

CONDO
LAND

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INTRODUCTION

MANY VISITORS AND commuters travelling into Canada's largest city, Toronto, use the oft-congested, 18-kilometre Gardiner Expressway, an east-west arterial highway that follows the shoreline of Lake Ontario. Constructed during the 1950s and 1960s and named for Frederick G. Gardiner, the first chairperson of the now-defunct Metropolitan Toronto Council, the Gardiner Expressway connects Toronto's southwest and southeast suburbs with its downtown core. For many decades, views from the Gardiner Expressway were dominated by the CN Tower, once the tallest free-standing structure in the world, and by a dense cluster of commercial skyscrapers that house the banks and businesses of Toronto's Financial District. However, since the early 2000s, the city's skyline has been rapidly and dramatically transformed by the construction of many hundreds of high-rise residential condominiums. Challenging even the CN Tower's vertical dominance, these new towers have encircled the Financial District, spread out in all directions from the downtown core, and created a new image of the city. To travel on the Gardiner Expressway today is thus to experience the inescapable visual impact of this development phenomenon.

One of the largest and most prominent condominium developments on Toronto's new skyline is CityPlace, a residential megaproject of some thirty high-rise towers constructed between 1997 and the early 2020s on a former railway marshalling yard called the Railway Lands. CityPlace sits immediately west of the CN Tower and the Rogers Centre stadium and is wedged between the Gardiner Expressway and a wide railway corridor that serves Toronto's Union Station (see [Figures 0.1](#) and [0.2](#)). In this book, we make CityPlace our focus by casting it as a microcosm of what the housing and architecture scholar Megan Nethercote (2018, 658) calls "vertical urbanization." We examine how vertical urbanization has swept across Toronto, and characterize it as emblematic of a fast-paced and market-driven approach to

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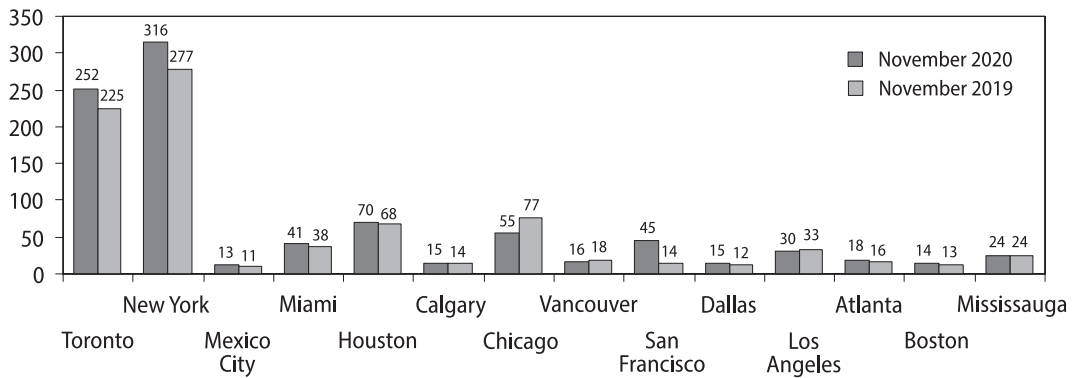
0.1 The location of CityPlace on the western edge of downtown Toronto, Canada. | William Davis.



0.2 CityPlace viewed from the observation deck of the CN Tower. The photograph illustrates the location of the neighbourhood close to Lake Ontario and the constraints posed by the elevated Gardiner Expressway and by the railway corridor serving Toronto's Union Station. | James T. White (photographed in 2016).



0.3 High-rise and mid-rise buildings under construction in North America in 2019 and 2020. | City of Toronto 2020d, 6. Reproduced courtesy of City of Toronto.



planning, urban design, and real estate development that has reshaped Toronto during the early twenty-first century.

VERTICAL URBANIZATION

Toronto's remarkable vertical transformation is not unique. Over the past twenty years, many global cities have experienced similar high-rise booms. The total number of skyscrapers in the world increased by 141 percent between 2010 and 2018, and globally there are 1,478 buildings that are over forty storeys and many thousands more that exceed ten storeys (Zielinska-Dabkowska and Xavia 2019). Much of this vertical urbanization has taken place in the residential real estate market, fuelled by the triple forces of inward migration to cities (Al-Kodmany and Ali 2013), real estate speculation among local and foreign investors (Aalbers 2019; Atkinson 2019; Beswick et al. 2016; J.C. Gordon 2020; Nethercote 2018; Rogers, Lee, and Yan 2015), and sustainability-oriented planning policies that favour inner-city land use intensification over suburban expansion (Bunce 2004; H. Chen, Jia, and Lau 2008; Filion, Leanage, and Harun 2020; Lau, Giridharan, and Ganesan 2005; Lehrer, Keil, and Kipfer 2010; Searle and Filion 2011). At the same time, the lure of the "skyscraper city" has proven irresistible for local political leaders, many of whom view the tall glass towers typical of vertical urbanization as "cultural artefacts of distinction" (Nethercote 2018, 680) that give their city the edge over others (Al-Kodmany 2013; Appert and Montes 2015; Troy 2018).

Global cities like Hong Kong, Melbourne, Tokyo, Singapore, and Vancouver have long been synonymous with high-rise residential development and the transformative forces of vertical urbanization (Lau, Giridharan, and Ganesan 2005; Pow 2009; Punter 2003a; Sorensen, Okata, and Fujii 2010). Toronto is a more recent addition to this list but has quickly emerged as one of the largest high-rise condominium markets in North America (Lehrer, Keil, and Kipfer 2010; Rosen and Walks 2013, 2015; Webb and Webber 2017), second only to New York City (City of Toronto 2020d) (see [Figure 0.3](#)). Between the 2011 and 2016 census periods, the population of Toronto increased by 4.5 percent (City of Toronto 2016m), and in 2019 it was both the fastest-growing city and the fastest-growing metropolitan area in North America (Petramala and Chan Smyth 2020). These data also show that Toronto's recent population growth has largely been the result of international migration. By way of comparison, three times as many international migrants moved to Toronto than settled in New York City during the same time period (Petramala and Chan Smyth 2020).

Fuelled by this population growth and stimulated by market-friendly policies that promote urban intensification (Bunce 2004; Filion, Leanage, and Harun 2020), Toronto had the tallest and largest buildings under construction in North America by some margin in 2018 and 2019, and at the tail end of 2020, a total of 252 high-rise buildings were under construction in the city (City of Toronto 2020d). With its skyline transformed (see [Figure 0.4](#)), Toronto thus provides a fascinating laboratory for analyzing the political and economic forces that shape vertical urbanization



and for evaluating the design implications of sustained high-rise condominium development.

DOES VERTICAL URBANIZATION MAKE A GOOD CITY?

Vertical urbanization in Toronto and elsewhere is characterized by ubiquitous glass towers containing many hundreds of open-plan residential units that frequently enjoy spectacular views from floor-to-ceiling windows and vertiginous balconies. Building residents typically have access to luxurious and exclusive lifestyle amenities, such as gyms, party rooms, swimming pools, and cinemas (Graham 2015; Lehrer 2012), alongside new public and private open spaces and community facilities (Punter 2003a). The buildings and neighbourhoods of vertical urbanization are overwhelmingly developed by private developers for sale. Those who purchase a unit in these building also share collective ownership of the building and its private amenities, and they elect a governance board composed of building residents to organize maintenance and repairs (Lippert and Steckle 2016).

As in Toronto, this form of legal title is widely known as “condominium ownership” in much of North America. Condominiums can take many forms, including

◀ **0.4** A pair of three-dimensional models of Toronto's vertical transformation. The computer-generated images illustrate the visual impact of high-rise residential development between 2000 (*top*) and 2014 (*bottom*). | City of Toronto 2015e, 27, 28. Reproduced courtesy of City of Toronto.

0.5 Concord Adex's Spectra and Quartz condominium towers at CityPlace. | John Punter (photographed in 2019).



detached single-family homes in a gated community, townhouse complexes, and mid-rise buildings, but the marketplace in many cities is currently dominated by high-rise residential buildings (see [Figure 0.5](#)). In North America, residents of a condominium tend to call their home a “condo,” and commentators have used the term “Condo Land” to describe Toronto’s dramatic vertical urbanization (e.g., Hampton 2017; Perkins 2014; Preville 2014) – an apt turn of phrase that we have borrowed for the title of this book.

The rapid development of high-rise condominiums in Toronto has transformed the commercial downtown and the surrounding inner city into a denser and more interconnected twenty-four-hour, mixed-use urban core (Greenberg 2019). It has also driven profound social, economic, and physical changes that have distorted “social relations, social boundaries, and urban networks” (Rosen 2016, 78). The pace of condominium development in many global cities means that the reality of vertical urbanization is often quite different from the sustainable development panacea envisaged by some urban planners and politicians. Toronto is no exception, and the city’s vertical urbanization has been critically described as “a mechanism for the potential colonization and production of urban space for middle class and wealthy residents” (Rosen and Walks 2013, 170).

Geographers Gillad Rosen and Alan Walks (2015, 289) have termed Toronto’s vertical urbanization “condo-ism,” arguing that it has occurred at the expense of marginalized groups whose members have witnessed their neighbourhoods becoming steadily gentrified. The availability of low-cost rental housing has become increasingly scarce as condominiums have become the *de facto* means of delivering new inner-city housing (Lehrer, Keil, and Kipfer 2010), and Toronto residents on lower incomes have been forced into a more volatile and expensive private rental market buoyed by wealthy middle-class residents moving into the city to buy or rent a condo (Lehrer and Wieditz 2009a; Rosen and Walks 2015). For those on the lowest incomes, the average waiting time for social housing accommodation has soared to

8.4 years (Zhang 2020), and the supremacy of neoliberal governance in Toronto has allowed condominium development to fill the void left by the gradual withdrawal of state funding for social housing that began when free-market politics were on the ascendency during the 1980s and 1990s (Boudreau, Keil, and Young 2009). The provision of exclusive private amenities like gyms, swimming pools, and meeting spaces within many condominiums, as well as the securitized design of their hotel-like lobbies, also serves to highlight the division between those who can afford the verified lifestyle of the condo dweller and those who cannot (Rosen and Walks 2013).

The impacts of gentrification on lower-income communities in Toronto's inner city are one part of a wider housing affordability crisis that has been exacerbated by rapid condominium development (Filion, Leanage, and Harun 2020). Between 2005 and 2018, the average cost of a home in the Toronto region rose by 150 percent, and residents needed to spend an average of around 66 percent of their income to pay their monthly rent or mortgage (Zhang 2020). This situation has helped to make Toronto one of the most expensive places in the world to live (Wetzstein 2017). The underlying causes of housing unaffordability in Toronto are complex and multifaceted, but they can be linked in part both to absentee property ownership by foreign buyers and to the in-migration of wealthy immigrant families (J.C. Gordon 2020).

The type of new-build condominiums being developed in Toronto has proven popular with local and international investors alike, and the phenomenon of "transnational wealth elites buying residential properties ... as an investment rather than as a primary residence" (Fernandez, Hofman, and Aalbers 2016, 2443), which has taken hold in other global cities like London and New York, is now pervasive in Canadian gateway cities, including Toronto (Ley and Tutchener 2001). Recent research by the political scientist and housing researcher Joshua C. Gordon (2020, 1271), which uses new data from the Canadian Housing Statistics Program, shows that undeclared or untaxed foreign income has helped to push up house prices and "made it harder for tax-paying buyers to compete." This is the case because the local housing market has increasingly become decoupled from the local labour market (J.C. Gordon 2020; Ley 2017).

As this book was in production, however, a global recession was looking increasingly likely because supply chain bottlenecks caused by the COVID-19 pandemic and the war in Ukraine were leading to sharp increases in the price of goods. The impact of these economic challenges on Toronto's condominium market, especially the effect that rising interest rates will have on investors' future decisions, is yet to be fully understood. Initial analysis conducted by the Toronto Regional Real Estate Board (2022a) suggests that the marketplace for new condominiums cooled significantly during 2022, although the cost of renting continues to go up because the number of units entering the rental market has tightened (Toronto Regional Real Estate Board 2022b).

“PLANNING BY CONCESSION” IN TORONTO BUT NOT ALL THE TIME

The precipitous rate of vertical urbanization in Toronto has been facilitated by the city’s planning system and by the province’s planning appeals body, which has long been acquiescent to the demands of developers (Kumar-Agrawal 2005; Moore 2013). Since the early 2000s, the City of Toronto’s planners appear to have made a Faustian bargain with condominium developers whereby flexible planning and urban design controls have aided their capitalist ambitions. The negotiated process of density bonusing, practised through Section 37 of the Province of Ontario’s 1990 *Planning Act*, has facilitated rampant discretionary deal making between developers, planners, and local politicians. This deal making has led to significant increases in development density in exchange for limited public goods, or “land value capture” (Biggar and Siemiatycki 2020; Hyde 2022; Lehrer and Pantalone 2018). At CityPlace and beyond, high-rise condominiums have been approved at a much greater density and height than envisaged in the City of Toronto’s planning policy, whereas the rate at which social housing is constructed has declined (Zhang 2020), the amount of open space per person in the city has fallen sharply (City of Toronto 2017d), and the city’s public transportation system has come under increasing strain (Metrolinx 2018). We call this approach to land use planning “planning by concession.”

Planners’ support for high-rise condominiums in Toronto is to some extent driven by laudable policy goals that favour urban intensification. These goals emerged in the early 2000s in provincial and city-wide planning policies (City of Toronto 2006e; Government of Ontario 2006), in response to the Province of Ontario’s 2005 *Places to Grow Act* and 2005 *Greenbelt Act*. In recent years, steps have also been taken to better plan for the spatial distribution of new high-rise condominiums in and around downtown Toronto, including more robust design guidelines for tall buildings (City of Toronto 2006e, 2013) and a design review panel (City of Toronto 2016d). Nevertheless, the considerable concessions given to Toronto’s condominium developers continue to outweigh the community benefits accrued. Some argue that Section 37, the legal mechanism for land value capture in Ontario, has “not facilitated a proportional growth in the community facilities necessary to accommodate the impacts and externalities of the new urban development it has engendered.” Planning by concession in Toronto, or “let’s make a deal planning,” is at the heart of the wider flexibility and deregulation of planning that has fuelled Toronto’s vertical urbanization in the neoliberal era (Lehrer and Pantalone 2018, 93).

It was not always this way. Toronto’s current market-friendly approach to planning is a far cry from the design-sensitive and community-oriented praxis that typified reformist planning in the city during the 1970s (Sewell 1993), when American journalists compared poorly governed US cities with Toronto’s sensitive metropolitan planning, calling the latter “the city that works” (R. White 2016, 3).

Geographer David Ley (2003, 544) refers to this era in Canada as the “high water mark of the welfare state” – a period when there was considerable capacity and support for innovative policy making on urban design. During this time, the City of Toronto established the Urban Design Group (later the Division of Architecture and Urban Design) (Greenberg 2019). It played an active role in halting unpopular modernist development plans, saving significant heritage buildings, and developing some of Toronto’s most enduring urban design plans and policies, including the *Central Area Plan* (City of Toronto 1976), further discussed in the chapters that follow, and the planning and design of the widely celebrated socially mixed St. Lawrence neighbourhood, located on the eastern edge of the downtown core.

St. Lawrence was developed as a pattern of urban blocks centred on a broad linear park (Sewell 1993), with mid-rise apartment buildings and townhouses providing a diverse mix of social, cooperative, and market housing as well as ground-floor commercial uses (R. White 2016). The urban designer Ken Greenberg (2019, 38), who led the City of Toronto’s Urban Design Group during the reformist period, reflects that the lessons from the St. Lawrence neighbourhood became a “template for other neighbourhoods – existing, emerging, and new,” where design principles were used to develop “a fine-grained pedestrian network that combined public and private spaces.” The influence of this philosophy extended to the early plans for Toronto’s Railway Lands, the future home of CityPlace, which initially envisaged a form and scale of development akin to that of St. Lawrence (City of Toronto 1986, 1991a) rather than the high-rise condominium towers that now occupy the site.

Today, the more flexible attitude to the planning and design of private condominiums in Toronto stands in contrast to the approach taken on some recent redevelopment projects in the city delivered in partnership with public agencies, including the West Don Lands and Regent Park neighbourhoods. The West Don Lands is located east of downtown on the edge of the Don River and was developed by Waterfront Toronto, a tripartite development corporation partly funded by the City of Toronto, the Province of Ontario, and the Government of Canada (J.T. White 2016). Mostly designed at a modest mid-rise scale with echoes of the nearby St. Lawrence neighbourhood, it is an attractive and urbane master-planned community that incorporates distinctive architectural forms, a lively streetscape, high-quality public art, and the excellent Corktown Common public park. When fully completed, 20 percent of the homes in the West Don Lands will also be affordable rental accommodation (Waterfront Toronto 2021).

The Regent Park neighbourhood, although of a different character entirely, is similarly impressive. Located just north of the West Don Lands, it was originally developed as a modernist social housing scheme of towers and mid-rise blocks in the 1940s and 1950s but has been long accepted as a failure of mid-twentieth-century planning. A revitalization effort began in the early 2000s through a partnership formed between the Toronto Community Housing Corporation and the Daniels Corporation, a well-respected private developer. A sophisticated master

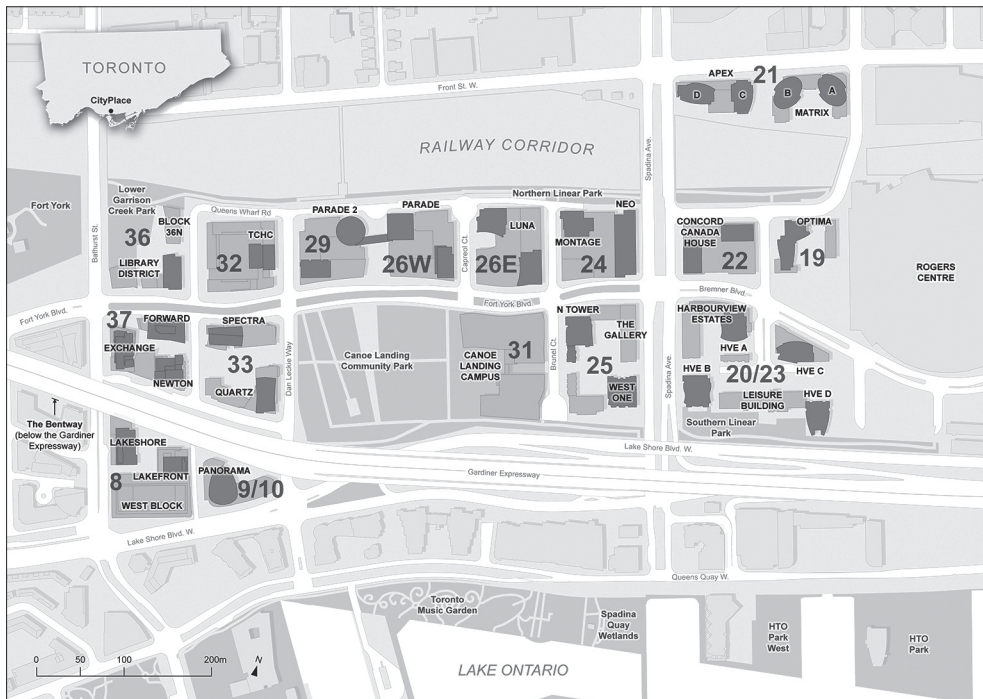
plan led to the reintroduction of a street grid, the construction of high-quality community facilities, and the creation of spaces for social enterprises and mixed uses. The principal ambition of the Regent Park revitalization was to achieve a balance of social and market housing, and when completed, the neighbourhood will provide just under 8,000 new homes, approximately 30 percent of which will be affordable social housing (Toronto Community Housing Corporation 2020).

WHY CITYPLACE?

As an urban megaproject of more than thirty residential high-rise towers, CityPlace is the largest condominium neighbourhood to have been built in Toronto so far. Developed almost exclusively by one private developer, Concord Adex, the high-rise residential towers at CityPlace range from sixteen to sixty-nine storeys, and the associated podium structures are between two and ten storeys. CityPlace is the design antithesis of the mid-rise, socially mixed St. Lawrence neighbourhood, which, as noted earlier, provided some of the initial design inspiration for the future form and layout of the Railway Lands site that CityPlace now occupies.

CityPlace contains 12,491 privately developed condominium units and a mere 539 affordable housing units (just over 4 percent of the total).¹ However, the megaproject does incorporate a large public space in the form of Canoe Landing Park, smaller public spaces, two supermarkets, and other commercial units, including banks, medical practices, pubs, and restaurants (see [Figure 0.6](#)). Public agencies have played only a limited role in the development of CityPlace, mostly in its latter stages, when the small amount of social housing, a library, two schools, and a community centre were built. As we explore later in the book, the development of CityPlace has proceeded very differently from the public-private partnership developments at Regent Park and the West Don Lands and from Waterfront Toronto's wider revitalization initiatives on the nearby Lake Ontario waterfront.

As far back as the early 1960s, the Railway Lands site that CityPlace now occupies was identified as a master-planning opportunity by the City of Toronto's planners and urban designers. They were looking to address its undeniably challenging location between the Gardiner Expressway and the city's main railway corridor by creating a stronger connection between the downtown core and the waterfront (City of Toronto 2004c), where a decades-long and often faltering redevelopment process eventually gained momentum under the direction of Waterfront Toronto in the mid-2000s (J.T. White 2016). By the early 1990s, CityPlace (as the future development had become known) was still undeveloped but continued to be viewed as a prime site for residential intensification and redevelopment westward to accommodate future population growth (City of Toronto 1991a). CityPlace was developed east to west, starting with Blocks 21, 19, and 20/23 in the late 1990s and early 2000s and eventually reaching Blocks 33, 37, and 8 in the late 2010s. The final block to be built at CityPlace was Block 22, on Spadina Avenue, a signature twin-tower development called Concord Canada House.



Three decades on, the City of Toronto’s urban designers consider the finished neighbourhood to be an example of how to plan a “complete community” and have showcased it in their design guidelines (City of Toronto 2020c, 15). For others, including the authors of this book, its reputed success as a well-designed neighbourhood is more questionable. As noted earlier, we have chosen to focus on CityPlace as a microcosm of the wider forces of vertical urbanization and planning by concession in contemporary Toronto. In the chapters that follow, we consider how its urban form came to be and critically assess its physical impact on the city.

“VANCOUVERISM” IN TORONTO?

The significance of CityPlace as an object of empirical enquiry also stems from its close conceptual connection to Concord Pacific Place on Vancouver’s False Creek waterfront, a high-rise megaproject of a similar size built by the developer’s parent company, Concord Pacific, during the 1990s and 2000s (see [Figure 0.7](#)). Pacific Place is an early example of contemporary vertical urbanization in Canada, and it has since achieved the status of a “model” for large-scale, residential waterfront redevelopment (Beasley 2019; Macdonald 2005; Punter 2002, 2003a, 2003b), earning the moniker “Vancouverism” (McCann 2013, 12).

Although Vancouver’s planning and design successes have rightly been celebrated by scholars and practitioners alike, it too has grappled with the socio-economic challenges now associated with vertical urbanization and condo-ism, including gentrification and dislocation (Barnes and Hutton 2009; Hutton 2004).



◀ **0.6** The CityPlace neighbourhood master plan. | William Davis.

0.7 “Vancouverism” at Concord Pacific Place, Vancouver. Pacific Place has been celebrated for its urbane characteristics, quality water-front landscaping, and advancement of the tower-podium model, with integrated street-level townhouses and retail units. | James T. White (photographed in 2016).

A “housing affordability crisis” (J.C. Gordon 2016, 1) driven in part by the flow of international investment capital into Vancouver, which pre-dates the similar trend experienced in Toronto (J.C. Gordon 2020; Ley 2017; Moos and Skaburskis 2010), has also overshadowed its urban design successes. In this book, a key part of our analysis concerns how the Vancouverism model of urban form was packaged and mobilized (McCann and Ward 2012; Peck and Theodore 2012) by Concord Pacific and then adapted and reproduced in Toronto by Concord Adex during the early phases of CityPlace with the explicit support of the City of Toronto’s planning and urban design officials (J.T. White and Punter 2017). This element of the CityPlace storyline reveals in stark terms how the planning and design philosophies adopted by planning officials in different cities can result in very different outcomes, even when the same developer is involved.

GOVERNING THE PLANNING, DESIGN, AND DEVELOPMENT OF VERTICAL URBANIZATION

As we trace the planning, design, and development of CityPlace, we draw on the analytical framework of design governance (Carmona 2016) to add new findings on the build-out of vertical urbanization and to offer a new perspective on Toronto’s condo-ism. In this respect, our aim is to understand more about the ways that market-friendly planning and design policy directly shape the form of cities. Definitions of urban design tend to distinguish between design as a “product” and as a “process” (Carmona et al. 2010; Lang 1996; Madanipour 1996). Product-focused definitions of urban design consider the socio-cultural and physical components of the built environment that embody the essence of a successful place, such as diversity and vitality, mixed land uses, active frontages, and walkable streets (e.g., Bentley et al. 1985; Gehl 1987; Jacobs 1961; Lynch 1984). Process-focused definitions are more directly concerned with how decisions about the organization of space and place are made. One of the particular preoccupations of urban design researchers

like ourselves is the question of how instruments, mechanisms, and actions of “design governance” (Carmona 2016, 705) are employed through various regulatory and discretionary means (Booth 1995) to create new places that achieve high-quality design outcomes (e.g., Barnett 1974; Punter 2007b; Tiesdell and Adams 2011; J.T. White 2015).

This distinction between products and processes, although helpful for the purposes of simple classification, obscures the fact that urban designers are invariably interested in both the process of urban design *and* the products that subsequently emerge. The urban design scholar Matthew Carmona and colleagues (2010) offer further clarification when they observe that urban designers are particularly concerned about the means of adding *quality* to the processes and products of urban design. In this sense, urban design is sometimes more accurately described as a process of “place-making” because it is chiefly concerned with “making better places through conscious acts of intervention than would otherwise be created” (Adams and Tiesdell 2013, 13). Such acts of intervention, argues urban designer Jon Lang (2017, 2), include establishing a “four-dimensional, socio-physical vision” for a city or (more likely) a precinct within a city, as well as “designing the incentives and controls to achieve that vision given the financial and political resources available.” The real estate and urban planning scholars Steve Tiesdell and David Adams (2011, 3) describe this “tools-based” approach as being a form of interventionist public policy that seeks policy-shaped, rather than simply market-led, design outcomes.

More recently, the concept of “design governance” has emerged as a framework for critically analyzing the process of planning and designing developments like CityPlace. Carmona (2016, 706) describes design governance as a subfield of urban design concerned with “the state-sanctioned intervention in the means and processes of designing the built environment in order to shape both processes and outcomes in a defined public interest.” Elsewhere, this process is described as the “design dimension of planning” (Punter 2007b, 167) or as “urban design as public policy” (Barnett 1974). Whatever phrase is used, the processes that shape places make up what legal scholar Richard Lai (1988, 1) has described as an “invisible web” of urban design. The intent of public policy and regulation by governing authorities, like the City of Toronto, has been to “design cities without designing buildings” (Barnett 1982, 55).

Tangled in Lai’s (1988) web are a raft of tools that planners and urban designers can use to shape development outcomes to a greater or lesser extent. Carmona (2017, 4) identifies a “typology of tools” that incorporates both formal and informal mechanisms for shaping development outcomes through the planning system. Formal tools are those that are legally binding components of the wider statutory planning process, such as design policy and guidance, zoning restrictions, and financial incentives offered to developers in exchange for public amenities or “land value capture” (Crook, Henneberry, and Whitehead 2016, 277). Informal tools tend to be employed alongside more formal ones to address some of the technocratic

failings of the statutory planning system, which frequently struggles to deliver well-designed places. These informal tools include evidence of best practice, knowledge and skills training, the promotion of design and its value to society, community participation, and the provision of hands-on assistance to developers from state actors (Carmona 2017). As will become clear in the chapters that follow, one of our particular interests in this book is to interrogate the extent to which these various tools have been used and manipulated in order to deliver profitable condominium development without always tackling its socio-spatial impacts.

DESIGN GOVERNANCE AND THE CONDOMINIUM MEGAPROJECT

With some notable exceptions (e.g., Carmona 2009; Firley and Groen 2014; Punter 2003b, 2007a; Tiesdell and Macfarlane 2007; J.T. White 2016), there are few studies of design governance that have closely examined megaprojects of the size and scale of CityPlace. As a result, the complex and iterative politics and decision-making pathways that create urban megaprojects – Lai’s (1988, 1) “invisible web” – are often glossed over in the existing literature (Lang 2005) on Toronto and elsewhere. In this book, we follow others, notably the geographer Gillad Rosen (2016), in describing CityPlace as a megaproject. Bent Flyvbjerg (2014, 6), a recognized authority on the planning and delivery of megaprojects, defines them as “large-scale, complex ventures that typically cost a billion dollars or more, take many years to develop and build, involve multiple public and private stakeholders, are transformational, and impact millions of people.” He adds that megaprojects are used across a range of sectors to deliver major goods and services. Megaprojects like CityPlace are commonly employed to deliver large-scale brownfield urban regeneration and development schemes that involve a change in land use and the major rehabilitation of land and/or buildings (Fainstein 2008; Lehrer and Laidley 2008).

Megaprojects are often undertaken as a partnership between the public and private sectors, and as touched on earlier, this has been the case on Toronto’s waterfront and in the complex redevelopment of Regent Park. It is also increasingly common for private developers to take forward megaprojects single-handedly or as a joint venture involving other private developers, with very limited involvement from government. By way of example, complex, mixed-use megaprojects like Hudson Yards in New York City, “the largest private real-estate development in United States history” (Mattern 2016), the King’s Cross redevelopment in London (Imrie 2009), and the Melbourne Quarter in Melbourne, Australia (Lend Lease 2021), all involved complex master planning and city building and required vast amounts of private capital investment over many years. CityPlace and its Vancouver cousin, Concord Pacific Place, are relatively unusual because, in spite of their size, they have been developed (mostly) by one developer and almost exclusively as high-rise residential neighbourhoods, making them quite different from the aforementioned projects, which combine residential land uses with flagship commercial office buildings and/or entertainment destinations.

Private developers that specialize in the delivery of urban megaprojects like CityPlace assume a “quasi-public role” (Lang 2017, 18) because governing authorities rely on these powerful developers to pay for and, in many cases, supply public infrastructure and major components of the public realm, such as open spaces and affordable housing. In his explanation of design governance, Carmona (2016) stresses that urban design is a shared responsibility. Governments must play a leading role, but other interested parties, including developers, have a crucial and increasing stake. This situation does not necessarily shift the burden of responsibility for design quality away from the public sector but instead accepts that in the neoliberal era, where megaprojects like CityPlace are increasingly common, the governing authority is no longer directly responsible for all aspects of delivery. Governing authorities like the City of Toronto thus have a responsibility to identify effective points at which to intervene in order to influence and negotiate development outcomes through the policy, guidance, and control process (Adams and Tiesdell 2013; Carmona 2016). The negotiations that take place between politicians, city planners, and developers on these matters are often the points at which crucial decisions about urban form are made and sometimes manipulated. We demonstrate this process of planning by concession through the case of CityPlace.

NEGOTIATING FOR OPPORTUNITY SPACE

It is common for megaprojects of the size and scale of CityPlace to be based on a master plan or other similar coordinating design framework. These steering mechanisms tend to allow for a degree of flexibility because real estate development is vulnerable to external market forces, which can determine the speed at which a project might be feasibly delivered and can impact the suitability of a particular building typology at any given time. Nevertheless, if the aim of the governing authority is to produce a high-quality and coherent urban environment through the planning process, a balance needs to be struck between allowing some degree of market flexibility and requiring developers to adhere to an agreed design vision or master plan. As we explore further in the chapters that follow, adhering to this principle has proven particularly difficult at CityPlace.

The public- and private-sector actors involved in shaping and delivering new master-planned developments like CityPlace are often involved in intense negotiations, and participants are known to compete against one another in order to achieve their preferred outcomes (Bentley 1999). A concept known as “opportunity space” helps to explain this situation. The opportunity space held by developers is determined by their viability assessment of a development scheme (Adams and Tiesdell 2013). Developers often look for ways to expand the size of their opportunity space by pushing back on design restrictions imposed by the governing authority, such as building height, density, and other performance indicators like architectural materiality and landscaping. Designers – architects, urban designers,

and others – also have an opportunity space, although it is normally contained *within* the developer’s opportunity space. They are therefore subject to the same basic constraints as the developer but might look for ways to enlarge their opportunity space through negotiations with their client to gain more creative freedom and thereby achieve a better design outcome (Adams and Tiesdell 2013; Carmona 2016; Tiesdell and Macfarlane 2007). Finally, governing authorities have their own opportunity space, within which they will make calculations about the viability of development sites under their jurisdiction (Carmona 2016). Depending on the calculations that they make, governing authorities might choose to impose firmer or weaker design prescriptions and might take a tougher or more lenient approach during a negotiation process.

Steve Tiesdell and David Adams (2004, 32) argue that the boundaries between these different opportunity spaces are fuzzy and that “strategic advantage” is achieved by “knowing the limits of other actors’ opportunity space.” Developers invariably look for ways to enhance their profits during the development process and will often seek to incrementally increase the number of units that they are permitted to build on a parcel-by-parcel basis through negotiation with the governing authority or lead developer. This scenario, common in Toronto and other cities, gradually increases the developer’s opportunity space by slowly eroding the power held by the governing authority over the whole master plan. If the developer is successful, the master plan will be subject to changes and adjustments over a long period. When flexibility is exploited, as all too often happens, planning by concession prevails, and the design quality of the emerging place suffers.

In this book, one of our main objectives is to critically trace how the master planning of the new-build residential development at CityPlace spectacularly unravelled as the initial focus on the creation of a mixed community with a large percentage of affordable housing and tried-and-tested mid-rise urban blocks was abandoned as the market-friendly forces of vertical urbanization took hold. Block-by-block negotiations have led to gaps in the City of Toronto’s ability to plan for the public good, allowing private developers to produce ever-taller buildings with limited design oversight. This context provides a foundation for looking more broadly at the socio-spatial and physical design impacts of the CityPlace megaproject and for considering the lessons that might be drawn from one of North America’s largest high-rise residential megaprojects.

RESEARCH APPROACH

Urban megaprojects make for complex and unwieldy research subjects, and the process of transforming Toronto’s Railway Lands into the CityPlace neighbourhood is no exception. The site’s history spans some six decades, beginning with the identification of the site in 1962 as a strategic land parcel in the City of Toronto’s wider plans for its waterfront (City of Toronto 1962a) and ending with the construction of

the Concord Canada House condominium complex on the site's last major undeveloped plot, anticipated to be completed in the mid-2020s. In this book, we trace the history of the Railway Lands from 1962 to 2022, although the principal focus of the research is the period from 1997 onward, when much of the land that CityPlace now occupies was purchased by Concord Adex and the development of the megaproject began.

After providing a comprehensive introduction to the history of urban intensification and condominium development in Toronto writ large, the book describes how CityPlace was initially envisioned and master-planned, what tools of design governance were used to control and influence its development, and what changes and modifications were negotiated between politicians, planners, and developers as the megaproject was built. We reflect on how public and private entities produce new urban places, and we consider not just the individual blocks of development but also how the political and planning rhetoric of the time in Toronto shaped the various phases of CityPlace and its evolution into a new urban neighbourhood.

In conducting the research for this book, we employed the case study method to record, analyze, and evaluate the planning, design, and development of CityPlace. Case studies are uniquely suited for research that seeks to examine a particular phenomenon over an extended period (Swanborn 2010; Yin 2003). Existing case studies in the literature on design governance have helped to reveal the complexity of place-making processes and have demonstrated how decisions about the shape of the built environment are made in different places (e.g., Biddulph 2011; Carmona 2009; Dovey 2005; Freestone, Davison, and Hu 2019; Loukaitous-Sideris and Banerjee 1998). Much of our previous research has also employed the case study method. This work includes John Punter's multiple case study analysis of urban design as public policy in West Coast American cities (1999) and his single case studies of Vancouver (2002, 2003a, 2003b), Sydney (2005), and Cardiff (2007b), as well as James White's case study of design governance on Toronto's urban waterfront (2014, 2016), his case study on urban regeneration practices in Glasgow (2019), a multiple case study of the UK house-building industry (J.T. White et al. 2020), and a case study of design governance in West Dunbartonshire, Scotland (Richardson and J.T. White 2021).

It is typical in case study research to use multiple data sources (Yin 2003), and one of the chief similarities among the case studies mentioned above is the use of interviews alongside the collection of archival material, documents, and direct observations of the built environment. This triangulated approach allows for a range of data to be collected and provides the researcher with "a means of comparison and contrast" (Denscombe 2003, 132). To study CityPlace, we triangulated data from the sources mentioned above.

First, the lead author conducted interviews with built environment professionals to capture personal accounts of planning, designing, and developing CityPlace. In total, nineteen people were interviewed (three of whom were interviewed twice).

The interview participants were selected on the basis of their direct knowledge of and/or involvement in the CityPlace megaproject. They included senior executives working for the developers that built CityPlace, City of Toronto planning officials involved both in the master planning of the wider Railway Lands and in the design review and approvals processes for CityPlace, the lead architects for many of the condominium complexes and for all the public buildings at CityPlace, and senior urban designers and planning consultants employed by Concord Adex and other developers during the master-planning and planning approval processes. The lead author also interviewed a local ward councillor who played an active political role in the planning of CityPlace while in office. All told, the interviewees for the project included four developers, five planners, nine designers, and one politician (see [Table 0.1](#)).

The lead author conducted the interviews over six years on three occasions between 2011 and 2016. An initial five interviews were conducted during February

TABLE 0.1 Interviews conducted for the research project

Code	Description of position	Organization	Year(s) interviewed
<i>Property developers</i>			
Developer 1	Real estate development executive	CN Real Estate	2013
Developer 2	Real estate development executive	Concord Adex	2013
Developer 3	Real estate development executive	Concord Adex	2013, 2016
Developer 4	Real estate development executive	Context Development	2016
<i>Urban planning officials and private consultants</i>			
Planner 1	Senior urban design officer	City of Toronto	2011, 2016
Planner 2	City planning manager	City of Toronto	2011
Planner 3	Senior planning officer	City of Toronto	2011
Planner 4	Senior urban design manager	City of Toronto	2013
Planner 5	Senior planning manager	City of Toronto	2016
<i>Architects and urban designers</i>			
Designer 1	Senior urban design consultant	Private urban design practice	2011
Designer 2	Senior planning consultant	Private planning consultancy	2011
Designer 3	Principal architect	Private architectural practice	2013, 2016
Designer 4	Senior urban design consultant	Private urban design practice	2016
Designer 5	Principal architect	Private architectural practice	2016
Designer 6	Principal architect	Private architectural practice	2016
Designer 7	Principal architect	Private architectural practice	2016
Designer 8	Principal architect	Private architectural practice	2016
Designer 9	Architect	Private architectural practice	2016
<i>Politicians</i>			
Politician 1	Local councillor (former)	City of Toronto Council	2016

and March 2011, a further five in November and December 2013, and the remaining twelve in December 2016. The interviews were subject to research ethics approval,² meaning that all the interview subjects signed a consent form that allowed the data to be used in future research publications. Although many of the interview subjects gave consent to be named, their names are not identified in the book to maintain confidentiality.³ The interviews were conducted using a semi-structured format, and each interview lasted between forty-five and ninety minutes. All the interviews were professionally transcribed.

Second, we gathered archival material and documents, including relevant statutory plans and guidance as well as a record of the official decisions and approvals related to the Railway Lands and CityPlace during the study period. All the key planning policies, zoning bylaws, master-planning frameworks, and urban design guidelines concerning Toronto's Railway Lands from 1962 to 2020 were collected. We sourced these documents from a variety of places between 2011 and 2021, including the City of Toronto's website, the Urban Affairs collection at the Toronto Public Library, and the City of Toronto Archives. In 2017, staff at the City of Toronto kindly assembled a large quantity of documents not otherwise publicly available that deal with recent and historic decisions made by the City of Toronto's Committee of Adjustment, which adjudicates zoning variances. Further archival materials and documents were also helpfully provided by interviewees over the years. In addition, planning officials interviewed at the City of Toronto gave us hard copies of archived planning reports and relevant urban design documents and drawings that could not easily be found online or in the public archives. The architects and designers who were interviewed provided copies of architectural drawings and plans for many of the condominium complexes and public buildings at CityPlace. Concord Adex, the main developer of CityPlace, also provided documentation that might otherwise have been difficult to locate or view.

Third, we conducted direct observations of the emerging CityPlace neighbourhood, which allowed for a staggered appraisal of the built environment and for reflection on the wider planning and design governance processes that shaped it. Both of us visited CityPlace on numerous occasions between 2009 and 2022, most recently in July 2022. During each visit, we made detailed fieldnotes about the design quality of each building and public space and took numerous photographs. In July 2016, we visited CityPlace together and conducted a formal three-day field-study visit, recording our observations through fieldnotes and photographs and discussing the design of each development parcel in turn. These appraisals drew on our expertise in urban design and our knowledge of widely accepted principles of urban design quality found in the literature (e.g., Bentley et al. 1985; Gehl 1987; Punter 1996). The appraisals incorporated a particular focus on the relationship between buildings and the public realm, the form and massing of the built structures, the distribution and density of different land uses, the quality and accessibility of public spaces, and the legibility and permeability of the neighbourhood,

including its relationship to surrounding districts. We did not seek entry into private spaces or into the buildings themselves, nor have we interviewed residents, but the direct observations have nonetheless allowed us to reflect on the broader nature of condominiums and to consider their emphasis on private lives, private management, and access to communal spaces and recreational facilities.

The process of data collection generated a considerable volume of primary-source material that required systematic organization and analysis. The most effective way to record the history of the Railway Lands and to accurately describe the design governance processes that shaped CityPlace was to synthesize the three data sources. We therefore adopted the widely used process of content analysis to separately prepare and organize the data (Berg 2001). This approach allowed key actions, decisions, concepts, and themes to be identified in the written, verbal, and visual data. We then used the coded data to undertake a process of chronological ordering (Yin 2003), which was written up as a timeline of the planning and urban design history of CityPlace. This timeline identified key plans, decisions, and actions in the order that they occurred. The first part of the timeline focused on the plans and proposals for the Railway Lands site, whereas the second part detailed the sequence of decisions and outcomes on each of the sixteen land parcels examined at CityPlace, including parks and open spaces. Relevant quotations from the interview data, extracts from the archival material and documents, reflections from the field-notes, and relevant photographs were then added to the timeline to create a sequential account of the site's history across a sixty-year period. This undertaking ensured that the three sources of data could be cross-referenced, checked for accuracy, and comprehensively analyzed. We used the completed timeline to write the case study chapters presented later in the book. An abridged version is provided in the [Appendix](#).

ORGANIZATION OF THE BOOK

The conceptual framework of this book seeks to combine a focus on the design governance of megaproject development, a critical assessment of how planning decision making is practised in Toronto, and the socio-spatial implications of vertical urbanization and condo-ism.

The chapters of the book are divided into two parts. [Part 1](#) provides a necessary contextualization for the story of CityPlace by setting out the history of planning and urban design in Toronto during the late twentieth and early twenty-first centuries, with a focus on the phenomenon of high-rise condominium development. [Part 2](#) then describes and analyzes the phases of planning and design that occurred at CityPlace between the late 1960s and the early 2020s, reflecting on the urban design and architectural qualities of the various phases of the new neighbourhood. In the Conclusion, we judge the overall design outcomes of the CityPlace megaproject, its socio-spatial effects on Toronto, and the lessons that might be drawn about the wider impacts of vertical urbanization on city form and fabric in

Canada and beyond. The contents of each chapter are described in more detail below.

Part 1: Planning, Urban Design, and Condominiums in Toronto

[Chapter 1](#) offers an overview of the way that planning and design decisions are made in Toronto, conceptualizing the city's planning system as a form of hybrid zoning and focusing on how design governance, particularly the exercise of discretion, has shaped the CityPlace megaproject and the form of vertical urbanization in the city.

[Chapter 2](#), the first of two chapters chronicling the history of the planning and design policies that led to urban intensification and high-rise residential development in Toronto, charts the period from 1970 to 1994. It focuses on an era of reformist politics and design-aware planning that set the foundations for the city's vertical urbanization and directly informed the design language of the CityPlace megaproject.

[Chapter 3](#) continues the narrative in Chapter 2, tracing the emergence of an increasingly flexible and neoliberal approach to planning and design policy and to development between 1998 and the early 2020s that has fuelled the city's twenty-first-century boom in condominium development.

[Chapter 4](#) considers the socio-spatial impacts of condominium development and provides a critical discussion of Toronto's experience of condo-ism, a phenomenon further developed in this chapter as a conceptual framework.

Part 2: Designing and Developing the CityPlace Megaproject

In [Chapter 5](#), our focus shifts to the case of the Railway Lands and the development of the CityPlace megaproject. This chapter traces the planning and design history of the Railway Lands from the early 1960s to 1997 when Concord Adex took ownership of the site.

[Chapter 6](#) catalogues the first phase of development at CityPlace (1997–2007), demonstrating how Concord Adex struggled to faithfully reproduce the Vancouverism precedent.

[Chapter 7](#) details the second phase of development by Concord Adex (2002–13), during which a building type that we call the “condominium megastructure” gained the approval of the City of Toronto's planners, resulting in an increase in the size and intensity of development at CityPlace.

[Chapter 8](#) focuses on the third phase of CityPlace (2012–14) and the longstanding challenges associated with delivering affordable housing on the Railway Lands. It describes how a limited amount of social housing was eventually developed by the Toronto Community Housing Corporation and Context Development, a private development partner. The chapter also details the design and construction of an adjacent public library.

[Chapter 9](#) presents the fourth phase of development by Concord Adex (2008–20), paying particular attention to changes made to the design typology of the high-rise condominium in order to open up the condominium megastructure and thereby create improved pedestrian permeability. It also details the development of a land parcel, located just outside the technical boundary of CityPlace, that contains one of the few historically important buildings in the wider area.

[Chapter 10](#) presents the fifth and final phase of CityPlace (2017–22), cataloguing the development of a community centre, two schools, and a daycare all housed together in a facility called Canoe Landing Campus, as well as the construction of Concord Adex’s final and tallest condominium complex at CityPlace, the twin towers of Concord Canada House, which will reach fifty-nine and sixty-nine storeys.

In the Conclusion, we provide a design assessment of CityPlace by drawing comparisons with other major development projects in Toronto and reflecting on its place in the history of planning and design in Canada’s largest city. We also offer a tentative reflection on the lived experience of the CityPlace megaproject, before considering the wider implications and lessons that might be drawn from the experience of vertical urbanization, planning, and design at CityPlace within the context of Toronto’s twenty-first-century condominium boom.

PART 1
PLANNING,
URBAN DESIGN,
AND CONDOMINIUMS
IN TORONTO



PLANNING AND THE TOOLS OF DESIGN GOVERNANCE

THE STATUTORY PLANNING policies and tools used to govern design outcomes in Toronto have played a fundamental role in the development history of the City-Place megaproject. In all planning systems, there is “a tension between the desire to maximize certainty and the desire to allow maximum flexibility” (Booth 1995, 103), and a country’s approach to land use planning is “deeply rooted” in its cultural and legal norms (Booth 1993). Like so many other instruments of governance in Canada, planning has been influenced by both American and British practices and has evolved as a “unique amalgam adapted to its cultural and constitutional circumstances” (Hodge 1985, 8). This dual influence means that land use zoning, the form of regulatory planning control used in the United States, is deployed alongside discretionary plan-led development control or management procedures that are more akin to those found in the United Kingdom. As a result, various tools of design governance (Carmona 2017) are used to shape development outcomes, including formal tools like land use plans and zoning bylaws and informal tools like the discretionary advice that planners give to developers during the permitting process. Canadian land use planning can thus be described as a hybrid of regulatory and discretionary practices. On the one hand, it provides some degree of certainty through formal zoning bylaws, and on the other hand, it allows for a degree of flexibility over the type and extent of development that might be permissible (Booth 1995; Hodge 1985).

The role of discretion in Canadian planning stems from the British common law tradition of “case law precedent and pragmatism” (Biggar and Siemiatycki 2020, 2). This tradition is different from the rules-based approach used in the United States, where planning decisions are based on administrative law and a constitution. The United States Constitution explicitly details an individual’s right to private property, and land use questions focus on “whether a zoning action involves a ‘taking’ of

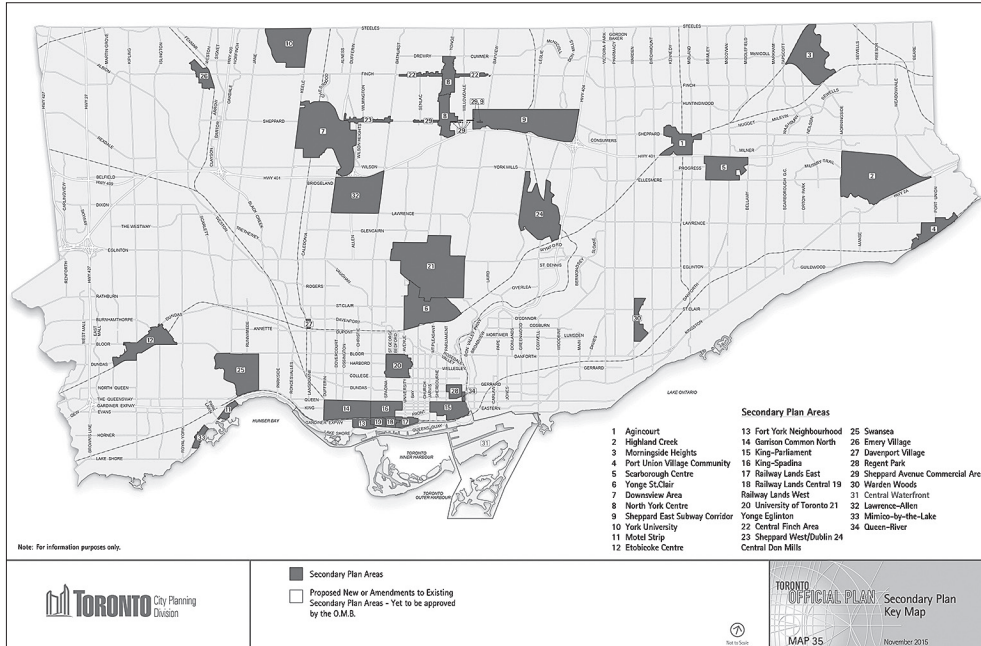
property rights” (Hodge 1985, 18). This approach ensures a clear delineation “between public interests and private property rights” (Biggar and Siemiatycki 2020, 3). In contrast, the primacy of private property is more ambiguous in Canada because property rights do not have absolute constitutional protection. In theory, this affords precedence to public rather than private interests and gives the state more flexibility to determine the future use of land. Municipalities have the statutory power to regulate land use and do so using a formal land use plan in tandem with a zoning bylaw that translates the aspirations of the plan into more prescriptive land use regulations. Further formal tools, such as density bonusing, design guidelines, and design review panels, are used alongside informal tools to varying degrees in order to widen the scope of design advice offered to developers.

There is no national system governing land use planning in Canada because the federal government devolves this responsibility to Canada’s provinces and territories, all of which have their own legislative planning frameworks. As a result, the formal and informal approaches to planning and design governance differ from province to province and from territory to territory. The extent to which regulation or discretion is deployed by a provincial or territorial government is determined by numerous factors, including the amount of power devolved to municipalities. Land use planning in Toronto is governed by the statutes of the Province of Ontario, which is typical among the Canadian provinces for having struck “a middle ground between the discretionary model of the United Kingdom and regulatory frameworks common in the United States” (Biggar and Siemiatycki 2020, 4).

The late Canadian planning scholar Gerald Hodge (1985, 21) argued that Ontario’s planning system was once much closer to the regulatory zoning model used in the United States but began to change in the 1950s when a cadre of “British-trained planners” came to Canada and influenced the evolution of a development permit process akin to discretionary development management in the United Kingdom. Under the purview of a municipal official plan, whose role is discussed in more detail below, development permits have since become “part of the stock-in-trade of planners [in Canada] ... and [provide] additional leverage beyond zoning’s general guidelines to establish conditions for development on a property-by-property basis” (21). In the remainder of this chapter, we introduce the legislation, planning policy, and zoning frameworks that govern planning and design in Ontario, before describing the processes used by the City of Toronto to guide and regulate new developments like CityPlace.

PLANNING LEGISLATION, PROVINCIAL PLANNING POLICY, AND TORONTO’S OFFICIAL PLAN

The Province of Ontario’s 1990 *Planning Act* sets out the formal statutory framework for land use planning in Toronto. Under the auspices of Section 17, all of Ontario’s municipalities are required to prepare an official plan that establishes “the rules and regulations that control development as it occurs” (Government of



- 1.1** The thirty-four secondary plan areas in the City of Toronto's 2021 *Official Plan*. CityPlace is covered by secondary plans 18 Railway Lands Central and 19 Railway Lands West. Since this map was produced for the *Official Plan* in 2015 a further eleven secondary plans have been created. | City of Toronto 2021d, Map 35. Reproduced courtesy of City of Toronto.

Ontario 2020) and that contains not only the land use designations for the municipality but also city-wide policies on issues such as transportation, urban design, employment, heritage, and housing. An official plan also incorporates more detailed, formal planning frameworks called “secondary plans” for areas undergoing change or redevelopment (see [Figure 1.1](#)). At the time of this book’s publication, the City of Toronto’s *Official Plan* contained forty-five secondary plans, including three for the Railway Lands, where CityPlace is located (City of Toronto 2021d). Secondary plans typically incorporate a spatial plan for future development and site-specific urban design guidelines that aid the evaluation of development applications.

Ontario’s planning system is designed to be plan-led (Biggar and Siemiatycki 2020; Sorensen and Hess 2015), and municipalities must produce policies in their official plan that support wider provincial objectives related to matters such as transportation, affordable housing, open space, and so on (Tomalty and Mallach 2016). A key requirement of the Province of Ontario’s *Planning Act*, as stipulated in Section 17, is that municipalities must seek provincial approval for their official plans. This stipulation, as discussed in [Chapter 3](#), can lead to political tensions if provincial and local political leaders disagree on the scope or direction of municipal

planning policy. It also means that Canadian municipalities have “substantially less autonomy” (106) than do nearby cities in the United States because the formal tools that Toronto and other municipalities in Ontario use – like zoning bylaws, subdivision agreements, development charges, and so forth – are subject to review by the Province of Ontario (106).

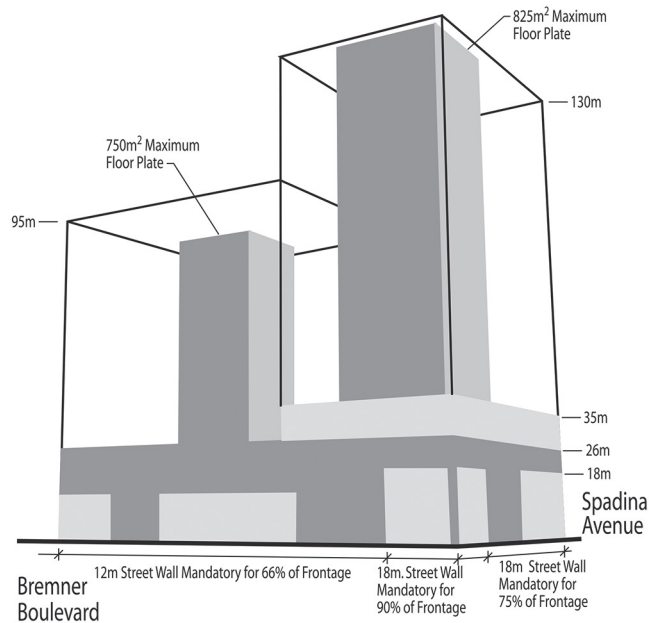
Toronto’s current *Official Plan* was approved in 2006 by the Government of Ontario, although it has since been amended multiple times (City of Toronto 2006e). Its approval followed a complicated process of consolidation that was set in motion when the City of Toronto was amalgamated with six surrounding municipalities and the Metropolitan Toronto regional government in 1998 to become a much larger municipal authority, albeit still called the City of Toronto (Hanna and Walton-Roberts 2004) – the impacts of this reorganization are discussed in [Chapter 3](#). A five-year provincial review of the *Official Plan* was initiated in 2011, a process that has proceeded on a section-by-section basis, with numerous updates receiving approval up until the time of this book’s completion (City of Toronto 2021e). The planning scholars Jeff Biggar and Matti Siemiatycki (2020) argue that in downtown Toronto the *Official Plan* and its various secondary plans are frequently used to “facilitate development instead of guiding it.” The means for achieving this include density bonusing, a formal discretionary process that has played a fundamental role in shaping the form and design of CityPlace.

In addition to the *Planning Act*, other provincial legislation must be considered by Ontario municipalities when determining the use and characteristics of future development. This legislation includes the 2005 *Places to Grow Act*, which established a greenbelt around the Greater Toronto Area and has played a significant role in channelling growth to urban areas and in shaping land use intensification in Toronto and other Ontario municipalities; the 1998 *Condominium Act*, which provides the legal infrastructure to subdivide land vertically and thereby create the type of dense, high-rise condominiums that have become common place; and in Toronto specifically, the 2006 *City of Toronto Act*, which has played a significant role in shaping the municipality’s land use powers and was intended to facilitate the creation of “‘made-for-Toronto’ policies consummate with its size, responsibilities, diversity and economic and cultural significance” (City of Toronto 2021a). The impacts of this particular legislation on local land use planning have been quite significant and, as discussed in more detail later in the chapter, have allowed the City of Toronto to establish a local planning appeal tribunal and to deploy greater discretion over matters of urban design during formal rezoning and planning approval processes.

TORONTO’S CITY-WIDE ZONING BYLAW AND SITE-SPECIFIC ZONING

All municipalities in Ontario are required to have a zoning bylaw. Section 34 of the Province of Ontario’s 1990 *Planning Act* states that a municipality’s zoning bylaw

1.2 A three-dimensional illustration of the 1997 zoning bylaw amendments for CityPlace. The amendments helped to establish the principle of the “Vancouverism” tower-podium model in Toronto. | City of Toronto 1999a, 9. Reproduced courtesy of City of Toronto.



should be used to implement, through regulation, the objectives and policies established in its official plan. In practice, this stipulation means that the official plan establishes planning policies and objectives that are then translated into more technical legal language in the zoning bylaw, effectively creating an invisible volumetric skeleton of the anticipated urban form. Toronto’s current *Citywide Zoning By-law 569-2013* came into force in April 2013. It had been approved in 2010 but was subject to a legal challenge that delayed its implementation.¹ The creation of the *Citywide Zoning By-law* was the result of a complex consolidation process that occurred alongside the writing of Toronto’s *Official Plan* in the years following the city’s 1998 amalgamation into a megacity municipality (Boudreau 1999).

Toronto’s *Citywide Zoning By-law* details the permitted use for each parcel of land in the city and establishes any volumetric restrictions, such as the permitted setback from the street, the allowable height of any structures, and the density of development. The *Citywide Zoning By-law* also sets out requirements for open space, parking, and the like to achieve the policy objectives of the *Official Plan*. Certain land parcels in the city, including the Railway Lands, have been designated as “Special Policy Areas” and are not currently part of the *Citywide Zoning By-law*. The Railway Lands are instead covered by a series of earlier site-specific zoning bylaws that were produced by the pre-amalgamated City of Toronto in the 1990s. Much like the consolidated *Citywide Zoning By-law*, the bylaws for the Railway Lands translate the planning and design policies and objectives contained in the secondary plans for the area into detailed zoning regulations (see [Figure 1.2](#)).

AMENDMENTS TO ZONING BYLAWS AND TORONTO'S OFFICIAL PLAN

Toronto's zoning bylaws permit developers to build "as of right" if their proposal conforms with the zoning restrictions established for the land parcel they are seeking to develop. For smaller-scale projects, like a house extension, this is what typically occurs. However, on larger projects, including many of the condominium towers built in Toronto in recent decades, developers will regularly seek permission to develop a site at a height or density that exceeds the limits established in the *Citywide Zoning By-law*. In many parts of the city, despite the consolidation of this regulatory behemoth in recent decades, the zoning bylaws pre-date "provincial growth policy calling for urban densities" (Biggar and Siemiatycki 2020, 5), making them incompatible with the policies and objectives of both Toronto's *Official Plan* and provincial policies on growth containment and intensification. As a result, developers have long sought amendments from the City of Toronto to the *Official Plan* and to the zoning bylaws.

A formal "official plan amendment" is required if a proposed development fails to comply with any of the policies and objectives contained in the *Official Plan*, including major land use change, and a zoning bylaw amendment is needed if a proposed development does not conform with the site-specific regulations established in the bylaws, such as the permitted height or size of a building. The City of Toronto recommends that applicants engage in an informal "pre-application consultation" with planning officials to identify what amendments they might need to seek (City of Toronto 2006e). When significant changes are proposed, both an official plan amendment and a zoning bylaw amendment are often required. Smaller but nevertheless substantive changes typically require only an application for a zoning bylaw amendment.

There are two types of zoning bylaw amendment: one for comprehensive rezoning and one for minor variances. A minor variance amendment is appropriate when a small change is proposed, such as an adjustment to a building's setback or a change in the number of parking spaces. Decisions on minor variances are made by a formal panel of local citizens called the Committee of Adjustment and are unlikely to require an official plan amendment (City of Toronto 2006e). A comprehensive rezoning amendment is needed when the developer seeks to significantly alter the height or density of a site. Such applications are subject to a lengthier decision-making process that includes a formal opportunity for public consultation and requires a decision by Toronto City Council. If successful, the rezoning results in an amendment to the zoning bylaws for the site and, where appropriate, an amendment to the *Official Plan*.

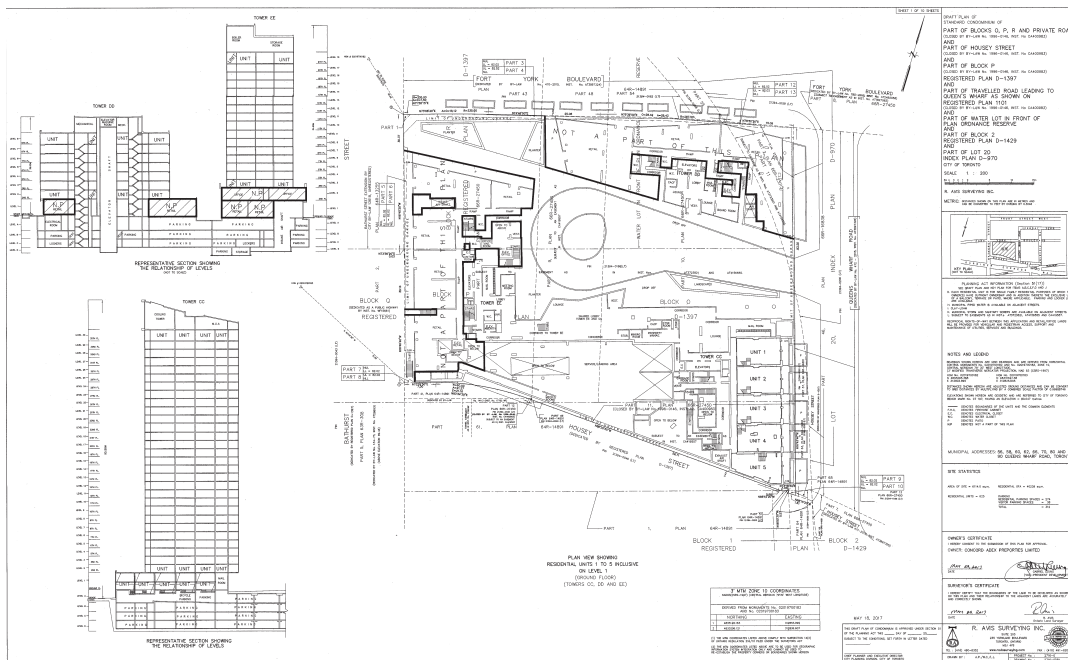
When an official plan and/or a zoning bylaw amendment is needed, the proposed development receives more discretionary assessment by Toronto's planners than might otherwise occur. This is because the amendment process gives the City of Toronto greater freedom to qualitatively assess the proposed form and impacts of a scheme. As noted earlier, these powers are similar to the British approach to

discretionary development management and have grown in scope since the introduction of the 2006 *City of Toronto Act*. Official plan and zoning bylaw amendments have become the principal means that developers and the City of Toronto use to bargain with each other over the height, density, and public benefits associated with a proposal. Biggar and Siemiatycki (2020, 5) argue that this discretionary process of negotiation, albeit formal, is “largely responsible for creating an environment for speculation whereby actors in the process (namely developers) wager on what they believe will be the future highest and best use of the land they wish to purchase, promoting the idea of Toronto as a deal-making city on planning and development matters.” It is this *modus operandi* that we have termed “planning by concession.” Later in this chapter, we describe in more detail how these formal negotiations are governed by Section 37 of the Province of Ontario’s *Planning Act*.

THE DRAFT PLAN OF SUBDIVISION AND THE DRAFT PLAN OF CONDOMINIUM

For large development projects like CityPlace, a parcel of land may need to be divided into smaller plots. If this is the case, the developer is required under Section 51 of the Province of Ontario’s *Planning Act* to make a “draft plan of subdivision” application (City of Toronto 2010b, 2011a). This legal document and plan ensures that any land to be developed meets the necessary standards for rights-of-way, sewers, public spaces, schooling, and other infrastructure requirements. Typically, this process occurs on rural greenfield sites where farmland is subdivided into streets and lots for suburban housing development. However, there are instances where a formal draft plan of subdivision is required on urban brownfield sites that are undergoing redevelopment or are simply too large to be developed as a single entity. Developers typically submit a draft plan of subdivision application before they seek permission to develop a site.

Another legal mechanism that has played a fundamental role in shaping the form and ownership of CityPlace is the “draft plan of condominium.” Any residential building with multiple owners is classified as a “condominium” in the Province of Ontario’s 1967 *Condominium Act*, and developers must submit a draft plan of condominium for municipal approval when a new condominium is proposed (City of Toronto 2019a). The *Condominium Act* states that a draft plan of condominium should be processed in the same way as a draft plan of subdivision under the provisions set out in Section 51 of the *Planning Act*, albeit with some modifications. As mentioned earlier in the chapter, a plan of condominium subdivides a land parcel vertically to provide for shared title of the entire structure and individual title of a unit within that structure (e.g., see [Figure 1.3](#)). A draft plan of condominium must therefore state whether the buildings proposed as a condominium are to be in leasehold or freehold (City of Toronto 2019a). This distinction determines the type of condominium corporation that is established for the building when it is occupied and responsibilities are transferred from the developer to the owners.



SITE PLAN CONTROL

Following the approval of any applications for official plan amendments, zoning bylaw amendments, and plans of subdivision/condominium, developers seek approval to develop a site via a process called “site plan control,” although these processes do sometimes occur in parallel. Not all developments in Toronto are required to go through site plan control. Smaller projects tend to be exempt if the proposals satisfy the policies contained in the City of Toronto’s *Official Plan* and do not contradict the zoning regulations for the site (i.e., development deemed “as of right”). The City of Toronto advises developers to engage in an informal “preliminary project review” to determine whether a proposal is subject to site plan control. For the various condominium complexes and other developments at CityPlace, applications for site plan control were required by default due to their size, scale, and proximity to downtown Toronto. As noted above, developers often submit their application for site plan control as a “combined application” with any official plan and zoning bylaw amendments that they might also be seeking (City of Toronto 2019d).

Section 41 of the Province of Ontario’s *Planning Act* gives the City of Toronto the power to implement its discretionary site plan control process and to conduct a planning and urban design review of development applications – the process most like development management in the United Kingdom. An important focus of Toronto’s site plan control is “the design and technical aspects of a proposed development,” which are professionally assessed by the City of Toronto’s planning and urban design team to “ensure [the proposed development] is attractive and compatible with the surrounding area [and] contributes to the economic, social and environmental vitality of the city.” After seeking advice from relevant con-

◀ **1.3** A “plan of condominium” drawing for Block 33 at CityPlace. | City of Toronto 2017b. Reproduced courtesy of Concord Adex.

1.4 An active street illustration from the City of Toronto’s 2013 *Tall Building Design Guidelines*. | City of Toronto 2013, 45. Reproduced courtesy of City of Toronto.



sultees, including experts in urban design, transportation, and parks and open space, planning officials make a judgment based on the application’s adherence to the City of Toronto’s *Official Plan*, zoning bylaws, and other relevant guidelines (City of Toronto 2011a).

While an application for site plan control is live, the City of Toronto’s planners might request revisions in light of consultations with experts or based on other assessments that have been carried out on the proposal. An application for a condominium tower, for example, might result in a critical urban design report noting an application’s failure to achieve certain objectives in the City of Toronto’s *Tall Building Design Guidelines*, like creating an “active frontage” or successfully addressing a street corner (City of Toronto 2013) (see [Figure 1.4](#)). In some instances, planning officials may also decide that a community meeting is necessary so that local residents can provide their feedback on the application, although this is not a legal requirement.

A final decision on whether to approve or reject an application for site plan control is made by the chief planner under delegated authority from Toronto City Council, unless the local ward councillor has requested that the application be, in local parlance, “bumped up” for a decision by council (City of Toronto 2011a). Bumping-up typically occurs when a large or controversial application is before the planners and the local councillor wants to ensure that it gets some additional scrutiny. More often than not, the local ward councillor will convene a meeting with the community for these sorts of applications so that local people have an opportunity to comment or raise concerns. This meeting is typically chaired by the councillor and attended by planning officials. When the application later goes before Toronto City Council for a decision, it is accompanied by a summary report from the community consultation alongside a report containing the discretionary judgment of planning officials (City of Toronto 2011a).

Applications for site plan control are submitted with a portfolio of architectural plans and supporting studies that, depending on the scope of the application, cover

issues such as heritage, contaminated land, noise, vibration, and other issues impacting the public realm and local infrastructure (City of Toronto 2019d). For buildings that are five storeys or higher, the City of Toronto also requires developers to provide colour drawings of the building elevations at a scale of 1:50. These drawings allow planning and urban design officials to conduct detailed discretionary assessments of the design language and materiality of development proposals. Until 2010, this process was restricted to buildings in the downtown, and providing the drawings was either voluntary or was required only when a density bonusing agreement was being negotiated, as discussed later in the chapter. However, in 2007, the Province of Ontario transferred a series of key planning powers related to site plan control from the *Planning Act* to the aforementioned *City of Toronto Act*. Among other things, this transfer gave the City of Toronto the authority to scrutinize exterior elevations and urban form on the basis of discretionary concerns, including character, scale, and appearance. Following the settlement of a provincial planning appeal in 2010, the requirement for colour drawings at a scale of 1:50 was formally incorporated into Toronto's *Official Plan* (City of Toronto 2010e), and these drawings are now stipulated for all applications for site plan control. The adoption of this requirement marked a significant change to the City of Toronto's planning procedures and significantly increased its discretionary power over urban design outcomes.

PLANNING AND URBAN DESIGN GUIDANCE

Planning and urban design guidance can have a significant bearing on the quality of urban design outcomes. Defined as a “formal” tool of design governance by Matthew Carmona (2017, 7) because it tends to have a basis in legislation, urban design guidance is a catch-all term for the “range of tools that set out operational design parameters to direct the design of development.” Urban design guidance can function at various spatial scales and can contain varying levels of detail. Types of design guidance include city-wide design guidelines, type-specific guidance (e.g., for tall buildings or open spaces), site-specific guidance or frameworks, and master plans. The type of guidance that Carmona describes does not establish the sort of fixed parameters found in a regulatory zoning bylaw. Instead, it tends to provide recommendations and advice that can be used on a discretionary basis to either shape or evaluate future urban design outcomes. The interpretive nature of design guidance means that the extent of its influence is contingent on the relative power that developers, designers, and planners assume and on the opportunity space that they create (Bentley 1999; Tiesdell and Adams 2011). As demonstrated in later chapters, the role that city-wide, type-specific, and site-specific design guidance played in determining the form of the CityPlace megaproject was indeed highly dependent on the power dynamics between the various public- and private-sector actors involved.

The City of Toronto's design guidelines describe and illustrate how new development should respond to the aims and objectives contained in the city's *Official*

TABLE 1.1 Categories of City of Toronto design guidelines

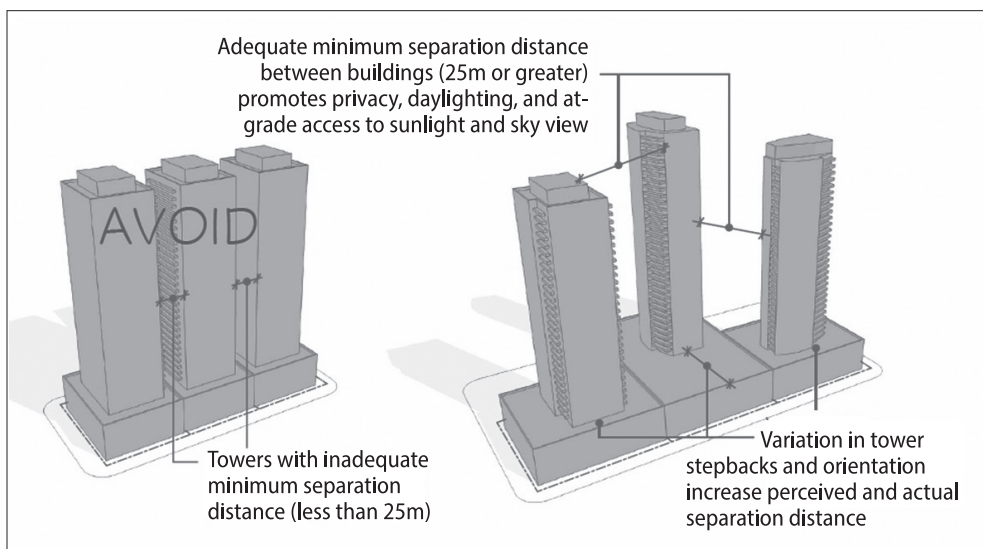
Building Type	Area-Specific	Streetscape & Public Space
Tall Buildings	Etobicoke-York	Complete Streets
Mid-Rise Building	North York	Streetscape Manual
Townhouse & Low-Rise	Scarborough	Bicycle Parking Facilities
Apartment Guidelines	Toronto & East York	Privately-Owned Publicly Accessible
Drive-Through Facilities		Spaces (POPS)
Retail Design Manual		Transit Design Guide
Environmental	Public Art	Healthy Communities
'Greening' Surface Park Lots	Percent for Public Art	Toronto Accessibility Design Guidelines
Drought Tolerant Landscaping	Scarborough Centre	Growing Up: Planning for Children in
Bird-Friendly Guidelines	Public Art Master	New Vertical Communities
Best Practices for Effective	Plan	Pet-Friendly Design Guidelines for
Lighting		High Density Communities
		Mall Redevelopment Guide

Source: City of Toronto online catalogue of design guidelines (City of Toronto 2022).

Plan. They provide development applicants with advice on how to meet the city's policies and regulations and give planning and urban design officials a framework for evaluating development applications during the process of site plan control. As in many other cities that use discretionary measures to determine the character, fit, and appropriateness of new development, the City of Toronto's design guidelines cover a range of topics and spatial scales (see [Table 1.1](#)). As well as generic topic-based guidelines, the city's numerous site-specific guidelines cover issues of urban design and the public realm for over 100 area types, ranging from a few blocks to larger redevelopment sites, including CityPlace (City of Toronto 2019d).

Several design guidance documents have been produced in direct response to Toronto's condominium boom, including *Tall Building Design Guidelines* (City of Toronto 2013), already briefly mentioned, and *Growing Up: Planning for Children in New Vertical Communities* (City of Toronto 2020c), approved in 2017. This latter document, discussed in more detail in [Chapter 4](#), considers the needs of children at the scale of the unit (or home), the building (or condominium), and the wider neighbourhood (or parks and the public realm). Because the *Tall Building Design Guidelines* are especially relevant in the context of Toronto's vertical urbanization, we dwell a bit more on their development and implementation here.

In late 2003, planning officials commissioned a report on the design of tall buildings. Titled *Design Criteria for the Review of Tall Building Proposals*, it was authored by HOK Canada and Urbana Architects Corporation and focused on how to assess the siting, organization, and massing of tall buildings, as well as the relationship between tall buildings and the public realm (City of Toronto 2006g). The report was adopted in 2006 alongside the new *Official Plan*, which was granted final



1.5 Volumetric illustrations from the City of Toronto's 2013 *Tall Building Design Guidelines*. They demonstrate how tall buildings should be positioned. | City of Toronto 2013, 54. Reproduced courtesy of City of Toronto.

approval in the same year. The 2006 proposals were followed in 2012 by a further set of supplementary guidelines that focused specifically on tall buildings in the downtown core (City of Toronto 2012a). These guidelines, based on planning consultancy work conducted by Urban Strategies Inc. and Hariri Pontarini Architects, included both generic guidelines and site-specific recommendations for siting tall buildings downtown (City of Toronto 2012a). In 2013, the consolidated, city-wide *Tall Building Design Guidelines*, based on the two preceding reports, were adopted by Toronto City Council (City of Toronto 2013).

These guidelines serve as a strengthened means of development control by providing a mechanism for assessing the urban design impacts of the ever-increasing height and bulk of tall buildings in the city. The first half of the guidelines sets out principles related to design excellence, sustainable design, and heritage conservation, and recommends the production of contextual analyses and master plans for larger sites, focusing on site organization and the enhancement of the public realm. The second half of the guidelines considers the design of the base, shaft, and top of a tall building. By international planning standards, the City of Toronto has produced an excellent set of guidelines that establishes its desire to approve thin point towers that engage actively with the street, enhance the public realm, and cause minimal disruption to surrounding neighbourhoods (see [Figure 1.5](#)). The guidelines also offer specific advice on mixed-use and residential buildings to enhance their liveability.

The City of Toronto's support for tall buildings in its detailed guidelines has nevertheless faced some criticism. The urban geographers Julie-Anne Boudreau, Roger Keil, and Douglas Young (2009) have been critical of the city's decision to

emphasize the design attributes of a building and the extent to which it might fit with the built environment, rather than to focus on the socio-economic impacts of high-rise residential buildings on a neighbourhood. Noting the aforementioned trend toward tall, slim point towers, they add that Toronto's planners appear to be most interested in ensuring that a tall building functions well at street level but are less concerned about the possible impact of a building's overall height. This emphasis, they contend, seems to be based on the assumption that "whether a building is 25-storeys or 50-storeys tall is not of great consequence to passersby" (107).

DEVELOPMENT LEVIES AND CHARGES

The Province of Ontario's 1997 *Development Charges Act* stipulates that municipalities must collect an "impact fee" to help offset the cost of upgrading local infrastructure for new development (Tomalty and Mallach 2016, 209). In Toronto, all development is therefore subject to a development charge that provides the "majority of the revenues raised from development" (Biggar and Siemiatycki 2020, 5), and during the recent boom in residential construction, development charges increased Toronto's planning autonomy by providing a steady stream of "own-source revenues" (Tomalty and Mallach 2016, 109). For a large residential building, such as a condominium, the development charge is applied on a per-unit basis and increases with the number of bedrooms. The funds raised are used for a wide range of core urban infrastructure, including public transit, sewers, water, emergency services, parks and open space, social housing, child care and pedestrian infrastructure (City of Toronto 2020b). The proportion of the development charge applied to different core infrastructure is shown in [Table 1.2](#).

At CityPlace, development charges have been applied only to units approved as part of a rezoning application, namely those that exceed the original limits established in the zoning bylaws for the Railway Lands. That is because the Railway Lands were subject to a levy regime that pre-dated the introduction of a streamlined development charge. As a planner at the City of Toronto explained, this arrangement avoids double charging the developer for units that remain subject to the old levy regime (interview with Planner 6, 2016).

DENSITY BONUSING VIA SECTION 37 OF THE PROVINCE OF ONTARIO'S PLANNING ACT

In Toronto, the income generated from a levy or from a development charge is supplemented by a process known as "density bonusing," which is initiated when a developer wishes to rezone a parcel of land – typically to exceed the height and/or density limits of the "as of right" provisions in the zoning bylaws (Biggar and Siemiatycki 2020). Since the early 1980s, density bonusing has allowed municipalities in Ontario to seek contributions for community benefits from developers as a quid pro quo for any increases to the height or density of development (Moore 2013). This provision is set out in Section 37 of the *Planning Act*, which outlines the mech-

TABLE 1.2 City of Toronto residential development charges

Service	Residential charge by unit type (\$)						% of charge
	Singles and semis	Multiples		Apartments		Dwelling room	
		2+ bed	1 bed and bachelor	2+ bed	1 bed and bachelor		
Spadina subway extension	2,942	2,431	1,220	1,722	1,124	797	3.13
Transit (balance)	32,805	27,115	13,603	19,202	12,535	8,890	34.91
Parks and recreation	12,083	9,987	5,010	7,073	4,617	3,275	12.86
Library	2,121	1,753	880	1,242	811	575	2.26
Subsidized housing	6,368	5,263	2,640	3,727	2,433	1,726	6.78
Shelter	1,027	882	442	624	408	289	1.13
Police	1,257	1,039	521	736	480	341	1.34
Fire	520	430	216	305	199	141	0.55
Paramedic services	584	483	242	342	223	158	0.62
Development-related studies	594	491	246	348	227	161	0.63
Civic improvements	284	235	118	166	109	242	0.30
Child care	892	738	370	522	341	242	0.95
Health	10	8	4	6	4	3	0.01
Pedestrian infrastructure	58	48	24	34	22	16	0.06
Subtotal general service	61,585	50,903	25,536	36,049	23,533	16,691	65.5
Roads and related	15,014	12,410	6,226	8,789	5,737	4,069	15.98
Water	5,601	4,630	2,322	3,279	2,140	1,518	5.96
Sanitary sewer	9,095	7,518	3,771	5,324	3,475	2,465	9.68
Storm water management	2,683	2,218	1,113	1,571	1,025	727	2.86
Subtotal engineered service	32,393	26,776	13,432	18,963	12,377	8,779	34.5
Total charge per unit	93,978	77,679	38,968	55,012	35,910	\$25,470	100.0

Source: Reproduced courtesy of the City of Toronto by the authors using the City of Toronto's online tabulation of development charge rate per dwelling unit or dwelling room (correct at time of publication) (City of Toronto 2020b).

anics of density bonusing as a form of “land value capture” and allows municipalities to relax “existing zoning in exchange for a percentage of the developer’s increased profits which goes toward funding social benefits” (Hyde 2022, 188).

Section 37 states that social benefits must be located in the immediate local area and have a clear relationship to the proposed development. However, the remit of Section 37 funding is quite wide and can include funds for (or repairs to) historic buildings, public art, child care facilities, park improvements, affordable housing, leisure and recreation centres, spaces for nonprofit organizations, and the street-scape and public realm. Any developer applying for rezoning can make a Section 37 contribution in kind either by constructing a public facility or public infrastructure as part of the development or by giving cash in lieu to the City of Toronto for benefits that might require further pooled funding (City of Toronto 2014d). Unlike

development charges, Section 37 agreements in Toronto are not based on a set figure or percentage and are negotiated on a case-by-case basis (City of Toronto 2016e).

Planning scholar Abigail Friendly (2017) notes that Section 37 was not originally intended to be driven by negotiation. It could well have been based on a formula if an influential municipal lawyer had not made a powerful case for negotiation by arguing that a formula-based approach might be more easily challenged in court. In theory, Section 37 negotiations are coordinated by planning officials. However, in practice, the negotiations are invariably led by the local councillor in whose ward the proposed development is planned (Biggar and Siemiatycki 2020). This approach can result in ad hoc decision making about what community benefits should be prioritized, where they should be located, and what height or density is appropriate for the benefits accrued (Friendly 2017). Furthermore, there is often little opportunity for community consultation or engagement during the negotiation process.

Nonetheless, Section 37 is arguably the most powerful discretionary design-governance tool that the City of Toronto's planners have at their disposal, and the negotiations that take place between developers and Toronto's planners and ward councillors have a significant bearing on the form and scale of condominium development both at CityPlace and across the wider city (Lehrer and Pantalone 2018). Section 37 gives Toronto's planners the discretionary power to "mediate between public goals and private interests" and ensures that "private development pays its way, offsets the harm it brings to existing infrastructure and provides benefit to affected communities" (Biggar and Siemiatycki 2020, 1). Yet, in reality, the negotiations that take place are often part of an intensive effort among planners, local politicians, developers, and designers to maximize their opportunity space and to achieve different, if sometimes closely aligned, goals (Bentley 1999; Tiesdell and Adams 2011).

Bonusing practices in Toronto became increasingly routine after density and height limits were removed in 2006 from a new *Official Plan* that emerged after the old City of Toronto was amalgamated with surrounding municipalities in 1998 (a crucial moment in Toronto's planning history that we return to in [Chapter 3](#)). Developers now increasingly use the limits in the zoning bylaws as a starting point for negotiation with planners and politicians rather than viewing them as an anticipated maximum. Local councillors – who are invariably keen to see investments in the public realm within their ward that will meet their constituents' desires – petition city planners on behalf of developers, allowing height and density to "effectively be bought" (Rosen and Walks 2015, 304). There also remains a culture of developers threatening to appeal decisions to the powerful, developer-friendly Ontario Land Tribunal if their proposals are not approved (Chipman 2002; Moore 2013).² In this political environment, tall condominium developments are often seen as a prized commodity that ward councillors seek out for the attendant public benefits that they bring (Rosen and Walks 2015). At the same time, developers can give the impression that they are "giving back" amenities or facilities, characterizing

themselves as “saviours and caring capitalists” through their investment in public goods (Hyde 2022, 195).

In reality, density bonusing is often narrowly defined in economic terms and results in backroom deals where decisions are not always driven by the public interest but by the individual interests of the developers, planners, and local councillors in the room (Lehrer and Pantalone 2018, 86). Planning by discretion in this context can lead to variable outcomes and has resulted in “vastly different community benefits in certain parts of the city” (Biggar and Siemiatycki 2020, 2). Such benefits can hide the wider negative impacts of a housing-supply process that relies almost exclusively on private condominium development (Hyde 2022). Urban geographer Ute Lehrer and planner Peter Pantalone (2018, 86) contend that “since the public is usually not included in these negotiations, there is a clear disjuncture between what politicians versus community define as beneficial to a particular neighbourhood.”

THE TORONTO DESIGN REVIEW PANEL

Given the additional discretionary planning powers awarded to the City of Toronto by the passing of the *City of Toronto Act* and, in particular, the important stipulation that exterior elevations could be more readily scrutinized, planning officials were encouraged to set up a formal design review panel. A design review panel provides discretionary expert advice on the design qualities of a proposed development during the planning process (Punter 2011; Scheer 1994) and is typically composed of a group of independent design professionals who are “nationally or regionally respected and highly experienced” (Punter 2011, 190). If the advice of a design review panel is given sufficient weight, it increases the opportunity space for design-sensitive decision making and can lead to better planning and development outcomes. The role that the widely renowned design review panel in the Canadian city of Vancouver played in shaping a design-sensitive approach to decisions on planning is a case in point. A design review panel offers peer-to-peer advice to the architects, urban designers, and other design professionals working for developers and, because it is deployed early in the planning process, plays a powerful role in delivering design quality (Punter 2003a).

The first design review panel in Toronto was established in 2005 by the Toronto Waterfront Revitalization Corporation (now Waterfront Toronto). It is tasked with “upholding the Corporation’s commitment to design excellence by providing professional and objective advice on all waterfront projects under its purview” (J.T. White 2016, 27). And, in an example of “urban policy mobility,” which entails policy makers from one city drawing lessons from another and seeking to imitate a successful policy mechanism or governance tool (McCann 2011), Waterfront Toronto sought advice on how to set up and operate a design review panel from members of Vancouver’s panel (J.T. White 2016). This advice has ensured that the Waterfront Toronto panel is composed of professionally accredited design experts, including architects, landscape architects, and urban designers, who work as a

group and see each project as early as possible during the planning process. Like the Vancouver panel, Waterfront Toronto panellists vote on whether a project should be approved or called back for a subsequent review. Although the Vancouver practitioners who advised Waterfront Toronto strongly recommended that the panel members vote on the quality of proposals at each meeting, this approach was initially resisted by Waterfront Toronto's board, whose members worried about highlighting the views of individual panellists. However, after the panel conducted a challenging and politically charged review of a new media building in the city's East Bayfront neighbourhood, the board members quickly changed their minds, having realized that voting would ensure that the panel's advice was clearly understood (J.T. White 2016).

The City of Toronto followed Waterfront Toronto and set up its own pilot panel for the downtown core in 2007. It became permanent in 2009 after gaining approval from Toronto City Council (City of Toronto 2009a). A group of respected design professionals sit on the City of Toronto panel, and it meets on a monthly basis. Although the panel does not vote explicitly on individual projects, it does vote to approve the minutes. This procedure ensures that the panel members concur with the advice provided to the applicant. Projects come before the panel on two occasions. First, an initial "schematic review" is held to ensure that "significant changes" can be made in advance of detailed design work. Second, a "final review" is convened so that panellists can "contribute to the process of detailed design finessing" (City of Toronto 2021c). The views of the design review panel are advisory and, with respect to development applications, feed into the decision-making process as an additional layer of consultation. John Punter has found that in Vancouver this type of two-stage process works as "an important antidote to the views of professional planners." Quoting a local Vancouver architect, he notes that it "'breaks their monopoly' in detailed design negotiations" (Punter 2003a, 132).

The Toronto panel provides advice to planning officials on all major public developments, including schools and community centres, as well as private developments going through site plan control or rezoning in key growth areas, including the downtown core and significant arterial streets (City of Toronto 2016b). Although CityPlace now sits within the boundary of the panel's remit, the majority of the planning approvals for the site had been processed before the panel began to assess applications for site plan control or rezoning in the area. However, the panel did provide advice on Canoe Landing Campus, which houses two schools and a community centre. It was among the last developments completed at CityPlace. We discuss the influence of the panel's advice on this project in [Chapter 10](#). In addition to the City of Toronto and Waterfront Toronto panels, design review panels are also run by other public bodies in Toronto, including the University of Toronto for development applications on its campuses and the Toronto Community Housing Corporation for its affordable housing schemes.

APPEALING A PLANNING DECISION

With the exception of British Columbia, all of Canada's provinces and territories have a planning appeals process to ensure that municipalities implement their planning policy through the various tools and mechanisms at their disposal (Hodge, Gordon, and Shaw 2020; Tomalty and Mallach 2016). In Ontario, appeals related to official plan amendments, zoning bylaw amendments, and applications for site plan control are heard by a quasi-judicial body called the Ontario Land Tribunal (OLT). The OLT, in its original guise as the Ontario Municipal Board (OMB), has long been infamous for its court-like *modus operandi*, "with adversarial hearings, the formal determination of parties, the application of rules of procedure, and rules of evidence, the examination and cross-examination of witnesses and the issuance of legally enforceable orders" (Chipman 2002, 20). It also often ends up as the final arbiter on urban form and land use decisions in many Ontario municipalities, including Toronto (Kumar-Agrawal 2005), but it has been widely criticized for being pro-developer and pro-growth. Due to its court-like setup, it has often proved too costly for regular citizens to engage with it effectively, either as third parties or as witnesses (Moore 2013).

The OLT receives limited policy direction from the Province of Ontario because the *Planning Act* is primarily a procedural statute and does not dictate the content of municipal official plan policy. Historically, the guiding policies of the OMB tended to be developed ad hoc and were often drawn from a combination of relevant policy statements, past experiences, and precedent cases, which have not always reflected local conditions or ambitions (Chipman 2002). The threat of appeal by developers thus looms large over municipal planning processes in Ontario and has impacted how municipal planning officials in Toronto, and elsewhere, utilize their discretion in making decisions. For example, planners might grant approval for taller and denser buildings than might otherwise have been sanctioned by the zoning bylaw in an effort to avoid an appeal by the developer.

Since May 2017, the City of Toronto has used its devolved powers under Section 115 of the *City of Toronto Act* to operate a new Local Planning Appeal Tribunal called the Toronto Local Appeal Body. This locally based appeals body, the first of its kind in Ontario, was meant to address some of the failures of the OMB. It considers appeals to Committee of Adjustment decisions on minor variances, as well as plan amendments and rezonings, meaning that these appeals are no longer heard by the provincial-level OLT (City of Toronto 2019f; Ontario Land Tribunal 2021). When it was formed, the Toronto Local Appeal Body was seen as a precursor to a much wider overhaul of the appeals process in Ontario. At the time, the aim of the provincial government was to reduce the perceived pro-developer bias of the appeals process by compelling the adjudicators of appeals to "simply test if a municipal council's decision conformed to local and provincial planning policies" (Willing 2019).

Due to a change of administration at the provincial level in 2018 from the Liberal Party to the Progressive Conservatives, these anticipated changes have been cancelled, and the old OMB rules, which gave adjudicators greater freedom and flexibility, have been reinstated (Willing 2019) – a reversal that resulted in the June 2021 formation of the OLT (Ontario Land Tribunal 2021). Such a volte-face at the provincial level illustrates the significant power that the provincial government can exercise over local planning in Toronto and other Ontario municipalities. Appeals have played a role in the planning, design, and development of CityPlace, although to a lesser extent than might have otherwise been anticipated on such a large and complex site. We consider why this is the case in later chapters of the book.

CONCLUSION

Provincial oversight looms large in Ontario's land use planning system. Provincial ministers set the policy goals and objectives that municipalities like Toronto are expected to enact through their official plans and zoning bylaws, which provincial ministers in turn directly review. They also indirectly review the implementation of these planning documents via Ontario's planning appeal process. This top-down framework resembles the centralized approach to national planning and oversight in the devolved nations of the United Kingdom and stands in contrast to the autonomy enjoyed by municipalities in the United States (Tomalty and Mallach 2016). The refrain in Canada commonly used to describe this relationship is that municipalities are "creatures of the province." Municipalities do nevertheless have access to a wide range of regulatory and discretionary tools for shaping local development outcomes, including their official plan, secondary plans, local zoning bylaws, and city-wide and site-level design guidance.

In Toronto, the 2006 *City of Toronto Act* helped to increase the range of formal tools of design governance that planning officials can use to influence urban design, including the review of elevation drawings at a scale of 1:50 and the creation of a design review panel. Although the use of these tools has certainly widened the City of Toronto's opportunity space (Tiesdell and Adams 2004) regarding design matters, the exercise of discretion has not been without its challenges. This situation is vividly demonstrated by the process of density bonusing, which has emerged as the principal means of negotiating "trade-offs between intensifying the built form and approving more height and density" (Biggar and Siemiatycki 2020, 13) in order to generate public investment in infrastructure.

In this chapter, our principal aim has been to offer an overview of the core components of planning and design governance in Toronto, describing a system of land use control and management that combines regulatory and discretionary elements. In the two chapters that follow, we look more critically at the ways planning and the tools of design governance have helped to drive Toronto's vertical urbanization in the context of a wider shift toward neoliberal governance practices, which

accelerated during the 1990s and early 2000s (Boudreau 1999). Later, we turn to the CityPlace megaproject and describe how an ensemble of planning and design governance tools were used to shape the future form of the Railway Lands. This reveals some of the inherent tensions between strictly regulating design and development outcomes, on the one hand, and allowing for varying degrees of flexibility and discretion, on the other hand. We argue that at CityPlace discretion has been exercised poorly and has precipitated a culture of planning by concession that has loosened the City of Toronto's grip on strategic urban design outcomes and weakened its ability to ameliorate the impacts of rapid condominium development.

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