

Increasing Floor Area Ratio in the City Core and Transit Oriented Developments through Direct Control Rezoning

Further Research and Stakeholder Engagement

Recommendation:

That Administration work with the Direct Control Zoning Industry Working Group to develop an alternative approach for developer contributed public amenities secured through Direct Control Provision zoning and return to Committee.

Report Summary

This report describes the process by which Administration and the Direct Control Zoning Industry Working Group will develop an alternative approach for developer contributed public amenities secured through Direct Control rezoning.

Previous Council/Committee Action

At the July 6/7, 2016, Executive Committee meeting, the following motion was passed:

That Administration conduct further research and stakeholder engagement towards a formalized review procedure and incentive system to be applied to Direct Control Provision rezoning applications that add Floor Area Ratio in the city core and Transit Oriented Developments, and return to Committee in the First Quarter of 2017.

Report

Background

Direct control zoning is a regulatory tool granted to Council through section 641 of the *Municipal Government Act*. This type of zoning allows Council to exercise particular control over the use and development of land or buildings within an area in any manner it considers necessary. When a proposed direct control zone would allow for an increase in the scale and intensity of development beyond the vision of the approved area plan or current zoning, it is referred to as an “up-zoning.”

Up-zonings can have a large impact on the communities in which they are located, while creating significant additional development potential for project proponents. To balance these impacts, enhance the project’s contribution to the local community, and ensure that it fits in well with its urban context, direct control zones have required developer

contributions towards public benefits and amenities. Contributions associated with up-zoning of this nature have included:

- the provision of public art
- streetscape and landscaping improvements
- heritage preservation
- the provision of affordable housing units
- the inclusion of family-oriented housing
- on or off-site tangible and accessible community amenities
- building sustainability measures, among other things

The cost of these contributions to the developer are offset by increases to a parcel's development rights, such as height, density, and floor area ratio, which create opportunities for increased project profitability.

Direct control zones are used across the city for a variety of reasons. Not all seek to increase development potential in a manner that significantly deviates from the initial zoning and approved plans. The focus of this report, therefore, is on those direct control zones that enable measurable new private development rights on a site specific basis, such as for towers located in the downtown and core neighbourhoods, and in major redevelopment contexts such as Transit Oriented Development sites and along key corridors.

Current practice

Each direct control zone is custom made for a specific site, and therefore requires active negotiation between the applicant and Administration around land use, design, and public amenities or other community benefits. Currently, these rezoning negotiations are guided by a review of the existing development opportunity, Council-approved statutory plans such as Area Redevelopment Plans, and guidelines such as the *Transit Oriented Development Guidelines*.

Administration's past and current practice is to use precedent established by other Council approved zones to guide negotiations when considering what contributions to include in a proposed direct control zone. Community consultation done by applicants and Administration has also helped determine contributions on a case-by-case basis. This has resulted in a practice that is flexible and responsive to local community needs, and has contributed to the creation of great buildings and places that enhance unique areas within the city. However, with the exception of policy C582 - *Developer Sponsored Affordable Housing*, there are currently no Council approved policies or guidelines to direct Administration's negotiations around public amenity contributions associated with direct control zoning provisions specifically.

The absence of Council direction or policy in this matter contributes to uncertainty for applicants and Administration when considering what contributions are sufficient and appropriate relative to increases in development rights and impact on the surrounding

area or the City as a whole. This uncertainty can add to rezoning review timelines as Administration and applicants negotiate the finer details of the direct control zone for Council's consideration. It can also result in a lack of clarity and perceived lack of transparency regarding how public contributions are determined and valued. This lack of clarity undermines public understanding and engagement in the rezoning process. While the current approach is flexible and has produced tangible benefits for local communities where development under direct control zoning has occurred, it lacks predictability and transparency for all parties involved in the rezoning process.

Industry working group and the development of an alternative approach

In order to address these concerns and leverage the opportunity to develop a more robust approach, Administration reached out to members of the development industry who have recently completed one or more direct control rezonings in the city core to form an industry working group. The group includes developers and consultants who have experience with amenity contributions in Edmonton, as well as other markets. The working group also includes members of Administration with experience reviewing major direct control rezonings. This group has the necessary experience with the rezoning process and land development to identify opportunities and pitfalls of the variety of approaches that could be used in Edmonton.

Preliminary work was completed over the fall of 2016 to create connections and establish a process to achieve this engagement. On February 9, 2017, the industry working group formally met to plan a process to develop a recommended approach for how and when contributions are made to present to Council at a later date. The results of this meeting and the composition of the working group are provided in Attachment 1. The working group will hold a series of workshops to better understand Edmonton's current approach, study frameworks used in other cities and apply this learning to the development of an approach that suits the Edmonton context and supports Edmonton's city-building objectives. The preferred approach and supporting rationale will be provided as a recommendation to Urban Planning Committee. Administration has also informed relevant development and building associations of the project and will continue to share information with key stakeholders.

In support of the industry working group's efforts, Administration has engaged third party expertise to provide research and project support. Research will inform the development of alternatives, enhancing the group's understanding of two main focus areas:

1. recent practices in Edmonton
2. learnings from other cities. Additional information on background research and its role in the project is provided in Attachment 2

Conclusion

Collaboration with industry is an important and promising first step toward establishing a better approach for public contributions secured through rezoning, as it sets the stage for further work on related issues. These issues include questions about what types of

contributions are most important to the City and to specific communities, as well as how contributions are managed and tracked over time.

The contribution of public amenities through the direct control rezoning process has benefited communities receiving direct control development, and the city as a whole, for decades. Innovative projects that depart from existing plans typically seek to make a unique contribution to the local area they inhabit and can contribute positively by integrating with and enhancing the community. Similarly, new development opportunities created through increased zoning rights granted over time have benefitted private development proponents and have helped achieve their project aspirations. This collaborative effort now seeks to improve upon the City's existing practice and establish a Council-approved direct control zoning approach that provides the best outcomes for the City, its citizens, and the developers investing in our communities.

The work will require ongoing and active engagement with the industry working group, which is scheduled to take place over the course of 2017. There are no pre-formulated solutions being proposed or presupposed in advance of this collaborative work taking place. At this stage in the process, the objective is to work together to co-develop and recommend a new way forward for development of this type in Edmonton. The purpose of the project is to improve clarity, effectiveness and efficiency in the direct control rezoning process for all parties.

Policy

The Way We Grow, Municipal Development Plan Bylaw 15100

4.2.1.1 - Support neighbourhood revitalization, redevelopment and residential infill that contributes to the livability and adaptability of established neighbourhoods.

4.2.1.3 - Accompany residential density increases with enhancements to public spaces and the provision of additional open spaces and amenities, if required.

City Policy C582 - Developer Sponsored Affordable Housing

Quarters Area Redevelopment Plan - 6.0 Urban Design Plan

"To achieve the distinctive, high-quality environment desired requires an approach that rewards good design and innovation through Floor Area Ratio and building height bonuses at the Development Permit stage. Floor Area Ratio and height are viewed as valuable commodities that can be used to achieve additional green initiatives, public art, publicly accessible open space, and affordable housing through this Incentive Zoning approach."

Capital City Downtown Plan - 13. Historic Preservation

"In recognition of the challenges involved in [the retention and integration of historic resources], incentives in the form of density bonuses, parking relaxation and financial consideration may be offered.

Corporate Outcomes

This report supports the Corporate Outcomes “Edmonton is attractive and compact” and “Edmonton has a globally competitive and entrepreneurial business climate” by advancing work toward a process for securing meaningful contributions to the public realm and establishing greater predictability for real estate development.

Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score	Current Mitigations	Potential Future Mitigations
Legal/Regulatory	Preferred approach developed by working group may not have the necessary legal or regulatory support to be tenable.	3	2	6	Administration and industry working group will work with Law Branch when developing alternative approaches.	
Economic	Proposed approach restricts development or otherwise negatively impacts the economics of real estate development	1	3	3	Collaboration with development industry; Will develop an approach that functions under varied market conditions.	Third party analysis of economic impacts of proposed approach.
Public perception	Public could perceive any incentive system as payment for zoning	2	1	2	Focus on transparency of any recommended approach, allowing the public to understand the process.	Additional community consultation could occur as part of broader work on direct control rezonings.

Public Engagement

This report is focused on determining a more consistent approach for how applicants will allocate dollars for community amenities in direct control re-zonings, not with determining what these specific amenities will be. As such, the focus of current engagement efforts was with industry through an industry working group. Once a system determining an applicant’s contribution for community amenities is in place, a public engagement process can be initiated to discuss how contributions will best serve and support the communities.

As the current process used to negotiate community amenities is precedent based, the role of the general public is not consistently defined and varies across applications depending on context. A more transparent and consistent approach for how applicants contribute amenities will support a more consistent and effective approach for engaging with the public on how they should be spent. This will position all stakeholders for better engagement and collaboration in the future. Therefore, the industry working group will not endeavour to determine the specific amenities that may be appropriate for Edmonton or for specific communities, nor will the group define how such contributions should be allocated. Instead, it will recommend a fair and predictable process by which amenities can be provided. This new approach will better position future work with communities to define local amenity priorities, as appropriate.

Metrics, Targets and Outcomes

Metrics	Targets	Outcomes
<ul style="list-style-type: none"> • There have been 945 DC2 rezonings since 1983. 262 have been superseded by another bylaw and 62 have been rezoned to a standard zone, leaving 621 active DC2 bylaws • There are 82 current DC2 zones approved by Council since November 2013 <ul style="list-style-type: none"> ○ 25 of these (30 percent) have increased the Floor Area Ratio from the base zone ○ 24 of these (29 percent) have increased the density from the base zone ○ 37 of these (45 percent) have increased the height from the base zone • Since November 2013, 56% of DC2 rezonings that increased Floor Area Ratio, density or height provided some form of amenity contribution in the associated DC2 zone 	<p>There are currently no targets associated with contributions secured through rezoning</p>	<p>This project will propose a new approach for securing contributions to the public realm through direct control rezoning.</p>

Justification of Recommendation:

Close collaboration with industry partners who are familiar with site specific rezonings and developer contributions to the public realm is necessary to develop a new approach that satisfies public and private needs in the rezoning and development process. The Direct Control Rezoning Industry Working Group is uniquely positioned to support Administration in developing alternatives.

Attachments

1. Direct Control Zoning Industry Working Group - February 9, 2017 Meeting
2. Summary of Research Approach
3. Urban Development Institute Letter

Others Reviewing this Report

- T. Burge, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services.
- C. Campbell, Deputy City Manager, Communication and Engagement