needs to justify a particular form of transit infrastructure; or the number of car trips one wishes to reduce, or a reduction in the amount of air pollution (Belzer, 2002) (Appendix 1). By setting such standards, those planning transit oriented developments can measure the effectiveness of a given policy tool against a desired outcome, and adjust accordingly. Coupled with Smart Growth, TOD ideas form the basis for Southern Ontario's current planning regime. It is an approach that is particularly well suited to Ontario's newly introduced Development Permit System, as we shall see.

2.d) The Effectiveness of TOD:

Before going into the details of Development Permit Systems, and Ontario's growth plans themselves, a brief discussion about the usefulness of TOD at alleviating congestion is warranted. While some occupations require the use of a private automobile, to what degree do those with occupations that don't, such as office or retail work, change their commuting habits based on built form? On one level, the answer to this question seems obvious: if drivers spend several hours a day traffic congestion due to a lack of choice in transportation options, the ready availability of effective options would naturally lead drivers to take the more convenient option (that pre-supposes, of course, that the transit implanted is indeed more convenient). In addition, areas that are compact, with readily available transit have higher rates of transit ridership than suburban areas (Bain, 2012). But what of

suburban areas that are already built-up? How effective are measures meant to convert an auto reliant public to a transit reliant one? While literature on the subject does show a positive correlation between TOD and transit ridership, the studies are highly qualified and not conclusive. Studies of residential TOD, for example, showed that residents in TOD neighborhoods are five to six times more likely to take transit, but such results could be offset by the idea that the decision to locate in such areas shows a bias towards taking public transit in the first place (Cervelo, 2006).

Other studies on the subject of the effectiveness of TOD have show that other factors, such as the availability of free parking, or the degree to which free parking is available at an employees work place changes to the effectiveness of TOD. In essence, the more free-parking there is at one's work, the less likely one is to travel there by transit (Cervelo, 2006; Lund et al, 2004.). This is troubling, as many of the suburban office parks in the GTHA provide plentiful free parking, indicating that, while new residents who choose to inhabit TOD areas may choose to ride transit through a self selection bias, preexisting residents may not choose to change their commuting habits simply because a transit station appears nearby their home. The clarity of evidence in favour of TOD is further clouded by other studies, which show a correlation between office clusters and transit ridership, but only if the connections from the station area to the office parks are strong (Cervello, 2006; Jones, Lang Lasalle, 2011). Finally, in areas where there is pre-existing heavy congestion, effective alternatives to the automobile boost transit ridership as people switch modes of transit (Bain, 2012; Lindasy, 2008).

The above discussion indicates several things. First, in order to be effective, TOD needs to be well planned and executed in order to entice drivers out of their cars, and onto public transit. Second, that once congestion reaches a certain point, people start to look for reliable alternatives to the car. And last, TOD in isolation is not likely to produce a mass transformation of a region, as other factors such as the cheap availability of parking, or free access to the road network are also determining factors in one's modal choice. This indicates that governments should examine other incentives to get people out of their cars in coordination with TOD.

In essence, a comprehensive review of regulations should be pursued if governments are serious about addressing congestion. However, one thing is clear: whatever incentives or disincentives governments use to get residents out of their cars, there must be alternatives available before such measures are put in place, or they will simply be seen as a burden on citizens; and those alternatives should be planned and built with an eye to providing enough riders to make them economically feasible. While transit oriented development is not the "magic bullet" to cure congestion, it is a necessary first step (or one of the first few steps) in providing reliable, economically sustainable alternatives to the car. As such, the Province of Ontario has used Smart Growth and TOD principles

as the basis of their regional growth and transit plans, which we will now examine in more detail, before moving on to Development Permit Systems as a tool localities could use to help implement them.

3) Ontario's Plans

3.a) Places to Grow

In 2005, the Province of Ontario, under Premier Dalton McGuinty, introduced what was at that point in time one of the most extensive exercises in Smart Growth and Transit Oriented Development policy in North America. Heavily influenced by policies set out in the City of Toronto's Official Plan of 2002 (Bunce, 2004), the Places to Grow Act and its corresponding Greater Golden Horseshoe Growth Plan (2006) (hereafter "the Plan," "the GGH Plan," "the Growth Plan," or "Places to Grow") emphasize sustainable development through the integration of social, environmental, and economic goals (Ontario, 2006, pg. 9). By integrating economic growth targets and environmental protection measures with land-use planning, the Growth Plan seeks to ensure robust growth within the region while curbing and ameliorating the problems caused by the region' sprawling character.

Recognizing that the sprawl experienced in Greater Toronto and Hamilton Areas was caused partially through jurisdictional competition and incoherence, the GGH Plan has legal precedence over local Official Plans within its boundaries. It requires that all affected municipalities bring their Official Plans into conformity with the Growth Plan.⁴ In order to deter regional municipalities from continuing to give up prime agricultural land for housing, the Province passed a sister piece of legislation called the Green Belt Act, which has its own Growth Plan. Further limiting the possibilities of sprawl, the GGH Plan sets explicit targets for urban intensification, mandating that 40% of all new construction within a municipality be incorporated into already built-up areas (Ontario, 2006, pg. 14).

In order for municipalities to meet these intensification targets, Places to Grow directs development to a series of Intensification Corridors. Placed on major arterial roads, these routes will ideally be transformed over the 25-year life of the Plan into pedestrian and cycling friendly, mix-use strips, built to densities and design standards that will support various levels of rapid transit (ibid, pp. 6-8). Within the plan, the specific type of transit was left to a regional transit authority (later called Metrolinx). These intensification corridors would link designated Growth Centres together, both in an effort to better integrate transit infrastructure (and thereby reduce car dependency), and to limit the further decentralization of the region's employment bases.

Although recent studies have shown that the extent to which these growth areas line-up with existing employment clusters is questionable (Miller, et al, pg. 11), that discussion is beyond the

⁴ It therefore serves Kitchener-Waterloo, Newmarket and Oshawa, and all of the areas in between as the planning framework for a large variety of jurisdictions, like Toronto, Hamilton,

scope of this paper. What is important for our purposes is that the Growth Plan designates strategically placed corridors for transit infrastructure, which are supposed to be intensified with residential and employment densities that will provide enough riders and tax revenue to support the particular type of transit that will run along it. In setting such targets, the Growth Plan incorporates Smart Growth principles, in that it sets high-level performance standards, yet it leaves the specifics of "How?" to individual municipalities and Metrolinx.

3.b) Metrolinx and The Big Move:

In 2006, the Greater Toronto Transit Authority was replaced by Metrolinx: a cross-jurisdictional transit agency charged with planning and implementing the public transit portion of the Greater Golden Horseshoe Growth Plan. While Metrolinx mainly serves to coordinate and plan transit expansions, it was recently given direct control of GO Transit, the regional commuter transit service. Fulfilling one off its mandates from the province, the agency produced a \$50 Billion, 25-year transit plan called the Big Move (2008) that aims to have the vast majority of the region's population living and working within 2km of some form of rapid transit. In this way, the agency hopes to provide viable transit alternatives to the automobile for existing long distance commuters. Using the GGH Plan as a starting point, the Big Move places major transit routes along Intensification Corridors, which are then linked through a series of nodes that they have labeled Mobility Hubs (Appendix 2).

In the RTP, Mobility Hubs are particular nodes in the transit network that connect multiple modes and lines of transit. The term "Hub" refers to their surrounding area, not just the transit station or junction itself. Therefore, when this paper refers to "a Hub," the reader should keep in mind that the term encompasses at least a one-kilometer radius around the area. In the Big Move, Hubs are divided into two categories:

1) **Gateway Hubs** are defined as important points in the network where at least two lines or modes of transit meet (or are planed to meet). In addition, this list includes points in the network that are close to a particularly interesting or popular site, or nodes that have great potential for development (Metrolinx, 2008, pg. 85).

2) **Anchor Hubs** are particularly special points in the transit network that serve as major economic and transportation junctures for the entire region. Examples of Gateways Hubs include Union Station or Pearson Airport (ibid, pg 86).

Although there are special considerations and distinctions within the Big Move between Gateways and Anchors, this paper will essential treat them the same, as the differences do not affect the appropriateness or essential function of Development Permit Systems for use in those areas. In

addition, we recognize that many of the Hubs have been placed in areas that are geographically inappropriate for development: such as the MH at Toronto's Jane Street and Eglinton Avenue West, which is located entirely in a flood plane (Bain, 2012). As with the growth centres in the GGH plan, these issues need to be addressed, but they are outside the purview of this paper. Finally, before moving on, although Development Permit Systems would be appropriate for areas identified as Transit Corridors, for the sake of scope, this paper will only deal with Mobility Hubs.

According to the RTP, Mobility Hubs are meant to be (or become) places of interest and intensification in themselves (2008, pg. 88). Hub planning should follow the best principles of TOD, integrating land-use controls to support the designated form of transit, and ensure that the stations are fully integrated with pedestrian and cycling infrastructure. In addition, a large slate of financial and regulatory tools should be used to ensure that Hubs become culturally and economically significant areas. Hubs are to be integrated into municipal official plans, and individual master plans for the area completed so that they can reach their full development potential.

3.c) The Mobility Hubs Guidelines:

Given the importance placed on the Mobility Hub concept, Metrolinx produced a Guidelines Report. It is a handbook aimed at helping policy makers of all stripes make decisions on how to develop these sensitive areas so that they can serve as points of transformation for the region from an auto dependant one to a multi-modal one. The complexity and specificity of the guidelines, in addition to their concern for the local context of each Mobility Hub, lend themselves well to the Development Permit System Process, as we will explain later. Before discussing Development Permits in more detail, however, we will briefly discuss the guidelines themselves so that it will be easier to envision how they can fit with this novel planning tool.

The Guidelines Report contains three overarching principles, which serve as the organizing framework for the guide's recommendations. The principles are: ensuring *Seamless Mobility* between a Hub and its surroundings through clear and direct pedestrian, cycling, and public transit connections; creating a strong sense of *Place (or Placemaking)* through high quality Urban Design features and the conscious mixing of destination generating uses; and finally the *Successful Implementation* of the guidelines themselves, which include a number of planning tools and suggestions, accompanied by case studies, that may assist municipalities in turning their plans into reality (Metrolinx, 2011, pg. 9). Among the tools suggested are Development Permit Systems (ibid, pg. 128). These suggestions are brief, however, serving as leads for investigation rather than detailed recommendations for action- which is what this paper intends to do.

As for the Hubs themselves, the report recommends that each include a catchment area of 1-6 km surrounding the transit station in question, forming the Hub Area (ibid, pg. 16). This rather large area is then divided into four concentric circles, (Appendix 3), creating zones that each have their own planning and design recommendations.⁵ The zones and their respective recommendations follow well-established Smart Growth and Transit Oriented Development principles. The primary zone and secondary zones, which are closest to the station (approximately a five minute walk), should incorporate as broad a mix of uses as possible at high density. Pedestrian and cycling activity should be prioritized within theses zones with attractive and safe connections both to the station, and surrounding attractions (ibid). The public realm in these zones should be attractive and inviting, and municipalities should consciously attempt to direct "destination" type facilities to these areas.

The tertiary zone serves as the point of transition between the central hub area and the broader catchment area. As such, the recommendations for this area are key to successfully creating transit-supported development. Its built-form should gradually transition from taller, high-density structures to match the character of the particular neighborhood in which the Hub is placed. While walking is still important, cycling and lower order transit modes should be prioritized in this section.

Finally, the guidelines discuss the broader catchment area, which can extend out as far as 6 km. Making up the fabric of pre-existing neighborhoods, there are few planning recommendations for this section, other than to ensure a wide array of transit modes to and from the central hub, and to protect the heritage character of the particular area.

The Mobility Hubs Guidelines (MHG) state that all of the above must take into account the context in which any one of the 51 Hubs finds itself, and the densities and intensity of the build-up area should aim to support the predominant mode of transit that is planned for the area. This is an important point, as far flung Mobility Hubs that will service a Bus Rapid Transit line do not need the same intensity of use as a City of Toronto Hub located close to a subway. Such recommendations are not just good planning, but smart politics; as those in low-lying, thinly populated suburbs will not likely relish the instant transformation of their neighborhood into a bustling urban centre, no matter what kind of transit is planned for the area.

Tying building allowances to the order of transit planned along a corridor and around a node allows for a transition from automobile-centric housing developments, to more economically

⁵ It is important to note that, as an urban design concept, varying development criteria by concentric circular zones is easier to implement on Greenfield sites than in built up neighborhoods. This is one of the reasons why Metrolinx produced guidelines for the mobility hub areas instead of regulations: to allow for flexibility in their application to a local area.

sustainable transit oriented communities. It also means that developers will be more likely to build in these areas, as the structures permitted will be closer to the current market demands in an area. It is the imperative to balance policy proscriptions, political expectations, and economic viability that makes Development Permit Systems such an attractive option for implementing the MHG recommendations over the region's current planning framework.

4) The Current System:

The most important question that must be addressed before going into the details of Development Permit Systems themselves is: what is wrong with the current system? Why should municipalities invest considerable resources on a planning tool that has little history in Ontario, when a more familiar system is in place and ready to go? These and other questions are valid, and answering them requires a review of Ontario's conventional planning system, which is set-out in Part V of the *Planning Act*, 2009.

The section that follows will therefore describe the conventional development application and amendment process used by municipalities. Because a little less than half of the 51 Mobility Hubs in the regional transit plan are located in the City of Toronto, the following section will use footnotes to highlight some key differences in that city's application process. Through this review, it will become clear that the current system, while functional, often falls short of allowing governments to reach stated policy goals of curbing sprawl and encouraging transit supportive development; a failure which has led to a search for alternative approaches to planning in Ontario.

As background for what follows, it must be noted that since municipalities in Canada are the constitutional responsibility of the provinces, their structures, powers, and legal existence depend on provincial statues and regulations. Many matters within municipal jurisdiction can therefore be arbitrarily changed by a relevant member of the provincial Cabinet (for our purposes, the Minister of Municipal Affairs and Housing (the Minister) is the most relevant). Although it is rare for the Minister to openly interfere in planning related matters, it is not uncommon (Longo, 2010). Instead, most of his powers are delegated to a quasi-judicial body that is particular to Ontario. Called the Ontario Municipal Board (OMB), this Cabinet-appointed body acts as the *de facto* court of appeal for all parties involved in the planning process. While not bound by precedent (as that would infringe on the Minister's prerogative) the OMB does aim to maintain a consistent stance while ensuring that local planning concerns are consistent with all requisite provincial policy statements and plans. The Board is also responsible for making sure municipalities are not acting arbitrarily with regard to their own planning objectives as outlined in their Official Plans and zoning by-laws (Costello, 2010)

Ontario's conventional planning process is quite long and complicated, especially to those outside the development industry. Depending on the size and type of development, there are a long list of applications that one must submit, and may include Official Plan amendments, zoning by-law amendments, minor variances and consents, site-plan controls, and finally a building permit. The process begins when a property owner applies to amend the designation assigned to their property. Once a municipality is satisfied that it has received all materials needed to process an application, it

sends notice to the applicant indicating so. (This process in itself is subject to appeal, as the applicant can dispute whether they have met all the criteria or not)(Ontario, *Planning Act*, p. s.34). Once the application is complete, and notice has been given, the city has a set 120 days to process and make a decision on the application or the applicant can appeal their case directly to the Ontario Municipal Board.

Official Plan amendments, zoning by-law amendments, and site plans controls go through the planning department on their way to city council, who has ultimate approval of them (Longo, 2010, p. 14). While processing an application, a municipality circulates it through several departments to get feedback. These departments usually include Planning, Works, Heritage Conservation, and Urban Forestry, but other departments that may have a relevant interest in the application can be consulted as well. A community planner stays in contact with the applicant throughout the review, requesting new information or clarification as needed. They can also pass information on to the local councilor, who often takes an active interest in development in their wards. After staff in each department have read and given feedback on the application, the planner issues a preliminary report.⁶ It is at this point, after their initial report, that the staff member conducts a statutorily mandated public consultation meeting (Longo, 2010, p. 19). It is important to note that if a developer is looking for significant additions of height or density beyond permitted zoning levels, staff and/or the local councilor, can negotiate under section 37 of the Planning Act to have community benefits (or cash in lieu) provided in exchange for the increase. This discussion normally takes place towards the end of the application review (Divine and Gladki, Lectures, 2012), and the benefits can include day-care facilities, parks, public art, etc.

After community meetings and all department comments have been received (and any Section 37 agreements are signed), the planner compiles their final report, which are then passed on to municipal council for approval at its next general meeting.⁷ The applicant, or any person in the public who made a deputation or request for information at the statutory meeting can appeal the decision of Council to the OMB (with the exception of site plan approvals, which can only be appealed by the applicant) (*Planning Act*, section 34).

⁶ In Toronto, this report is completed before feedback is received by other departments, and goes to one of four Community Councils for review.

⁷ In Toronto, staff's final report goes to the requisite Community Council first for final consideration before heading to council at large. During these Community Council meetings, the public has a brief opportunity for final comment on a proposal before it is voted upon. Although Community Council does not legally have the final word on a given project, their recommendation to council is almost always adopted (Divine and Gladki, 2012).

There is a different process for minor variances, which are submitted to a Committee of Adjustment (CofA) (Longo, 2010, p. 9). The CofA is an independent, municipally-appointed body that deals with requests for minor variances from a jurisdiction's zoning by-laws. The committee holds its meetings in public. Upon receiving a request, the planning department notifies all those with an interest in the application (usually those who are within a sixty meter radius of the building site get notice of an application). Neighbours can oppose or support the application, and make a deputation on it to the CofA. Also, under section 45 of the Planning Act, the Committee also has the ability to impose conditions on an approval. After considering the evidence, the CofA issues a ruling, which may then be appealed to the OMB by any interested party.

Once the amendment and/or variance process and site plan agreements have been executed, and any requisite council or the heritage department approvals have been granted, an applicant can then apply for a building permit (which is another process that we will not go into detail about in this space). Although most municipalities' planning departments plan on a three to nine month planning approval process, the reality is that most developments of reasonable size take at on average a yearand-a-half. If there are any complications, the process can take even longer (Longo, 2010).

There are several important points that emerge from the process outlined above. The first is that there is a well-developed and detailed system in place. This paper does not want to imply that the current system lacks coherence, but rather wishes to point out that it is bureaucratic, legalistic and fairly inaccessible to those who do not already know their way around the city bureaucracy. Even for those who do know the system well, following an application through the maze of approvals can be confusing and time-consuming. Developers lack certainty when applying to use their property, both from a timing point of view, and from how much their project will end up costing (especially with Section 37 benefits included). They are also unsure of how the public will react, as communities seemingly lash-out at projects that are making their way smoothly through the planning process.

In placing public consultations towards the end of the process instead of at the beginning, current rules sometimes set-up adversarial relationships between those applying for amendments and variances, and the public (Dotan, 2010, p. 48). Community members often act defensively to a process that is already well underway to change their community. The notification process is not always rigorous, and even when it is, does not adequately inform people of a project's nature. In attempting to consult with the public for a process that is well underway, the current process

occasionally becomes reactionary, and can encourage community involvement in a project just to say "No."⁸

It should be noted that community members are often not acting irrationally when they oppose a particular application, but out of genuine confusion about the course of a development that is often at odds with the zoning by-laws in their neighborhoods. Given the dearth of resources for many planning departments in the region (especially Toronto's) and the legal split between Official Plans and zoning by-laws, a city will often update its Official Plan without concurrently making the zoning consistent with whatever new policies might have arisen. The situation under Ontario's conventional zoning regime is therefore confusing and frustrating for developers and local citizens alike: as developers are forced to go through lengthy re-zoning processes for developments that may be consistent with a city's Official Plan; and for communities who watch as the zoning protections in their neighborhood are sometimes set aside on a seemingly arbitrary basis. The result is that many development applications are appealed to the OMB by developers and community organizations, which is a costly and time consuming process for everyone involved.

Since most municipalities in the GTHA have ward based governance structures, and every amendment and major variance required under the conventional regime requires council approval, local councilors often intervene in the process, for good or ill. Indeed, on more than one occasion, planning consultants giving lectures on the system in the GTA have said that they recommend clients start and end their application by visiting the ward councilor, as they seem to have greater influence over what gets built than the planning department (Divine and Gladki, 2012; Nostrand, 2012). Such political interference makes policy-led planning difficult, as the approval time, and therefore cost, of a proposal depends as heavily on the political pressure facing a councilor, as on the proposal's consistency with OP and zoning policies.

Such political intervention and delays, along with other policy inconsistencies, may make the difference between the success or failure of the RTPs Mobility Hubs and corridors in developing in a transit supportive manner. While many developers will suffer long delays and political headaches in order to build in areas that offer a high rate-of-return on their investment (like Downtown Toronto), not many will do the same to build in low-margin suburban areas, which are where many of the Mobility Hubs are located. As municipal finance expert David Amborski discusses in his recent

⁸ Although the degree to which the process is reactionary is often overblown. There is a popular conception of neighbourhood involvement in the planning process as being overwhelmingly negative, when in fact, only 20% of applications end in litigation (Bain, 2012). While this is still a considerable litigation percentage, it is much lower than many assume.

article on the effect of Development Charges and GTA development trends, the profit margins for medium and high-density projects in suburban areas are very thin (Amborski, 2011, pp. 31-33). While his paper focuses on other financial tools involved in the planning process, we can use some of his points to understand how costly delays and legal battles caused by the land-use component of the process can affect a developer's decision to build in an area or not. The holding costs associated with a parcel of land are one of the biggest non-construction expenses a developer faces (Belzer, 2002, pp. 25-26; Miller, et al., 2011, pg. 43) and can therefore quickly erode profit margins.

If the perceived risks for developing medium-to-high density structures in areas without a proven market for them are too high, developers with the expertise to do so will opt-out in favour of safer markets in major growth centres. This leaves developers who prefer the status-quo of low-density, single-family homes or power-centres to build in the auto oriented suburbs. As one America developer said in an interview with author/architects Ellen-Dunham Jones and June Williamson for their book, <u>Retrofitting Suburbia: Urban Design Solutions for Re-Designing Suburbs</u>, "We [developers] can figure out how to build anything, as long as there is a degree of certainty to the process and outcome" but not without a predictable time framework in place (2011, pg. 157).

This is perhaps the biggest short fall of Ontario's predominate planning framework: with its penchant for political intervention at the individual application level, multi-party appeal opportunities, and policy discrepancies that overly bureaucratize the process, developers lack certainty about the costs and length of projects in many areas designated for intensification in the Growth Plan and The Big Move (Divine and Gladki, 2012; Fram, 2012). It is from the desire to make the development process more clear and predictable, that this paper recommends the use of Development Permit Systems in areas designated as Mobility Hubs.

5) Developing Development Permits:

Ontario's Development Permits System, allowed under regulation 608/06 of the Planning Act (2007), was created to increase certainty and predictability in the planning process: reducing costs for developers, providing integrity to local building restrictions, and reducing political interference in development decisions. A DPS streamlines the current approval process by combining the separate approvals needed through zoning applications, site plan controls, and minor variance applications under one Development Permit By-law. In addition, the regulation outlines strict timelines for processing applications. Other factors, like environmental monitoring, accessibility requirements, and height and density bonuses, can be included in the issuance of a Development Permit. It is a policy-led approach to growth, in that a Development Permit Area (DPAs) is set-up with specific policy goals in mind that are embedded in a municipality's Official Plan. These goals are then given further iteration in a DPA's respective Development Permit By-law. As such, this system is ideally suited for use in Mobility Hub areas, which themselves have specific built-form and performance policies that must be embedded in their municipality's Official Plans.

Development Permit Systems have taken a long time to evolve to what they currently are. As a result of this extended process and the many iterations of the law over the last two decades, there is much misunderstanding of what DPSs are, and how they function. This is true even of planning experts, who in several lectures attended while researching this paper were either unclear of the basic mechanisms of Development Permits, or possessed knowledge of them that was ten years out of date. Given this confusion, we will take a few pages here to describe the iterative process that led to the creation of the current Development Permit regulation.

Various Ontario governments over the years have recognized the problems with the current development process, and sought remedies to them: especially in regards to timelines and criteria for development. In the early 1990s, the province struck a Royal Commission on urban and regional planning in Ontario, which became known as the Sewell Commission, in honour of the former mayor of Toronto, John Sewell, who headed the investigation. During its comprehensive review of the province's planning framework, the commission received many submissions regarding Development Permit Systems, which were an alternate form of land-use control that seemed to be working reasonably well in places like Vancouver, BC, and Calgary, Alberta (John Sewell, 1993, p. 66). Development Permit Systems were a way of streamlining the planning process by combining the separate approvals needed for Site plan control, Zoning, and Minor Variances into one approval permit. Like traditional Zoning by laws, a DPS would list permitted "as-of-right" uses within an area, or zone. Unlike a Zoning by-law, however, a DPS by-law would list possible "as-of-right" variances

that would be allowed, along with any conditions that could be imposed as terms of approval. These conditions usually went further than standard committee of adjustment conditions.

As the Sewell Commission favoured a policy led approach to planning, they looked quite favourably upon DPSs, as they "front-end loaded" the planning process with information and public consultation (John Sewell, 1993, pp. 66-67). The Sewell Commission was particularly critical of the practice of bonusing that had become common, in which a city traded height and density for other benefits, in particular cash, as a "let's make a deal" approach to planning. The Commission argued that these arbitrary deals undermined the basic rationale for planning in the first place, and its final report, New Planning for Ontario, recommended a DPS to help curb the practice. In 1995, the Province passed an amendment to the Planning Act, inserting section 70.2, which made allowance for future regulations outlining how a DPS would operate in Ontario.

In the year 2000, after five years of policy development (and a change in government), Ontario introduced its framework for a DPS in Ontario Regulation 246/01 (Regional Planning Commisioners of Ontario (RPCO), 2003, p. 1). The regulation only applied to five municipalities in which the province hoped to "test pilot" the project before rolling it out Province wide. The regulation outlined a basic DPS: a municipality had to pass an Official Plan Amendment outlining an area of the city for which a Development Permit would be needed. Then a Development Permit By-law needed to be passed, in accordance with section 34 of the Planning Act (which outlines the full consultative process that takes place when a Zoning by-law is created) outlining guidelines under which a permit would be issued, and included possible variances in terms of set-backs and the like, along with conditions that could be placed on an approved permit (ibid, pp. 1-2). These conditions could include environmental studies (both prior to, and after construction) and assurances that vegetation would not be harmed or removed from the site. Like variances sought at the Committee of Adjustment, conditions would be registered on the title of the property. Council could chose to delegate authority for permit approvals to staff, or a committee they appointed for the task, thus freeing the development process from the schedule of city councils. (And hopefully, reduce political interference in the process).

Toronto, Hamilton, Waterloo, Oakville, and Lake of Bays were the five test communities. These municipalities were chosen as test sites because of various features they could possibly protect using the DPS (ibid, 2003, p. 2). Significantly, only one, Lake of Bays, ended up passing a development permit by-law and enacting the DPS, as the others found the regulations to be too stifling. At the heart of complaints were that cities would be giving up significant rights to monetary compensation and appeal rights for its inhabitants, while gaining little under the new regime. Lake of Bays, a fairly

remote jurisdiction, found the new controls on vegetation removal ideal as it had concerns about protecting the vegetative strips along the area's many shorelines (Hastings, 2004). Waterloo, which was also chosen as a test site to help protect an environmental feature (its well-heads), found the regulations too vague and worried about the ability of developers to construct in sensitive areas because they may overlook some factor when setting out conditions in the by-law (RPCO, 2003, p. 3).

Most importantly, Toronto refused to enact a by-law of its own because the new regulation curtailed development controls that the city made extensive use of, without offering additional tools to offset their loss (Rendl, 2005, p. 4). Toronto was creating plans for its central waterfront during this period,⁹ and it was thought that the streamlined controls allowed by the DPS would help to expedite the rebuilding process. While the various reports produced by and on behalf of the city recognized the possible benefits of a DPS overall, they were quite critical of several aspects of the regulation. First, while they appreciated the streamlining effects of the system, they noted that there was virtually no difference between the standards a municipality could set under a DPS and older land use controls (Rendl, 2005, p. 4). As the literal face of the city, Toronto was particularly concerned with ensuring high quality, well-designed projects on the waterfront, and the Development permit system did not provide extra leeway in design standards or construction materials. They also found the environmental controls lacking for substance, as Toronto did not have much vegetation it needed to protect on its industrialized waterfront. Especially troubling to Toronto was the prohibition against using Section 37 to elicit community benefits for greater height and density. Not only did Section 70.2 specifically disallow such provisions through s. 37, but the regulation, following the advice of the Sewell commission, it did not include any form of bonusing whatsoever.

This posed a big problem for the city, because their plans for funding community services along the waterfront (like day cares, recreation centres, transit improvements and park space) depended on money to be negotiated under s. 37 (Rendl, 2005, p. 6). Left with the choice between old land-use controls which allowed a large number of community benefits to be negotiated for building rights, and the new DPS, which provided a slightly more rationalized approval process while taking away significant funding tools, the city decided against the DPS system. ¹⁰ They did leave the door open for the new system, should the province address their concerns, by including authorization for it in their Official Plan (Bain, 2012).

⁹ *Plus ca change, plus c'est la meme chose,* as the French say (The more things Change, the more they stay the same).

¹⁰ The issue was further complicated by the fact that the Central Waterfront was, and still is, under appeal to the OMB.

Faced as they were with the almost complete failure of the DPS as originally envisioned, the province took the recommendations made by Toronto, Hamilton, and Waterloo and reworked their regulations to make the system more attractive (Ontario, 2009). Municipalities would be required to process all applications in 45 days, or the applicant would have grounds to appeal. Design standards would now be apart of the planning kit, and further environmental controls were included in the framework. In response to concerns about building quality and design on Toronto's waterfront, the province wrote in controls allowing design review panels¹¹ (These panels would be made-up of disinterested parties who would give their professional opinion on the quality of a project). Perhaps most importantly, the province integrated a bonusing structure into the DPS, allowing conditions on approvals for variances in height and density to be linked to community benefits, or cash in lieu, as long as such requirements were specifically laid out in the by-law itself. Significantly, these conditions were to be discretionary, in that the municipality could chose to apply one or more of them when approving a project (Ontario, Ministry of Housing, 2007).

There was also an increased emphasis on citizen involvement and education during the implementation of a Development Permit By-law. Citizens would be intensely involved in setting up the criteria for development approvals in a development permit by-law, but would then loose their right to appeal decisions made under a DPS to the OMB. All these changes were written into a new regulation, 608/06 (Ontario, Development Permit System: A Handbook for Municipal Implementaion, 2009), which was passed in 2007, simultaneously making DPSs available to all municipalities in the province.

¹¹ Although all of these controls would later be incorporated into the planning controls in Part V of the Planning Act as well.

6) Development Permits and Mobility Hubs: A Natural Fit:

The Greater Golden Horseshoe Growth Plan and Metrolinx's The Big Move transit scheme depend on using key regional connection points, called Mobility Hubs, as areas of urban intensification. By carefully directing development and infrastructure towards these nodes, the province hopes to maintain the strong economic performance of the Greater Toronto and Hamilton Areas, while shifting towards a more balanced, sustainable, urban pattern of growth linked through accessible mass transit options. As this chapter will explain, the explicit policy directives, legal weight, effective consultation process, and expedited approvals process within Development Permits Systems make them an ideal tool for implementing the Mobility Hub strategy.

To begin with, the Mobility Hubs Guidelines are quite specific and prescriptive in their recommendations. They aim to produce specific outcomes within a broader policy context. While being quite specific in terms of performance outcomes, Metrolinx nevertheless requires a certain amount of flexibility because of the disparate locations and contexts of the 51 Hubs themselves. Since the Development Permit By-Law operates as a formal zoning by-law itself, it can include several different zones within the DPA, and the whole area itself can be set to the specifications required by both the Hub Guidelines, and the specific context of a particular Hub area.

Some might ask why a DPS is appropriate when municipalities could simply put in secondary plans under the current planning framework. The trouble with secondary plans, of course, is that they do not have the same weight as a zoning by-law or Official Plan (unless they have been included in a City's Official Plan, as is usually the case in Toronto), and that many of the design controls available Development Permits are not allowed under site plan control (Guy and Young, 2012). It is also rare for Secondary plans to involve concurrent re-zoning exercises. Setting up a DPS around Hubs would, therefore offer protection to whatever plans were made if they were appealed to the OMB, helping to ensure that whatever was planned was actually built.

The second major advantage of the DPS system is its particular form of public consultation. Before discussing the DPS consultation framework further, it is important to differentiate between what is legally required of municipalities when establishing the by-laws, and what is good practice. Since the DPA and accompanying guidelines are by-laws like any other in Ontario, there is no legal requirement for planners to provide more than one statutory meeting when passing or amending a zoning ordinance. Such an approach would not be in keeping with the spirit of a Development Permit System as envisioned in Ontario, however, or as they are used elsewhere, like British Columbia or New York City. As stated earlier in this paper, many of the delays and political interference in the current development process stem from a disconnect between community members' expectations of

how development will proceed in their neighborhood, and the official land-use framework in their area. Implementing a Development Permit System without significant consultation in establishing the design criteria will only exasperate that disconnect and erode long-term support for whatever is decided, especially since citizens would be giving up their rights to appeal to the OMB. Indeed, it is for these reasons that all of the supporting literature provided by the government of Ontario emphasizes the importance of involving the public extensively in the establishment of the Development Permit criteria and built-form guidelines.

The point of collaborating with citizens at the outset of the process is to build broad-based support and awareness for whatever plans are produced. It is part of the reason DPSs would work so well to implement the Mobility Hubs Guidelines, as that report, along with the GGH Plan and the Regional Transit Plan, emphasize the need for some form of consensus around how individual Hubs will proceed. This is not a touchy-feely assertion. Experience in Toronto and elsewhere has repeatedly shown that, when transformative plans are attempted in isolation from the public, regardless of their merits, the backlash can be so severe as to completely derail them. By structuring the consultation process so that communities have significant input into the urban design criteria of their neighborhoods (without the pressure of eminent change posed by an individual project), and are then removed from the latter stages of the development process, DPSs would strike a balance between effective community involvement, and the bureaucratic efficiency required to make low-margin projects in suburban areas economical.

As an illustration of how effective Development Permit Systems can be at instilling a sense of ownership over a neighbourhood's master plans, we can turn to Vancouver, BC, where DPSs are *the* planning tool throughout the city. There are important exceptions to the Vancouver model compared to Ontario's: there is no equivalent to the OMB in British Columbia, for example, and city council is elected "at-large" instead of on a geographically ward-based system. Zoning by-laws remain separate in Vancouver as well, but it is rare that for applications for variances are delayed once a Development Permit visioning process has been completed (Bailey, 2012). Otherwise the DPS in Vancouver is virtually identical to Ontario's, as planner Jill Grant discusses in her article based on research into "the Vancouver model" of planning, and a series of interviews with the city's former chief planner Larry Beasley. Both Grant and Beasley attribute the use of DPSs to the high standing of the city's planning department in the minds of the public, and its ability to meet policy goals set by council (2009).

Grant discusses the extent to which Vancouver's public can feel a sense of ownership towards their neighbourhood's planning framework in a story about a developer who wanted to construct a

high-end development in a better-off section of downtown Vancouver (Grant, 2009, p. 365). As a rule, the city aims to have all developments include 20% of their units as affordable housing (in reality, it is closer to 16%). This particular developer said they would pay a much larger sum if the planning department would allow them to build the affordable housing elsewhere in the city (where they could build more, as the land would be cheaper). The plan was quashed, however, when the well-heeled residents of the neighbourhood came out in full-force against the proposition, arguing forcefully that they had bought into the principles of social mixing laid-out in the DPA, and they weren't about to be bought-off. "We want our Social Housing!," became their rallying cry, and the project went through with the requisite amount of mixed units (ibid). Such a level of engagement and commitment to land use principles are astonishing, especially when compared to the sometimes-combative atmosphere of Toronto's development scene.

Avoiding undo political interference from residents is only one positive aspect of a DPSs consultation framework. The other is in unhinging variance and amendment approvals from a city's council schedule. According to at least ten lecturers from all areas of the development industry in The Greater Toronto Area, many of the current delays and cost increases under the current system are caused by ward councilors intervening in the process (Gladki and Divine, 2012; Nostrand, 2012). Again, it is not whether such political interference is warranted on a case-by-case basis (often it is), but that the current system is tilted towards such intervention in the first place. While some municipalities, like Toronto, have the power to change their governance structure, that subject is beyond the scope of this paper. What is important for us is how the DPS can help rebalance the process to minimize political intervention on an application basis, except for those classes of proposals deemed to be of great significance.

It would be naive to assume that an improved consultation process would eliminate pressure on ward politicians to interfere with proposals, but its mechanisms would help minimize the impact of such pressure. A DPS, for example, allows for council to delegate approvals to a body or city official of its choosing (while still maintaining the right to certain types of projects that council sees fit to approve (Guy and Young, 2012). If council were to delegate responsibility for approvals to the planning department, it would remove itself from the day-to-day of development approvals and place itself at the higher policy level of planning.

Concerns about a complete loss of political control could be alleviated by adding different classifications of development to a DP by-law, as the municipalities of Gananoque and Carleton Place have done in their by-laws. Carleton Place allows has three classifications of building proposals, for example, two of which must be approved by council at large (Young, 2012). Gananoque also has a

classification system as well, and has included a mechanism whereby extremely controversial proposals can be refereed to the city council by the planning department (Guy, 2012). By including such policies in a Development Permit by-law, politicians can remove themselves from the day-to-day minutia of the planning system, while maintaining control over major proposals. Like in other cities that use DPSs, council would set the broad policies to be pursued by the planning division, and then hold that department accountable based on their adherence to the framework (Bedford, 2010). While councillors would be giving up a considerable amount of control, it would also be more difficult for individual residents and local businesses to hold them personally responsible for individual application approvals.

Streamlining the approvals process and removing many of the barriers of political intervention would provide incentives for developers to actually build what is envisioned for a given area. Given that the average development approval in the GTA is 1-2 years (Longo, 2010; Toronto, 2012), and that holding costs are such a major expense for developers, a municipality that could effectively expedite approvals within a DPA to anywhere near the 45-day appeals deadline would provide a strong incentive for suburban developers to seek out parcels of land within a Mobility Hub rather than in other parts of the region. With the most time consuming parts of the current process being dealt with in the establishment of the criteria by-law, reaching such targets should not be overly difficult (Bailey, 2012; Guy and Young, 2012).

At this point, we would like to note that this paper is not asserting that DPSs are the only effective way to reduce costs and streamline development within Mobility Hub Areas; and nor should they be imposed by provincial regulation, but remain a voluntary tool available to municipalities. There are plenty of other, non-planning tools that would provide incentives for developers to fulfill the guidelines laid down in a bylaw. While such financial tools should be explored for use in conjunction with Development Permit Systems, they are beyond the scope of this paper. However, by eliminating the costs and bureaucratic inefficiencies within the planning portion of the Greater Golden Horseshoe's development process, and more effectively engaging residents in the visioning of their communities, local policy makers could go a long way to creating Mobility Hubs with a strong sense of place that are attractive to residents and builders alike.

7) Concerns About Development Permit Systems:

Despite the apparent advantages to Development Permit Systems, there are a number of concerns about them that we have not yet discussed. While these concerns are understandable, most are not serious enough to prevent the system's effective use. This next section will therefore address some of the main fears surrounding their use and implementation in order to clarify how DPSs are an effective planning tool for Mobility Hubs.

7.a) Setting inadequate Criteria and Conditions:

The first and most obvious concern about DPSs is that the criteria embedded in the by-law for issuing development approvals could not possibly anticipate all variables to a zoning by-law. This concern is difficult to address using Ontario examples, as there is so little history of Development Permits in this province. As stated, however, the province wide regulations governing British Columbia's DPS are virtually identical to the system laid out in Ontario regulation. An area must be demarcated in an official plan with broad principles outlining the reasons for the DPAs creation, along with a by-law setting out approvals, exceptions, variances, and conditions. By looking at how similar concerns were dealt with in BC, we can see how they may play out here in Ontario.

Before going further, it is important to note that, while BC does not have an OMB-like body set up specifically for planning matters, its planning concerns are dealt with by the courts. The important difference between the two organizations is that judicial bodies must adhere to precedent. This difference is not critical when considering criteria and conditions in a DPA, however, as the OMB examines evidence in a judicial-like manner, and its ability to set-aside precedent means it can more easily correct decisions that, in retrospect, turned out to be errors.

But let us return to the concern in Ontario: the worry is that a municipality could not possibly anticipate all possible variances for a given property, and that its ability to control the development process would be hampered in a fast changing market because they might have overlooked some important concern. This was a worry in BC as well, which was eventually settled by the courts in a series of cases. One case, Westfair Food Limited vs. Saanich District, involved a municipality that had rejected an application that complied with the principles of the DPS as laid out in the Official Community Plan (OCP) for the district, but for which its use had not been specifically listed as a criteria for approval (Buholzer, 2010, pp. 11-25). The court ruled with the applicant, stating the principles in the OCP were sufficient to show compliance on the part of the applicant.

In another case, when reviewing the community of Salmon Arm's Official Community Plan, the court addressed complaints about the vague nature of the principles set out for Development Permit

approval in the Plan (ibid, pp. 11-25.2). The court defended the plan's wording as necessary in order to allow for variations that may arise through time.

While there is no way of knowing whether the OMB would rule the same way, the BC court decisions makes sense: principles outlining uses for a DPA do not need to be so stringent and far sighted as to account for every variation that could possibly arise, but projects clearly complying with principles that have been set out cannot be rejected merely because they are not specifically outlined in the list of criteria for approval. The DPS provides certainty to landowners who can support their projects in guidelines and conditions that are in place, while not turning the need for certainty into a straightjacket restricting municipalities' ability to adjust policy under changing conditions.

7.b) Loss of Third Party Appeal Rights:

Another concern about implementing a DPS is the loss of rights by anyone but the applicant to appeal a decision on a project to the OMB. This does represent a significant loss to the public of having their say in the development process. The experience in BC and other places, however, have shown that the gains to be had through intense public consultation at the outset of the process help offset those concerns.

To further address such fears the city could take a number of measures. It could institute a mandatory review period for any DPA, in order to ensure public input is current, as have the two of the three Ontario municipalities that have instituted DPSs. It should orient the planning department towards community support, as the City of Vancouver has done, so that the local planner serves more as the broker of community interests than a member of a central bureaucracy (Bailey, 2012; Grant, 2009). And finally, Toronto could investigate ways to further embed citizen involvement in the planning process by examining tools available through the Municipal Act, like Citizen Advisory Committees (Bedford, 2010). Such bodies have worked well in places like New York City in bringing citizens into the planning process in a non-adversarial way, and they ought to be explored further by Toronto. Such Boards, staffed entirely by local volunteers and supported by the planning department, could have the authority to approve Development Permits delegated to them by city council, (as allowed under s. 70.2) thus placing citizens at the very heart of the approval process, and negating the loss of community appeal rights to the OMB.

Community Advisory Boards and other procedural reforms hold a great deal of potential to enhance the consultative process that would be initiated by a DPS, but that subject is the topic of another paper. For now, suffice it to say that the cost of appeal rights in implementing a DPS (City of Toronto, 2010) would already be offset by the gains made by in the initial visioning studies for a DPA.

7.c) Section 37/45 and Bonusing:

One of the chief concerns about adopting Development Permit Systems would be the change to the bonusing structure of Section 37. This concern is of particular importance to the City of Toronto, who uses these agreements extensively to fund community infrastructure. Since Toronto has over half of the Mobility Hubs in the RTP, a discussion around Toronto's zoning practice is relevant. Whether by design or not, the city's zoning by-laws have lost credibility as they are outdated and tend to underzone most areas of the city, forcing developers to negotiate for virtually every project (Amborski, 2010; Costello, 2010; Divine and GGladki, 2012.). The results are positive on one hand, in that Toronto is able to extract millions of dollars in public benefits from height and density bonuses under s. 37, but the trade-offs to such an approach are fairly high.

When land controls are not credibly set, they undermine the development industry's long-term confidence in a low-profit margin area as a place to invest, which would be particularity detrimental to Mobility Hub areas. More directly, it means millions of dollars fighting cases to the OMB with bylaws that do not stand up to rigorous review. It undermines public confidence in the planning process, as zoning by-laws are routinely amended and Section 37 money is dispersed by councilors in a seemingly arbitrary manner (Divine and Gladki, 2012). By setting a bonusing structure within a DPA that can be enforced by the planning department, and directing contributions to projects that have been identified through the DPA visioning process for a Mobility Hub, Development Permit Systems would streamline bonusing negotiations, enhance accountability about where such funds go, and provide some form of cost certainty to developers when initiating their applications.

7.d) The Cost of Implementation:

As discussed above, the success of a Development Permit Area depends largely on the quality of the process that goes into establishing it. Setting out the criteria, conditions, bonusing structure, and consultations involved in the process are time consuming and expensive by all accounts (Bailey, 2012; Guy and Young, 2012; Grant, 2009). It is therefore one of the main impediments identified by several planners asked about the use of Development Permits in the GTA.

Unfortunately, studies citing cost estimates for individual municipal planning procedures in Canada are not readily available, as Pamela Blais discusses in her book, <u>Perverse Cities: Hidden</u> <u>Subsidies, Wonky Policy, and Urban Sprawl</u>, in the chapter titled, "The Cost of Planning." Her attempts to produce a direct cost benefits analysis of using urban planning tools to curb sprawl versus the cost of sprawl itself were frustrated by her inability to separate individual planning procedures from the budget of departments as a whole (Blais, 2010, pg. 47).

When considering the additional costs of establishing a DPS in connection to the regional transit plan's Mobility Hubs, it is worth noting that municipalities are already required to integrate these areas into their official plans, and to produce new master plans for them (Metrolinx, 2008, pg. 48).¹² This means that cities will already be investing significant resources in planning for these Hubs. The extra cost associated with development permits would be worth the effort in themselves if doing so produced a stronger planning framework. Vancouver has attributed its ability to successfully impose urban design guidelines to the use of DPSs (Grant, 2009), and there is every reason to assume the GTHA would see similar results by using such a comprehensive planning system.

Costing information, if available, would be difficult to compare in any case, as the costs and revenue streams of planning policies are extremely complex and context specific. Vancouver, for example, has used DPSs exclusively for the last 25 years, so estimates of their costs have no basis for comparison in that city and its particular market. While it logically makes sense to say that the up-front costs associated with establishing Development Permit by-laws would be off-set by decreased costs in OMB hearings and processing applications, we cannot say so with certainty. The best that can be done is to approach the question of costs, benefits, and revenues in an indirect way.

Planning costs should also be compared to the revenue they would generate, not just the money they would save, like they are in models using tax increment financing. Blais's investigation revealed that Smart Growth policies in general often exerted significant upward pressure on real estate values (2010, pg. 48). In Portland and Atlanta, similar increases were noted in areas surrounding newly constructed rapid transit corridors (Dunham-Jones and Williamson, pp. 87-90 and 159-162). And in Vancouver, the mere re-zoning of the Cambie-Corridor has caused average house prices along it to increase by approximately 60% (to a staggering \$3 million) (Bailey, 2012).

These patterns pose serious questions for housing affordability using Smart Growth and Transit Oriented Development policies that demand further study, but for our purposes, they establish a pattern of property value increases that, if carried over to the GTHA's Mobility Hubs, would provide more than enough increased property tax revenue to off-set the planning costs associated with Development Permit Systems.

Lastly, any discussion around the cost of establishing a solid DPS by-law needs to consider the cost of alternative plans if they do not come to fruition. Jurisdictions in the GGH do not have a problem in stimulating urban growth: they have a problem directing that growth to meet policy goals

¹² Although there is some doubt as to whether certain municipalities will actually carry out these planning exercises without dedicated funds for transit in place (Bain, 2012).

aimed at reducing sprawl. As Blais demonstrates in her well-researched discussion on housing patterns in the GTA over the last decade or so, municipalities in the GTA that are not fully built-out have continued to sprawl despite planning polices meant to curtail such developments (2010, pp. 4-5).

The development process is fraught with variables, and so it is impossible to say that if a municipality instituted a DPS, it would automatically produce the desired results. But looking at other cities that have had consistently strong real estate markets and have used DPS-like instruments, like Vancouver and New York, indications are strong that the certainty and efficiency provided by such systems provide sufficient incentive for developers to build what has been planned. As Dena Belzer states in her article on transit oriented development titled "Transit Oriented Development: From Rhetoric to Reality," builders always prefer areas with strong, detailed plans in place, because the reduced holding costs mean they don't need to charge as much to recoup their capital costs and make a profit (2002, pp. 25-26). Development Permit Systems would provide just such a detailed planning framework in Mobility Hub areas, and their expedited approval process would help to ensure that builders chose to develop within them rather than another area.

8) Conclusion:

Metrolinx's Mobility Hubs seek to transform the Greater Golden Horseshoe by encouraging urban intensification at crucial transit junctures. These Hubs, and their accompanying guidelines, require municipalities to incorporate Smart Growth and Transit Oriented Development Principles when setting the master plans for these areas. While the performance measures regarding the Hubs are quite prescriptive, they nevertheless leave the particulars of how municipalities will transform these areas quite open.

The vision laid down in the regional growth and transit network plan require the buy-in from all stakeholders if they are to succeed. Community members must believe that the regulatory process for their neighbourhood will adequately protect their communities or they will revolt at election times. Politicians must not feel that individual projects will threaten their tenure in office. And finally, developers must have a certain degree of procedural and cost certainty as an incentive to actually build the plans proscribed by municipalities. While relatively coherent, the current planning framework has demonstrable flaws in its ability to curb sprawl in all but the hottest market areas.

With its policy led approach that focuses political involvement at the visioning stage of the development process, while streamlining and expediting approvals once plans are in place, Development Permit Systems have worked in other cities to achieve policy objectives. Their flexible zoning criteria and cost certain bonusing framework make Development Permit Systems an ideal fit for the gradated guidelines of the Mobility Hubs. While just one way to encourage development, the use of this planning tool by municipalities would go along way to facilitating compact, transit supportive growth, helping to contribute to the vital role Mobility Hubs have in making the Greater Golden Horseshoe a much more sustainable and profitable environment.



9) Appendices: Appendix 1

Appendix 2

TABLE ii.3 Suggested Land Use Densities by Transit Technology and Transit Mode Share for Mobility Hubs.				
PREDOMINANT TRANSIT MODE SERVING MOBILITY HUB (SEE NOTE)	TRANSIT SUPPORTIVE DENSITIES (RESIDENTS AND JOBS COMBINED PER HECTARE, WITHIN MOBILITY HUB)	SUGGESTED TRANSIT MODE SHARE (TRIPS ORIGINATING WITHIN MOBILITY HUB)		
Subway	250+	40%		
 Subways, as a transit mode, have the ability to carry the greatest number of customers. Land use targets should reflect the ridership levels needed to justify investment in subway infrastructure. It should be noted that traditionally, land use densities along some subway lines and stations in the City of Toronto have been moderated by high volumes of feeder transit that provide a significant proportion of ridership. 				
Express Rail	150-300	30-60%		
 Express rail is the enhancement of regional rail services to provide high-speed, frequent and reliable long-distance travel across the region. Mobility hubs served by express rail should have land use targets that reflect the high regional level of service provided by express rail. 				
Light Rail Transit (LRT)	200-400	30-50%		
 Flexibility in implementation of LRT results in a greater range of applicable contexts, resulting density, and mode split targets. Targets for transit supportive densities should reflect the ultimate configuration of LRT lines. Higher targets should be set in LRT corridors with exclusive right-of-way, such as tunnels, elevated structures, or with complete signal protection, reflecting the higher passenger capacity of these lines. 				
Bus Rapid Transit (BRT)	100-250	20-35%		
 Initial implementation of BRT systems can sometimes consist of buses running in mixed-traffic with transit priority at intersections and improved customer amenities. Higher densities should be targeted for mobility hubs on BRT corridors with service on dedicated right-of-ways. 				
Regional Rail	50-200	10-25%		
 Expansion, as envisioned in The Big Move, includes improving service from peak-direction and period rail service to all- day, two-way service. Land use density and mode share targets should reflect the existing and planned service levels for regional rail corridors. In most cases, regional rail attracts the majority of its riders from a large catchment area beyond the mobility hub. As a result, ridership is less sensitive to the densities within the hub. 				
Bus/Streetcar	50-150	10-25%		
Bus/streetcar service is most appropriate as an access/feeder mode to higher-tier rapid transit service in mobility hubs.				
 NOTES The transit supportive densities and suggested mode shares presented above are intended to serve as a guide and are based upon existing research on the connection between transit, land use, and mode shares. These may vary dependent on the modes of rapid transit and quality of feeder transit, land use mix and built form characteristics, and the quality of the pedestrian and cycling environment. In mobility hubs where Growth Plan targets also apply, the latter shall prevail. 				

• The predominant transit mode refers to the highest-order transit mode serving the mobility hub. In most cases, other rapid transit modes will be present at a mobility hub. While density targets do not compound with multiple rapid transit modes, it should be recognized that with multiple transit modes, a higher density target could be considered.

· Density ranges provided here are for guidance only. The upper portion of these ranges should not be considered as a limit.

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Appendix 3

Mobility Hubs in the Greater Toronto and Hamilton Area



Appendix 4



FIG ii.4 Mobility hub zones.

TABLE II.2 Mobility Hub Zones

Mobility Hub Zone	Transportation Considerations	Land Use Considerations
Primary Zone Includes the rapid transit station and associated facilities (e.g., parking) as well as the immediate surrounding area, approximately a 250 metre/2.5 minute walk radius. This area is most influenced by the high level of accessibility offered by the rapid transit services at the station.	 Transit station and nearby access routes are typically the most hectic from a transportation perspective. Zone must prioritize high levels of pedestrian and transferring activity, while adequately balancing multiple modes of access to the station. 	 Highest intensity and greatest mix of uses should typically be encouraged within this zone to encourage high levels of transit use and provide a mixed- use, vibrant activity node for the local community. Opportunity to provide traveller amenities through development in this zone (e.g., internal pedestrian pathways, retail, shared commuter parking).
Secondary Zone Extends from the primary zone to approximately 500 metres from the rapid transit station. This zone typically provides many opportunities for transit –oriented development.	• Direct and safe walking and cycling connections to the rapid transit station and within this zone are critical.	• Typically includes relatively high densities and mix of uses to benefit from the high level of transit accessibility and promote higher sustainable mode shares.
Tertiary Zone This zone extends beyond approximately 500 metres from the rapid transit station. It is the transition from the mobility hub to the broader area outside of the hub.	• Direct and safe walking and cycling connections from this zone to the rapid transit station are still critical, although cycling and local transit feeder services will play a larger role in this area as walking distances increase.	• The density and height of development should be stepped down gradually toward the periphery of the mobility hub.
Catchment Area Includes the broader area of influence outside of the hub. Most travellers who access the regional rapid transit system through the hub will come from the catchment area. The size of this area will vary based on two key features: 1) The type of transit service. Regional rail, for example, tends to draw riders from a larger area than LRT. 2) The location and function of the hub within the regional transit system. For example, terminus stations, such as Kipling or Milton, tend to draw riders from farther distances. While mobility hubs located nearby a number of other rapid transit stations or parallel services will have smaller catchment areas	• Emphasis should be on direct and quick connections to the rapid transit station and other destinations within the mobility hub. Key access modes include bicycle, transit, and auto.	Limited applicability to land use.

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