TRANSITIONING TOWARDS A DEVELOPMENT PERMIT SYSTEM: RECOMMENDATIONS FOR THE MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

Graeme Muir

A Master's Report submitted to the School of Urban and Regional Planning in conformity with the requirements for the degree of Master of Urban and Regional Planning

School of Urban and Regional Planning
Queen's University
Kingston, Ontario, Canada
April 4, 2016

Copyright © Graeme Muir, 2016
Cover Image Source: Chapter 2: Main Street North Development Permit System By-law. City of Brampton.
Executive Summary

Background and Objective
Since 2007, *Ontario Regulation 608/06* now provides all municipalities with the authority to establish a development permit system (DPS); however, much of this regulatory power and its functions are largely misunderstood by both professionals and the general public, which has led to a lack of widespread municipal implementation. One main contributor to the uncertainty is the lack of academic literature. Currently, the most comprehensive document has been produced by the Ministry of Municipal Affairs and Housing (MMAH), *Development Permit System: A Handbook for Municipal Implementation*, which provides a broad overview of key features of the land use tool, current planning issues, and how to establish a framework for municipal implementation. Many municipal websites reference the Handbook as an educational resource and guide to policy framework, as such, it is important to properly evaluate the effectiveness of this document for future use in planning. The recommendations put forth by MMAH should be evaluated for their effectiveness in helping municipalities’ transition towards a DPS. Therefore, the study’s key objective is to identify, analyze, and evaluate the MMAH Handbook in order to effectively provide an updated set of recommendations within the context of Ontario. The study was focused around 2 research questions:

**Primary Question:** How practical within the planning process are the recommendations provided by the Ministry of Municipal Affairs and Housing for municipalities transitioning from a traditional zoning by-law to a development permit by-law system?

**Secondary Question:** What recommendations would improve the ease of transition for municipalities?

Research Methods
A qualitative approach to the study was undertaken by first reviewing the comprehensiveness of the policy within Section 5.0 - Establishing the DPS in Your Community, that led to the considerations for the key informant interviews. This was then followed by data collection of the key informants interviews with industry professionals. The findings from the methods were then transcribed and evaluated.
Key Findings and Recommendations

The study concludes with a series of 5 recommendations that MMAH may consider as updates to Section 5.0 - Establishing the DPS in Your Community in the document Development Permit System: A Handbook for Municipal Implementation.

1. Start with a clear rationale for using a DPS that provides a justification on how it will help achieve the community’s vision, supported by background studies.

2. Prioritize education surrounding the DPS within initial public consultation that reveals the policy framework of a DPS in its entirety; this requires more than one mandatory public meeting and one open house, currently mandated within the Planning Act.

3. Encourage more provincial oversight to incentivize lower-tier municipalities to break the mold and support a shift in land use planning policy.

4. Create an OPA and development permit by-law in tandem; first by setting up the proper guiding policy, and then through the creation of a zoning by-law that provides a local framework for what a district or neighbourhood will look like.

5. The creation of policy must be responsive and flexible within a development permit by-law.
I would like to thank my supervisor Dr. John Meligrana, for his guidance, motivation, and valuable advise throughout the course of my research report.

I would also like to thank all of my key informants for their thoughtful contributions to my research. Without their participation, I would not have collected the insightful information that contributed to my recommendations.

I extend my gratitude to my classmates of the School of Urban and Regional Planning, for making my 2 years at Queen’s University some of the most enjoyable and inspirational times of my life.

Finally, I would like to thank my friends and family, most notably, Shazeen, for the continuous support and encouragement.
Acknowledgements Image Source: City of Vaughan website.
“The question of insuring that governmental policies keep pace with social developments remains one of the most important components of the police power: making a change in zoning to a more or less intensive use (or, on occasion, simply a more suitable use) may be needed to realize the potential value of undeveloped property; avoiding change in the same regulations may be the call from existing neighborhoods to preserve local conditions and quality of life.”

- Keith Mirokawa
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Section 1.0</td>
<td>Introduction</td>
</tr>
<tr>
<td>1.1 The Planning Problem</td>
<td>1</td>
</tr>
<tr>
<td>1.2 Research Question</td>
<td>2</td>
</tr>
<tr>
<td>1.3 Scope of Work</td>
<td>2</td>
</tr>
<tr>
<td>1.4 Report Contents</td>
<td>2</td>
</tr>
<tr>
<td><strong>4</strong> Section 2.0</td>
<td>Background</td>
</tr>
<tr>
<td>2.1 The Need For Change From Traditional Zoning Practice</td>
<td>4</td>
</tr>
<tr>
<td>2.2 The Evolution of the Development Permit System in Ontario</td>
<td>5</td>
</tr>
<tr>
<td><strong>8</strong> Section 3.0</td>
<td>Methods</td>
</tr>
<tr>
<td>3.1 Data Collection</td>
<td>8</td>
</tr>
<tr>
<td>3.1.1 Document Review</td>
<td>8</td>
</tr>
<tr>
<td>3.1.2 Key Informant Interviews</td>
<td>9</td>
</tr>
<tr>
<td>3.2 Data Analysis</td>
<td>12</td>
</tr>
<tr>
<td>3.3 Quality of Research Methods</td>
<td>12</td>
</tr>
<tr>
<td>3.4 Limitations to Research</td>
<td>13</td>
</tr>
<tr>
<td><strong>15</strong> Section 4.0</td>
<td>Document Review</td>
</tr>
<tr>
<td>4.1 Section 5.1 - Stage 1: Building The DPS Foundation - Official Plan</td>
<td>15</td>
</tr>
<tr>
<td>4.2 Section 5.2 - Stage 2: Building the DPS Framework - Development Permit By-law</td>
<td>16</td>
</tr>
<tr>
<td>4.3 Section 5.3 - Working Within a DPS</td>
<td>17</td>
</tr>
<tr>
<td>4.4 Considerations for Key Informant Interviews</td>
<td>17</td>
</tr>
<tr>
<td><strong>20</strong> Section 5.0</td>
<td>Interview Findings</td>
</tr>
<tr>
<td>5.1 Stage 1: Building the DPS Foundation - Official Plan</td>
<td>20</td>
</tr>
<tr>
<td>5.2 Stage 2: Building the DPS Framework - Development Permit By-law</td>
<td>23</td>
</tr>
<tr>
<td>5.3 Working Within a DPS</td>
<td>24</td>
</tr>
<tr>
<td><strong>27</strong> Section 6.0</td>
<td>Conclusions &amp; Recommendations</td>
</tr>
<tr>
<td>6.1 Stage 1: Building the DPS Foundation - Official Plan</td>
<td>28</td>
</tr>
<tr>
<td>6.2 Stage 2: Building the DPS Framework - Development Permit By-law</td>
<td>29</td>
</tr>
<tr>
<td>6.3 Stage 3: Working Within a DPS</td>
<td>30</td>
</tr>
<tr>
<td>6.4 Summary</td>
<td>31</td>
</tr>
<tr>
<td><strong>32</strong> Section 8.0</td>
<td>References</td>
</tr>
<tr>
<td><strong>35</strong> Section 9.0</td>
<td>Appendices</td>
</tr>
<tr>
<td>Appendix A: Key Informant Recruitment Email</td>
<td>35</td>
</tr>
<tr>
<td>Appendix B: Combined Letter of Information and Consent</td>
<td>36</td>
</tr>
</tbody>
</table>
List of Figures

4  Figure 2.1  
   Development Permit System: Three Processes into One

7  Figure 2.2  
   Requirements For Municipal Implementation

14 Figure 3.2  
   Report Methods Flowchart

18 Figure 4.1  
   Official Plan Amendment Process

19 Figure 4.2  
   Development Permit By-law Process

24 Figure 5.1  
   The Creation of an OPA and Development Permit By-law in Tandem

List of Tables

11 Table 3.1  
   Key Informant Questions

26 Table 5.1  
   Township of Lake of Bays: Approvals Timeline
Section 1.0 | Introduction

This chapter describes the current planning problem that led to the research of this report and its significance to current planning practice. It also briefly details the research questions, the scope of the report and the report contents.

1.1 The Planning Problem

As cities change and evolve, so should the regulatory tools that allow municipalities to guide development. In 2007, enacted under Ontario Regulation 608/06, the development permit system (DPS) became available to municipalities as a tool to increase certainty and predictability in the planning process through the reduction of costs for developers and decreased political interference in development decisions (Keenan, 2012). Since 2007, there has been little consideration for the use of such regulatory powers by municipalities in Ontario. Much of this uncertainty stems from a misunderstanding of its use and function. This can be attributed to a lack of academic literature around the DPS and increasingly less information on how municipalities can effectively transition away from traditional zoning practices. This gap in literature has contributed to the widespread ambiguity of what the DPS aims to achieve.

Previous literature chronicling the DPS has primarily come from Ontario Planning Journals, through authors such as Robert Lehman, Paul Bedford and Samantha Hastings (Nethery, 2011b). More recently, in a 2011 Ontario Planning Journal, Joe Nethery (2011a) hypothesized whether barriers exist that have hindered the implementation of the DPS within municipalities. This report attempts to add to the current academic literature, bridging the general understanding of the DPS with the steps that must be taken for municipal implementation. This is significant to the field of planning because it is important that municipalities considering this new type of land use tool completely understand how to create an effective framework through extensive consultation with stakeholders, and the need for citywide education and training (Hastings, 2004). Ultimately, so that municipal staff advice remains independent of political interference, in order to make clear informed policy decisions (Bedford, 2005b).
Currently, the most extensive document has come from the Ministry of Municipal Affairs and Housing (MMAH): *Development Permit System: A Handbook for Municipal Implementation*. This document provides a broad overview of the key features of the land use tool, addressing current planning issues, and establishing a framework for municipal implementation. The DPS is a new concept in Ontario when compared to other Canadian cities, which makes it very important that current policy support municipalities. The recommendations provided by MMAH should be evaluated for their effectiveness in helping municipalities construct an effective policy framework.

### 1.2 Research Question

The objective of this report is to update the MMAH Handbook by providing practical recommendations within the context of Ontario. The report will answer the following research questions:

**Primary Question:** How practical within the planning process are the recommendations provided by the Ministry of Municipal Affairs and Housing for municipalities transitioning from a traditional zoning by-law to a development permit by-law system?

**Secondary Question:** What recommendations would improve the ease of transition for municipalities?

### 1.3 Scope of Work

The report will focus on the DPS within the context of the Province of Ontario. Provinces such as British Columbia and Calgary already have a DPS framework in place, which is why emphasis has been placed on Ontario. Examples in this report have exclusively come from Ontario, as unlike other provinces, Ontario appeals are decided by the Ontario Municipal Board (OMB), an independent adjudicative tribunal. Furthermore, research will not focus on the general success or failure of the DPS in municipalities, but rather, examine the steps taken to properly transition away from traditional zoning practices towards a DPS.

### 1.4 Report Contents

The following chapters have been organized to guide the reader through the process of the research, analysis, evaluation, and recommendations. Chapter 2: Background provides a rationale for the move away from traditional zoning, and the evolution of the DPS in Ontario.
Chapter 3: Methods explains the qualitative methods used in this report. Data was collected through document review and key informant interviews with industry professionals. Chapter 4: Document Review outlines the 3 stages of municipal implementation under Section 5.0 of the MMAH Handbook, and provides considerations for the key informant interviews. The key findings from the methods are analyzed in Chapter 5, Interview Findings. Chapter 6: Conclusions and Recommendations summarizes the context, methods employed, and briefly explains the opportunity for future research and the limitations of this study. It then concludes with a set of 5 detailed recommendations.
Section 2.0 | Background

This chapter examines the justification for transitioning away from conventional land use practices, followed by the evolution of the DPS and the municipal response in Ontario.

2.1 The Need For Change From Traditional Zoning Practices

A traditional zoning system has three separate processes: zoning, minor variance, and site plan control (MMAH, 2008). Characterized by a focus in height, size, and a segregation of land uses, traditional zoning does not address the present needs of our cities, resulting in urban sprawl (Bedford, 2010). Conventional planning processes in Ontario can be long and cumbersome and can often require applicants to submit a list of applications. Many development projects are currently approved by way of site specific rezoning applications. These rezoning applications can be extremely time consuming with complex statutory requirements. Part of this is through the use of Site Plan Control, which allows control over specific aspects of a development, with additional conditions to approval (City of Toronto, 2013). This zoning procedure is ‘as-of-right’, meaning that zoning must be in place and cannot alter zoning permissions (City of Toronto, 2013). Current planning tools are designed to prevent negative activities rather than encourage positive ones (Bedford, 2005a). An alternative to traditional or site specific zoning is the development permit system (DPS).

The DPS is an area-based planning method that addresses local planning issues and reflects local character and distinctiveness through the creation of a comprehensive vision for a particular area (City of Toronto, 2014a). A DPS streamlines the approval process by delegating decision-making authority to staff and removing third-party appeals (City of Brampton, 2009). The DPS combines these three processes into one application and approval process shown in Figure 2.1 (MMAH, 2008). The DPS also allows for flexibility through discretionary uses, subject to identified criteria,
and also conditions of approval, where municipalities can impose a range of conditions on the issuance of a development permit (Wood Bull et al., 2014). A municipality can choose which areas are designated as development permit areas (DPAs), making them subject to the specific policy, guided by policy within the Official Plan (OP) to achieve a particular goal. These goals are further detailed by prescriptive policy within a municipality’s DPS zoning by-law. Unlike a traditional zoning by-law, a DPS zoning by-law allows for discretionary uses, setting out criteria and conditions (MMAH, 2008). For example, a municipality may consider a discretionary use appropriate provided that there are no negative environmental impacts on an area from the proposed development (MMAH, 2008). With a DPS, Council sets the general policies of acceptable development designated districts and the details are determined by municipal staff (Sewell, 1993).

2.2 The Evolution of the Development Permit System in Ontario

In the early 1990s, the DPS was discussed by the Commission on Development Reform in Ontario (the Sewell Commission) as an alternative land use control to streamline the planning process. At the time, it was being used in other municipalities across Canada such as Vancouver and Calgary (City of Toronto, 2005). Discussion at the Commission focused around problems with current development practices specifically, timelines for development approvals and city bonusing (securing community benefits from developers, in exchange for density) (Keenan, 2012). From the Commission, it was recommended that municipalities in Ontario be allowed to adopt a DPS (Sewell, 1993). This paved the way for an amendment to the Planning Act, adding in Section 70.2 (Ontario, 2015). The success of the DPS in Vancouver over a 20-year period illustrated to MMAH that this type of system could be beneficial in the Greater Toronto Area and Ottawa.

In 2001, years after the Sewell Commission, the Province of Ontario introduced Ontario Regulation 246/01, delegating power to 5 pilot municipalities to establish a DPS: The Township of Lake of Bays, City of Hamilton, Region of Waterloo Region, Town of Oakville, and City of Toronto (MMAH, 2008). These pilots were enacted to test the effectiveness of the DPS and identify any unforeseen implementation issues. From the 5 pilot municipalities, Lake of Bays
was the only municipality to exhibit long-term success, using the DPS to protect their shoreline areas (City of Toronto, 2005). A major barrier noted by the pilot communities was the significant reduction in appeal rights of community members. Furthermore, because bonusing was prohibited under the new regulation, there was a noticeable decrease in municipal compensation from developers (Keenan, 2012). After limited success with the pilot communities, recommendations were provided to the Province of Ontario that included: increased design standards, a specific timeline for applications, an integrated bonusing structure, and an increased emphasis on community engagement and education (Keenan, 2012). These recommendations were written into *Ontario Regulation 608/06*, laying out mandatory requirements that a municipality would have to comply with, shown in Figure 2.2. From the new legislation, the MMAH (2008) *Development Permit System: A Handbook for Municipal Implementation* was created, outlining the framework for a DPS under Section 70.2 of the *Planning Act* and *Ontario Regulation 608/06* in a more public-friendly, readable document. A key feature of this document is in Section 5.0, that establishes the 3-stage process for effective municipal implementation of a DPS framework (MMAH, 2008).

More recently, the City of Toronto is in the process of an Official Plan Amendment (OPA 258), enacted in 2014 by the Planning and Growth Management Committee (City of Toronto, 2014c). OPA 258 has been appealed to the OMB and is currently undergoing mediation (Ontario Municipal Board, 2016). After years of planning, in December 2015, the City of Brampton approved their DPS By-law for Main Street North (City of Brampton, 2015). As more Ontario municipalities attempt to create a DPS to protect local assets, it is important that they understand their statutory responsibilities.
**The Development Permit System**

(Section 70.2, Planning Act, O. Regulation 246/01 (as amended by O.Reg 78/04))

**Planning Act**

s.70.2

**Identify Development Permit System Areas**

O.Reg 246/01 (as amended by O.Reg 78/04) establishes municipalities within which a development permit system by-law may be enacted.

**Official Plan Amendment Adopted**

(s.2, O.Reg 246/01 (as amended by O.Reg 78/04))

- designates development permit area;
- sets out the scope of delegated authority;
- sets out municipality’s objectives re development permit system;
- sets out types of conditions in development permit by-law; and
- sets out the types of criteria that may be included in the development permit by-law for determining whether any class or classes of development or use of land may be permitted by development permit.

**Development Permit By-law Passed**

As a s.34 of the Planning Act by-law (s.3(1), O.Reg 246/01 (as amended by O.Reg 78/04))

---

**A development permit by-law shall,**

- contain a description of the area to which the by-law applies, which must be within the boundaries of a proposed development permit area designation in the official plan;
- set out any internal review procedures regarding decisions to issue or refuse to issue development permits;
- set out a list of permitted uses; and
- set out the manner in which notice of decisions to issue or refuse to issue development permits shall be given.

(s.3(2), O.Reg 246/01 (as amended by O.Reg 78/04))

**A development permit by-law may,**

- prohibit uses or regulate development in accordance with subsection 34 (1) of the Planning Act (refer to Appendix d);
- prohibit any development or change of use of land unless a development permit is obtained;
- define uses and classes of development;
- exempt any defined class or classes of development or use of land from the requirement for a development permit;
- include criteria that council will use in determining whether to issue or refuse to issue a development permit or to impose conditions on the issuance of a development permit;
- set out a list of uses or classes of development that may be permitted if the criteria set out in the official plan and development permit by-law have been met;
- set out conditions permitted under the parking exemptions, site plan and park dedication provisions of the Planning Act which may be applied to defined classes of development;
- set out minimum and maximum standards for the construction of buildings or structures or the minimum elevation of doors windows or other openings in accordance with subsection 34(1)(a) and (5) of the Planning Act, or a range of possible variation from the standards which may be authorized through the issuance of a development permit.

(s.3(3) O.Reg 246/01 (as amended by O.Reg 78/04))

**A development permit by-law may, with respect to muddy, contaminated and/or sensitive lands and natural features,**

set out conditions that may be applied to defined uses or classes of development that are,

(a) related to the matters which would otherwise be prohibited with respect to these uses under s. 34(1) of the Planning Act; and

(b) reasonable for the appropriate use of the land.

(s.3(4) O.Reg 246/01 (as amended by O.Reg 78/04))

---

**Figure 2.2.** Outlines each stage of municipal implementation that must be complied with in order to create a DPS (Wood, 2006).
Section 3.0 | Methods

This chapter outlines the methods used within this report to address the research questions identified in Chapter 1. It describes the quality of research methods used to collect, review, and evaluate data, as well as the limitations associated with the research\(^1\).

3.1 Data Collection
The methods employed in this study focus on two qualitative approaches to data collection through:

(a) A thorough document review of Section 5.0 - Establishing the DPS in Your Community, in the MMAH Handbook; and

(b) Key informant semi-structured interviews framed around Section 5.0 - Establishing the DPS in Your Community, in the MMAH Handbook.

Using two different qualitative research methods helped to ensure that the data was triangulated and provided credibility to the report (Carter & Little, 2007).

3.1.1 Document Review
An initial web search was conducted in order to find previous policy reports on the DPS. With little success through the Queen’s University library portal, focus was given to municipal websites. Through these municipal websites, the most extensive document referenced as a guide for implementation was the Development Permit System: A Handbook for Municipal Implementation, produced by MMAH, that described a 3-stage process with the objective of guiding municipalities through the development and implementation of the DPS. Each stage is intended to provide a set of generalized requirements for establishing a DPS, as discussed in previous chapters; in addition to consulting with the proper legislative requirements provided within the Planning Act\(^2\).

---

\(^1\)All documents used within this methods section are available online through government and municipal websites.

\(^2\)It should be noted the Handbook provided by MMAH has been created as a guide for municipalities, and that this information is not intended to supplement legal advice.
Contact was made with MMAH in an attempt to further investigate the production of such a comprehensive document. Unfortunately, staff could not provide any additional information as contributions to the Handbook had come from external planners with previous DPS experience. In order to properly analyze the effectiveness of the MMAH Handbook, a framework for evaluation and review was created surrounding the 3-stage process of implementation, which would be used to derive key informant interview questions.

### 3.1.2 Key Informant Interviews
Key informant interviews were the greatest source of information, coming directly from experienced professionals who helped fill the gaps in current Ontario planning literature. This type of research method provided the greatest amount of feedback and allowed for sound recommendations to be produced.

Contact with participants was initially made by email, sending off a letter of information and consent that contained further details of the research (See Appendix A and Appendix B). In some instances, the initial participants provided new contacts that were more qualified and familiar with the DPS. Only half of participants that were sent recruitment emails responded however, those that did, wished to participate. The interviews required a Graduate Research Ethics Board (GREB) application as well as a secure method of coding and recording information. The study received ethics approval from the GREB on December 3, 2015.

Seven key informant interviews were conducted with pre-selected public and private industry professionals. Applicants were researched and chosen based on their previous experience working within or knowledge surrounding the DPS. Interview participants included municipal planners, academics, and a politician who had previously sat on the Planning and Growth Management Committee in Toronto. Choosing a mix of professionals ensured more comprehensive data collection. All interviews (except for one via email due to timetable conflicts) were conducted by phone over the course of 2 months. Interviews were recorded using the cellphone app ‘TapeACall’, which was downloaded from the Apple iTunes Store. This app works by first pressing record within the app, adding a call by dialing the informant’s
number, and then merging the two calls.

This method of recording phone calls was selected to provide more attentiveness to informants during the interview, while also increasing the accuracy of data collection (Patton, 2002). The fundamental principle of qualitative interviewing is to provide a framework within which respondents can express their own understandings in their own terms, which a semi-structured style of interviewing accomplishes (Patton, 2002). The semi-structured style of interviewing created a more focused and time effective interview, while providing greater flexibility using “enabling” language (Patton, 2002).

A script was used within each interview and varied depending on the professional in order to better facilitate the interview, shown in Table 3.1. Questions often deviated from the script, as many were open-ended and informants would bring up new topics of discussion. However, the main themes were still ubiquitous; the practicality of the recommendations provided by MMAH for municipalities transitioning from a traditional zoning by-law to a DPS.
<table>
<thead>
<tr>
<th>Stage 1: Building the DPS Foundation - Official Plan</th>
<th>Municipal Planners</th>
<th>Academics</th>
<th>Private Professionals</th>
</tr>
</thead>
<tbody>
<tr>
<td>What was the initial reaction from the community when a DPS was proposed?</td>
<td></td>
<td>Is the required one public meeting and, one open house sufficient enough when creating a comprehensive vision for a DPS?</td>
<td>Is there a reason for the decision from the City of Toronto to shift from a traditional zoning system towards a development permit system (DPS)?</td>
</tr>
<tr>
<td>How did you convince the public that a major shift in land use would be beneficial?</td>
<td></td>
<td>How important is it for planners to keep the public properly informed?</td>
<td>Has there been any provincial guidance with regard to setting up and implementing a DPS?</td>
</tr>
<tr>
<td>How did you begin the process of creating an overarching vision of where to implement a DPS?</td>
<td></td>
<td>What has been the reaction to the loss of third-party appeals?</td>
<td>What has the consultation process been like between the City of Toronto and the public?</td>
</tr>
<tr>
<td>What was the reaction to the loss of third-party appeals?</td>
<td></td>
<td>How important is it to educate the public before they can begin to develop a vision?</td>
<td>What type of effort has been made to educate the public on DPS?</td>
</tr>
<tr>
<td>Did you receive any provincial support?</td>
<td></td>
<td></td>
<td>Were there any prior studies completed before the DPS was brought to the public, in order to justify the use of this type of planning tool?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 2: Building the DPS Framework - Development Permit Bylaw</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>What was the thought process behind how you classified each development permit area?</td>
<td></td>
<td>What is the effect of ‘upzoning’ on the DPS?</td>
<td>The Planning and Growth Management Committee made recommendations to the planning department on OPA 258, detailing the need to address outstanding issues from resident associations, property owners and planning/legal professionals and a broadened consultation process for DPS by-laws. Could you be more specific on some of these concerns?</td>
</tr>
<tr>
<td>Did you create the Official Plan Amendment at the same time as the DPS By-law?</td>
<td></td>
<td></td>
<td>How will Bill 73 affect the development permit process?</td>
</tr>
<tr>
<td>How did you decide what additional information that was not required would be added to the DPS By-law?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>What did you classify as major/minor developments?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Stage 3: Working within the DPS</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Have you seen a reduction in OMB appeals?</td>
<td></td>
<td></td>
<td>I know an area of priority for the proposed DPS is the Etobicoke Centre Secondary Plan area, is there a reason that this area has been chosen?</td>
</tr>
<tr>
<td>Has the DPS streamlined the approval times?</td>
<td></td>
<td></td>
<td>Can you provide any insight for future municipalities considering a transition towards a DPS?</td>
</tr>
<tr>
<td>What has been the reaction from the development community?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>How important has it been to actively review the DPS policy?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>What would you recommend as future considerations for municipalities transitioning towards a DPS?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Table 3.1.* Shows interview questions posed, separated by the type of professional.
3.2 Data Analysis

After each key informant interview, there was a “debriefing” process conducted where additional information was written down to describe the context of the interview and additional questions worth posing to the next key informant (Warren & Karner, 2005). Each phone call was transcribed on to the computer by listening to the recording and typing the conversation out in Microsoft Word. Transcriptions need to be very detailed to capture features of talk such as emphasis, speed, tone of voice, timing and pauses (Bailey, 2008). As such, it was important to transcribe the entire interview, as information that may have seemed irrelevant became valuable in later chapters. Once all the interviews were transcribed, a key word search was used to expose any trends in the data. These key words allowed for the formulation of secondary themes within the 3 stages of implementation, which could then be used to evaluate against the MMAH Handbook.

3.3 Quality of Research Methods

Establishing quality research design is an important consideration in order to ensure that the data collected and the conclusions drawn are accurate. Three tools were considered to determine quality of research design:

Construct Validity – Determining whether the research truly measures what it was intended to in the study (Golafshani, 2003).

Using different methods of data collection produced construct validity through policy review, analysis and interviews. This increased the triangulation of methods.

External Validity – The extent to which the findings can be generalized (Brink, 1993).

External validity is difficult to retain due to the limited scope and time that this study and research of methods has been conducted. However, by selecting a diverse mix of industry professionals for my interviews, I have attempted to create a representative sample within the scope of my study.
Reliability – Understanding how consistent the results are over time and an accurate representation of the total population; the ability to reproduce results under a similar methodology (Golafshani, 2003).

Reliability was produced by using a standard set of interview questions that if posed again by a different researcher, would produce similar findings.

3.4 Limitations to Research
An initial limitation, as already noted, was the lack of academic literature that was available on the DPS. Much of the information came from sifting through council meetings and reports from municipal websites. Increasing the number of key informants interviewed would have increased the credibility of the data collection as well as provided a greater pool of data for analysis however, there was a limited number of professionals to contact and only a select few agreed to participate. It also proved difficult to secure participants within such a short amount of time. The limited number of participants may reduce the level of triangulation and generalizability of my findings. Moreover, the key informants were pre-selected, which may result in a response bias. This is why there needed to be more than one method of analysis conducted within the research. The final limitation was that examples were derived exclusively from the Province of Ontario and could not be used from British Columbia. For example, the planning process is significantly different in British Columbia, where final approval is given to Council, with no appeals to an independent adjudicative tribunal such as the OMB.
Primary Research Question:
How practical within the planning process are the recommendations provided by the Ministry of Municipal Affairs and Housing for municipalities transitioning from a traditional zoning by-law to a development permit by-law system?

Secondary Research Question:
What recommendations would improve the ease of transition for municipalities?

MMAH Handbook Document Review
Analyzing the 3 stages of municipal implementation of the DPS under Section 5.0

Key Informant Interviews
Posing questions to industry professionals through semi-structured interviews

Data Collection and Analysis of Findings
Transcribing interviews, and identifying possible recommendations

Recommendations
A list of recommendations that can be used to practically update the MMAH Handbook

Figure 3.2. Report method flowchart.
Section 4.0 | Document Review

This section reviews the MMAH document Development Permit System: A Handbook for Municipal Implementation. Specifically, Section 5: Establishing the DPS in Your Community.

*All references in this section have come from the Planning Act (Ontario, 2015), unless otherwise referenced.

4.1 Section 5.1 – Stage 1: Building The DPS Foundation - Official Plan

This stage focuses on establishing the DPS within a municipality’s OP. Under Section 3 of the Ontario Regulation 608/06, before a municipality can pass a by-law it must have the proper OP policies in place. This means that guiding policy must be amended through an OPA and must:

- Identify the area as a proposed development permit area;
- Set out the scope of authority to be delegated;
- Contain the goals, objectives and policies for each DPA;
- The types of criteria that may be included in a development permit by-law by which applications would be evaluated (e.g. permitted development); and
- The types of conditions that may be included in the development permit by-law

In addition to mandatory requirements, Section 3 (4) and Section 3 (5) also lay out what the OP may contain, described as additional information such as class of development or land use.

A key component of building a foundation for the DPS is extensive consultation. Municipalities must adhere to Section 17 (15) and (16), that require one public meeting and one open house, in order to produce specific goals, objectives and policies, which will establish the purpose of the DPS and be proposed within an OPA. Under Section 17:

- (18) a public open house must be held at least 7 days before a public meeting; and
- (19) material must be made available at least 20 days prior to the public meeting

These public consultations allow for the consideration of the proposed size, character, and features within each DPA. Emphasis is placed on consultation because the DPS is a front-loaded participation process. Once an OPA is approved, there can be no additional appeals from the public, only from the applicant. The OPA process is shown in Figure 4.1 in its entirety.
4.2 Section 5.2 – Stage 2: Building the DPS Framework - Development Permit By-Law

Once the OP policy is in place, a municipality can begin to develop the contents of a development permit by-law. The development permit by-law is the implementing document for the vision that is established within the OP. A DPS OPA can be adopted and processed by Council, as well as in conjunction with the DPS by-law (MMAH, 2008). In accordance with Section 4 of the Ontario Regulation 608/06, a development permit by-law shall:

- describe the area boundaries to which the by-law applies, identified by the OP;
- set out the permitted uses of land;
- set out minimum and maximum standards for development;
- detail the internal review procedures;
- describe amendment procedures;
- outline notification requirements; and
- outline the scope of delegated authority;

Similar to stage 1, a municipality’s by-law may also include discretionary requirements, in accordance with Section 4 (3) of Ontario Regulation 608/06.

Community involvement is more important during the creation of the development permit by-law, as it contains localized policy that will directly impact property owners land within a neighbourhood or district. Under Section 17 (15) and (16), the same regulatory requirements for an open house and public meeting apply to the creation of a development permit by-law. Moreover, the same appeal rights pertain to a development permit by-law as for an OPA. Appeals to the OMB before Council finalizes any decisions are allowed, only if the party has made a previous submission to Council (either orally or a written submission). There is a 20 day window to appeal the development permit by-law from the date notice is given. Furthermore, any appeals must be forwarded to the OMB within 15 days after the last day for filing a notice of appeal. The development permit by-law process can be seen in its entirety in Figure 4.2.
4.3 Section 5.3 – Stage 3: Working Within a DPS

The final stage encompasses the land use vision and goals that were generated in the previous stages to develop a comprehensive development application. In order for an application to be considered “complete”, the applicant must provide any additional information a municipality has requested. It is important to note that a municipality may choose to exempt any class of development or use of land from the development application process. Examples may include sheds and ancillary dwellings such as green houses to expedite the development approval process.

Under Section 10 of Ontario Regulation 608/06, once a development permit application has been complete, Council has 45 days to make a decision on the application beyond any appeal requested by the applicant to the OMB. Council has the power to approve the application with no condition, approve the application with conditions attached, or approve the application but require that conditions be met before issuing the development permit. Any conditions added to an application by Council must be appropriate to the use of land. Similar to subdivision agreements, development permits can be registered against the land to which the applicant is applying for.

4.4 Considerations For Key Informant Interviews

After careful review of the 3 stages for municipal implementation under Section 5.0 of the MMAH Handbook, a set of considerations should be noted as areas of focus when deriving research questions for the key informant interviews:

- Identifying areas where a DPA will be most beneficial;
- The need to effectively consult with the public;
- Additional requirements that may be added into the development permit by-law;
- Adopting an OPA and development permit by-law in tandem; and
- Additional information required by applicants to be considered a ‘complete’ application
**Official Plan Amendment**
Municipality prepares OPA in accordance with s. 3 of Ontario Regulation 608/06 – Development Permits

**Notice of Open House and Public Meeting**
17(16) and 17(17)

**Pre-Consultation** 17(15)
The plan and information and material must be available at least 20 days prior to public meeting 17(19.1)

**Public Open House**
17(16)

7 days 17(18)

**Public Meeting**
17(19)

**Council Adoption**
17(22)

**Notice Given by Council**
17(23)

**No Appeal Decision Final**
17(27)

Development Permit OPA in effect

**Notice of Appeal**
17(25)

**Notice Given by Council**
17(23)

**OMB**

**Dismissal**
17(45)

**Hearing**
17(44)

**Development Permit OPA in effect with any changes made by OMB**

**Refusal**

20 days 17(19)

17 days 17(23)

20 days to appeal 17(24)

15 days to send notice of appeal, record and fee to OMB 17(29)

---

*Figure 4.1.* Shows the process for adopting a DPS OPA (MMAH, 2008).
**Development Permit Bylaw**
Municipality prepares DP Bylaw in accordance with s. 4 of Ontario Regulation 608/06 – Development Permits

**Notice of Open House and Public Meeting**
34(13)

Pre-Consultation 17(15)
Information and material made available to public 34(12)(a)(i)

**Public Meeting**
34(12)(a)(ii)

**Public Open House**
34(14.4)(a)

20 days 34(14.1)

7 days 34 (14.4)(b)

15 days 34(18)

20 days 34(19)

15 days to send notice of appeal, record and fee to OMB 34(23)

**Notice of Passing**
34(18)
Notice of Proposed bylaw s. 7 O. Reg. 608/06

**Notice of Appeal**
34(19)

**OMB**

**Dismissal**
34(25)

**Hearing**
34(24)

Bylaw deemed to have come into force the day after all appeals are disposed of, or date as ordered by Board s. 9(1)(b) O. Reg. 608/06

No Appeal, bylaw deemed to have come into force the day after the last day for appeals s. 9(1)(a) O. Reg. 608/06

Refusal

*Figure 4.2.* Shows the process for adopting a development permit by-law (MMAH, 2008).
This chapter highlights the findings gathered from the key informant interviews with industry professionals in Ontario. These findings have been separated into the 3 stages of municipal implementation outlined in Section 5.0 of the MMAH Handbook.

5.1 Stage 1: Building the DPS Foundation - Official Plan

“Fundamentally, you would be able to have a sense of the range of density and height achieved. There should be no surprises of what a neighbourhood or district will look like over the course of 5-10 years...the idea behind the Community Development Permit System is to develop parameters.... a municipality has to be clear in its own vision for their community as to what they want to achieve and why they want to put it [the DPS] in place.”

- Member of Provincial Parliament (Key Informant #6)

A significant part of building a foundation requires rationale and reasoning from the municipality as to the shift in land use policy. Informant #6 described the objective of a DPS in the City of Toronto was to create more certainty in the outcomes for both the city, the public and the development industry. An example is the Etobicoke Secondary Plan, which is a priority area within OPA 258 (City of Toronto, 2014b). The rationale for this area was justified by previous planning work. By converting the area into a DPS, it would achieve the certainties from the city and community benefits negotiated through Section 37 of the Planning Act (Ontario, 2015). A municipality must demonstrate what the ultimate built out of a district will look like, a significant benefit to current site-by-site planning processes.

Among all key informants, the need for extensive public consultation within the beginning stage of building a foundation for a DPS was critical. Although the Planning Act requires only one public meeting and one open house for an OPA, all informants emphasized how important it was to be inclusive and inform the public within the planning process (Ontario, 2015). Informant #7 expressed concern that the general public has a very limited understanding of how the DPS functions as a land use tool, and emphasis placed on educating the public before a vision can be
created. Informant #1 expressed how the shift towards a new type of land use tool received substantial community support, but was only possible through extensive consultation and engagement between staff and the public.

“Traditionally we have had a lot of public experience and public exposure from when we created our Official Plan. We started off with a visioning process that involved a lot of public consultation and the visioning process led to the Official Plan. We already had a lot of engaged people. Everyone was very understanding of the importance to protect the waterfront. So when the decision to suggest to Council that the DPS tool would work within the area, Council was supportive.”

- Municipal Planner (Key Informant #1)

Informant #1 explained how the Township of Lake of Bays conducted numerous public meetings within their visioning process of the OP. This required extensive background studies that were presented to the public in an attempt to develop guiding principles. There were proactive discussions with the public describing why there was a need for the DPS and how the public would benefit from its implementation. The result led to a DPS for lakeshore development, to preserve vegetation and buffer the impact of development; the creation of the Shoreline Activity Area indicates where human activity and shoreline structures may be located (Township of Lake of Bays, 2006). Conversely, Informant #2 indicated that the initial public meetings to discuss the OPA for the City of Toronto lacked a fair representation of the general public and an effective citywide response. The informant described that it was difficult to attract attention towards the issue when the discussion of a framework for the OPA was quite broad in scope. However, initial public concern focused more on speculation that the City would allow larger increases in density and height.

Informant #4 described how a third-party consulting firm was brought in to conduct a citywide study, focusing on urban design standards and housing inventory counts. The goal was to highlight specific areas that should be preserved for their heritage and character. The results of this study were then brought to the public during the initial informational meeting for the visioning process. The consulting firm worked collaboratively with staff and the public to create sound recommendations. The City of Brampton had a unique situation where a central-area planning team had been previously tasked with creating a central area vision, splitting up the
downtown into various precincts. Consequently, when municipal planners brought the DPS to the public, there was already an overarching vision that focused on areas within the central downtown, which became the Main Street North DPA. Similarly, in Carleton Place, Informant #3 explained that there was an extensive third-party housing inventory study conducted that focused on form and character of buildings, specifically the heritage of the built form within the downtown core. These background studies not only provided the public with a general understanding, but also helped to inform their decisions when collaborating with municipal staff.

While discussing the need for provincial support for municipalities, informant #3 indicated a role in the creation of the MMAH Handbook, which had come from previous experience working within the DPS outside of Ontario. For the Township of Lake of Bays, one of the first pilot municipality’s, Informant #1 explained “it was a leap of faith [for the public] to support such a new land use tool, which took time to gain the full support of the community”. Most of the Township’s support came from the District of Muskoka, who was primarily involved within the public consultation and preliminary drafts of the OPA and DPS By-law. Similarly, the City of Brampton had initially created OP policies, regulatory provisions, and design guidelines in a by-law format and provincial support came through encouraging a unified document that eventually became the City’s DPS By-law. Due to a lack of provincial support and limited examples in Ontario, most professionals discussed the hardships of committing to switch over to a new land use system. It is important for upper-tier municipalities to provide the support where needed and to initiate policy in their OP as a guide for lower-tier municipalities in creating a DPS. Informant #6 outlined how Bill 73, Smart Growth for Our Communities Act (2015) - currently in the final ‘Royal Assent’ stage of approval - will improve provincial support to local municipalities. Bill 73 will allow the Province or an upper-tier municipality to enforce a DPS on a local municipality (LAO, 2015). This new legislation has the potential to increase municipal communication between upper-tier and lower-tier municipalities.
“Whether the municipality uses the DPS or not, it is important to put enabling policies into the OP and set it up in a way that when the City is ready, the policies will already be in place to move forward. Council usually shuts the door at the OP end, because there is a lot of unknowns…. they need to take that chance, put the OP policies in place….you leave in policies that keep the options open to maintain the traditional system and consider a DPS when they’re ready”.

- Municipal Planner (Key Informant #4)

5.2 Stage 2: Building the DPS Framework - Development Permit By-Law

“It would be easier to do it [a DPS] as a two-stage process...to implement the principle of doing a development permit within a municipally, getting the OP policies in place. If you get that step set up first before, you can then do the development permit itself for one given area.... not only is it having to deal with land use planning, but you’re setting up a whole new tool, having to deal with all the administrative and other implications that impact your functions throughout the municipality...breaking up the process by establishing the need and the ability to create the DPS, and then start preparing a specific DPA.”

- Municipal Planner (Key informant #4)

As Informant #4 emphasized above, establishing a two-stage process can be beneficial for a municipality because there are requirements that must be established within the OP before a DPS can be approved and also allows for increased public consultation through two separate processes. However, conducting the by-law in tandem with the OPA, can also be effective in addressing public concern and gaining feedback, shown in Figure 5.1. For example, community members might not fully understand the direct implications of guiding policy within the OP, as it can be broad in scope. By creating the DPS by-law at the same time, more direct examples can be provided to the public on how their property will be directly affected by the change in land use policy; there is a greater opportunity for public input when developing the local by-law. A development permit by-law sets out permissible uses and development standards with specified minimum or maximum limits. Furthermore, a by-law may also include additional requirements from staff that are beneficial to write alongside the OPA. This policy framework is different from guiding policy, focusing on what the built form of a neighbourhood will look like, which provides a more comprehensive vision for the public than the current Site Plan Control process.

“If you have the ability to do that [the OPA and the DPS by-law in tandem], I would definitely want to do that because you will get a lot of people that don’t care about the OP policies they just want to know what it means for their specific property...I had to create a couple of pages
of our rural designations and zoning to show them [the public] what it might mean if we have a development permit in place. Some people were nervous about vegetation removal and we added some OP policies to assist with that”.

- Municipal Planner (Key Informant #1)

Several municipalities have chosen to set up legislative frameworks within their DPS by-law in a variety of ways. Brampton created DPAs that are broken up into sub-areas based on form and character within their Main Street North. Informant #4 described how all decisions are delegated so that nothing goes to Council for approval however, staff can recommended and forward any contentious development to Council, where planning staff would describe the issue and how they propose to deal with it. Unlike the City of Brampton, in Carleton Place, the entire municipality is subject to the DPS, where development is classified from 1 to 4. Class 1 represents development that has a minimal impact, such as a minor variance and approval is delegated at the staff level. Class 3 represents a more major development that has an impact on adjacent properties, such as a rezoning application. In this case, staff would refer the application to Council, where a decision would be made and notice would be posted on the subject property.

5.3 STAGE 3: Working Within a DPS

“Staff, developers, everyone gets upset in an implementation-oriented policy review. Introducing a big process change is pretty significant...even if the DPS is structured with content, consultation, and ranges of effects that would essentially make it mirror a zoning process...training needs to extend past the review and into implementation...it shouldn’t be about ‘making an application process easier’, that is but one potential part of ensuring a complete policy framework remains responsive and appropriate.”

- Municipal Planner (Key Informant #7)

Interview Findings | 24
Both Informant #7 and Informant #1 stressed the importance of being adaptive and responsive, not only while developing the DPS by-law, but even within the development application. In the Township of Lake of Bays, one of the main concerns from applicants was that the new process of applying for a development permit was more frustrating than the traditional process. Staff worked with the development community to make appropriate amendments to the by-law and responded to the community concerns. It was important that staff be adaptable within the planning process, as a problem such as implementation would not have risen until it had been implemented. Informant #3 described how Carlton Place has already made an amendment to their By-law by adding Development Class 4 and 5, a result after active discussions and meetings with the development community. It was stressed that much of the preliminary policy framework was created through trial and error, and needed to be flexible in nature. One of the key benefits of a DPS is that it is straightforward and predictable for the public. Switching to a new land use planning tool must be as seamless as possible for the development community and should not detract from economic growth because new legislation is too confusing.

Informant #3 described the strong level of support received from the public with regards to the loss of third-party appeals from a DPS. This support came after 2 previous decisions by the OMB had been extremely unfavourable to the community. Informant #3 explained that by leaving the decisions to staff, applications would be evaluated at a local level and not by an independent adjudicative tribunal. Conversely, Informant #2 has received concerns from the public over the limited understanding of the DPS and third-party appeals, creating a lack of transparency from the City. This emphasizes the need to reduce ambiguity through public education from staff.

Currently, third-party appeals have not been an issue for municipalities using a DPS. By taking out the ability for third-party appeals, it alleviates future concern such as a situation where neighbours are fighting against each other. For Informant #1, the DPS has reduced insignificant appeals that bog down the planning approval process. Most appeals from applicants have been met with constructive and collaborative discussion between municipal staff and developers, reaching constructive agreements. Informants #1 and #3 explained that since the inception of the DPS, OMB appeals have been reduced significantly, with only 1 or 2 appeals from applicants.
An example of this is shown in Table 5.1, where the Township of Lake of Bays has seen a significant decrease in the time of approval on decisions from both staff and Council.

### Township of Lake of Bays

#### Average Timeline Comparisons

<table>
<thead>
<tr>
<th></th>
<th>Council Approvals</th>
<th>Staff Approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Former zoning (prior to 2006)</td>
<td>15.5</td>
<td>3</td>
</tr>
<tr>
<td>Former site plan (prior to 2006)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18.5 weeks</td>
<td>12 weeks</td>
<td>14 weeks</td>
</tr>
</tbody>
</table>

*Table 5.1.* Shows the shift in average timeline approvals from staff and Council from a traditional zoning bylaw to a DPS by-law (Wood Bull et al., 2014).
This report was completed in an attempt to address the problem of why the DPS has not been utilized by municipalities more ubiquitously, and to fill in the research gaps by adding to the lack of current academic literature. The DPS is a land use policy tool that is largely misunderstood by both professionals and the general public specifically, how to effectively implement a policy framework in Ontario. The *Development Permit System: A Handbook for Municipal Implementation* by MMAH, is the most comprehensive document guiding municipalities through implementation. Research questions were derived from the Handbook to evaluate the practicality of recommendations under Section 5.0 of the Handbook for municipal implementation, followed by what recommendations may be provided to ease the transition of municipalities towards a DPS.

In an attempt to fill some of the current gaps surrounding the DPS, a document review was undertaken, as well as key informant interviews conducted with industry professionals. An evaluative framework of interview questions was derived from considerations from the document review of the 3 stages of implementation under Section 5.0 of the MMAH Handbook. Using interviews as the primary method of data collection, informants were chosen based on their past and current experience with the DPS in Ontario.

From the interview findings conducted over the course of 2 months, a set of reoccurring themes emerged of how municipalities can better transition towards a DPS. As the goal of the Handbook is to be broad in scope, it is hoped that this research and the recommendations contributed below, will provide municipalities with a greater understanding of how to build a DPS foundation, create a strong DPS framework, and once implemented, work adaptively within the DPS. Future research may focus on examples outside of Ontario, as the examples of successful DPS implementation are quite limited in Ontario; used mainly in rural communities.
Recommendations

6.1 Stage 1: Building the DPS Foundation - Official Plan

1. Start with a clear rationale for using a DPS that provides a justification on how it will help achieve the community’s vision, supported by background studies.

It is fundamental that a municipality clearly articulates their reasoning for the shift in land use policy. The MMAH Handbook clearly explains how municipalities must amend their current OP in order to prescribe requirements and identify the DPS. Section 3.0 – Using the DPS to Address Current Planning Issues presents a broad stoked examination of the benefits of using a DPS (MMAH, 2008). However, more emphasis should be placed on detailing how municipal staff can provide a comprehensive rationale to the public on why the DPS will be beneficial in their local community. Updating the Handbook by adding such a section may reduce public ambiguity through planning justification and the disconnect between planning staff and the general public. Municipalities can achieve this justification by presenting background studies such as housing inventory counts, design guidelines, or environmental protection that reinforce staff’s rationale for the preservation of the built form in a neighbourhood or district.

2. Prioritize education surrounding the DPS within initial public consultation that reveals the policy framework of a DPS in its entirety; this requires more than one mandatory public meeting and one open house, currently mandated within the Planning Act.

Educating and engaging the public in a meaningful way was the most reoccurring theme within the key informant semi-structured interviews, and is often a step that is undervalued by municipalities. Under Section 4.0 – Community Consultation and the DPS, MMAH provides an effective but brief overview of the need for early public involvement. MMAH should develop a table that envisions how the consultation process, educating and informing the public from the beginning process to the end process. This would provide municipalities with a more
effective guide to implementing a community vision. One suggestion would be to lay out objectives to be achieved at each public consultation stage. It is obvious that under the Planning Act, one mandatory public meeting and open house is insufficient. Before the public can engage in a collaborative effort to make informed decisions on planning issues, they must clearly understand the DPS in its entirety; information that must come directly from municipal staff members. Effective consultation results in the education of not only the general public but also city staff members who remain apprehensive about the use of a DPS.

6.2 Stage 2: Building the DPS Framework - Development Permit By-law

3. Encourage more provincial oversight to incentivize lower-tier municipalities to break the mold and support a shift in land use planning policy.

Municipalities are hesitant towards employing a DPS, as there is little to compare it to in Ontario. Most municipalities do not want to take a leap of faith for fear of its implications. Upper-tier municipalities need to incorporate enabling policies that provide lower-tier municipalities with a guide to transition away from traditional planning practices towards a DPS. It is important to note that there is no section dedicated to provincial guidance within the MMAH Handbook. As a provincial document, the Handbook would benefit from more discussion around the creation of guiding policies that discuss how upper-tier municipalities will support transitioning lower-tier municipalities. It is too early to fully understand the implications of Bill 73 however, allowing the Province and upper-tier municipalities to enforce a DPS on lower-tier municipalities may be beneficial in providing local support and guidance. The concern by many municipalities to abandon traditional practices can be mitigated through guiding provincial support.

4. Create an OPA and development permit by-law in tandem; first by setting up the proper guiding policy, and then through the creation of a zoning by-law that provides a local framework for what a district or neighbourhood will look like.
Under Stage 2, the Handbook provides a comprehensive outline of mandatory and optional regulatory requirements under *Ontario Regulation 608/06*. However, after much discussion with key informants, the addition of creating an OPA and development permit zoning by-law simultaneously as an option would be an effective strategy for municipalities. Creating the framework for the OPA through guiding policy may not garner the same attention as a zoning by-law, but must be in place before any localized policy can be envisioned. By preparing both policy frameworks in tandem, municipalities can bring in direct examples from the zoning by-law and clearly demonstrate how local policy implications will meet the intent of the OPA and directly affect the public. MMAH can bridge the gap between building a foundation through the OPA and building the framework within a development permit by-law by incorporating a section detailing an alternative approach to creating both policies in tandem.

### 6.3 Stage 3: Working Within a DPS

5. The creation of policy must be responsive and flexible within a development permit by-law.

MMAH provide a comprehensive review of the DPS. However, more emphasis should be placed on creating a policy framework that is adaptive when drafting a development permit by-law. Creating a section within the Handbook that addresses how essential it is for municipal staff to respond appropriately to community concerns even after implementation would be extremely beneficial. There will always be unforeseen difficulties for how policy functions compared to what it was intended to accomplish. Municipalities must be proactive in amending by-laws to incentivize development, using the DPS as an economic tool that does not detract from the growth of the municipality because the application process is too cumbersome. The OP review also provides a practical opportunity to modify dated or ineffective policies every 5 to 10 years.
6.4 Summary

Education on the role that a DPS plays as a land use tool in municipalities cannot be undervalued by professionals and the general public. Consequently, a greater understanding of how to most effectively use this tool allows municipal staff to provide a better rationale for a DPS in their community, thereby strengthening the engagement process. Provincial oversight and support can help alleviate the risk that lower-tier municipalities face of abandoning traditional land use practices.

As a document that municipalities look to for guidance, the MMAH Handbook should consider developing a framework for consultation that envisions the steps needed for proper consultation from the beginning to the end of the process; most importantly, emphasizing the need for municipalities to remain adaptive to changing by-laws in order to promote economic growth. One option is creating an OPA in tandem with a development permit by-law.

The potential growth of the DPS in Ontario depends on how well municipalities can establish an effective framework for consultation with the public and professionals. The province can play a significant role in the creation and guidance of this framework. As municipalities look to each other for successful examples on which to improve, the DPS must become more of a viable option for municipalities to use and share if it is to take hold in Ontario.


Appendix A: Key Informant Recruitment Email

E-mail Subject line: Queen’s University Study - Transitioning Towards a Development Permit System

Dear (participant’s name): 

I am inviting you to participate in a brief 20-30 minute phone call on your experience with the development permit system. As part of my graduate program in the Urban and Regional Planning program at Queen’s University, I am carrying out a study to learn whether the Handbook provided by MMAH is beneficial to practicing professionals currently working within a DPS or trying to create a framework for future implementation.

Within my Master’s Report, there will be no specific names or affiliations and the data will be used in general terms. You can stop being part of the study at any time during the interview and even afterwards up to the end of March, when my Report will be submitted for editing.

This study has been reviewed and cleared by the Queen’s Research Ethics Board and if you have any concerns or questions about your rights as a participant or about the way the study is being conducted you can contact Queen’s General Research Ethics Board. Alternatively, please feel free to contact me via email at g.muir@queensu.ca or by phone at 343-363-5996.

Thank you in advance for your interest in this project and I look forward to hearing back from you.

Regards,

Graeme Muir
M.P.L. Candidate
School of Urban and Regional Planning
Queen’s University
E: g.muir@queensu.ca | P: 343-363-5996
Appendix B: Combined Letter of Information and Consent

Project title: Transitioning Towards a Development Permit System: Recommendations for the Ministry of Municipal Affairs and Housing

Researcher: Graeme Muir, M.Pl. Candidate (2016) at Queen’s University under the supervision of Dr. John Meligrana

Purpose: Semi-structured Interviews

The goal of these interviews is to gain a better understanding of the development permit system within the planning process from working professionals.

The interview should take no longer than 15-20 minutes with the potential of follow-up questions by either phone or email. Interviews will be audio-recorded to ensure an accurate recording of my responses.

There are no known risks to participation in the study.

Participation is voluntary and you are free to withdraw at any time. If at any point the interviewee decides to withdraw, please indicate ‘I wish to end the interview’ and any information from the interview will be removed from my research. Please note, participants will only have the option to withdrawal up until my report is submitted publication at the end of April 2016.

You are not obliged to answer any questions that you find objectionable or which make you feel uncomfortable. I will protect the privacy of the participants using an alphanumeric code such as ‘Participant 1’, in order to protect each participant’s identity. Furthermore, no participant will be directly quoted but rather, used in general terms.

Confidentiality will be protected. Reports of this study will aggregate interview data and will not discuss individual interviews. Interview notes will be stored on a password-protected computer at Queen’s University and destroyed after 3 years. Only the researcher will have access to this data. Your signature below indicates that you understand these provisions around confidentiality and anonymity.

Research results will be presented at a conference and/or in an open access publication relevant to the digital library community. There are no foreseeable secondary uses of the data.

This study has been granted clearance according to the recommended principles of Canadian ethics guidelines, and Queen’s policies.

☐ Please check this box to indicate you have the proper consent from a supervisor to participate
Your signature below indicates that you are aware that you may contact the principle investigator, the supervisor, or the General Research Ethics Board if you have any questions, concerns or complaints about the research procedures.

Principle investigator: Graeme Muir (343-363-5996, gwvmuir@gmail.com)
Supervisor: John Meligrana (613-533-6000 ext. 77145, john.meligrana@queensu.ca)
General Research Ethics Board Chair at 613-533-6081 or email: chair.GREB@queensu.ca

Your signature below indicates that you have read this Letter of Information and freely consent to participate in this research at which you may withdraw at any time:

Name: ___________________________

Signature: ________________________

Date: ____________________________