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WORKING PAPER NO. 12

PRIVATE WANTS AND PUBLIC NEEDS: THE REGULATION OF LAND USE IN THE METROPOLITAN TORONTO AREA

by
Stuart Proudfoot
Faculty of Administrative Studies
York University, Toronto, Ontario

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FOREWORD

This study is one of a series commissioned by the Economic Council's Regulation Reference which deals with various aspects of land use and building codes regulation. These studies do not cover the whole field of land use regulation but they do focus on important areas of concern.

The following is a list (alphabetically by author) of land use studies to be published in this series:

Dale-Johnson, David, Land Use Regulation in Metropolitan Vancouver.

* Eger, A.F., Land Development Risk and Regulation in Montreal, 1966-1979.

Hamilton, S.W., Land Use and Building Codes: The Regulatory Framework.

Hamilton, S.W., Land Use and Building Codes Regulation: Summary Report.

McFadyen, Stuart and Denis Johnson, Land Use Regulation in Edmonton.

* Proudfoot, Stuart, Private Wants and Public Needs: The Regulation of Land Use in the Metropolitan Toronto Area

* Seelig, Julie H., Michael Goldberg and Peter Horwood, Land Use Control Legislation in the United States -- A Survey & Synthesis.

* Silver, Irving R. assisted by Rao K. Chagaralamudi, The Economic Evaluation of Residential Building Codes: An Exploratory Study.

* already published.

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No study of this kind would be possible without the assistance and cooperation of many people.

In Mississauga, Russ Edmonds, Andy Adamson, and especially Greg Bewick provided generous assistance. In Toronto, Roy Henderson and Stu Westland must be singled out for their special help not only on this research but on several studies going back almost 10 years. Peter Tomlinson, also of the City of Toronto, provided useful comments on an earlier version of this report.

In the development industry, numerous informants contributed to the study. Requests for anonymity prevent me from naming them all here but I am grateful to them for their insights and interpretations. Bernie Ghert and Harold Fealdman of Cadillac-Fairview commented on earlier drafts of the report, at the request of the Economic Council. In addition, the suggestions, comments, criticisms, and occasional minor accolades of three industry reviewers of the report have been noted.

Several academic colleagues have made useful suggestions at various stages of the study. In particular, Professors Tom Anton, of the University of Michigan, and Roy Flemming of Wayne State University have helped me place Ontario planning practices in a comparative perspective. As Coordinator of the land use studies under the Regulation Reference, Professor Stan Hamilton of the University of British Columbia made detailed comments on an earlier draft. I believe these comments have led to a better final report.

My research assistants, Anita Bromberg, and especially Kevin McLoughlin, rendered yeoman service in trying to make sense of project files which were

in some instances over a foot thick.

Since several of the persons noted here disagree with me on a variety of points of fact or interpretation, none of them should be blamed for the deficiencies of the report. They have all made some contribution, however, to my thinking on the subject and therefore deserve some portion of the credit for whatever merit the study may have.

Finally, to Mary, Jesse, and Kate, a special thank you for putting up once again with an incorrigibly pre-occupied husband and father.

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RÉSUMÉ

La présente étude examine le fonctionnement des mécanismes de délivrance de permis relatifs à l'utilisation des terres dans deux villes ontariennes, soit Toronto et Mississauga : cette dernière est une municipalité résidentielle située à l'extrémité ouest de la région métropolitaine de Toronto. L'étude vise à identifier et à expliquer les changements qui se sont produits entre 1969 et 1978 dans 1) la durée des délais imposés par deux importants mécanismes de contrôle de l'utilisation des terres employés dans ces villes, soit le contrôle du lotissement et des modifications du zonage, et 2) le niveau des coûts directs imposés par la municipalité aux personnes demandant des changements touchant l'utilisation des terres.

Les résultats indiquent que le temps nécessaire à l'obtention d'une approbation, ainsi que les coûts directs, ont augmenté considérablement au cours de la période en question. Certains soutiennent, cependant, que les coûts associés aux processus décisionnel doivent être appréciés en fonction des avantages auxquels vise la réglementation publique. Le climat général dans lequel se fait actuellement l'évaluation publique des projets de développement est devenu fort complexe, et c'est le mécanisme de délivrance des permis qui sert maintenant de lieu de rencontre des forces concurrentielles au sein d'une

communauté. Les délais d'approbation plus longs sont attribués à des facteurs d'ordre "technique" ayant rapport avec les exigences relatives à la santé, la sécurité et l'environnement, ainsi qu'à des motifs "politiques" fondés sur les possibilités accrues de participation des citoyens au processus décisionnel, et sur leur empressement à tirer avantage des procédures établis. En outre, certains font valoir que les entrepreneurs en constructrion de logements du secteur privé peuvent être tentés de faire retarder l'émission des permis pour l'utilisation des terres, dans l'espoir de bénéficier de conditions plus favorables sur le marché. Ceux qui se portent à la défense des politiques favorisant l'examen public intensif des demandes de modifications aux plans établis d'utilisation des terres, ainsi que des mesures encourageant la participation des citoyens aux mécanismes de prise de décisions en ce domaine, s'appuient sur des motifs touchant l'intérêt public.

SUMMARY

This study examines how the land use approvals process operates in two Ontario jurisdictions, the City of Toronto and the City of Mississauga, a residential community on the western edge of Metropolitan Toronto. The focus is on identifying and explaining the changes in (1) the duration of the two major development control processes employed in these jurisdictions -- rezoning and subdivision control, and (2) the level of direct costs imposed by the municipality which must be borne by applicants for land use changes, over the decade 1969-78.

The findings indicate that both approval times and direct costs have increased substantially in the period studied. It is argued, however, that the costs associated with land use decisional processes must be weighed against the benefits sought by governmental regulation. The environment which now attends the public evaluation of land development proposals has become highly complex, and it is the approvals process that acts as a locus for competing forces in the community. Longer approval periods are attributed to "technical" factors related to concerns over health, safety, and environmental impact, and to "political" factors rooted in the increased accessibility of the decisional process to citizen participation, and to greater public willingness to take advantage of the easier access. It is also argued that the private producers of housing may also delay land use approvals in anticipation of more favourable market conditions. Policies of intensive public scrutiny of land use changes and the encouragement of community participation in the making of land use decisions are defended on public interest grounds.

1. INTRODUCTION

The justification for the governmental regulation of land use is based on the premise that unrestrained market forces would produce a pattern of physical development and an incidence of costs and benefits not in the public interest. The major reason cited is that the costs of development borne by the private sector are less than the full or social costs of development. Without intervention, it is argued, the type of development and its physical pattern would increase various public costs, including those related to transportation, the environment, sewage treatment, and so on. Governmental regulation, therefore, is required to reduce the impact of effects external to the private calculus of developers. It is also asserted that certain land-related public goods such as parks would not be provided in socially-optimal quantities by a purely private process of development.

Thus, the objectives of land use regulation centre around two main concepts -- efficiency and equity. Public intervention in land markets, it is argued, can promote greater efficiency by:

(1) reducing certain negative external effects which result from interdependencies among land uses;

(2) providing an optimal level of public goods;

(3) reducing the costs of providing certain public services.

In terms of equity, the objective of public intervention is to provide a more equitable distribution of the costs and benefits of land development than that which results from an unregulated market. Specifically, two types of equity considerations can be identified: procedural equity, which emphasizes due process and equality of access for participants in the decisional processes, and allocative equity which

focuses on the consequences of decisions. We are interested, for example, in whether persons in the community affected by land use decisions have an opportunity to participate in the making of those decisions. But, we are also interested in whether the outcome of the decisions made is fair and in the "public interest".

Land use regulation would be a less controversial subject if these efficiency and equity objectives could be achieved without cost. Unfortunately, substantial "costs" are involved; because costs and benefits must be weighed, and difficult trade-offs made, land use regulation is often a highly charged political issue.

The costs of regulating land use fall into two main categories: (1) the costs of planning, administering, and implementing the regulations; and (2) the increased costs which may eventually accrue to the price of housing by virtue of substantive restrictions on what can be built and how it may be used.

A third type of costs, and a major source of development industry criticism is the cost of meeting servicing standards that are alleged to be "excessive". Some recent research suggests that mandatory high quality original services represent a good long-run investment for a municipality.[1] But questions may be raised about who shall pay for high quality services. By requiring that developers finance the cost of "hard services" installation for a project, and by using lot levies to finance both current and future capital expenditures well beyond the subject property, municipalities are engaging in a method of finance which increases the cost of the housing product.[2] This means of financing allows tax rates to be kept down for

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1 Michael Goldberg, "Municipal Arrogance or Economic Rationality: The Case of High Servicing Standards," Canadian Public Policy (Winter 1980).

2 In Mississauga, the term "hard services" means the costs of installing services required by, or necessitated by, the project. These include the costs of procurement and installation of sanitary and storm sewers, water-mains, curbs, roads, lighting, sodding and tree planting. "Soft costs" refers to lot levies. (See Table 3.18, this paper).

existing residents who would have to bear the extra costs of capital expenditures if the municipality provided the services, but the upward push on housing costs which it involves, tends to make it more difficult for new residents to enter the community. By shifting capital costs onto the developer, it is likely that financially-constrained communities which may have had difficulties raising the capital, have been able to provide more housing than otherwise. But, because it is liable to be more expensive housing, questions must be raised about the fairness of the approach.

The question of equity, or fairness, arises more directly in the various forms of exclusionary development control now being practised in some municipalities, consciously or unconsciously. Anti-growth policies and large minimum lot sizes, for example, make the entry of new residents into established communities more difficult either by driving up the price of the existing housing stock or by making the construction of moderately priced housing virtually impossible.

These exclusionary practices are ominous signs which have drawn criticism from both Canadian and U.S. analysts. Some commentators have even argued that these new "protection of the character of the neighbourhood" objectives of land use regulation now outweigh in importance the original narrow "incompatible uses" rationale for zoning.[3]

Our purpose in this paper is to examine how two Toronto area jurisdictions attempt to implement the general objectives of land use regulation outlined above. The basic approach throughout is to attempt to weigh costs and benefits, broadly defined, with a view to offering some defensible judgments about whether the public interest is being served.

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3 On the Canadian side, see for example, Report of the Planning Act Review Committee (Government of Ontario, April 1977), esp. Chapters 6 and 14; Report of the Federal/Provincial Task Force on the Supply and Price of Serviced Residential Land ("The Greenspan Report", April 1978), Chapter 4, esp. pp. 39-42, 50-52; for the U.S., see for example, Richard F. Babcock and Fred P. Bosselman, Exclusionary Zoning: Land Use Regulation and Housing in the 1970's (New York: Praeger, 1973); and, R. Robert Linowes, and, Don. T. Allensworth, The Politics of Land Use: Planning, Zoning, and the Private Developer (New York: Praeger, 1973).

2. BACKGROUND DATA

Design of the Study

Two jurisdictions in the metropolitan Toronto area were chosen for detailed study: the City of Mississauga and the City of Toronto. The reasons for Toronto's selection are self-evident. It is Canada's largest city and its most important centre of commerce and finance.[1] In planning and development matters, all the major phenomena of recent interest to students of Canadian urban policy have been or are present: decline in population and rapid increase of property values in the central city; controversy over both the process and substance of land use decisions manifested especially in the encroachment of higher density uses -- both commercial and residential -- into formerly low density residential areas; the extensive rehabilitation of formerly "run-down" areas (by so-called "white painters") with the consequent upward push on prices and outward push on the previous lower income residents. Demands for increased citizen participation in deciding these matters have exacerbated the problems. All of these forces form part of the environment within which land use decisions have taken place in Toronto over the last 15 years.

Mississauga provides both contrasts and similarities to Toronto. Most development is new, on land formerly used for agricultural purposes. Consequently, the focus of development activity over the last 10 to 15 years has been on zoning changes from agricultural to residential and commercial purposes and the parallel subdivision of large parcels of land into individual building lots.

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[1] See for example, George A. Nader, Cities of Canada, Vol. II (Toronto: Macmillan of Canada, 1976), esp. p. 207.

The basic contrast with Toronto is obvious: in Mississauga, the locus of activity is on the first-time development of raw land; in Toronto, development activity centres around the redevelopment of property. This is not to say that Mississauga has no redevelopment activity: the areas south of the Queen Elizabeth Way along the Lakeshore (see Fig. 2.1) have been built up for some years and redevelopment is constantly taking place. Similarly, but considerably less important, Toronto occasionally processes a plan of subdivision -- usually in cases of industrial lands like lumber yards, factories, or storage areas being converted to residential use; this is ralatively rare, however.

Mississauga has also experienced considerable controversy over development. Essentially, the conflicts have centred around the development industry's desires to build housing as quickly as possible when demand warrants it, versus the upsurge in anti-growth (or at least "quality-controlled" growth) sentiment on the part of existing residents. In Mississauga, as in Toronto, the decisional processes by which land use changes are made have become the main target of direct citizen participation in local politics.

In order to proceed with the analysis of land use regulation in these two jurisdictions, it was necessary to collect data on the distribution of population, housing starts, and subdivision and rezoning applications and approvals. In addition, sample cases of the main development control processes were drawn in each municipality to provide greater detail. Much of this information was obtained from the Toronto, Mississauga, and Peel Region clerk's and planning departments. Other data came from the Ontario Ministry of Housing and various government documents. Finally, the empirical data were augmented by numerous interviews with knowledgeable persons in both the public and private sectors.

Figure 2.1. The Central Ontario Lakeshore Urban Complex

Source: Report to the Advisory Committee on Urban and Regional Planning of the Central Ontario Lakeshore Urban Complex Task Force, Government of Ontario, December 1974.

Preliminary Data

Figure 2.1 shows the locations of both the City of Toronto and the City of Mississauga in the context of the Toronto region. The City of Toronto is the core of Metropolitan Toronto (one of five regional municipalities in the Toronto CMA) and accounts for 34.2% of its total population of 2,086,100, as shown in Table 2.1[2]

Table 2.1

Distribution of Population by Borough or City,

Metropolitan Toronto, 1971

City or Borough	Population (000's)	Percentage
City of Toronto	712.8	34.2
Borough of Scarborough	334.3	16.0
City of North York	504.2	24.1
Borough of York	147.3	7.1
Borough of Etobicoke	282.7	13.6
Borough of East York	104.8	5.0
Total	2,086.1	100.0

Source: City of Toronto, Planning Board.

Table 2.2 depicts the breakdown of population by region in the Census Metropolitan Area (CMA) of Toronto. The Region of Peel, of which the City of Mississauga is a part, accounted for 9.7% of the total CMA population in 1971, while Metropolitan Toronto accounted for 79.4%. The City of Mississauga's

2 The four other regional municipalities are Durham, Peel, Halton and York.

population in 1971 was 174,655, accounting for 68.8% of Peel Region's population and 6.7% of the total CMA population.

In terms of housing production and housing potential, however, Mississauga (and Peel as a whole) is considerably more important than its existing population would indicate (not surprisingly, perhaps). For example, as depicted in Table 2.3, Peel Region accounted for fully one-quarter of the CMA housing starts in 1975, half as many as Metropolitan Toronto itself. Generally, the City of Mississauga accounts for approximately 50-60% of housing activity in Peel Region.

In his study of the Toronto housing market, Muller cites a report on estimated housing development potential within the Toronto CMA prepared for the Ontario Economic Council by the consulting firm of Coopers and Lybrand.[3] While Coopers and Lybrand recommend caution in the use of the data, their findings are at least suggestive of the importance of Mississauga and Peel Region with respect to housing potential in the Toronto area. In terms of residential subdivisions in the Toronto CMA, as of the end of 1975, some 56,000 units of housing had received at least draft approval status. Over 60% of this total, nearly 35,000 units, were in Peel Region, primarily in the cities of Mississauga and Brampton. In terms of applications for permission to develop but not yet draft approved, the Region of Peel accounted for 44,300 units or 48% of a total Toronto CMA figure of 93,000 units. While it must be remembered that the submission of a plan may be far removed from its approval, the figures do suggest an important role in the Toronto CMA for the City of Mississauga in terms of housing.

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3 R. A. Muller, The Market for New Housing in Metropolitan Toronto (Toronto: The Ontario Economic Council, 1978).

The Importance of Zoning and Subdivision Control

Because our main concern in this study is with housing production, we focus our attention on the two primary development control processes employed in Mississauga, rezoning and subdivision control, and on the major control device used in Toronto, rezoning.[4]

Table 2.4 depicts the average annual numbers of applications under various types of development control exercised by the City of Toronto. The reader is cautioned against drawing conclusions about the relative importance of the different control processes for housing based on these numbers.

> Although the annual numbers of development review, rezoning and Official Plan amendment applications are relatively small, they are far more important than their numbers would indicate. They generally involve the larger scale new buildings and additions, which make up the bulk of the annual investment in construction.[5]

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4 Other development control procedures in use in both jurisdictions and in Ontario in general include procedures for small-scale divisions of land commonly referred to as "land divisions" or "lot severance"; procedures for approving minor variances in the zoning by-law; site control; development review; demolition permits; and, of course, procedures for creating and amending Official Plans. In Mississauga, municipal officials estimate that 99% of the additions to the housing stock come about as a result of the subdivision and rezoning approval processes. In fact, the only other means is via "land division", which is used to create up to four lots out of an existing single lot. Divisions of greater than four lots must go through the subdivision approval process. Secondary control processes, such as building permit issuance or site plan approval are not considered because they do not come into play unless and until subdivision, land division, or rezoning has been completed. Building codes as a control device constitute a separate study under the Economic Council's Regulation Reference. A good summary of the City of Toronto's development control system is provided by Report of the Development Control Task Force: A Description of the City of Toronto's Development Control System (City of Toronto Planning and Development Department, April 1979).

5 Ibid., p. 5.

Table 2.2

Distribution of Population by Region,

Toronto, CMA, 1971

Regional Municipality[a]	Population (000's)	Percentage
Durham	47	1.8
Halton	100	3.8
Metropolitan Toronto	2,086	79.4
Peel	254	9.7
York	142	5.4
Total	2,628	100.0

[a] Only that portion of the region within the Toronto CMA is included.

Source: R.A. Muller, The Market for New Housing in the Metropolitan Toronto Area (Ontario Economic Council, 1978).

Table 2.3

Housing Starts by Region, Toronto, CMA, 1975

Regional Municipality[a]	Housing Starts	Percentage
Durham	1,781	6.7
Halton	1,583	6.0
Metropolitan Toronto	12,981	49.1
Peel	6,820	25.8
York	3,292	12.4
Total	26,457	100.0

[a] Only that part of the regional municipality within the Toronto CMA is included.

Source: R.A. Muller, The Market for New Housing in Metropolitan Toronto (Ontario Economic Council, 1978).

Table 2.4

The Range of Development Control Activity in the City of Toronto as Illustrated by the Annual Number of Applications, 1975 to 1977

Type of Development Control Application	Average Number of Applications per Year	
Building permits	6,923	
Zoning variance and relief	1,001	
General demolition permits	230	
Permits to demolish or convert dwelling units	188	
Development review	106	1
Rezoning	67	2
Official Plan amendment	approx. 5	

1. Projects which undergo development review as part of the rezoning process are not included in this total.
2. This total includes the projects which required, in addition to rezoning, an Official Plan amendment.

Source: Report of the Development Control Task Force: A Description of the City of Toronto's Development Control System (City of Toronto Planning and Development Department, April 1979, p. 4a).

Table 2.5 shows the inflow of rezoning applications received by the City of Toronto in the period 1966 to 1979. The value of building permits issued is displayed to provide a "benchmark" for the data on applications. While data that would allow a computation of success rates for rezonings in Toronto are not readily available, some previous research conducted by the author found a success rate of 41% for a random sample of over 200 applications submitted during the period 1965-72.[6]

6 See Stuart B. Proudfoot, "High-Rise and Neighbourhood Change: The Politics of Development in Toronto," Ph.D. dissertation, University of Michigan, 1977. The success rate figure of 41% probably overstates the actual rate somewhat since success in this instance means passage of the by-law by City Council. It is probable that some by-laws passed by Council would not receive Ontario Municipal Board (OMB) approval, but it is expected that this number would be very small.

Table 2.5

Rezoning Applications, City of Toronto, 1965-79

Year	Number of Rezoning Applications	Value of Building Permits Issued (in millions)
1965	99	-
1966	61	217.5
1967	60	225.4
1968	57	232.3
1969	57	234.3
1970	43	301.7
1971	45	324.1
1972	44	253.5
1973	34	409.2
1974	53	402.2
1975	57	554.6
1976	89	264.8
1977	56	343.7
1978	81	286.3
1979	53	372.3
Mean, 1965-78	59	

Source: City of Toronto, Clerk's Department and Department of Planning and Development.

Table 2.6 depicts the flow of applications and approvals of rezonings in the City of Mississauga for the period 1965-66 to 1978-79. Caution must be exercised in comparing the success rate in Mississauga with that of Toronto. Some applications for rezoning in Mississauga may take several years to process because they apply to land for which the City may not yet have established firm policies as to use, i.e., the applications may be "premature."[7] What this means, in essence, is that only comparisons based on a period of years sufficient to wash out most lag effects, make any sense.

[7] The implications of "premature" development applications will be dealt with later in the discussion.

On that basis, for the period 1965-66 to 1978 the average number of rezonings approved per annum of 41, compared with an average annual application submission rate of 78, would indicate a success rate of 53%.

Table 2.6

Rezoning Applications and Approvals, and Success Rate,

City of Mississauga, 1965-79

Year	Number of Applications	Number of Approvals
1965	72	-
1966	88	49
1967	73	38
1968	67	34
1969	96	25
1970	67	50
1971	64	36
1972	91	46
1973	109	56
1974	98	30
1975	85	42
1976	50	50
1977	57	35
1978	80	38
1979 (to July 1)	49	-
Average annual number of applications (1965-78):		78
Average annual number of approvals (1966-78):		41

Success Rate $= \frac{41}{78} \times 100\% = 53\%$

Source: City of Mississauga, Planning Department

Table 2.7 depicts the number of applications and approvals for subdivisions in the City of Mississauga for the period 1965-66 to 1978 and the "success" rate. The obvious correlation between the rates of rezoning and

subdivision applications is probably a general reflection of economic activity in the housing sector. One would also expect a certain degree of correlation simply because some subdivisions also involve a change in zoning, so that a certain proportion of the two "rates of intake" are linked in terms of processing.[8] Indeed, Table 2.7 does indicate a success rate for subdivision

Table 2.7

Subdivision Applications and Registrations, and Success Rate, City of Mississauga, 1965 to 1979

Year	Number of Applications	Number Registered
1965	36	-
1966	63	20
1967	34	35
1968	21	23
1969	31	28
1970	22	8
1971	36	23
1972	45	28
1973	57	24
1974	43	22
1975	43	25
1976	32	26
1977	30	33
1978	41	28
1979 (to July 1)	30	7
Average annual number of applications (1965-78):		39
Average annual number of approvals (1966-78):		25

Success Rate = $\frac{25}{39}$ x 100% = 64%

Source: City of Mississauga, Planning Department

8 As will be seen below in the discussion of how the samples were chosen, it is estimated that approximately 50-60% of subdivision applications also involve a rezoning.

applications that is somewhat higher than for rezonings, 64% versus 53%. A second possible reason for the greater subdivision success rate is that a higher proportion of subdivision applications appear from observation to come from developers, i.e., professionals who better understand the system. Few individuals undertake subdivision projects without professional assistance. A disproportionate number (by no means the majority) of rezoning applications emanate from individual homeowners and small businesses whose understanding of the system is less sophisticated.[9] Finally, while subdivision applications may take a considerable length of time to approve, as we shall see below, it is clearly in the interests of the developer (and the City) to reach agreement. Plans may be revised for various reasons but a process of negotiation usually results in the eventual approval of a plan.[10] Rezoning applications, by contrast, which involve relatively minor requests leave less room for negotiation, since the applicant has little to offer. For example, an individual who seeks a rezoning to allow his residence to be used as a professional office is in not the same bargaining position as a major developer proposing a subdivision plan which will house 5,000 people. The authorities, in the former instances, are not under pressure to get housing "onstream," so that a public interest beyond the level of the individual owner is not at stake.

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9 It must be remembered that rezonings are required for minor changes such as from residential to commercial on a single lot, or to build two townhouses on a single lot. Some indication of the need to distinguish between numbers of applications and their importance in the production of housing is provided in the annual report of Mississauga's Development Coordinator. In 1978, one subdivision project, Neighbourhood # 109 in Cadillac Fairview's Erin Mills, accounted for 52% of the total number of detached dwellings and 35% of the entire annual total of all dwelling units registered in that year. (See Memorandum, City of Mississauga Clerk's Department, "Development Statistics 1978", February 1, 1979).

10 Of 243 applications for subdivision received in Peel Region in that period 1975-78, and processed, or undergoing processing, only eight had been turned down, closed, or withdrawn; 109 had been draft approved and 122 were pending (awaiting a decision).

Formal Description of Zoning and Subdivision Approval Processes[11]

Figures 2.2 and 2.3 are simplified representations of the processes by which rezoning and subdivision decisions are made in Ontario.[12]

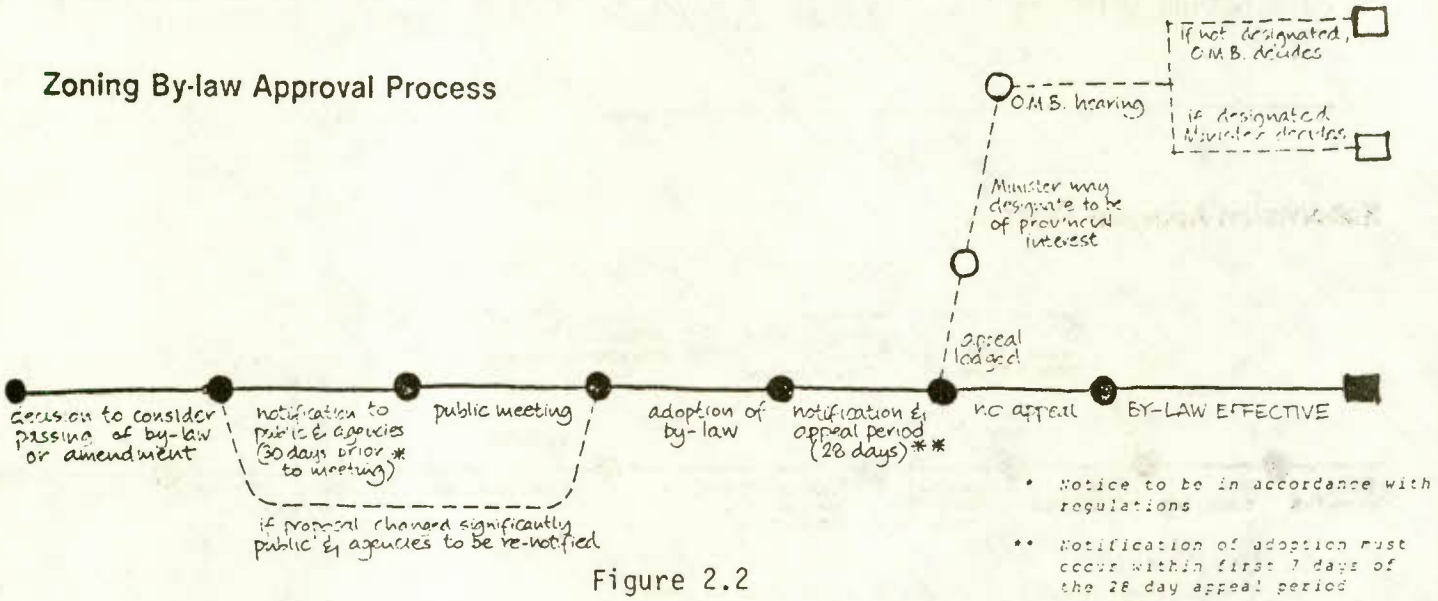

Figure 2.2

Schematic of Zoning By-Law Approval Process, Ontario

Source: The Planning Act: A Draft for Public Comment, Government of Ontario, 1979.

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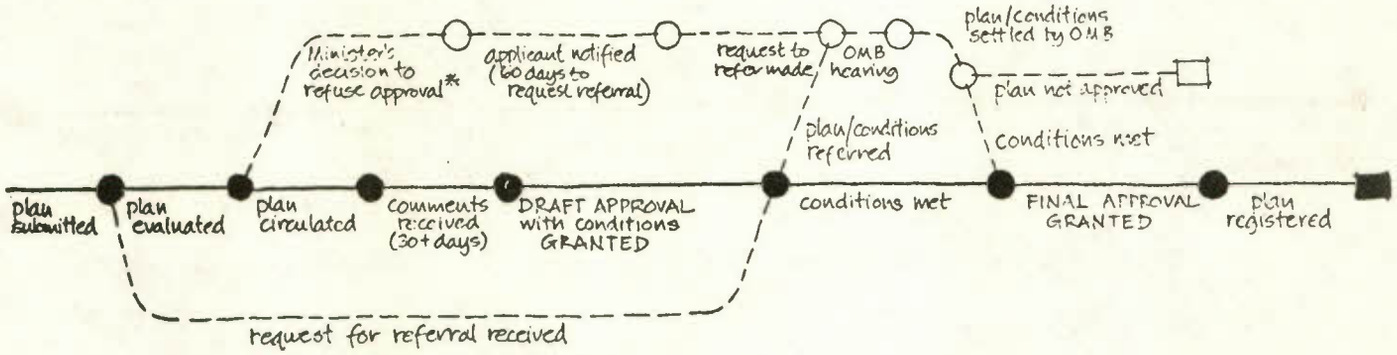
11 See also Appendix A.

12 For readers not familiar with Ontario terminology, "Council" in Figure 2.2 refers to the local Municipal Council; such local Councils have the authority to pass zoning by-laws subject to the approval of the O.M.B. In Metropolitan Toronto, each of the borough councils is a municipal council; similarly, the City of Mississauga Council is a municipal council. The "approving authority" for plans of subdivision may be either the Province through the Ministry of Housing, or a "delegated municipality." The "delegated municipalities" are the regional municipalities of Peel, York, Halton, Hamilton-Wentworth, Durham, Waterloo, and Ottawa-Carleton. For those jurisdictions in which the Province is the approving authority, draft plans of subdivision (applications) are submitted directly to the Ministry of Housing; in the "delegated municipalities," plans are submitted to the relevant regional government, e.g., in the case of Mississauga, the Region of Peel is the approving authority.

The basic characteristics of both approval processes will remain substantially unchanged despite an exhaustive review of planning in Ontario over the last few years, beginning with the Report of the Planning Act Review Committee (1974), followed by the White Paper on the Planning Act (May 1979), and culminating with The Planning Act: A Draft for Public Comment (December 1979).*

Subdivision Approval Process



* Minister's decision to refuse approval can be made anytime prior to draft approval

Where the subdivision approval authority has been delegated, the Minister may call-in a subdivision plan anytime between submission and final approval.

Figure 2.3

Schematic of Subdivision Approval Process, Ontario

Source: The Planning Act: A Draft for Public Comment, Government of Ontario, 1979.

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* While changes of some import have been proposed in the notice, hearing, and appeal sections of the draft Act relating to development control (See Appendix A, Section 34(16)-34(36)), and municipalities have been given the power to institute "holding by-laws" and to zone for a class of persons (Section 34(12)-34(15), and 34(3)(4) respectively), subdivision control changes such as replacement of the current control mechanisms with a development permit system, or proposals for the taxing of the "windfall" gains from development approvals, or various transfer of development rights schemes were all rejected; both by the Planning Act Review Committee and by the Government.

The marginally revised approval processes for zoning amendments and plans of subdivision as described in the draft legislation to the new Planning Act are as follows:[13]

Zoning By-Law Approval Process[14]

> Zoning by-laws and amendments initiated by either the municipality or on application from a land owner, will be approved under the following processes to be established by regulation.
>
> The municipality must give notice of its intention to consider a proposed by-law or amendment to affected property owners and public agencies. This notice will be given to those individuals and public agencies presently listed in the OMB rules of procedure and in the regulation under section 35(24) of The Planning Act. 15 The notice will indicate the time and place of the required council meeting at which the proposed by-law will be considered. Notice must be given at least 30 days prior to the date of the meeting.
>
> Council will be required to hold such a public meeting on the proposed by-law prior to formal adoption.
>
> Council may approve the by-law as proposed or with modifications, or may refuse to approve the by-law. If significant changes are made, the public and agencies circulated or notified previously must be re-notified and another public meeting held.
>
> The clerk must give notice of council's decision within 7 days. This notice will be given to individuals who register with the clerk at the public meeting, to those public agencies specifically requesting such notice, to the Ministry of Housing and to the regional municipality or county having jurisdiction. The notice will establish a 28-day period from the date of the municipal decision within which anyone receiving the notice may appeal the decision to the OMB.

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13 The Planning Act: A Draft for Public Comment, Government of Ontario, December 1979.

14 This description of the zoning by-law approval process is not currently operative. However, it is widely accepted that the draft legislation, from which the description was taken, will indeed become law (See also Appendix A).

15 Section 35(24) of the Planning Act reads as follows: (24) "The Lieutenant Governor in Council may make regulations prescribing the manner of giving notice, the form of the notice, the persons to whom notice shall be given and the time within which objections may be filed with the clerk of the municipality when the council proceeds under subsection 25." See Conclusion No.'s 60 and 61 of the White Paper, Section 34(17) of the draft act, and Appendix A for proposed changes in legislation.

If an appeal is not lodged, the by-law becomes effective at the end of the appeal period.

If an appeal is lodged, the matter must be submitted to the OMB. The Minister of Housing may, at any point prior to the OMB hearing, designate the matter as provincially significant. The OMB will then hear the appeal and decide on the matter. The OMB decision will be final unless the minister has designated the matter as being provincially significant. In such cases, the OMB will make a recommendation to the minister and the minister's decision will be final.

Subdivision Approval Process[16]

The principal components of the subdivision approval process remain unchanged in the proposed new planning act. The subdivider will submit his application to the approving authority as usual and the application will be circulated to a variety of provincial and public agencies for comment. 17 The circulation step is to be completed within 30 days, though there will be a provision for an extension to this time where warranted. Approval of a subdivision application will be a two-stage approval as before. The first stage, draft approval, is an approval in principle which sets conditions to be satisfied before final plan approval is granted. The majority of these conditions will be satisfied through the subdivision agreement between the municipality and the subdivider. When the conditions have been met to the satisfaction of the approving authority, the process is complete, final approval is granted and the plan can be registered. 18

Changes to the section of the act dealing with subdivisions relate primarily to the conditions of approval. The setting of conditions that are "advisable" is replaced by conditions that are "reasonable," having regard to the nature of the

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16 This description of the subdivision approval process is not currently operative. However, it is widely accepted that the draft legislation, from which the description was taken, will indeed become law (See Appendix A).

17 See Appendix A.

18 For a discussion of duration of, and extensions to draft approval, see pages 35 and 36 below.

> proposed subdivision development. Conditions pertaining to the conveyance of parkland have been changed. Conveyances for commercial and industrial subdivisions are reduced to 2% of the total area of the plan. The 5% parkland conveyance remains for residential subdivisions. As well, cash-in-lieu of parkland provisions are changed in that the municipality may "require" rather than "accept" the cash payments.
>
> Referral and appeal provisions remain essentially unchanged except that where the Minister proposes to refuse approval of a plan, he must give written notice with reasons for the refusal. The refusal becomes final if the applicant does not request the Minister to refer the draft plan within 60 days of giving the notice.

Our purpose in including these two long quotations was twofold: (1) to provide brief descriptions of the two main development processes we are concerned with in this study; and (2) to demonstrate how the procedures proposed in the new Planning Act differ from those in the present legislation.

3. THE FINDINGS AND ANALYSIS

The purpose of the collection and analysis of empirical data presented in this chapter was to try to help answer the fundamental question of whether the benefits of the regulation of land use -- better-planned communities, better distribution of certain public goods, more efficient provision of public services, etc. -- as it is currently practised in the jurisdictions of Toronto and Mississauga are "worth" the costs incurred. As noted earlier, these costs include planning and administrative costs, and potential added costs of housing due to restrictions on density and certain housing types. While the findings do not allow a definitive answer to that question -- indeed, a definitive answer is impossible -- it is hoped they will provide the basis for a more enlightened discussion of the difficult trade-offs involved.

To address the basic question posed, we must first outline certain "facts" of the current situation. Two major complaints about the current land use regulatory process, in the two study jurisdictions as well as elsewhere in Canada and the U.S., are: (1) that it takes "too" long to get a change in land use approved by the public authorities; and (2) that the costs incurred are "too" great, both in terms of getting approval and in terms of the kinds of housing units that the regulations allow.[1] We will return to the question of costs later in the discussion; for the moment, let us consider in some detail the alleged lengthiness of the approvals process.[2]

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1 For general background readings on criticism of the development approval process in Ontario and elsewhere, see footnote 3 in, INTRODUCTION, and, Stephen R. Seidel, Housing Costs and Government Regulations: Confronting the Regulatory Maze (New Brunswick, N.J.: Center for Urban Policy Research, 1978).

2 Three separate data sources were considered in compiling information: (1) Ministry of Housing studies on the subdivision approval process in the regional government jurisdictions of Ontario; (2) Region of Peel studies on the subdivision approval process in that jurisdiction; (3) primary data collection conducted for this study in the City of Mississauga.

Length of Subdivision Approval Process

In response to complaints from the development industry and others that the subdivision approvals process in the province was excessively slow, thereby keeping needed housing off the market, and that the new regional governments were at least partly at fault, the Ministry of Housing undertook a series of "timing studies" during 1979.[3] A summary of their findings relevant for our purposes is outlined in Table 3.1. The data displayed yield several important insights into the approvals process. First, it would appear that the Region of Peel is somewhat slower than either the Ministry of Housing or the delegated municipalities as a whole in making its decisions. For the period 1975-78, the average time taken to reach a decision in Peel was 11.3 months, compared with 9.9 months for the delegated municipalities and 9.4 months for the ministry.

It must be remembered in interpreting this data that the elapsed times given are for that portion of the entire approval process up to draft approval (or non-approval). As we shall see below, another substantial period ensues before a plan is registered.[4] Nevertheless, draft approval (or its denial) must be regarded as an important point in the approval process, particularly since the elapsed time to that point can properly be attributed to evaluations being conducted by public authorities. Once an applicant has obtained draft approval, and has therefore agreed to the conditions, the length of time until final approval is largely under the applicant's control. Once the conditions set by the municipality, and agreed to by the applicant have been met, final approval is granted; the applicant may then proceed to registration.

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3 These studies are unpublished; the results were generously made available to the author by Ministry officials.

4 A plan of subdivision must be registered before the owner can apply for a building permit.

Caution must be exercised in interpreting the data in Table 3.1. For example, the ministry has approved (or reached a decision on) a much higher percentage of the applications submitted each year, compared to both the delegated regions as a whole and Peel Region in particular. For the period 1975-77, the ministry had reached a decision on 90.8% of its applications (by 31 March 1979) compared to 69.9% for the delegated areas and a low of 62.7% for Peel Region. Clearly, the applications that are pending, i.e., those for which a decision has not been rendered, will drive up the average elapsed approval times once a decision has been rendered on them. Therefore, since the delegated municipalities, including Peel, have processed over 20% fewer applications in the same time period as the province, we can expect substantially longer average approval times for those areas if and when they have processed a comparable percentage of applications.

Another way of considering the lengthiness of the approval process is to determine what proportion of the inflow of applications had reached the decision stage after the expiration of a certain period of time. Table 3.2 compares the record of the Region of Peel with the other delegated municipalities and the province. Again, a similar picture emerges: Peel does indeed appear to take considerably longer to make decisions on subdivision proposals. In every year since the creation of regional government in Ontario, the Region of Peel has been near the bottom of jurisdictions possessing the approval authority in terms of per cent of applications processed in an 18-month period.

More generally, the data would appear to indicate that the delegated municipalities are not yet processing plans as speedily as the province. Recalling that one of the rationales for the imposition of regional government was to speed up such land use decision processes, we offer the following ideas concerning the apparently poor showing of the regional governments in this regard.

Table 3.1

Number and Elapsed Processing Times for Applications for Approval of Plans of Subdivision, Province of Ontario, 1975-78 (time in months)[1]

Year	Ministry of Housing[2]			Delegated Municipalities[3]			Region of Peel[4]			All[5]		
	No.	% of appls.	Time	No.	% of appls.	Time	No.	% of appls.	Time	No.	% of appls.	Time
1975	926	95.0	12.1	107	77.5	11.5	15	55.6	19.0	1033	92.8	12.0
1976	747	93.4	9.1	279	74.6	12.5	37	62.7	12.2	1026	87.5	10.0
1977	600	82.2	7.5	302	63.8	9.1	47	65.3	9.8	902	75.0	8.0
1978	324	52.3	5.1	168	37.5	6.1	22	25.9	7.4	492	46.1	5.5

Notes:

1. Applications for which a decision had been made by March 31, 1979, i.e., either (a) draft approval, (b) turned down, (c) closed or withdrawn, (d) or referred to the OMB under section 44(1) of the Planning Act.
2. The Ministry of Housing approves plans of subdivision for the province except for those areas which have been delegated this function. See note 3 below.
3. In 1975, the following regional municipalities were delegated the powers to approve plans of subdivision: Ottawa-Carleton, Waterloo, Hamilton-Wentworth, Metro Toronto, Peel, York, Halton.
4. The figures for Peel are also in the totals for the Delegated Municipalities.
5. Total of "Delegated Municipalities" and "Ministry of Housing". The "time" figure is a weighted average of data for the two categories of approving agency.

Source: Province of Ontario, Subdivisions Branch, Ministry of Housing

First, the delegated municipalities tend to be areas where there is a lot of development activity; perhaps they do not yet have the capabilities to handle the volume of work they face. Secondly, and related to capacity, perhaps the longer processing times are simply a question of "start-up" problems. The province has been evaluating subdivision plans for a long time; it is a reasonable supposition that their experience should make them more efficient.

Table 3.2

Decisions Rendered within 18 Months as Percentage of Total Applications for Approval of Plans of Subdivision, by Jurisdiction, 1975-78

Year of Application Submission	Per cent Decisions Rendered		
	Peel	Province	Range[1]
1975	30	77	30-87
1976	51	84	50-84
1977	58	78	46-90
1978[2]	26	51	17-66

Notes:

1. Refers to high and low percentages of decisions rendered to applications submitted within the 18-month period; e.g., in 1975, Peel had rendered decisions on only 30% of the applications submitted, whereas the Region of Ottawa-Carleton had decided on 87% of its submissions.
2. The time period for 1978 is 15 rather than 18 months; this would partially account for the lower overall percentages in that year.

Source: Province of Ontario, Subdivisions Branch, Ministry of Housing

A third, more intriguing explanation is based upon what may be an important difference between the approval process in the delegated municipalities and

the province. Once a plan has been approved by an area municipal council and has been submitted to the ministry for draft approval, it does not again come under the scrutiny of an elected body. The final decision for provincially approved plans is, in essence, made by civil servants in the Ministry of Housing; in contrast, the final decisions in the delegated jurisdictions are made by the regional councils. That the opportunity for political conflict in these councils might thereby lengthen the approval process does not seem far-fetched.

The Ministry of Housing data examined thus far does not appear to support either the contention that the process of subdivision approval in Ontario is excessively lengthy (observers familiar with the complexities of such approval processes in any jurisdiction realize that municipalities that on average make draft approval decisions within a 12-month period are moving with alacrity), or that processing times are increasing. However because these data are for only a four-year period, we need more evidence before we can draw valid conclusions.

In addition, analysis of elapsed processing times only up to the draft-approval stage can be very misleading. Draft approval is an important point in the approval process, but it is not a rigid point in the sense that every jurisdiction would necessarily have conducted the same evaluation and scrutiny of a submission before granting draft approval. Some jurisdictions grant draft approval with conditions that are couched in very general terms. Other jurisdictions prefer to have fewer conditions that are more specific in nature.[5]

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[5] The specificity of conditions under which draft approval is granted was one of the issues covered by the Planning Act Review Committee. The Committee recommended that "...the Act should be far more specific and should provide much better guidance as to the nature of draft approval" and that "...draft approval should be defined so as to constitute genuine approval in principle, and that this definition should be contained in the Act itself rather than being totally a matter of discretion, as it now effectively is." Despite the Committee's urgings, the White Paper on the Planning Act limited itself to recommending that

If the goal of a municipality was simply to keep the average elapsed time from submission to draft approval to a minimum, and in certain instances this may virtually be an objective, it would be an easy task. However, draft approval in such cases would mean little because many of the evaluations, studies, impact analyses, etc., that are required (see, for example, section 52(4) of the draft legislation in Appendix A) before final approval remain to be done. A useful way to look at the approval process is to consider that a certain body of information and analysis is required before a plan will be approved in any Ontario jurisdiction. Draft approval is an important inflection point in the overall approval process, but it is of greater significance in some jurisdictions than in others.[6] The point is simply that care must be taken in comparing jurisdictions on the basis of elapsed processing times to draft approval.

The analysis thus far has focussed on the percentage of subdivision applications approved (or otherwise decided) within a given time period, and on the average duration of the approval process for those applications reaching the decision point. A somewhat different perspective on the length of the approvals process is gained if we consider a group of applications approved in a specified period and trace back over their movement through the system. What this approach does is pick up for analysis submissions regardless of date of application not simply those that did not reach the decision stage within an arbitrarily defined time period. A limitation on the discussion thus far has been that

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"...wherever feasible, the wording of conditions on plans should be precise rather than general." (White Paper Conclusion # 34). Finally, the draft legislation for the new Planning Act (The Planning Act: A Draft for Public Comment) does not deal explicitly with the question of the specificity of draft approval conditions.

6 The Report of the Planning Act Review Committee cited the comments of some developers that draft approval in certain municipalities constituted little more than "a ticket to enter the race."

the data for one of our research sites, the City of Mississauga, has been buried in total figures for the Region of Peel. Clearly, it is necessary now to broaden the analysis both chronologically and substantively. To do so we turn to an analysis and discussion of the primary data collected for the present study.

Analysis of the Data: Mississauga

The purpose of the primary data collection in Mississauga[7] was to permit the creation of three data bases:

(1) the length of the total approval process, from submission to registration, for all subdivision plans registered in Mississauga from 1966 to mid-1979;

(2) the elapsed approval times from submission to draft approval, and from draft approval to registration, for all subdivisions registered in Mississauga in two time periods: 1968-70 and 1978-79;

(3) detailed data on the approval process; reasons for delay; nature of the project; whether a rezoning was involved; and financial and engineering information, for a sample of 26 subdivisions, 12 of which were registered in 1969, and 14 in 1978-79.

Let us first of all consider the changes in processing time for Mississauga subdivisions over the 14-year period, 1966 to 1979. Table 3.3 depicts the mean and standard deviation for the total approval process of all subdivisions registered in the City of Mississauga during that period. It is readily apparent that after averaging some 25 to 30 months for the better part of a decade, from 1966 to 1974, total processing times for 1975 have been increasing. Table 3.4 demonstrates that following a relatively modest increase in average processing time from a mean of 26.3 months in 1969-70 to a figure of 29.6 months for the 1970-74 period, the average for the 1976-79 span jumped 26% to 40.1 months.

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7 See Fig. 2.1. In terms of overall development activity, it is estimated that the City of Mississauga accounts for some 60% of the total activity in Peel Region.

What this means is that 10 to 15 years ago, applications for approval of plans of subdivision in Mississauga took, on average, just in excess of two years. In recent years, however, they have been taking well over three years to complete the process.

The question that immediately arises is WHY? Why is it taking longer to approve subdivision applications in the City of Mississauga now than it did a decade ago? The simple answer is that the regulatory process is considerably more complex than it used to be and, indeed, this is a valid contention. But this begs the question, for in a sense it is complexity that we are trying to explain. We must not lose sight of the very basic fact that 10 years ago Mississauga was a considerably different city from today. In 1969 the city was little more than a bedroom community for Toronto. Population was 140,000, compared with an estimated 1979 figure of virtually double that at 276,000. Much as in Toronto prior to the emergence of citizen group politics and demands for greater participation in the planning and development process, and greater public scrutiny of development in general, the major actors in Mississauga were in basic agreement that development was a "good thing"; the demand for housing was there so "the more the better." The overall scale of activity was lower; there were fewer existing residents and existing communities to be threatened by new residents; the "Big 3" developers -- Cadillac, Markborough, and McLaughlin -- were in operation and maintained close formal and informal links with planners and politicans. If there was disagreement over a plan, the developer and the planners could usually hammer out a compromise in an afternoon. When a plan was draft approved, there were often no more than 10 conditions attached, and they were usually standard ones. (Current draft approvals can have over 30 conditions attached, many of them very specific in nature.) The number of agencies to which the plan was circulated was relatively small compared with

Table 3.3

Mean and Standard Deviation of Total Elapsed Processing Times from Submission to Registration, all Registered Subdivisions, City of Missisauga, 1966-79 (in months)

Year of Registration	Mean	Standard Deviation	N	Acres
1966	24.1	19.0	17	n.a.
1967	26.0	20.0	26	n.a.
1968	28.3	13.1	19	n.a.
1969	24.3	10.2	27	361.6
1970	28.9	11.7	8	292.1
1971	33.8	16.5	24	897.3
1972	29.7	20.6	33	774.8
1973	26.7	18.5	21	680.3
1974	25.1	12.4	14	926.4
1975	32.5	8.4	17	590.0
1976	34.2	12.0	19	n.a.
1977	40.2	15.8	25	305.0
1978	46.8	15.6	27	579.8
1979 (to July 30/79)	39.2	17.6	11	n.a.

Source: City of Mississauga, Clerk's Department and Planning Department.

the upwards of 30 agencies to which a current plan may be sent. There was less concern about the environment, about noise, and about traffic flows; these new concerns are manifested in the conditions which a developer must meet before final approval is granted.

Many public services were financed through "local improvements" -- the owner would pay for the services over a period of years on his property tax bill. Septic tanks were often used and were financed privately. The engineering evaluation required was minimal compared to the level of sophistication required today to plan high quality water and sewage systems.[8]

Table 3.4

Average Annual Mean and Standard Deviation of Total Elapsed Times, Submission to Registration, all Registered Subdivisions, City of Mississauga, by Period, 1966-79 (in months)

Period	Mean of Annual Means	Per cent Increase Over Previous Period	Mean of Annual Standard Deviations
1966-69	26.3	-	14.8
1970-75	29.6	12.5	15.3
1976-79	40.1	26.2	15.3

Source: Data in Table 3.3.

The point is simply this: the planning and development environment in Mississauga, as elsewhere, is now considerably more complicated and complex -- the "system" is more sophisticated in every sense and, with a current population of 276,000, there is now much more at stake.

In order to make judgements about whether the higher level of public scrutiny to which development projects are now subject -- the greater complexity

8 Mississauga planning officials estimate that ordinarily well over 50% of the conditions attached to draft approval of plans of subdivision relate to engineering matters particular to the installation of hard services -- water and sewer systems, etc. -- and roads.

of the system -- is "worth it," more than aggregate data is required. We need data on several specific projects in order to pinpoint, say, the reasons for the greater duration of the approval process and in order to assert with confidence that the public interest is being (or is not being) served. To achieve this greater level of detail, a sample of 55 subdivision and rezoning cases was drawn; how this was done and with what results forms much of the immediate discussion to follow.

Drawing the Mississauga Sample

As noted earlier, two samples were drawn, one of 28 cases from 1969 and another of 27 cases from 1978 and the first half of 1979. We wanted data on the most current processing and a point of comparison about a decade earlier. In fact, since the samples were selected from populations of cases receiving final approval in the two periods, the dates of application were often considerably earlier, e.g., several of the 1969 cases were submitted in 1966 and 1967. Similarly, several of the cases approved in 1978 and 1979 were submitted as early as 1973 and 1974. Thus, the samples do not only represent decisional processes at two points in time, but can be more accurately seen as representative (at least chronologically) of the processes in effect more or less continously since about 1966-67 to the present time.

Preliminary discussion with Mississauga officials convinced us that three, not two, different kinds of cases needed to be considered: subdivisions not accompanied by a rezoning request, subdivisions accompanied by a rezoning request, and rezonings not associated with a subdivision.

Briefly, a plan of subdivision which does not require a change in zoning is termed an "infill project". Such projects involve parcels of land in existing subdivisions, lands which are already zoned for the proposed uses.

All the plan of subdivision does is divide the parcel into lots which conform to the existing zoning. All the new communities, i.e., those not in existing subdivisions, propose a range of housing types that necessitate zoning changes. The third type of case, rezonings not associated with plans of subdivision, are projects in existing subdivisions where, say, the zoning designation allows only single-family dwellings and the developer wants to build townhouses. Or, part of an existing plan of subdivision has zoning for condominium townhouses; the market for "condos" drops off (as it has) and the developer wants to build singles instead: he needs a rezoning to do so. Plans of subdivision are often registered with blocks of land unspecified so that rezoning can be sought as market conditions dictate. It is important to remember that zoning sets the land use and, hence, it is rezoning (particularly to higher densities) that generates the most controversy.

A plan of subdivision is only a legal instrument to divide up a large piece of land into individual lots, to fix the exact location of streets and roads, and to set the conditions of approval for the servicing of the project. The appropriate zoning must be in place before a plan of subdivision can be registered.

Table 3.5 portrays the distribution of the three types of cases in the population of cases for the two periods from which our samples have been drawn. We wanted a sample of about 25 -- large enough to enable some judgements to be made about the process in general, yet small enough that the data could be collected within the limited time available.

We drew the 1969 sample based on the proportions of each type of case in the population of cases for the three-year period 1968-70. The cases were chosen in chronological order by date of registration (for subdivisions and joint cases), and by date of Ontario Municipal Board approval (for rezonings), beginning in January 1969, until the quota of each type was attained. We eventually chose 28 cases for analysis: six pure subdivisions (no rezoning involved), six joint subdivision-rezoning cases, and 16 pure rezonings (no subdivision involved).

Table 3.5

Distribution of Total Subdivisions, Rezonings, and Joint Subdivision-Rezonings, City of Mississauga, 1968-70 and 1978-79

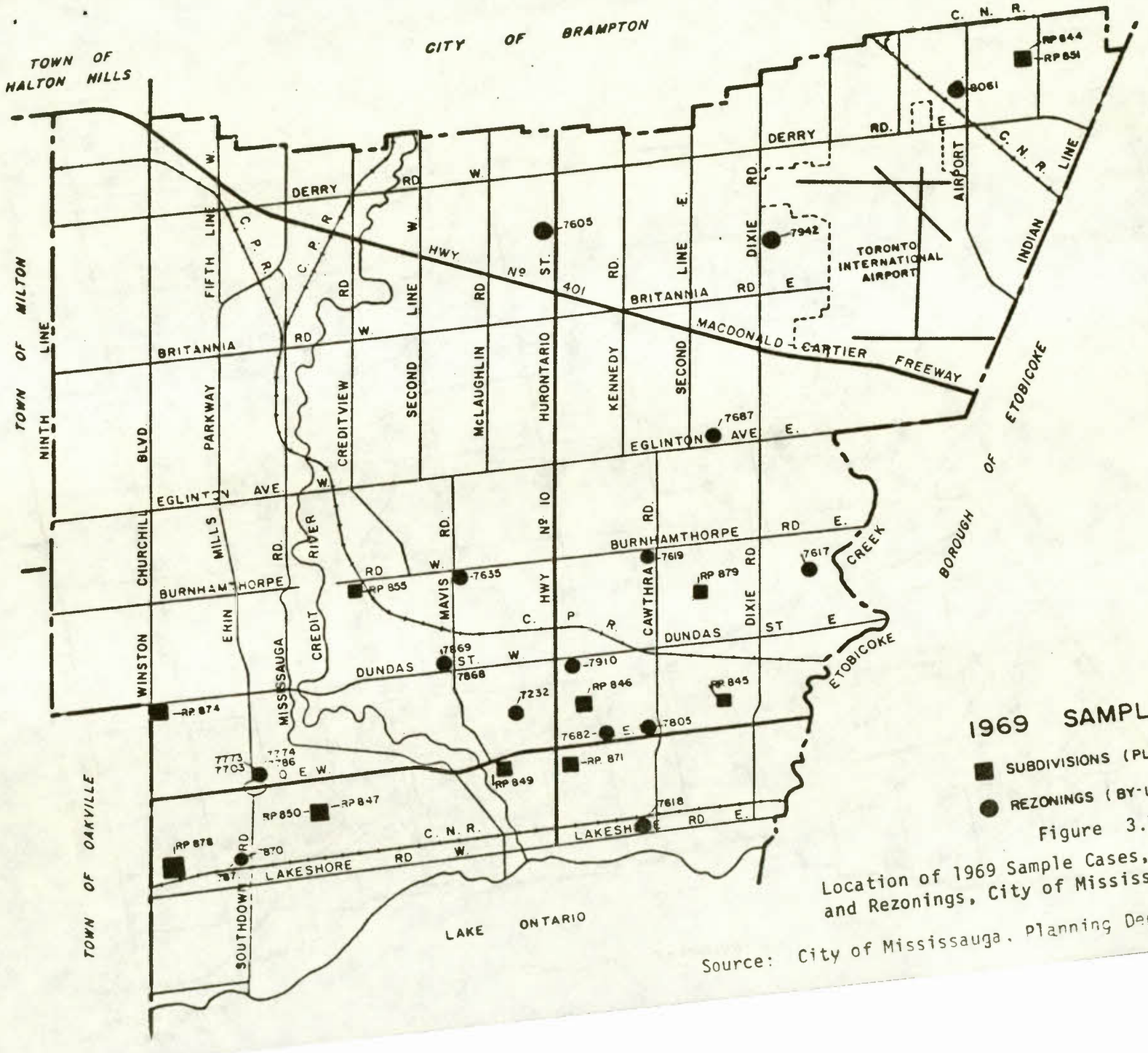
Year	Subdivisions		Rezonings		Joint Cases[1]		Total[2]	
	No.	%/total	No.	%/total	No.	%/total	No.	%
1968	8	(19.0)	19	(45.2)	15	(35.7)	42	(100.0)
1969	20	(44.4)	17	(37.8)	8	(17.8)	45	(100.0)
1970	4	(7.4)	46	(85.2)	4	(7.4)	54	(100.0)
TOTAL	32	(22.7)	82	(58.2)	27	(19.1)	141	(100.0)
1978/79 (to July 1/79)	14	(20.0)	33	(47.1)	23	(32.9)	70	(100.0)

Notes: 1. Cases of plans of subdivision accompanied by requests for changes in zoning.
2. Percentage totals may not add up to 100.0 due to rounding.

Source: City of Mississauga, Clerk's Department and Planning Department.

The 1978-79 sample was similarly selected, except that in this instance we worked back chronologically from July 1979, taking each and every case until our quota of each type was attained. This procedure resulted in a sample of 27 cases: five pure subdivisions; nine joint subdivision-rezoning cases, and 13 cases of pure rezoning. Of the five pure subdivision cases, two were from 1979 and three from 1978; of the joint cases, eight were from 1979 (the total 1979 population of this type of case), and the ninth case was registered in 1978. Strictly speaking, several subdivisions intervened between this ninth case and the other eight. The "ninth case" was selected because the "random" sampling procedure[9]

9 There is no reason to suspect that over a period of years there is any pattern to the dates of registration of subdivision plans.



1969 SAMPLE

■ SUBDIVISIONS (PLAN NO.)

● REZONINGS (BY-LAW NO.)

Figure 3.1.

Location of 1969 Sample Cases, Subdivisions and Rezonings, City of Mississauga.

Source: City of Mississauga, Planning Department.

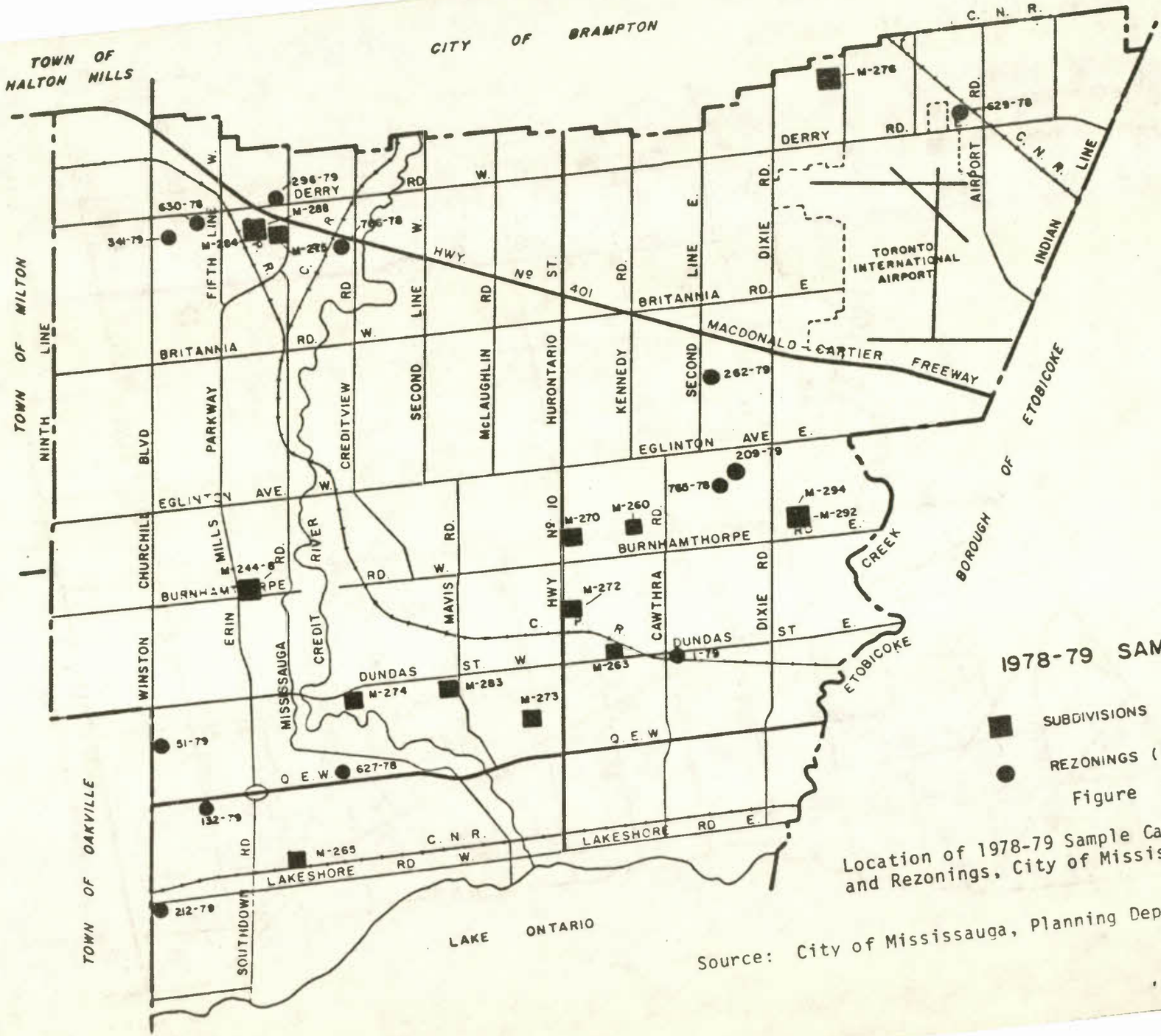


Figure 3.2.

Location of 1978-79 Sample Cases, Subdivisions and Rezonings, City of Mississauga.

Source: City of Mississauga, Planning Department.

had failed to yield a large residential project by one of the "Big 3" developers. We wanted such a case in our sample simply because these companies have been responsible for the bulk of the development in Mississauga, and because as we shall learn below, they are treated somewhat differently from other owners. Undeniably, the inclusion of this case -- a group of five plans of subdivision encompassing the so-called Neighbourhood 109 in Erin Mills South (Cadillac-Fairview) -- means that our 1978-79 sample loses its "randomness"; nevertheless, for our purposes, it was a satisfactory selection. This assertion is partially supported by a comparison of our samples with all the cases in the two sample periods, as illustrated in Table 3.6. In terms of average processing times, there is little difference between the samples and the arbitrary populations from which they were drawn. Considering the substantial variation in total approval times, as indicated by the standard deviations, the samples do indeed appear to be representative. (Figs. 3.1 and 3.2 depict the location of cases in the two samples).

Depending on whether we compare our sample data or the full period data displayed in Table 3.6, the mean elapsed processing time for approval of plans of subdivision in Mississauga has increased by over 18 months -- in excess of a year and a half -- in the past decade. Our sample data have merely confirmed what we have already learned, i.e., that it used to take about two years to move a plan of subdivision from submission through to registration in Mississauga while now it takes well over three years to do so.[10]

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[10] Other evidence supports these results. The study by Muller cited earlier (see p. 8) found a mean elapsed approval time of approximately 24 months (732 days) for a sample of 214 subdivisions registered between 1973 and 1975 in Ontario. Muller also noted that the sample mean had increased over the period from 22 months in 1973 to 28 months in 1975.

Table 3.6

Mean and Standard Deviation of Total Elapsed Processing Time, Registered Subdivisions, City of Mississauga, Selected Periods (in months)

Period	Elapsed Processing Time, Submission to Registration		
	Mean	Standard Deviation	N
1968-70 (All	26.4	11.4	45
1969 (Sample)	21.5	9.5	12
1978-79 (All)	44.6	16.1	38
1978-79 (Sample)	41.6	17.8	14

Source: City of Mississauga, Clerk's Department and Planning Department.

Processing Procedures

Let us now go a step beyond our earlier original comments about the greater complexity of systems to see if we can be more precise about why the processing times have increased to such an extent. We noted earlier that comparing processing times to the draft approval stage among jurisdictions could be misleading because of differences in the specificity of the conditions attached to draft approvals. However, this problem ought to be of lesser concern within a given municipality, assuming of course, that operating procedures are consistent. Table 3.7 breaks the overall subdivision approval process into its two main constituent parts -- submission to draft approval, and from draft approval to registration. A comparison of the data for the two time periods raises some very interesting questions.

The increase in the mean total elapsed approval time from 1968-70 to 1978-79 is 18.2 months, a jump of 68.9% but, the increase is not equally divided

between the period from submission to draft approval and the period from draft approval to registration. The increase in the period to draft approval is 53.8%, compared to 116.0% for the draft approval to registration interval. The period before draft approval is taken up by various government agencies engaged in evaluating the development proposal; the period after draft approval until final approval and registration is largely under the control of the applicant. This suggests that applicants in 1978-79 were in no particular hurry to have their "approved" subdivisions registered.[11]

Once a developer and a municipality, at least in the case of Mississauga) have signed the engineering and financial agreements that serve to satisfy the conditions that were attached to draft approval (and once council has given final approval), the developer is free to have his plan registered. However, at the same time (i.e., at the time of signing the development agreements) he is liable to pay substantial fees and levies, and must take out a letter of credit for the full value of the hard services to be installed. If a developer, who up to this point has expended relatively little monies, is not prepared to build, then there is no point in pursuing final approval.[12] The data would appear to support the claim of some Mississauga officials that more of the total increase in processing times for subdivisions is due to developers waiting for more

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11 Muller, op. cit., suspected that deteriorating market conditions might lay behind the increased average approved times from 1973 to 1975 that he found in his analysis: "... larger durations may reflect the slower market conditions experienced in the latter part of 1974 and 1975. Under these circumstances developers might not have proceeded with registration as quickly as was the case earlier" (p. 65). Since Muller did not have data on dates of draft approval, he was unable to divide the process into its two major parts; this segementation is, of course, the basis for the present analysis.

12 See Table 3.18. Until the signing of the development agreements (Financial Agreement and Engineering Agreement) the developers' expenses have been limited to the costs of preparing the plan and "negotiating" it through the draft approval process.

Table 3.7

Mean and Standard Deviation of Elapsed Processing Time, Submission to Draft Approval to Registration, all Registered Subdivisions, City of Mississauga, 1968-70 and 1978-79 (in months)

Period	Submission to Draft Approval	Draft Approval to Registration	Submission to Registration
1968-70			
Mean	15.8	9.4	26.4
Standard Deviation	1.2	6.2	11.4
	(N=49)	(N=49)	(N=54)
1978-79			
Mean	24.3	20.7	44.6
Standard Deviation	16.7	14.3	16.1
	(N=35)	(N=35)	(N=38)

Source: City of Mississauga, Clerk's Department and Planning Department.

favourable market conditions than it is to slower public evaluation. In fact, Table 3.8 illustrates that this is the case: 57.1% of the increase in total mean processing time is accounted for by the greater duration of the draft approval to registration interval and only 42.9% by the period to draft approval.

Additional evidence for the argument that developers have been reluctant in the last two years to seek final approval of plans of subdivision due to market conditions is provided by the marked increase in the number of extensions of draft approval. It has been normal procedure in the Region of Peel (recall that the Region is the approving authority, not the City of Mississauga) to

grant draft approvals effective for 12 months, but the number of requests for extensions (of 12 months duration) had become so great that the period of draft approval has been extended to 18 months (extensions are still for 12 months). In addition, so much staff time was being taken up in preparing reports for Regional Council on requests for extensions of draft approval, that the Regional Council has delegated its authority to grant extensions to the Regional planning staff. During 1979, the staff had prepared over 60 reports for Regional Council on requests for extensions of draft approval. Whereas it would be inaccurate to

Table 3.8

Attribution of Increased Mean Subdivision Processing Time, Submission to Draft Approval, Draft Approval to Registration, City of Mississauga, 1968-70 and 1978-79 (in months)

Period	Submission to Draft Approval	Draft Approval to Registration	Submission to Registration
1968-70 (N=49	15.8	9.4	25.2[1]
1978-79 (N=35	24.3	20.7	45.0[1]
Increase	8.5	11.3	19.8[1]

Attribution of total increase of 19.8 months between "Submission to Draft Approval" interval and "Draft Approval to Registration" interval:

1. $\frac{8.5}{19.8} \times 100\% = 42.9\%$ 2. $\frac{11.3}{19.8} \times 100\% = 57.1\%$

Notes: 1. Totals do not equal figures on Table 3.7 because cases for which draft approval dates had not been ascertained were dropped from calculations here.

Source: City of Mississauga, Clerk's Department and Planning Department.

attribute all draft approval extensions to market conditions, there seems little doubt that it is a major cause.[13]

A good indication of how political factors, by which we mean "potential political contentiousness," are reflected in processing times is provided by Table 3.9. The data displayed show the differences in average processing times for the two types of subdivision applications making up our sample -- subdivisions not accompanied by a rezoning request and joint subdivision-rezoning cases. The table only depicts processing times to draft approval because it is during that period that disagreement over a zoning change would show up. What the data show, in essence, is that plans of subdivision which necessitate a change in zoning take much longer to gain draft approval; they did in 1969 and they continue to do so.

While the size of the project may also be an explanatory factor (although the data collected for this study do not indicate a relationship between size and length of processing period), the necessity for a change in zoning puts the project squarely in the political forum. The description of the zoning by-law approval process provided earlier gives ample testimony to the numerous points of access available to citizen participants. In contrast, the processing of plans of subdivision per se does not provide for notification of adjacent property owners or for citizen access in the form of hearings and so on. The

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13 It is difficult to provide firm evidence that market conditions are a major cause of the increased number of extensions of draft approval. In their dealings with the authorities, developers usually cite "other" reasons but in private conversations with the author they made it clear that the slow housing market was often the critical factor. According to an internal memo from the Commissioner of Planning of the Region of Peel to the Planning Committee of Peel Council dated September 25, 1979: "The most common reason for requesting an extension is to finalize engineering and financial agreements and to complete the three submissions of engineering drawings. Extensions are also often required to finalize rezoning, obtain easements, complete servicing, clear conditions of draft approval and to sort out legal matters. Although not identified, some extensions are probably due to the present slow housing market."

Table 3.9

Mean and Standard Deviation of Elapsed Processing Times, Submission to Draft Approval, Subdivisions Accompanied/Unaccompanied by Rezoning Requests, City of Mississauga, 1969 and 1978-79 (in months)

Sample	Submissions to Draft Approval		
	"Pure" Subdivisions	Joint Cases	All
1969			
Mean	6.9	19.3	13.1
Standard Deviation	2.0	7.0	8.2
	(N=6)	(N=6)	(N=12)
1978-79			
Mean	16.6	26.6	23.0
Standard Deviation	9.3	20.3	17.5
	(N=5)	(N=9)	(N=14)

Source: City of Mississauga, Clerk's Department and Planning Department.

rezoning process is where the political differences emerge, whether the proposal is a small change from single-family dwellings to multiple units in an existing subdivision, or the rezoning of a large tract of agriculturally designated land to multiple residential uses. A critical factor is whether there are existing residents who feel threatened by the proposed change; if they do, their opposition to the proposal, and the likely support of their "cause" by the local alderman, will probably lengthen the approval process considerably. In recent years in Mississauga and elsewhere, political opposition to growth itself has emerged -- opposition over and above reluctance to have neighbours of lower socio-economic standing than the existing residents. These are ominous signs

and the rezoning process is where such political opposition is expressed.

A major way in which the politics of anti-growth is manifest is in the "release" of lands for development. Mississauga (and other jurisdictions) will not process plans of subdivision unless they have completed a secondary plan for the area. A secondary plan is an amendment to the Official Plan which specifies in greater detail than the Official Plan the overall plan for an area or community. Without such a plan it would be difficult to coordinate the individual proposals of landowners in terms of schools, roads, community facilities, parks, and the like. There is nothing to prevent a developer from submitting a plan of subdivision for approval before a secondary plan has been prepared for the area.[14] To judge the efficiency of a municipality's approval process on the basis of how long such subdivision plans take to reach the draft approval stage is patently unfair. The absence of a secondary plan for a particular area can have several explanations. First, the area may be far removed from the existing developed areas and it would be financial folly, or poor planning at the least, to release lands in that area for development before other areas that are "closer in."[15] Secondly, the community, through its

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14 In such instances, the municipality will refuse to process the plan arguing that the application is "premature". Section 33(4)(b) of the present Planning Act, and Section 52(4)(b) of the draft of the "new" Planning Act gives the approving authority the right to refuse an application on these grounds. See Section 52, subsections (13)-(21) of the draft legislation for a description of the provisions for appeal of decisions to not approve a plan of subdivision. Similarly, because Secondary Plans are Official Plan amendments, an applicant can have requests for such amendments referred to the O.M.B.: "Where any person requests a council to initiate an amendment to an official plan... and the council refuses to adopt the amendment or fails to adopt it within sixty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board". (Section 22(1))

15 It would be inadvisable for the community because the further away the proposed development from existing facilities -- public transportation, roads, water and sewage systems, schools, etc. — the more costly the proposal for the public purse. But not only financial factors are relevant as illustrated

politicians and planners, may simply not yet have decided what it wants to do with that land, and thus the municipality is in no hurry to proceed with a secondary plan. Thirdly, several areas of the municipality may be developing at the same time, stretching manpower and resources to the limit; Mississauga is such an area.[16] Fourthly, secondary plans often take a long time to prepare and the process is wide open to citizen input; the plan, therefore, may simply not yet be complete.

We do not know what proportion of the total land use change applications in Mississauga involved sites for which no secondary plans had been prepared. However, the lack of such plans was clearly an important contributory factor in the lengthy approval process attending several of the cases in our sample. The evidence from other jurisdictions is also instructive. The Waterloo Region Review Commission found that the absence of secondary plans in that

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by this excerpt from Mississauga's Official Plan: "Prior to residential development in districts for which there are no Secondary Plans, the City will evaluate the merits of the lands in such districts, and will take into account the following criteria when considering which Districts will be released for the preparation of Secondary Plans: (a) Support to Core - Districts which, by their location are most supportive of the early development of the City Core Area; (b) Efficiency of Transit Service - Districts which promote increased transit usage at the lowest incremental operating and capital costs, particularly in those corridors which ultimately should serve transit-oriented development; (c) Community Identity and Completeness - A sense of community identity and relationship to the whole City, the minimizing of incomplete communities, and the rounding out or infilling of existing communities; (d) Freedom from Noise - Districts likely to have the greatest freedom from noise pollution; (e) Piped Services - Except for estate lot, districts most economically (to City and Region) provided with those storm drainage, sanitary sewer, and water facilities which ultimately will be required to serve their respective drainage sheds or pressure zones; (f) Roadways - Districts most readily and economically provided with roadway facilities; (g) Community Services - Districts most readily and economically provided with City and Regional community services; (h) Housing - Districts where circumstances best support the provision of a housing supply consistent with the City's needs in terms of employment opportunities and housing mix; and (i) Finance - The impact of the Residential development Program on the City's ability to finance the required services to all residents without imposing undue increases in taxation." (City of Mississauga Official Plan, Section 4.11.3.7, pp. 69-70)

16 City of Mississauga is currently (1979-80) "processing" about 175 plans of subdivision and some 300 rezoning applications.

Region was a major factor in the length of the approvals process.

> There is a reduction in the time it takes to process plans of subdivision after community plans have received final approval. The average process took forty-nine weeks before community plans received approval and thirty-three weeks afterwards, a difference of almost four months for the Region as a whole... Some subdivision applications that have not been approved were submitted during the preparation of secondary plans and further processing in awaiting the completion of the secondary plans.[17]

The authors of the Waterloo Report acknowledge that "it is difficult to isolate a simple cause and effect relationship between plans of subdivision and secondary plans... however, in each area municipality, the length of time to approve subdivision plans was consistently reduced once community plans were completed, in spite of other changing factors."[18]

The authors of the Waterloo Report also comment on the length of time it takes to get secondary plans approved: "Secondary plans... can be called into question as 'over-regulation' unless their preparation times are considerably shorter than at present."[19] Yet, the authors of the Report clearly regard the secondary plan approval process as one of the means by which municipalities may control residential growth. They recommend that: "Plans of subdivision should not be accepted for draft approval until a secondary plan exists for the area -- secondary plans are an important part of the development-control process in that they direct growth and development and its staging."[20]

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17 Report of the Waterloo Region Review Commission, p. 166.

18 Ibid., pp. 166-67.

19 Ibid., pp. 170-71. An analysis of 12 "community plans" (Secondary Plans) by the Commission found an average elapsed processing time of 35.9 months, with the local municipality taking from 12 to 35 months to process, and the Region from 3 to 23 months to approve Plans already approved by the municipality. (Waterloo Region Report, op. cit., p. 161.)

20 Ibid.

This view appears to support the thinking of Mississauga's planners concerning the staging of residential development. After assessing the capacity of lands already released for development, and projecting expected population growth, they concluded that "...without releasing additional residential districts, Mississauga has substantial residential development capacity for all types of housing units."[21] They argue further that to release more land, under current conditions, would only raise additional problems for the community.

> Releasing more lands will not create more growth, given present social and economic conditions, but rather distribute growth more thinly among both the developed and the undeveloped districts. This situation would increase the number of partially completed districts which in turn would result in the underuse of some hard services such as sewer, water and storm drainage facilities. At the same time, these incomplete districts would be deficient in soft services such as schools and parks and recreation facilities, because the low populations would not justify their emplacement. Given the relatively low growth rate and the established inventories of committed and potential residential units, there is need to question whether it is necessary to release any of the undeveloped districts at this time from the standpoint of accommodating people.[22]

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21 Residential Development Status Report (City of Mississauga, Planning Department, May 1978).

22 Ibid., p. 10. Mississauga's current population is estimated to be 276,000. In terms of existing units (units for which building permits have been issued), a population of 318,200 could be accomodated. Committed units (units which are registered and zoned but for which building permits have not been issued) would add another 50,300 to the existing figures. Thus, if no further plans were registered, or lands rezoned, Mississauga could achieve a population of 368,500 persons housed in 114,000 units. Finally, if potential units (defined as those lands which have been released and are at some stage in the development process) are included, an additional 41,700 units become available, enough to accommodate a further 121,700 persons. Together with the existing and committed populations, these figures for potential development show that Mississauga could provide a total of 155,800 units accommodating about 490,200 persons without the release of any other districts. The estimated 1986 population for Mississauga is for a substantial inventory of units to permit a housing market of choice and flexibility; it would appear that the release of further lands is unwarranted.

Sample Cases of Subdivision Decisions

If the present research is to make a contribution to a better understanding of the complex process by which land use decisions are made in the Toronto area, then that contribution will be in the rich detail provided by our sample data. The aggregate annual and "period" data have allowed us to point out certain trends; changes in the duration of the intervals in the approvals process have permitted cautious judgement to be made about some possible "causes" of the longer processing times. Other studies, such as the Report of the Waterloo Region Review Commission and our own interviews with public officials, have strongly suggested that unless broad policy statements (community or secondary plans) have been formulated for a given area, then plans of subdivision submitted for that area are in a sense "premature"; they must await the completion of the time-consuming secondary plan approval process and are, therefore, likely to take several years to gain approval.

Table 3.10 depicts the elapsed processing times for the individual cases making up the 1978-79 Mississauga subdivisions sample. Eight cases were selected for detailed scrutiny -- four joint subdivision-rezoning applications and four subdivisions not associated with a rezoning request. The cases were selected -- except for case No. 6 of the joint applications -- because each took considerably longer to process than the mean processing times for subdivision applications during this period. Case No. 6 was selected to illustrate how a very large project can be processed quickly if most of the difficult policy decisions have already been made and the applicant is prepared to complete the process through to registration without undue delay. We did not evaluate the absolute duration of the approvals process in 1969 since our main interest is in the increased time taken to gain approval over the past decade. In contrast to 1978-79, the development industry regards the approval process in effect in the late sixties as one of utter simplicity.

Table 3.10

Elapsed Processing Times, by Type of Application, Subdivisions, City of Mississauga, 1978-79 sample (in months)

Case No.	Elapsed Processing Time: Submission to Draft Approval	Draft Approval to Registration	Submission to Registration
JOINT SUBDIVISION-REZONING APPLICATIONS			
1.	12.3	27.1	39.4
2.	9.7	13.2	22.9
* 3.	50.4	2.5	52.9
* 4.	58.6	12.8	71.4
* 5.	50.8	14.5	65.3
* 6.	17.2	12.9	30.1
7.	11.1	12.4	23.5
8.	17.0	7.8	24.8
9.	12.5	15.4	27.9
Mean	26.6	13.2	39.8
Standard Deviation	20.3	6.6	18.8
PURE SUBDIVISION APPLICATIONS			
*10.	20.3	33.4	53.7
*11.	12.2	32.0	44.2
*12.	31.2	24.2	55.4
*13.	10.3	45.4	55.7
14.	8.8	6.0	14.8
Mean	16.6	28.2	44.8
Standard Deviation	9.3	14.5	17.4

Asterisks indicate cases selected for detailed discussion

Source: City of Mississauga, Clerk's Department and Planning Department.

Let us consider each of our "excessive" cases in turn, beginning with the joint subdivision-rezoning applications. The three cases which we have selected because of their long approval times -- those numbered 3, 4 and 5 -- took an average of 63.2 months, or over five years, to complete the full approval process. One possible cause is obvious from the elapsed times to draft approval. The three projects averaged 53.3 months to gain draft approval compared to the average elapsed time to draft approval for all subdivisions in 1978-79 of 24.3 months. If we recalculate the elapsed time to draft approval for our full sample of joint cases, with the three cases excluded, the means and standard deviation decrease dramatically to 13.3 months and 3.1 months, respectively. Given the large proportion of the total processing time taken up by the time to draft approval, it is clear that the authorities were reluctant to give draft approval to the three plans. Why?

The short answer in all three cases was that processing of the subdivision plans was delayed pending the completion of Secondary Plans; one for the City's core area (case 3) and in cases 4 and 5 a major traffic study and subsequent Secondary Plan. The Secondary Plan preparation took over three years to complete in both cases and during this period plans of subdivision in the study areas were not processed further.

The cases numbered 4 and 5 were adjoining projects in a newly-developing area of the City known as North-North Dixie. Fig. 3.2 shows the location of the two sites at right-centre, identified as M294 and M292. One project called for the construction of 106 detached and semi-detached dwellings, the other for 303 mixed units including 78 apartments, eight townhouses, and 217 detached and semi-detached units. The applications for these projects had been submitted in September 1973 and April 1974, but the release of a major traffic study of the area, completed as part of the whole review of the City's Official Plan, halted the further processing of all applications in the area.

A secondary plan for the North-North Dixie Community had been approved in 1973 and some subdivisions had gotten the go-ahead in the area before the release of the traffic study. What the study did was point out that the existing roads network and planned improvements would simply not be able to cope with the anticipated flows. After the traffic issue was resolved, so much time had passed that the overall planning for the area needed to be re-thought; population characteristics had changed and some of the proposed school sites in the community were no longer required. No major park had been included in the previous community plan and the parks department wanted to rectify this oversight. These changes necessitated revisions to the existing secondary plan, complete with public hearings and new secondary plan amendments to give legal force to the revisions. The public hearings were held in the summer of 1977 and the "new" secondary plan was approved in November of the same year.

The factor that made the difference in resolving the traffic issues, upon which all else depended, was the announcement by the province as to when they would begin construction on Highway 403 through the area. The route had been planned for some time but the timing of construction had not. Until Mississauga knew when construction would begin, the City was not able to firm up its own plans and move ahead with the release of lands for processing, including our two cases.

Case No. 3 faced similar obstacles to approval. The lands in question are directly across Highway 10 from the whole City Centre complex, including City Hall, Square One shopping centre, and two major office buildings (see Fig. 3.2 -- M270). Because of their proximity to the City Centre, the subject lands were designated core-related and were included in the Core Plan study area. While the plan of subdivision for case No. 3 had been submitted in September of 1974, the Core Plan was not approved until April of 1978. The delay turned out to be a profitable one for the

developer because the Core Plan set density levels considerably above what had prevailed before the study. This allowed the developer to build more intensively, thereby increasing the net value of the project.

The pure subdivision component of our sample of "excessive" cases illustrates the kinds of problems that can occur after draft approval. Table 3.10 demonstrates that while an average of 18.5 months was required to obtain draft approval for the four cases, an average of 33.8 months elapsed before the plans were registered.

In case No. 10, an industrial subdivision of over 100 acres (see Fig. 3.2 -- M276, upper right), two factors intervened to hold up processing of the plan: (1) the-right-of-way for the 500 KV Nanticoke-Pickering hydro transmission line cuts right across the subject lands. It took a considerable amount of time and negotiation between officials and developer to plan the subdivision around the right-of-way. In addition, the Region of Peel, with responsibility for regional water supply, was concerned about water pressures in the area. The approval of the plan was delayed until studies could be completed to the satisfaction of the regional authorities.

Environmental concerns were also a major factor in delaying the final approval of case No. 11, a small "infill" project of eight single-family dwellings (see Fig. 3.2 -- M273, lower centre). The plan had had draft approval subject to certain conditions concerning the flood vulnerability of the site. Flooding in the subject area had been a problem for some time -- a nearby school had suffered flood damage and the City had commissioned detailed studies of the problem. When the subject plan was submitted, the authorities were well aware of the area's vulnerability and the problems that might arise. They wanted to evaluate the proposed plan closely. This case illustrates some important differences that have occurred over the last 10 years, changes that are only hinted at by aggregate data on

processing times. In 1969, the flooding "problem" would have been seen as only a case of "agricultural run-off," i.e., the area was relatively undeveloped. In undeveloped areas, flooding is less a problem because open land is highly absorbent and tends to drain quickly. In developed areas, the same potential for flooding can produce worse results for essentially three reasons:

(1) pavement and structures provide fewer locations for drainage to take place;

(2) pavement produces much faster run-off, straining the capacities of existing creeks and storm sewers; and

(3) people now inhabit the area.

This same case, submitted in 1969, would probably not have received the same level of scrutiny, nor would it have taken as long to process. Not as much was known about the vulnerability of developed areas to flood damage; certainly little was known about this particular location. While the flooding problem was a major factor in delaying final plan approval, the developer was also engaged in a land swap with the local school board. These negotiations also contributed to the overall delay.

Case No. 12 illustrates three different kinds of obstacles to a speedy approval of a plan of subdivision: (1) technical-planning problems; (2) financial problems; and (3) political-planning problems.

The technical-planning problems involved what the planners considered a poor location for an exit road on the proposed plan. A difficult grade separation situation inherent to the site prompted the planners to demand that its location be changed. The proposed route for a second road was also challenged since it would cut through adjoining school board lands in a manner which was unnecessarily disruptive.

The developer and the City also got involved in some lengthy negotiations over a huge oak tree on the site. The City wanted the tree preserved; the

developer agreed at the time of draft approval to dedicate to the City a block of land upon which the tree stood. He also agreed to a condition of draft approval requiring the customary payment of "5% cash-in-lieu" of parkland in addition to the block containing the tree.[23] In small subdivisions like this one, 10 single-family units, it is the policy in Mississauga to accept cash rather than land since such small parcels are of little use as parkland. After agreeing to these conditions in the consolidated report, the report that the planners submit to council on every subdivision proposal, the developer later reneged. Subsequent proceedings were complicated but in essence this is what happened: the minister's conditions of draft approval (this application was submitted before the advent of regional government) did not require the gratuitous dedication of the block of land over and above the 5% cash-in-lieu payment. This provided an opening for the developer to challenge the conditions being imposed by the municipality. The developer took his case before the Mississauga Council where he won.[24]

The "political-planning" problems relate to conflicts that ensued among the developer, the planners, the local residents, and the local alderman over the size of the lots in the plan. This conflict highlights one of the major criticisms of land use regulation because it involves an "obstacle" that is not based on questions of poor planning (poor road location, bad siting, etc.), or on environmental considerations (proximity to railroad tracks, flood vulnerability, etc.), but on "character of the neighbourhood." Mississauga Council had approved a resolution stating that new projects in an existing

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23 See description of subdivision approval process outlined in Chapter 2.

24 The province, and now the region, are reluctant to enforce purely local conditions agreed to by developers and municipalities.

area should have lot frontages equal to (or presumably greater than) those prevailing in the existing developments. The planners supported the proposed plan with its smaller frontages (50-foot as opposed to 80-foot) but it took a considerable period of time for them to convince the local residents, the alderman, and council.

Case No. 13 (see Fig. 3.2 -- M263, lower centre) is also a small infill project of only six single-family units. The major problem with this plan arose because of the location of the property, immediately adjacent to the main CPR lines through the community, the same CPR line made famous by the 1979 Mississauga rail tankcar disaster). The proximity to the tracks prompted the planners to make noise abatement studies a condition of the draft approval (as the Planning Act requires). The developer was proposing a plan involving six lots but because of the location, the planners were only willing to approve a plan involving five lots, sited so as to minimize the locational disadvantages. Although the developer had agreed to the planners' conditions earlier, he now felt that the financial viability of the project depended upon fitting six lots onto the site. Negotiations dragged on with each side "sticking to its guns." Finally, the developer was able to procure a small additional piece of land (a process which itself took some time) that made the overall site larger, thereby permitting six lots. The difficult location of this site was at the root of the long approval process. Yet, in 1969, there would have been less concern over noise abatement and the project may have been processed more quickly. The trade-off is quite clear, but difficult to assess: the additional processing time, the extra land requirement and changes in siting probably all contributed to higher costs for these six houses. They are probably better-sited houses as a result of the planners' stringent evaluations, and they are probably less vulnerable to noise problems; they are probably also more expensive. Does the public

interest lie in having houses built in such a way that they are not prone to excessive noise or vulnerable to flooding? Or, does the public interest lie in producing less expensive housing? Obviously, the answer to both questions is yes, and therein lies the problem.

Case No. 6 demonstrates how the subdivision approvals system can function if the difficult public policy questions have already been answered and if, for his part, the developer is anxious to move speedily to registration of the plan. This case actually involved not one but 5 plans of subdivision for a "community" in Erin Mills South known as Neighbourhood 109. (See Fig. 3.2 -- M244-248, centre left). The project involves a total of 867 units, including 396 detached and 235 semi-detached dwellings as well as 266 townhouses. It covers some 223 acres and has an expected eventual population of about 4,000 persons.[25]

As a component of a larger community already well established, and all built by the same well-regarded developer, Neighbourhood 109 is really a "special case." Although the project dwarfs the others in our sample, it took less than 18 months to reach the draft approval stage (compared to the mean of 23 months); and just over 12 months elapsed from draft approval to registration (some 6 months less than the mean for the 1978/79 sample).

There are several possible explanations for the relatively speedy disposal of this plan and each probably played a part. First of all, when the developer (Cadillac Fairview) submitted the application for Neighbourhood 109 in February of 1976, a secondary plan was in place for the whole of Erin Mills South. Other "neighbourhoods" of comparable size and comparable

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25 Although a large project, Neighbourhood 109 is only part of a massive residential development, with an expected population of between 30,000 and 40,000. Current population is approximately 18,500.

dwelling types were already well-established in the area. Essentially, then, the potentially contentious hard policy choices had already been made. There were many points to be covered before the approval of Neighbourhood 109, but they were basically "technical-planning" as opposed to "political-planning" in character. There were questions about road and street locations; an adjacent gas pipeline had to be considered; the new Highway 403 would be nearby so that the Ministry of the Environment had to be satisfied about noise abatement controls; and, school and park locations had to be sorted out. Plans of subdivision developments for 4000 persons are complicated documents and there are many details to be settled. That the whole exercise was completed in two and one-half years does not seem excessive.

Secondly, the developer undoubtedly knows the system in Mississauga well. The company has been active there for many years and enjoys a very solid reputation with public officials and the general citizenry. It is backed by massive resources permitting professional documentation and expert representation to be made at all stages of the approval process. It is difficult to say whether this company or any other, receives "favourable treatment" per se; the advantages that accrue from superior resources including high-quality planning and legal expertise coupled with a solid track record, virtually guarantees de facto favourable outcomes in any case.

Interestingly, Cadillac Fairview had submitted an application in early 1974 to amend the Official Plan to allow Neighbourhood 109 to go ahead. Yet, until the Secondary Plan was approved in January of 1975, the city was simply not interested in processing the plan. If we were to take the 1974 date as the date of submission, this case would not look unlike the "excessive" cases.

Sample Cases of Rezoning Decisions

The rezoning of land need not be associated with the subdivision of land; for instance, as noted earlier, it is now a rare occurrence for the city of Toronto to process a plan of subdivision. In fact, the reverse process is most likely to be the case wherein groups of properties are assembled into larger parcels of land. In Mississauga, rezonings unaccompanied by plans of subdivision usually involve smaller infill projects in existing subdivisions where, for example, the developer wishes to build townhouses but the present zoning only permits single-family dwellings. In established areas of detached dwellings the residents do not usually welcome multiple units. The residents of multiple units are regarded as being from lower income groups, and higher densities are regarded as potential causes for an increase in traffic and an additional burden on the school system. Unlike the City of Toronto where new luxury townhouses in established neighbourhoods are often priced considerably higher than their detached-dwelling neighbours, multiple units in suburban areas are apt to have substantially lower price tags than detached or semi-detached units.[26] If each acre of land in a community is considered to be both a generator and a user of tax dollars, then multiple units with their lower assessed values (inhabited by persons who at the very least draw as much in services as those living in detached dwellings) can be regarded by this soulless accounting system as a fiscal drain on the community. The point is that rezoning applications can produce considerable political conflict if the existing local residents feel threatened by the proposal.

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26 The 1979 average selling prices for dwelling units in the City of Mississauga are: single, $107,000; semi-detached, $76,000; townhouses, $65,000; apartment, $65,000. Source: Mississauga Real Estate Board (MLS) and A. E. LePage Ltd.

A sample of 13 rezoning cases was drawn in Mississauga from the population of zoning by-laws approved in 1969; a second sample of 16 cases was similarly drawn from rezonings approved in 1978/79. The sample sizes were based on the desire to have overall Mississauga samples of about 25 cases with an appropriate proportion of each main type of development control process represented (see Table 3.5). Because the types of projects that are represented by "pure" rezoning (no subdivision) applications tend to be smaller, and in that sense less important to the overall housing stock, data on these cases was not collected in as much detail.

Table 3.11 depicts the number of months the sample cases took to negotiate the approvals process. In comparison to the 93.5% average increase in total approval times for the subdivision samples (see Table 3.6), the increased processing time for the samples of rezonings is small at 34.0%. The duration of the full approval process for both rezonings and subdivisions was virtually the same in 1969; the subdivision sample cases averaged 21.5 months and the rezoning applications averaged 19.1 months. By 1978/79, however, the subdivision approval process had lengthened to over 40 months whereas rezoning applications were averaging about 25 months.

There are substantial differences between the two development control processes that might account for longer subdivision processing times. Zoning only sets the land use; it can be a politically contentious process, but it is devoid of the difficult engineering and financial requirements accompanying a plan of subdivision. In subdivisions, developers must make large financial outlays when the development agreements are signed; if market conditions appear unfavourable, they will not want to incur these costs. By contrast, rezoning applications do not involve these large up-front expenditures.

Table 3.11

Mean Elapsed Processing Times, Applications for Amendments to Zoning By-Law, City of Mississauga, 1969 and 1978/79 (in months)

Year	Submission to Planning Report	Planning Report to Council Approval	Council Approval to By-Law Passage	By-Law Passage to OMB Approval	Total Elapsed Time
1969 (N=13)	8.8	2.1	6.2	2.0	19.1
1978/79 (N=13)[1]	11.7	1.7	11.6	0.6	25.6
% Change	44.4	(6.1)	83.3	(21.7)	34.0

1. Three cases were excluded due to incomplete data on intermediate states of approval.

Source: City of Mississauga, Clerk's Department and Planning Department.

In view of this, perhaps the more valid comparison is one between total rezoning processing time and elapsed time to draft approval for subdivisions. On this basis, the differences between the increased approval times for the two control processes are not as great. The increase in average processing time to draft approval for the 1969 sample of subdivision cases was from 13.1 to 23.0 months, a rise of 76.6% (see Table 3.9). It would appear then, that it currently takes about the same length of time to approve a rezoning as it does to process a plan of subdivision to the draft approval stage.

Yet, our main interest is not in comparing the two processes per se, as much as it is trying to understand why each is taking longer than 10 years ago. We have been arguing that zoning, as the regulatory device that essentially decides what kind of dwellings, and at what density, will occupy a given land area (and, consequently, who will live there), will draw political fire in a way that subdivision control by itself will not. The increased "complexity" of land use decision-making can be seen as a reflection of two different but related kinds of forces. As we have suggested, large-scale residential development with high servicing standards is a much more complex business than it used to be. This increased "technical" complexity would seem to be more applicable to plans of subdivision than to rezoning proposals. On the other hand, the rezoning process has had to absorb the impact of the whole citizen participation movement. If this line of reasoning is valid, we would expect to find that the 34.0% increase in rezoning approval times is due more to "political factors" than to increased "technical complexity." This requires elaboration.

Figure 3.3 is a simplified representation of the zoning-by-law approval process (see also Fig. 2.2 and subsequent description of rezoning process).

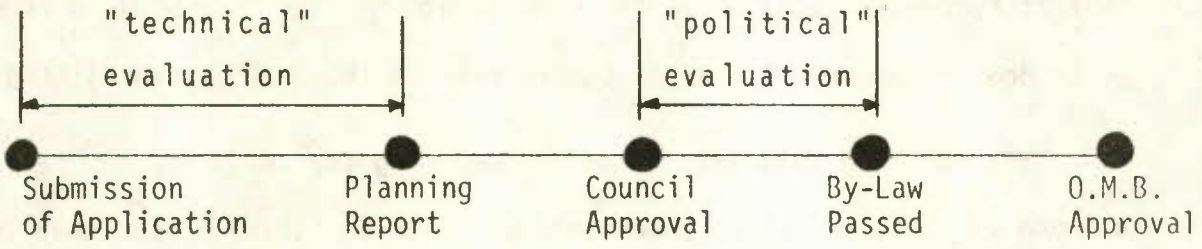

Figure 3.3

The Zoning By-Law Approval Process

Table 3.11 indicates that the bulk of the change in overall processing time has two sources; the period from submission of application to completion of the planning department's report on the proposal, and the period after council's draft approval of the by-law until its final passage. While not without political aspects, the period from "submission to planning report" essentially involves a "technical-planning" evaluation of the proposal, considering whether it adheres to the Official Plan, etc. At this stage, the proposal is by and large out of public view; only close watchers of the development approval process, or insiders, would be aware of the proposal at this stage. Time elapsed until a planning report is completed has increased by less than 3 months, or 44.4% since 1969. But, if our argument has merit, we should expect to find that the period during which the public gets more involved

would show the greatest increase, and it does.[27] The average time taken for an application to move from draft status to by-law has increased by over 5 months to 11.6 months, an increase of 83.3%.

These conclusions should be regarded as speculative in nature. The sample sizes are small and there was considerable variation around the mean approval times at each stage of the approvals process. However, the data are supportive of a general theme we have been developing, i.e., that the approvals process takes longer than it used to for different reasons. Some of the reasons can be seen as questions of increased technical and/or bureaucratic complexity; other reasons are rooted more in the increased accessibility of the system to citizen involvement and to greater public willingness to take advantage of this accessibility.

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27 The draft legislation of the "new" Planning Act incorporates the recommendations of the Planning Act Review Committee and the White Paper on the Planning Act with respect to notification. The present legislation only requires that affected property owners (as determined by current O.M.B. regulations this includes all owners within 400 feet of the subject site) be notified after Council has passed the zoning by-law amendment. The new legislation provides for notification to affected persons (to be determined by regulation but expected to be the same 400 foot criterion) of "...the time and place where council will hold a meeting to consider the passing of a by-law..." (See Appendix A, Section 34(14)(a) of The Planning Act: A Draft For Public Comment). For some time, the City of Toronto has notified all persons within 400 feet of a subject application at the time of the preliminary report by the planning staff (i.e., at a very early stage of processing -- See p. 73 of this report).

Analysis of the Data: Toronto

Development has constituted a source of political conflict in Toronto for some time, but only in the past ten years has it evolved to the status of a political issue. The distinction between "conflict" and "issue" is an important one, for it illuminates some of the changes that have taken place in the political life of the city in the past 10 to 15 years.

Prior to 1966, conflict over development and development policies had been contained largely within the formal structure of government. Politicians, planners, and other government officials were often at odds over development policy, but development and redevelopment per se had not yet become a source of concern to the populace at large. By the late sixties, however, development had become a public issue, well beyond the status of inter-agency disagreement. Opposition to specific redevelopment projects had given rise to a "new" phenomenon in Toronto politics -- the citizen group, organized along neighbourhood lines, aggressive in tactics, and willing to challenge not only the procedures, but also the premises under which city officials and developers were acting.

Three relatively distinct periods are discernible in the evolution of the development issue. First, the period from 1950 to about 1966 or 1967, during which time conflict over development policy was contained within the formal institutions of government. The second period, from 1967 to 1972, was a period of "politicization." These were the years of strong citizen group activism culminating in the 1972 council elections. The third period, since 1972, has seen the development issue reintegrated into the political system through elections and changes in the political structure itself.

During the period 1950-66, controversy over development policy was centred in city hall, with Council and the Development Department aggressively encouraging development. Opposing them were those planners who wanted to take a closer look

at proposed developments and weigh more carefully their advantages and costs. Fraser's description of Matthew Lawson, the Commissioner of Planning during most of this period, serves to outline the nature of the conflict: "... a man... with a stubborn determination to bring good planning principles to Toronto... [and who] refused to bend to the pressures from City Council."[28]

The growth of development activity in Toronto since World War II has been remarkable: in the period 1951-66, building permits totalling close to $1.5 billion were issued. The conflict that emerged was not over-development per se, but over redevelopment primarily in low density neighbourhoods. It was primarily the encroachment of high-rise apartment buildings into middle-class neighbourhoods of detached single-family dwellings that generated the bulk of development controversy in Toronto.

The boom in apartment construction in Toronto is demonstrated by reference to Table 3.12. Two aspects of these data are especially interesting: first, the growth in apartment construction, from a total value of $3.2 million in 1951 to over $72 million in 1975, a 20-fold increase in less than 25 years. Second, the comparison with construction of low-density dwelling units is striking; the value of building permits issued for dwelling units other than apartments has increased by less than $6 million. Indeed, it would appear that this dollar increase can be accounted for by inflation alone, for the number of units involved has actually decreased, from 241 in 1951 to 212 in 1975. In a little over a decade Toronto has been transformed from a city of homes to one in which, by 1976, more than 60 per cent of its residents are apartment dwellers. This transformation has not been without conflict. Indeed, one would not go far wrong in considering the evolution of development as a political issue in Toronto to be a direct result of the apartment boom.

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28 Graham Fraser, "Planning vs. Development: Placing Bets on Toronto's Future," in Alan Powell, ed., The City: Attacking Modern Myths (Toronto: McClelland and Stewart, 1972).

Table 3.12

Value of Building Permits Issued, by Type of Dwelling Unit, City of Toronto, 1951-75 (in Thousands of Dollars)

Year	Dwelling Units other than Apartments	Apartments
1951	$ 2,667.8	$ 3,205.1
1960	1,648.2	14,787.1
1965	2,738.5	64,396.4
1970	3,413.2	42,861.7
1975	8,483.6	72,069.0

Source: City of Toronto. Annual Reports, Department of Buildings.

The origins of widespread, organized citizen opposition to redevelopment projects can be traced to working-class protests in the downtown areas of Trefann Court, Don Vale, and Kensington. Lorimer, Sewell, Fraser,[29] and others have documented how, beginning in 1966, local residents battled city hall over plans to "renew" their neighbourhoods -- a process that involved

[29] James Lorimer, The Real World of City Politics (Toronto: James Lewis and Samuel, 1970); John Sewell, Up Against City Hall (Toronto: James Lewis and Samuel, 1972); Graham Fraser, Fighting Back (Toronto: Hakkert, 1972).

demolishing them first. In each case, the residents were able to oppose the city's plans by having working committees created on which they were represented, and by producing an alternative plan. The process was difficult and time consuming, but these successful protests set a precedent: city hall could be opposed; the experts were shown to be fallible, and the residents had demonstrated they could work together to produce alternatives.

But the Soudan-Hillsdale case in 1967 is more illustrative of the kind of controversy over high-rise apartment development that came to characterize the era of "citizen group politics." In that case, a developer had sought a re-zoning for a large apartment project in a pleasant middle-class neighbourhood of single-family homes. The Planning Board staff under Matthew Lawson consistently refused to recommend approval of the application. The staff had recently completed a major study of a wide area surrounding the site and had recommended that the neighbourhood remain low-density residential. In spite of this, the city council passed a by-law permitting the project and submitted it to the Ontario Municipal Board for approval. The hearings before the board demonstrated both the conflict within officialdom over development policy which typified the "pre-politicization" period, as well as the emerging influence of citizen organizations. The city chose its director of development to argue its case before the board. The board, however, knowing the contrary position taken by the city's planners, asked that they also be heard. The board found the arguments of the planners and the area residents more persuasive and the city's application for approval of the by-law was denied.

By the 1969 election, development had not yet achieved the status of a political issue, but the process was well under way. Two of the leaders of working-class opposition to the city's urban renewal plans were elected to council, along with a handful of "moderates." With the election of the "pro-neighbourhood" aldermen to council, development became the central issue of

Toronto politics -- both inside and outside the formal institutions of government.

Citizen group activity increased greatly. Estimates of the number of groups active in the 1969-72 period vary, but a 1974 compilation by the Planning Board listed over 200. A January 1970 study by Toronto's Bureau of Municipal Research had found only 15 groups active.[30] Most of the activity revolved around opposition to specific rezonings for apartment developments, and took the form of letters and deputations to area aldermen and to the Buildings and Development Committee of council.

In 1969, an "umbrella" organization of citizen groups, CORRA -- the Confederation of Residents and Ratepayer Associations -- was formed. Organized to address city-wide issues of concern to its members, CORRA had over 36 component citizen groups by 1972. The stature of this organization had been greatly enhanced by its leading role in the "STOP SPADINA" movement, a "grass-roots" citizen campaign to oppose a planned expressway to downtown through established neighbourhoods. While not a development issue per se, there can be no question that the 'STOP SPADINA' campaign was a major factor in the emergence of citizen group politics in Toronto. The eventual decision to "kill" the expressway, made by the provincial cabinet in 1971 after a protracted struggle, is considered to have united and strengthened the "movement."

The passage in 1969 of a new Official Plan for Toronto, after a long process and several preliminary area studies and draft plans, also probably encouraged the politicization of the development process. In its designation of certain areas of the city as appropriate for particular kinds of development, an Official Plan acts as a blueprint, informing the players in the urban development game of the city's intentions regarding development. Neighbourhood organizations looked to the plan for protection from high-density development, while developers seemed to regard the plan's designations as a

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30 "Neighbourhood Participation in Local Government," Civic Affairs (Toronto: Bureau of Municipal Research, January 1970).

licence for approval of any project which fell within its generalized guidelines. The publication of the plan and its role in focusing development controversy probably served to make the public more aware of the development issue.

The success of the citizens' group candidates in the 1972 council elections represented the high point of the movement. The results surprised even its most optimistic supporters. Eleven of 14 candidates endorsed by CO '72 (Community Organizing for 1972), a group committed to electing "reformists," were successful. In addition, the election of other reform-moderates gave the new council a decided reformist cast.

Since then, citizen group activity has diminished drastically. The movement appears to have been a victim of its own success. With sympathetic aldermen leading the way, council has pursued policies more in accord with the citizen group position. And, with many of the long-sought-after reforms being implemented, the role of opposition was no longer appropriate. Citizen representation on planning committees and task forces increased greatly, and the decentralization of planning functions helped to siphon off neighbourhood discontent.

In summary, the decisional environment in effect during the fifties and sixties had the following basic features:

(1) a public mood generally supportive of development;

(2) a political culture that placed strong emphasis on public deference to elected and appointed officials;

(3) widespread acceptance of planning and development matters as essentially technical in nature, resulting in heavy reliance on expertise (planners) and rationality in the making of development-related decisions; and

(4) a general low level of information regarding development except for those politicians, planners, and developers most directly involved.

This decisional environment permitted clear role differentiation of the major participants; the elected representatives made decisions "in the public interest" after seeking the advice of the relevant experts, the planners; the public at large played no direct role, allowing the elected representatives to act on their behalf after consultation with well-qualified professional planners.

During the period from the early 1970's until recently, the politics of development in Toronto changed substantially. The process became considerably more complex, with more actors and lengthier procedures. Much of the increased complexity can be attributed to the enhanced role of neighbourhood interests. Successive reform Councils enacted policies that reflected the concerns of the neighbourhood organizations. For example, quasi-official neighbourhood planning committees and area task forces were created with substantial proportions of citizen members. The influence of such committees is now considerably lessened, by and large because they have been successful in guiding development in ways to their liking. More permanently, new policies governing development in the core have been enacted by City Council, and development review legislation (See Appendix A; Section 39, the draft Planning Act) has been secured from the Province.

During the 1970's major changes were made in the planning bureaucracy as well. In the two-year period, 1973-75, following the election of Mayor Crombie and the first "reform" Council, the planning department expanded by almost 50 per cent. A new powerful neighbourhood planning division was created, and by 1975, 15 site offices had been established throughout the City. The ascendancy of the neighbourhood-oriented planning perspective signalled a clear change in direction for the City's planning department; away from a philosophy which viewed planning as technical, physical and apolitical, toward a more decentralized operation

attuned to neighbourhood interests.[31]

The "turbulent environment" in which the major players in the development game operated until quite recently stands in sharp contrast to the simpler, more predictable environment of the fifties and sixties. The main characteristics of this policized environment, which is still operative in the main, can be summarized as follows:

(1) an apparent weakening of the norms of deference to elected and appointed officials, at least on the part of political activists;

(2) an implicit (sometimes explicit) challenge by middle-class activists and "reformist" politicians to the "cult" of expertise and rationality in the making of planning and development decisions; and

(3) a generally higher level and wider dispersal of information concerning development matters.

The implications of a more politicized decisional environment for the roles and interactions of the major participants has been considerable.

A primary effect is that it has muddied what were formerly clear-cut roles and relationships. The public at large (or at least some portions of it -- middle class activists) cannot be counted upon to be quiet and deferential about development matters. In fact, participation in planning in Toronto has been virtually institutionalized. The centralized, "rational", public interest stance which planners took prior to politicization was modified considerably during the seventies in favour of a position more akin to

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31 In 1973, the City of Toronto Planning Board had a budget of approximately $1.2 million and employed 73 persons; by 1976, the budget had risen to $3.4 million and number of staff to 142. While the overall budget rose 183% over this period, the budget of the "neighbourhood division" increased by 566% from $170,000 to $1.1 million. During the same period, neighbourhood division staff went from 11 to 50 persons.

neighbourhood advocacy. Politicians appear likewise to be less inclined to the tradional representative's role as "trustee" played by Canadian municipal politicians, in favour of a position that more clearly advances the specific interests of the constituents.

For developers, the politicized environment forced changes in the way they operated. In the pre-politicization days, much as in Mississauga, a developer felt completely free to walk into city hall and discuss a project in confidence with the planners. A visit to one or two key aldermen, particularly the chairman of the powerful Buildings and Development Committee was usually sufficient to ensure their support. No citizen groups threw obstacles in the course of the approval process and the generally high level of public support for development guaranteed that backing the project would not result in political costs for the politicians or the planners. The net consequence was an approval process both relatively quick and positive.

For a period during the mid-seventies developers did not feel free to discuss their projects with the planners and be assured that their discussions would remain confidential. Many of the "Young Turk" neighbourhood planners considered that they also had a mandate from "their communities" to see that the local residents were fully aware of proposals from an early point. The neighbourhood planners working "in the field", in the site offices, were particularly vulnerable to the "dual loyalty" problem. As a consequence, developers were careful to engage in considerable "spadework" in the local community, with the residents' associations and the local planner to get feedback at an early stage about the acceptability of their proposals.

While much of this politicized environment still remains, there are some indications that the pendulum may be "swinging back". City planning officials assert that developers again come in for confidential discussions about proposed projects. Development is no longer a political issue and because

citizen participation is part and parcel of the approval process itself, the environment is decidedly less turbulent. That a quieter planning and development environment has evolved is perhaps illustrated by the decline in the number of neighbourhood planning offices from 15 in 1975 to 8 currently, and 7 by year-end. While many factors are responsible for the closing of site offices it does seem to indicate a lessening of the neighbourhood orientation so prominent in the 1970-76 period.

Drawing the Toronto Sample

In order to provide greater detail and to support the foregoing contentions, samples of 25 rezoning applications were drawn from each of 3 time periods; 1965-66, 1970-72, and 1978-79. These periods were selected because they represent major inflection points in the evolution of development control in the city. The samples were drawn randomly from a list of rezoning applications maintained by the City Clerk's Department.[32] Table 3.13 indicates that the samples constituted between 16% and 19% of the rezoning applications submitted in the respective periods.

Table 3.13

Rezoning Applications, City of Toronto
Selected Periods

Period	Number of Rezoning Applications	Samples as % of Total
1965-66	160	16.0
1970-72	132	19.0
1978-79 (to July 1)	134	19.0

Source: City of Toronto, Clerk's Department

32 The 1978-79 sample was not, strictly speaking, a random sample. After the sample had been drawn and the data collected, it was learned that a "second" set of files existed, also containing rezoning applications. These cases were examined to determine if our sample was unrepresentative. It was decided that while the sample may be slightly biased toward larger projects, the difference was not substantial. (It should not be assumed that there is a correlation between project size and speed of approval -- the data from Mississauga and Toronto do not indicate any such simple correlation.

Processing Procedures

Figure 3.3 depicts the procedure used in the processing of rezoning applications in the City of Toronto (see also the description of the rezoning process in Chapter 2). For all 75 cases in the two samples, data were collected on the elapsed time from submission of the application to:

1. completion of evaluation by planning staff;
2. disposition of application by the Buildings and Development Committee of Council;[33]
3. Council approval of a draft by-law.[34]

Sample Cases of Rezoning Decisions

Table 3.14 depicts the disposition of, and calculates a "success rate" for, rezoning applications during the three sample periods.

Table 3.14

Disposition of Rezoning Applications
City of Toronto, Selected Periods

Period	Approved	Rejected	Withdrawn	Total	Success Rate
1965-66	7	15	3	25	31.8
1970-72	12	10	3	25	54.6
1978-79	18	4	2	25	78.3

Source: City of Toronto, Clerk's Department and Planning Department

33 The Buildings and Development Commitee is a standing committee of Council composed of 11 aldermen, one from each ward. It is the function of the Committee . . . to study and report to Council on (among other things) . . . all matters relating to the enactment and enforcement of restricted area or zoning by-laws.

34 Data were not collected on elapsed times from approval of a draft by-law by Council to OMB approval. It was judged that such information would not be useful since many rezoning applications since 1976 were "held up" in the long approval process attending the Central Area Plan. The process of approving the Central Area Plan (an amendment to the City's Official Plan finally approved by the OMB on June 30/78) and the manner in which it prevented rezoning applications from securing final approval is similar in kind and impact to the Secondary Plan approval process in Mississauga. In addition, because the Toronto sample was based on "applications," rather than "approvals" as in Mississauga, not all cases went beyond the council decision state, e.g., only 7 of the 25 1965-66 cases were "successful", i.e., approved by council and sent to the OMB for final approval.

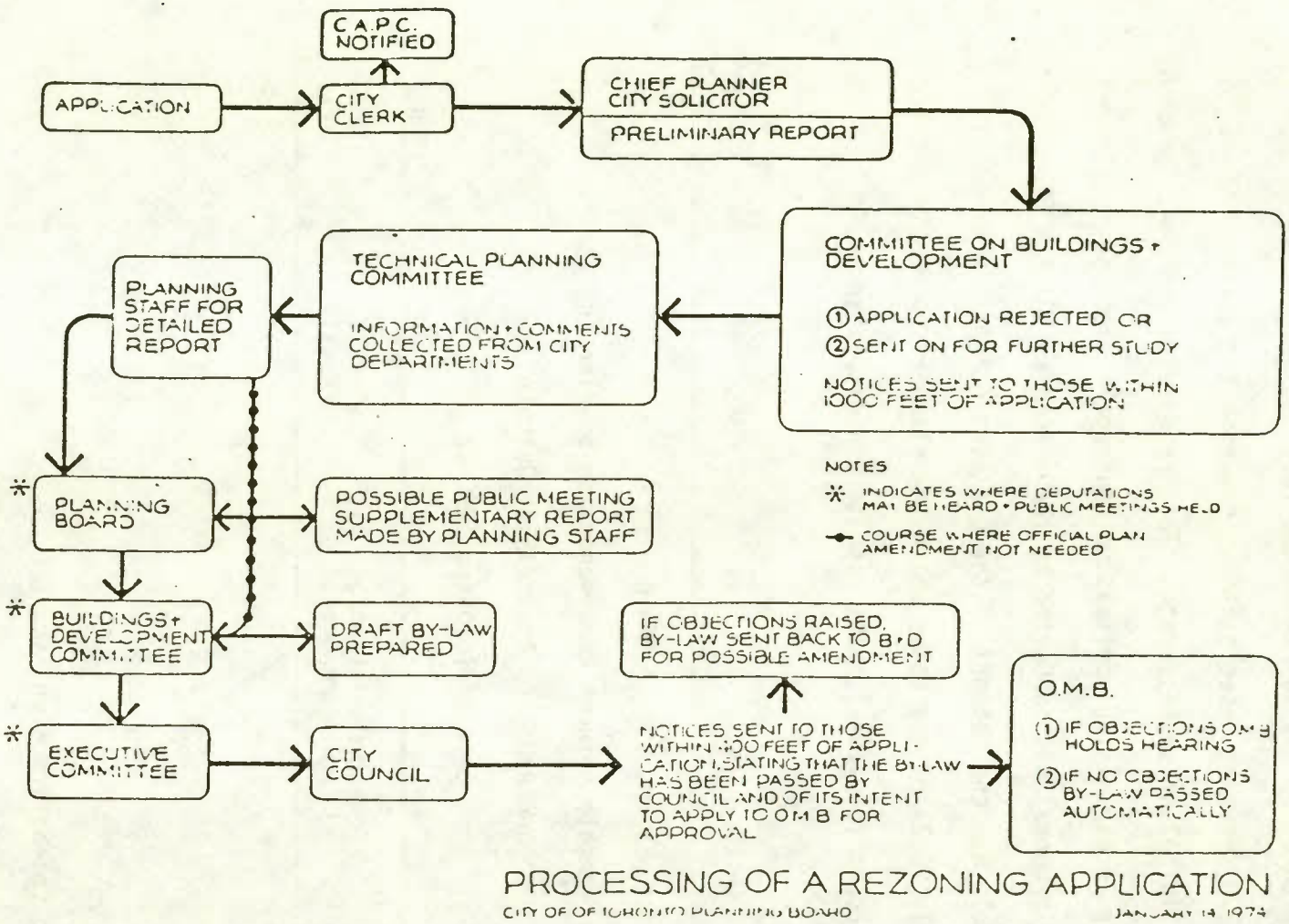

Figure 3.4.

Processing of a Rezoning Application, City of Toronto

Source: City of Toronto Planning Board.

Clearly, there has been a dramatic increase in the rate of success of rezoning applications from 31.8% in 1965-66 to 54.6% in 1970-72, to 78.3% in 1978-79.

Previous research by the author on the rezoning process in Toronto found that, of 205 rezoning cases studied, covering the period 1965-72, 87 were successful for 42.4% success rate. That research found that the most important factor in explaining application "outcome" (success or failure) was whether the proposal was supported by the planners. Of the 87 successful cases, 69 or 79.3% had the support of the planning staff; or, to put it another way, only 20.7% of the cases which the planners had not supported managed to get council approval. The results are displayed on Table 3.15.

Table 3.15

Relationship between Recommendation of Planning Staff and Rezoning Application Outcome, City of Toronto, 1965-72

Outcome of Application	Recommendation of Planning Approval	Staff Refusal	Total
Success	69	18	87
Failure	21	97	118
TOTALS	90	115	205

Gamma = .81; Chi-Square Significant @ .00

Source: City of Toronto, Clerk's Department and Planning Department.

The technique of multiple regression analysis was employed to control for two other variables--citizen opposition to the application and whether the ward alderman was supportive; the results reaffirmed the influence of the planners. After controlling for aldermanic support and citizen group activity, the influence of the planners is maintained and emerges as the major predictor in our model (the partial correlation between planner support and outcome is .45, T-statistic = 7.06, significance @ .00).[35]

If the planners are so influential in the Toronto system, then we would expect to find some relationship between the different success rates of our samples and planner support. Data on whether the planners supported the application were collected for 67 of the sample cases; the results are displayed on Table 3.16.

Table 3.16

Planner Support and Rate of Success

Rezoning Applications, City of Toronto

Selected Periods (N)

Period	% Applications with Planner Approval	% Applications Successful	(N)
1965-66	18.2(4)	31.8(7)	(22)
1970-72	68.2(15)	54.6(12)	(22)
1978-79	87.0(20)	78.3(18)	(23)

Source: City of Toronto, Clerk's Department.

35 Stuart B. Proudfoot, "High-Rise and Neighbourhood Change: The Politics of Development in Toronto." Unpublished Ph.D. dissertation, University of Michigan, 1977.

The results confirm our expectations: the higher the level of planner support, the greater the percentage of successful applications.

We have no firm data on why the planners supported more applications in the two later sample periods than in 1965-66; however, we can engage in some informed speculation. We know that there was considerable conflict between the planners and the politicians during the early period. Of our 1965-66 sample of 22 cases, the planners supported only 4 proposals, or 18.2% of the sample; council nevertheless approved 7 applications or 31.8% of the sample. In 1970-72 and 1978-79, there is quite a close correspondence between the proportion of applications receiving planner approval and the success rate. The internecine conflict between planners and politicians had largely disappeared by 1970-72. During this period, there was general consensus that "development was good" despite the growth of the anti-development movement. At this point in time the anti-development forces were outside the formal political system. Two "reform" (anti-development) aldermen were "inside" on council, and while a couple of unpopular rezoning proposals were defeated, they had little overall impact on the rate of success of rezoning proposals. By 1978-79, the kind of rezoning proposals being made were non-controversial in character. Since policies were implemented protecting low-density residential neighbourhoods from high-rise development, coupled with a changed economic climate for high-rise apartment development, rezoning applications tend to be for smaller infill projects, which generally enjoy official and public support.

As a final factor, the "high" success rate in the 1978-79 sample could be the result of a series of "technical" rezonings necessitated by the passage of the Central Area Plan. During the 1978-79 period, a number of projects were granted approval under the new Central Area zoning which had been approved by Council, but which had not yet been approved by the O.M.B. Since the "old"

zoning was still in effect these projects required a "technical" rezoning. Obviously these applications have a high probability of success since they explicitly conform to Council policy but still need "rubber stamp" approval. An examination of the 1978-79 sample reveals that 4 cases could be categorized as technical rezonings; if these cases are removed from the sample the success rate drops from 78.3% to 66.7% (14 ÷ 21 x 100%). However, it should be emphasized that the samples were chosen on a random basis and that amendments to official plans (such as the Central Area Plan) are not uncommon. Assuredly, the processing of a major planning document such as the Central Area Plan is not an everyday occurrence; nevertheless, our point is simply that there will often be cases which could be labelled unusual in certain respects.[36]

While the numbers of cases are relatively small, and the results should be treated with caution, nonetheless they do tend to confirm that council approval of zoning by-laws depends to a considerable degree on support by the planners.

Table 3.17 depicts the elapsed processing times (in days) for the samples of rezoning cases.

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36 The author is grateful to Dr. Peter Tomlinson, Policy and Research Division of the City of Toronto Planning and Development Department for pointing out the "problem" of the technical rezonings.

Table 3.17

Mean Elapsed Processing Times, Submission to Council Decision, Rezoning Applications, City of Toronto, Selected Periods (days)

Period	Submission to Planning Report	Planning Report to Council Decision	Submission to Council Decision
1965-66	98	160	258
1970-72	101	113	214
1978-79	172	133	315

Source: City of Toronto, Clerk's Department and Planning Department

The data on elapsed processing times for Toronto rezonings appear to support our general argument that there is no single explanation for longer approval processes. First of all, there has not been a consistent increase in approval times. The average time taken to process a rezoning application in the period 1970-72 was 214 days -- 7 months; down 17.1% or 44 days since 1965-66. By 1978-79, total times had increased some 3 months to 315 days, but the overall increase since 1965-66 was only 57 days, a rise of 18.1%.[37]

We have suggested that the success rate for applications was greater in 1970-72 because the proposals submitted enjoyed greater planner support than in 1965-66. The data on elapsed processing times seem to support this line of thought. In 1965-66 an average of 160 days elapsed from the time the planners made their recommendation until a decision was reached by council.

[37] In Mississauga, the elapsed time from submission to Council approval for "pure" rezonings increased 18.7% to 13.4 months, in the period 1969-1978/79.

This is the interval in the processing of an application where internecine conflict between planners and council would surface. The planners would recommend that an application for rezoning be refused; the politicians, more favourable to development, would disagree. During this period, the politicians would sometimes ask the Development Department (pro-development--- not surprisingly -- given its mandate to attract development to the city) to report on the application in order to by-pass the intransigent planning staff. The result of this conflict was a protracted approval process as the data on processing times indicates.

The final point to be made about the data on the approval process concerns the increased time taken in 1978-79 to prepare the recommendation of the planning staff. This function took about 100 days to perform in both early periods but over 170 days in 1978-79, an increase in excess of 2 months. While 70 days is not a long time in absolute terms, particularly when compared to the subdivision processing intervals measured in years, it does represent an increase of approximately 42% over the earlier periods. The increase is probably due to three related factors:

(1) The increased citizen participation which now routinely takes place at all levels of the process;

(2) The decentralization of the planning function and the creation of neighbourhood site offices;

(3) The greater level of scrutiny that proposals now undergo.

Whereas Figure 3.3 indicates that citizen involvement in the rezoning process may <u>first</u> take place at Planning Board, at which time a public meeting may be held if sufficient opposition to a proposal emerges, this is not really the case. The following description of the rezoning process published by the City of Toronto Planning Board illustrates that "community involvement" in rezoning decisions begins the day the application is submitted: (emphasis added)

> Application is made to the City Clerk who informs the Ward Aldermen and a selected number of parties and sends the drawings and supporting materials to the Commissioner of Planning. The relevant area planner is assigned responsibility for the application and generally conducts an initial review of the proposal in consultation with the applicant and community representatives.
>
> On the basis of this initial review, a preliminary report is prepared which describes the proposal, identifies the relevant planning issues, reviews it against the relevant provisions of the Official Plan, and recommends to the Buildings and Development Committee whether or not the application warrants further detailed consideration. If the Committee authorizes further processing, the preliminary report is circulated by the City Clerk to the following groups: to residents and tenants within 400 or 1,000 feet of the site, depending on the significance of the application; to the Technical Planning Committee (an interdepartmental committee consisting of Buildings, Legal, Parks, Planning and Public Works); and to selected other agencies, such as the School Boards, who may have an interest in the particular application.
>
> Several activities happen in parallel during the next stage. Technical reports are submitted to the Commissioner of Planning via the Technical Planning Committee. The area planner arranges for further consultation with the local community, including public meetings and smaller scale discussions with the applicant to resolve local concerns. Additional discussions are held with departments and agencies on any technical problems. When these discussions reach a point where there is sufficient resolution of the various issues, the area planner prepares a final report. This includes the technical comments of the various departments, discusses the relevant planning considerations and, if the application is to be recommended for approval, recommends the provisions for a site plan by-law and associated rezoning or development review agreements. [38]

Given the increased public awareness of development activity, the accessability provided in the Toronto system is bound to lengthen approval times. Considering the process described above, an elapsed time of less than 6 months from submission to final planning report does not seem excessive. Similarly, the increase from 113 days to 133 days over the period from 1970-72 to 1978-79 for a council decision on the planning report seems moderate indeed.[39]

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38 City of Toronto Planning Board, A Description of the City of Toronto's Development Control System, April 1979.

39 The zoning associated with the Central Area Plan approved by the O.M.B. now permits full Official Plan residential and commercial densities "as of right" in most areas. What this means is that approval in such instances is subject only to development review (See Appendix A; Section 39 of the draft of the new Planning Act). If, as Toronto planning officials have informed the author, the process of development review is shorter than for rezonings, average project approval times in the future will be shorter even if the remaining rezoning applications take longer. The author is again indebted to Dr. Peter Tomlinson of the City of Toronto for making this point in commenting on an earlier draft of this paper.

Direct Costs of Land Use Regulation

In addition to the indirect costs of building houses occasioned by longer approval times and restrictions on the kinds of units that can be built and at what densities, there are several types of direct costs which must be paid either to the municipality outright or incurred at its behest, before construction can begin; these costs have increased dramatically.

Mississauga

The direct costs payable in the City of Mississauga are of three main types: (1) "hard costs" or the costs of installing services required by, or necessitated by, the project; (2) various types of planning, engineering, and administrative fees; and (3) "soft costs" or what are usually referred to as lot levies or developmental levies.

The reader is referred to Table 3.18 to better follow this discussion. The so-called "hard costs" are the costs of servicing a subdivision with water and waste removal systems, roads, lighting, and so on; these costs are borne by the developer and the installations must meet standards set by the municipality. The specific requirements for a given development and their costs are spelled out in the Engineering and Financial Agreements that must be signed by the developer and the municipality before a plan can be registered; a letter of credit must be obtained by the developer for the total amount of the "hard costs," this amount being reduced as the services are installed.

The fees payable in Mississauga on plans of subdivision are as follows:

(1) planning fee

(2) city engineering and inspection fee

(3) regional engineering and inspection fee (since 1975)

(4) administrative fee

Table 3.18

Direct Municipally-Mandated Costs Incurred by Developers,

City of Mississauga, 1969 and 1978-79

Type of Direct	Changes in Period 1969 to 1978-79
Hard Services ("Hard Costs")	
Costs of procurement and installation of sanitary and storm sewers, watermains, curbs, roads, lighting, sodding, planting. These costs are borne by the developer and must meet standards set by the municipality. The specific requirements for a project are spelled out in development agreements signed by developer and municipality before a plan can be registered; a letter of credit in the amount of the "hard costs" must be obtained, this amount being reduced as the services are installed.	The standards have been made more stringent and the costs are now solely borne by the developer; in 1969 many hard costs were financed by "local improvements" and paid for by the property owner over a period of years via realty taxes.
Fees	
1. Planning fees	1969
To help defray the costs of "planning" with respect to the project.	$10 per acre 1978-79 $45 per housing unit or $37 per acre for industrial projects.
2. City and Regional Engineering and Inspection Fees	1969
To help defray costs of p anning and inspection of hard service installations.	Only city fees apply since region did not come into being until 1975. Sliding scale system: for projects with hard costs registration of <$100,000 - 3% of hard services costs not to exceed $2500; $100,000-500,000 - 2½% of hard services costs not to exceed $10,000; >$500,000 - 2% of hard services costs.

Table 3.18 (continued)

	1978-79 - City - 3% hard services costs - Region - 1% hard services costs
3. Administrative Fee	
To defray costs associated with registration of the plan.	1969 Was not in force. 1978-79 $200 per plan of subdivision.
Lot Levies ("Soft Costs")	1969
A "once-only" financial contribution to the municipality to defray that portion of the cost of delivering municipal services which are required by, or attributable to, the new development (taken from City of Mississauga Planning Department document, Development Policy (Residential), April, 1977). These levies are payable at the time building permits are taken out.	City levies only; collected on a per unit basis. Detached dwellings $960 p.u. Semi-detached dwellings 880 " " Duplex, triplex, double duplex dwellings 880 " " Multiple units 790 " " Apartments: 0.5 times lot area 500 " " 0.75 " " " 480 " " 1.00 " " " 470 " " 1.50 " " " 460 " "
The levies are currently based on calculations made by the City that $490 million in capital expenditures will be necessitated by expected population increases; $978.26 per capita, known as the Gross Development Levy. That portion of the Gross Development Levy attributable to residential development (The Residential Development Levy), applied to different housing types yields the per unit figures. (The levy is updated yearly according to the Southam Construction Index).	1978-79 Collected on a per unit basis. City (as of April 1, 1979): Singles and semi-detached dwellings $2572.84 p.u. Multiple units 2251.23 " " Apartments 1608.02 " " Regional (as of April 1, 1979) Singles, semi-detached and multiple units 2016.47 p.u. Apartments: 750 sq. ft. 930.60 " " 750-1150 sq. ft. 1395.90 " " 1150 sq. ft. 2016.47 " " NOTE: The regional lot levy on detached dwellings in 1975 was $1300 per unit.
*Separate agreements on lot levies have been reached with the Big 3 developers -- Cadillac Fairview, Markborough, and McLaughlin. These companies pay levies at a rate approximately 25% of the standard rate for other developers.	
Parkland Dedication or Cash-in-Lieu	
The Planning Act imposes as a condition of subdivision approval that land in the amount of 5% of	The proposed changes in the Planning Act will allow municipalities to "require" rather than "accept" cash payments in

Table 3.18 (continued)

the site be conveyed to the municipality for park purposes. The current Act allowed municipalities to "accept" cash payments in lieu of land dedication. Mississauga's policy has been to "accept" cash payments in the case of smaller sub-divisions.	lieu of land dedication; the 5% figure for residential developments remains in effect.

Sources: City of Mississauga and Region of Peel, Clerk's Department and Planning Department.

The "soft costs" are commonly known as lot levies; they have been described by the authors of the City's Residential Development Levy Policy thusly: ". . . a once only financial contribution to the Municipality to defray that portion of the cost of delivering municipal services which are required by, or attributable to, the new development."[40] Mississauga's lot levies are collected on a per unit basis and are payable at the time the building permit is taken out.

Two other types of "financial contribution" are also part of Mississauga's requirements. The Planning Act requires a subdivider to make a dedication of five per cent of the site area to the municipality as parkland, as a condition of subdivision plan approval. A cash contribution of equal value may be made in lieu of the land dedication; this is the normal practice in the case of small subdivisions where the city is reluctant to accept small pockets of land of limited utility for recreational purposes.

Cash contributions of $40 per lot to defray tree planting costs are also normal practice in this jurisdiction.

Finally, if the proposed development makes it necessary to construct, say, a regional road or watermain, the applicant is required to make a cash

40 City of Mississauga, Development Levy Policy (Residential), adopted by Council, April 20, 1977.

contribution. For the purposes of our discussion, if any of this latter type of cash contributions were required for a project, they would be included in the "hard costs" figure.

Let's consider in more detail how the three main types of direct costs -- services, fees, and levies -- are calculated and work through a couple of examples of their impact on cases in the 1978-79 sample.

In the 1969 sample "hard costs" ranged from a low of $34,568 in a project of 17 single-family dwellings to a high of $1,505,960 in a major development of over a thousand units of mixed types. For nine comparable projects of single and semi-detached units, the servicing costs ranged from a low of $2001 per unit to a high of $4750 per unit, with a mean of $3228 per unit. In terms of 1978 dollars,[41] the range of per unit servicing costs was $3722 to $8835, with a mean of $6004.

In the 1978-79 sample, the absolute costs of hard services for the 10 proposals for which we have data ranged from a low of $48,257 for a small infill project of six single-family dwellings to a high of $5,700,246 for Cadillac Fairview's Neighbourhood #109 in Erin Mills South (expected population approximately 4,000). On a per-unit basis, the figures reveal a substantial increase in the costs of hard services. For five projects involving only single-family and semi-detached units, the costs per unit averaged $11,413, with a range of $7,616 per unit to $16,586 per unit. The increase in constant 1978 dollars from the 1969 mean of $6004 per unit to the 1978-79 mean of $11,413 per unit is 90%; the same comparison without the conversion to constant dollars yields a staggering 254% increase!

We have no way of knowing whether the costs of hard services in these projects are representative of servicing costs in general. Every project has its own unique features that can affect servicing costs: terrain, the extent of, and proximity to other development, and the type of project. We present

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41 Based on CPI: 1969 -- 94.1, 1978- -- 175.2 (1971 = 100.0).

the data merely to demonstrate the mean and range for comparable project types in the two samples. Servicing standards have been made more stringent over the decade, which has undoubtedly added to the costs. The general rate of inflation has certainly contributed as well. Finally, as noted on Table 3.19, in 1969 many hard services were financed by the homeowner in the form of "local improvements" assessed via the property tax system. We do not know, however, whether "financing via local improvements" was a contributing factor to the relatively low figures for hard services in our sample of cases.

That different housing types can affect the servicing costs per unit is illustrated by a couple of examples from each of our samples. Unfortunately, our 1969 sample contains only two projects that were not solely composed of single-family and/or single-family and semi-detached dwellings. One case, a 253-unit project of semi-detached dwellings and townhouses, had per-unit hard costs of $1247; another large mixed project of 1273 units, including singles, semis, and apartments, incurred per-unit servicing costs of $1183. These figures were the lowest for all cases in the 1969 sample and average only 38% of the average per-unit costs for singles/semi-detached projects.

In the 1978-79 sample, a similar picture emerges: it would appear to cost considerably less to supply hard services to multiple housing than it does to service single and semi-detached dwellings. One project of 42 townhouses had per-unit servicing costs of $3743; a project of 834 apartment units incurred servicing costs of $1140 per unit; and the costs of hard services for a development of 164 apartment units and 50 townhouses was a low of $858 per unit. Again, these figures were the lowest for the 1978-79 sample and average only 16.8% of the $11,413 per unit mean for the low density units.

On a per-unit basis, the costs incurred by the imposition of Mississauga's planning, engineering, and administrative fees have increased over 800%

from $70.07 to $688.97.[42]

As indicated on Table 3.18, lot levies imposed in Mississauga now include regional levies as well. The levy on single detached dwellings imposed by the city in 1969 was $960 per unit; in 1979 the per-unit levy on the same structure had risen to $2574.84, an increase of 168%. The "new" Regional Levy, which was $1300 per unit on a detached dwelling in 1975, now stands at $2016.47, an increase of 55% in only four years. The combined city and regional levies on single and semi-detached dwellings is currently $4589.31 per unit.

The dramatic increases in land prices in Mississauga are strikingly demonstrated in the "cash-in-lieu" of parkland contributions made in 1969 and 1978. The cash-in-lieu payments in Mississauga are based on the market value equivalent (as determined by the city's Property Department) of the 5% of site, land dedication. Taking the 1969 and 1978-79 sample cases for which cash-in-lieu payments were made, and dividing the cash contribution figure by the number of units in the subdivision, provides us with a measure of the additional cost which must be carried by each unit by virtue of the 5% mandatory contribution. Table 3.19 depicts the cash-in-lieu payments made on six subdivisions in 1969 and six in 1978-79. In both samples, subdivisions contain single detached dwellings only. It also shows the pro-rated land price per acre that was employed to determine the amount of cash contribution in each case. The "value" of the cash contribution in the period 1969 to 1978-79 has increased from $723 per unit to $2282 per unit, a rise of over 215% in only 10 years! This is somewhat misleading, however, since it assumes the same numbers of units per acre in each year's sample. What we really want to know is what the cash-in-lieu payments would have been in 1978-79 for the 1969 subdivision cases.

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42 Based on the 1969 and 1978-79 samples, for projects of single and semi-detached dwellings only. Recall that the engineering fees are based on the cost of hard services, so that the same factors pushing up services costs are also relevant here.

Table 3.19

Cash-in-Lieu of Parkland Contributions, Per Unit and Per Acre,

1969 and 1978 Subdivisions, City of Mississauga

Cash	Cash-in-Lieu Contribution	No. of Detached Units	Cash-in-Lieu Per Unit	Land Price Per Acre
1969				
1.	$23,818	37	$644	$62,679
2.	11,175	17	657	62,083
3.	7,500	10	750	75,000
4.	15,250	20	763	72,619
5.	10,235	15	682	63,969
6.	15,200	18	844	80,000
MEAN	---	--	$723	$69,392
1978-79				
1.	$11,400	6	$1900	$190,000
2.	28,500	13	2192	123,913
3.	75,400	34	2218	137,090
4.	38,500	18	2150	203,684
5	38,000	19	2000	172,727
6.	25,856	8	3232	191,523
MEAN	---	--	$2282	$169,823

Source: City of Mississauga, files in Clerk's Department and Planning Department.

When the mean land price per acre of $169,823, obtained from the 1978/79 sample is applied to the 1969 sample cases, Table 3.20 is the result.

Table 3.20

Cash-in-Lieu of Parkland Payments

1978 Land Prices Applied to 1969

Subdivision Cases, City of Mississauga

Case No.	5% of Site Area(Acres)	1969 Cash-in-Lieu Payment Per Unit	1978 Cash-in-Lieu Payment Per Unit
1	.38	$ 644	$ 1744
2	.18	657	1798
3	.10	750	1698
4	.21	763	1783
5	.16	682	1811
6	.19	844	1793
		$ 723	$ 1771

% Change 1969-1978: 145%

City of Mississauga, Clerk's and Planning Department.

What Table 3.20 demonstrates is that if the 6 subdivisions of single detached dwellings in the 1969 sample were to be approved now, each unit built would have to carry an implied incremental cost of $1771, as opposed to $723, to "finance" the mandatory parkland dedication requirement. This constitutes an increase of 145% in 9 years.

We are now in a position to draw together the various direct costs in summary form. Table 3.21 displays the direct costs per unit for each sample year; the total increase in direct costs over the decade is a substantial 245%. Even allowing for general inflation, direct cost changes rose over 31%.[43]

Table 3.21

Direct Costs Payable per Housing Unit

on Subdivision

City of Mississauga, 1969 and 1978/79[1]

Type of Direct Cost	1969	1978/79
"Hard" Costs[2] (Costs of Hard Services	$ 3,228	$ 10,080
Fees (Planning, Engineering and Inspection, Administrative)	70	689
"Soft Costs" (Lot Levies)	960	4,589[3]
Cash-in-Lieu of Parkland	723	1,771[4]
Tree Planting Contribution	-	45
Total Direct Costs Per Unit	$ 4,981	$ 17,174
% Change, 1969-1978: 244.8%		

Notes:
1. Based on subdivision projects of single-family detached dwellings only, to maintain comparability; includes 6 projects in each sample year.
2. Hard costs per unit on 1969 and 1978/79 samples.
3. 1978/79 levy includes both city and regional levy for 1979.
4. 1978/79 figure based on 1978 land values applied to 1969 sample.

[43] Based on CPI Index.

Toronto

Because an extensive, sophisticated servicing infrastructure is already in place, direct development costs in the City of Toronto are small when compared to Mississauga. There are only two direct costs which are applicable to redevelopment projects: (1) the "hard" costs of connecting the new structure with the existing system; and (2) a sewer imposte to defray additional costs of expanding the existing sanitary and storm sewer capacity.[44]

Because buildings in urban areas tend to be close to the existing lines the normal situation only involves the costs of running lines from the street to the new structure; in Mississauga, subdivisions demand a whole new system internal to the project. For a single detached dwelling in a built-up area of Toronto hard costs would be approximately $1,500-$4,500 in comparison to over $10,000 per unit for a comparable dwelling as part of a larger project in Mississauga. (See Table 3.21). A 30-storey apartment building with 250 suites does not incur proportionately higher direct hard costs because the requirements are still limited to "hooking up" to the existing system. Larger capacity lines are necessary but this does not significantly increase total costs. Direct hard costs for such a high-rise structure would be approximately $10,000-$25,000, depending on structural characteristics, proximity to existing lines, and so on.

The City of Toronto's sewer charge is payable at the time the building permit is issued; it is levied at a rate of 40 cents per square foot of the building's gross floor area, after a basic allowance of 3,300 square feet at no charge (the rate was 20 cents per square foot from September 1967 to June 1979). Single family, semi-detached, and duplex dwellings are exempt from the levy. For a typical 30-storey apartment building sewer charges would approach the $100,000 range.

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44 City of Toronto By-Law No. 341-67.

The legislation governing the imposition of the sewer charge appears to apply only to projects which necessitate incremental expenditure on the sewer system. Thus, the by-law is said to apply to,

> ...any class or classes of ... buildings that impose a heavy load on the sewer system, by reason which expenditures are or may be required to provide additional sanitary or storm sewer capacity, which in the opinion of Council would not otherwise be required, a special charge or charges over and above all other rates and charges to pay for all or part of the cost of providing additional capacity.[45]

In practice, the imposition of Toronto's sewer charge does not depend upon whether a given building does in fact make additional sewer capacity necessary; it is applied to all projects aside from the exemptions noted. It appears to be simply a tax used to generate revenues to maintain the sewer system as a whole.

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45 Ibid.

4. SUMMARY AND CONCLUSIONS

Our analysis has indicated that in the jurisdictions of Toronto and Mississauga, the decision processes by which zoning changes and subdivision approvals are made now take considerably longer than they used to. Some of the important reasons for this are summarized below.

(1) In subdivision approvals, a critical distinction must be made between the length of the process leading to draft approval and the period from draft approval to final approval and registration; in the first instance, the onus is on the public authorities; in the latter instance, it is primarily the developer's responsibility.

(2) Draft approval is a critical inflection point in the subdivision approval process, but jurisdictions vary considerably on the degree of specificity of the conditions attached to draft approval. This makes judging "jurisdictional efficiency" on the basis of elapsed time to draft approval a questionable practice.

(3) It takes much longer to process land use change applications for areas in which no community or secondary plan exists. In essence, the community wants to plan how development will take place. If this "hard thinking" has already been done before the specific application is received then the processing will be much quicker.

(4) Many public services used to be financed through "local improvements." Contemporary high servicing standards have made the engineering evaluation of proposals more time-consuming.

(5) As an area develops and residents become established, there is more at stake in any given land use change. This factor in itself will tend to increase processing times on both "technical" and "political" grounds.

(6) If a given land use proposal involves a rezoning to a more intensive level (increased densities) in an area of lower density housing, it is liable to take longer to approve.

(7) The approval process can be lengthened considerably if given proposal does not have much "slack ";that is, if a project must have a specific layout to be financially viable and the planners do not want to approve the plan, there is little room for compromise. Working out compromises when there is little slack in the system can prolong the approval process.

(8) There is a large amount of variation in the duration of the approval processes. However, an application would probably be processed speedily if:

(i) an approved secondary plan has been prepared and no other major studies are outstanding;

(ii) there are no difficult site characteristics in terms of proximity to railroad tracks, major highways, utilities rights-of-way, flood vulnerability, etc.;

(iii) no politically contentious rezoning is involved;

(iv) the provision of hard services is straightforward, with no difficult engineering questions to be answered; and,

(v) if the developer is also anxious to register the plan as soon as possible and knows <u>how</u> to do so.

The increased approval times for rezonings in Toronto averaged 18.1% over the period 1965 to 1968/79, based on our samples. "Pure" rezonings in Mississauga also increased by a similar percentage in the decade passed. The increase in elapsed time to process Mississauga subdivisions to the draft approval stage was 53.8% or 8½ months.[1] Considering that Mississauga has emerged from its 1969 role as a bedroom suburb of Toronto with a population of 145,000 to become a rapidly growing community of 276,000, with development proceeding on several fronts, the increased time taken to approve new housing does not seem out of line with the demands of complexity and growth.

The direct costs incurred by developers in bringing raw land into production -- hard services costs, fees, lot levies, and various cash contributions -- have risen dramatically. Our data show an increase of 244.8% over the past decade; for detached dwellings in Mississauga these costs are now in excess of $17,000 per unit.

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1 See Table 3.7. Increase of 8.5 months in elapsed time from submission to draft approval, 1968-70 to 1978-80, from 15.8 to 24.3 months.

While our empirical analysis has focussed on the approval process, it is essential that the procedures by which land use control is exercised be seen as merely the locus for a myriad of concerns a complex society wants to address in the area of land development. A preoccupation with the formal nature of the approvals process is misplaced; the critical questions remain those raised at the outset. What are the costs and benefits of current methods of land use regulation, and how are they distributed? Is the distribution a fair one? Is the process of regulation efficient; and what exactly do we mean by efficiency? The emphasis here is on Mississauga, for these issues are most relevant for the development of raw lands.

These are very difficult questions to answer; indeed, in many instances the questions are unanswerable because they depend on value judgements. Making the tough trade-offs between competing values is the function of the political system in a democracy. Nevertheless, the data analysis has illuminated some of the efficiency and equity considerations which must be addressed in any evaluation of a regulatory process.

What exactly do we mean by efficiency in the context of land use regulation? Three main dimensions of efficiency can be identified: (1) efficiency in terms of overcoming the negative externalities of incompatible land uses; (2) efficiency in the provision of public goods; and, (3) efficiency in the provision of certain public services.

Negative externalities or external effects arise in land use because of certain technical interdependencies among consumption and/or production processes. Because of these interdependencies, the actions of one individual negatively affect those of another, and the former is given no incentive to account for these "external effects" in his own decision process. The rationale for zoning is that many of the harmful effects resulting from physical inter-dependencies in production and consumption processes, including visual and air pollution, noise, traffic congestion and groundwater

pollution, can be reduced or eliminated by keeping these processes spatially separated. The problem is that the spatial separation of land use is often far removed from the external effects, making assessment of the effectiveness of zoning in externality reduction very difficult.

Ervin et al. have argued that such an assessment requires two separate steps: first, it is necessary to document the existence of negative external effects in the residential housing market. A major problem here is that such evidence is always site specific. Secondly, it is necessary to evaluate whether zoning mitigates these externalities when they do appear.[2]

To accomplish these two steps demands a very sophisticated piece of research, both in terms of design and in terms of data collection. The evidence to date, according to Ervin et al., has been either primarily subjective or has suffered from other flaws of research design. In any event, the studies reported in the economic literature concerning the ability of zoning to reduce negative externalities are clearly inconclusive.[3]

The research reported here can contribute little to this particular debate. However, the arguments in support of public intervention in land use do not rest on the amelioration of adverse external effects; the provision of public goods furnishes another justification. Ervin et al. explain:

> The principal characteristic of public goods is that one person's consumption of them does not diminish the quantity left for others. In the land use area an attractive view or certain services of parks are examples of public goods. They are available for consumption by everyone at the same level and hence may also be thought of as joint-consumption goods.[4]

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[2] David E. Ervin et al., Land Use Control: Evaluating Economic and Political Effects (Cambrdige, Mass.: Ballinger, 1977).

[3] Ibid., esp. Chap. 5.

[4] Ibid., p. 12.

It is this joint-consumption nature of public goods which makes their provision via private markets impossible. One person's consumption of the good does not diminish the quantity left for others, hence they need not make any sacrifice to acquire the good. Therefore the only price which would not misallocate consumption of the good is zero, and such a price would not draw private funds into the production of public goods.

The final theoretical argument, based on efficiency grounds, in favour of public intervention in land markets is the provision of public services. The distinguishing feature of public services is that they are frequently produced under conditions of declining average costs. As in the case of public goods, setting prices equal to marginal costs would not attract sufficient resources into their production. Ervin et al. use the example of a sewage treatment plant to illustrate the problem:

> ... when the marginal cost of supplying sewage treatment services to an additional residence is zero, given existing facilities, the marginal cost pricing rule requires a zero charge for the residence. Hence the residence would make no contribution to amortizing the cost of the treatment plant. Thus, local governments find it difficult to finance sewage treatment and similar facilities.[5]

We have described briefly the three primary efficiency arguments in favour of public intervention in land use, now let us turn our attention to an equally abbreviated overview of the equity considerations.

The equity, or distributive justification for governmental involvement has two dimensions: procedural equity and allocative equity. Procedural equity focuses on notions such as due process and equality of opportunity. Obviously, efforts to encourage greater citizen participation in the making of land use decisions is an example of an attempt to achieve procedural equity. Allocative equity has as its concern the outcome of decisions, i.e., who benefits and who loses from particular kinds of decisions, or for that

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[5] Ibid., p. 17.

matter, from the system as a whole. The two concepts of equity are clearly related. For example, it may be argued that greater equity has been achieved through procedural changes for citizen input in land use decision-making; we are thinking here of such devices as notice, public meetings, appeal provisions and the like. The outcome of such participation in the form of substantive policies, however, may create inequities for groups in the community unable, for whatever reasons, to participate in the process effectively. Similarly, greater citizen participation has clearly lengthened the approvals process; to the extent that this has increased the cost of housing, equity concerns arise.

Equity and efficiency notions are themselves linked. Because citizen participation has lengthened the approvals process, the benefits of that participation must be "real" for there to not be a loss in the procedural efficiency of the approvals system as a whole.

How are these efficiency and equity notions reflected in our analysis of land use regulation in the cities of Toronto and Mississauga? To answer this question, let us consider further the "phasing of development" problem facing planners, developers, politicians and residents in Mississauga. The phasing issue can be seen as a microcosm of most, if not all, the efficiency and equity considerations involved in land development.

Briefly, the owners of seven major parcels of land (districts) in Mississauga have applied to the city to have their lands released for development, i.e., released for the preparation of Secondary Plans. The city has refused, arguing that there is more than enough "approved land", and land in various stages of approval "in the pipeline" to satisfy foreseeable demand for several years (see pages 44 - 47 of this report). Nevertheless, the planners are under considerable pressure from the owners directly, and

from those local politicians who support the owners' position, to establish a sequence by which the lands in question will be released. While the political machinations involved are fascinating in their own right our main interest is in an exploration of the criteria by which such a ranking might be made. In the Mississauga Official Plan, the section on development phasing lists the following criteria to be applied in the release of new development lands (see pages 44-45, this report): (1) support to Core; (2) efficiency of transit service; (3) community identity and completeness; (4) freedom from noise; (5) costs of piped services; (6) costs of roadways; (7) housing consistent with city goals; and, (8) impact on taxation. The major dimension in these criteria appears to be financial, i.e., the city wants to release the lands in a sequence which minimizes the adverse financial impact on the community.

We noted earlier in the discussion of changes in the development process, that in 1969 there was widespread use of local improvements as a method of financing the extension of city services. Under this method, the city would issue bonds to raise the necessary funds and emplace the services. Taxpayers would amortize these bonds over a period of twenty years via increased property taxes. Current methods of financing growth are different: the developer now pays "up front" for the emplacement of facilities occasioned by his project. He also pays substantial development levies (See Tables 3.18 and 3.21) to finance future capital facilities in the community, facilities which bear no direct relation to his development.

This change in the method of financing growth has important implications in terms of equity and efficiency and in terms of the development "phasing" question at hand. Financing growth via development agreements (the legal instrument by which the developer and the municipality agree on what facilities the developer will emplace) and development levies, is relatively painless

for the municipality, essentially because taxes do not have to be raised. However, the costs are "still there"; they have simply been shifted from the taxpayers in general to the buyers of new homes.[6] The obvious question of fairness arises because higher priced houses mean that some portion of the potential new entrants to the community will not be able to afford housing at the "new" levels.

Development levies and the facilities emplaced under subdivision agreements are "once only" contributions; roads and waterworks, police stations and fire stations must be maintained and, eventually must also be replaced. Furthermore, they must be operated day in and day out. The point is that method of financing covers capital costs only (and only once); it does not cover operating costs.

Consequently, a second question concerning the distribution of the costs and benefits of development arises. Because operating costs are covered out of tax revenues, municipalities want new development to "pay its way". In order that a new resident pay his share of costs of publicly provided services, the assessed value of his home must be at least as high as the average. In the case of family housing the assessed value must be above average because families obviously draw more heavily on the educational system. To keep assessed values up, municipalities, Mississauga included pass zoning by-laws with large minimum lot sizes, forcing the construction of expensive housing. As pointed out in a recent Ontario Economic Council publication: "Those with the greatest housing needs -- low and moderate income families -- find that little housing which they can afford is being

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6 In periods of strong demand, developers would be able to "pass on" increased costs brought on by development levies, etc., to the purchaser of the house. In times of slack demand, it is possible that developers might have to absorb some of these costs in the form of lower profits.

built." [7]

But let us return to the development phasing question. Because only the capital costs of new development are financed by the private sector through subdivision agreements and development levies, new development projects have a differential impact on the public purse. Development which occurs further away from existing facilities is more costly to service. But, it is a more complicated question than location alone.

If Mississauga were beginning again with a clean slate, perhaps the public authorities would try to contain development more; as it is, substantial communities are already widely dispersed making the economics of running a public transportation system, for instance, a trying exercise. However, it is this very dispersal of development which makes the "phasing" question so interesting. Even those areas which are furthest from the city core have the potential to lower the average operating costs of providing certain public services, such as transit. This is because capital investment in public facilties occurs in "lumps". A community centre, a firehall or a police station only makes economic sense above a certain level of population; once it is built, operating costs per capita can only be lowered with more "capitas". [8] In Mississauga's case, because one of the seven districts vying for top spot in the development queue (Lisgar) is next to an existing community (Meadowvale) with substantial "surplus capacity" in terms of

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7 Ontario Economic Council, Issues and Alternatives: 1976.

8 The painless method of financing capital facilities tends to encourage premature emplacement and therefore underutilization and higher operating costs.

certain public facilities, it is possible for the owners of lands in that district to argue that they would be lowering the average per capita operating costs of those facilities. The same argument applies to transit; lower operating costs via increased ridership.

Thus, it is possible that the selective release of lands, ranked primarily by their impact on the costs of operation of certain publicly provided services, could be in the interests of Mississauga. Clearly, if the figures supplied by the planners about population projections, and the inventory of land already available for development are correct, then the release of new development lands will not increase growth but merely disperse it. That dispersal could be in the public interest (at least in terms of financial impact) if the city is able to ascertain the differential impact of development in different areas (no mean task) and release the lands accordingly. This line of argument obviously has limitations. The fundamental limit is that if the areas released are "too" large then they themselves create the need for the emplacement of major new facilities and we are back at "Square One". The argument for ranking potential development lands on the basis of contribution to operating costs obviously depends upon the ability to lower per capita costs on existing facilities.

- We recommend that Mississauga seriously consider revising its phasing program so that the parcels of land released are not so large that they create more problems for the community, exactly the same problems currently faced.
- We recommend that a ranking system be established that recognizes that the release of new lands may in fact be in the public interest, if their development can contribute to a higher level of utilization of existing facilities.

In the Report of the Federal-Provincial Task Force on the Supply and Price of Serviced Residential Land (the Greenspan Report), the author makes a distinction between the length of the approvals process and its restrictiveness. Restrictiveness is seen as a factor tending to increase house prices in the long run. The length of the approvals process, by contrast, is not so regarded. The author argues that developers can adjust to longer processing times but can do little about the substance of regulations that are restrictive in effect.

The distinction between duration and restrictiveness is a useful one, but we believe the real issue boils down to judgements about what kinds of restrictions are justifiable in the public interest and what kinds are not. There are two main types of restrictions: those relating to "planning" matters and those having a more explicitly "political" basis. For instance, the Planning Act clearly spells out what the authorities are required to evaluate in assessing a plan of subdivision, including (1) whether the proposed subdivision is premature, (2) the suitability of the land for the purposes intended, (3) provisions for highways, (4) conservation of natural resources and flood control, and (5) adequacy of utilities and municipal services including school sites. With the exception of whether an application is premature, these are primarily planning matters -- by which we mean they are essentially technical questions the answers to which are not "value laden". Whether the evaluation of these "technical planning" matters is being carried out in Mississauga efficiently and with due regard for the public interest, we are unable to judge. To do so would require comparative data from other jurisdictions. Whether the actual standards applied by planners to evaluate, for example, the flood vulnerability of a site are in some sense "excessive", we are also unable to judge.

More probing questions, however, can be raised concerning what we have

labelled "political restrictiveness". Policies that have the effect of permitting only large structures on large lots tend to make the provision of lower priced housing virtually impossible. Mississauga has, for example, passed council resolutions "suggesting" that new developments in existing areas maintain lot frontages at current high levels. Of course, the zoning by-law itself is the major control device by which "political restrictiveness" can be effected. Municipalities with restrictive zoning policies such as "excessive" minimum lot sizes defend their policies on the grounds of maintaining the "character of the community". Why, they argue, is it necessary that every community have the same standards. The problem with this defence is that it tends to produce communities of narrow socio-economic dimensions. If Mississauga, through its land use policies, discourages the construction of housing affordable by persons below the existing community level then that housing must be built somewhere else. Yet, all communities more or less, try to play the same game. We believe that the politicians, planners and residents of Mississauga (and other municipalities employing similar practices) need to look long and hard at the fairness of such policies.

The processes governing changes in land use in a modern society are very complex. It is doubtful whether a radical de-regulation of land use will improve either the time involved for making decisions or simplify the process without major issues of equity and/or efficiency arising. It is our conclusion that the present system of land use controls in place in Ontario represents a compromise among various contending forces. This compromise has, by and large, the support of the body politic. The impacts of land use regulation are so complicated that a definitive weighing of costs and benefits is beyond the capabilities of social science. Our ambitions in this study have been more modest: to attempt to make explicit the nature of the trade-offs involved in land use regulation, so that debate about the merits of regulation is more enlightened.

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APPENDIX A

INTRODUCTION

At the time of writing (July 1980), land use planning in Ontario is at a major inflection point. By late 1980 or early 1981, it is expected that a new Planning Act, the main legislative document governing land use planning in the province, will have been enacted. Passage of the Act will complete a decade-long process of review and rethinking which began in earnest in 1975 with the appointment of the Planning Act Review Committee (PARC). The committee's report was published in June 1977 at which time the government initiated a program of response with a view to developing a new Planning Act in 1979. In addition to receiving over 350 briefs on the PARC report, the government carried out its own evaluation of the committee's proposals, initiated some additional studies and internal consultations which culminated in the publication of the White Paper on the Planning Act in May 1979. The penultimate stage in the evolution of a new Planning Act came with the release in December 1979 of the draft legislation, entitled, The Planning Act: A Draft for Public Comment. The draft legislation has not been given first reading in the Legislature, as noted above, but "... the positions expressed (in it) will be reflected in the new Act unless I receive strongly supported reasons for change." (Claude Bennett, Minister of Housing, Province of Ontario on acknowledgement page, White Paper on the Planning Act, May 1979).

DRAFT PLANNING ACT FOR ONTARIO

The draft act contains many of the provisions of the present Planning Act (some of them substantially revised) as well as new provisions relating to the proposals of the white paper. Many of the provisions contained in the old Planning Act remain unchanged, however, particularly those sections dealing with site plan control, property standards, demolition control, validation of lot title, metric conversion of planning documents, mobile home provisions, and minister's zoning orders.

Provincial Administration

For the first time, a range of planning matters which are of provincial interest has been established. These provincial interests include:

- Protection of the natural environment and the management of natural resources.
- Protection of features of significant natural, architectural, historic, or archaeological interest.
- Efficient supply and use of energy.
- Co-ordination of planning activities of municipalities and other public bodies.
- Resolution of planning conflicts between municipalities and other public bodies.

The minister in carrying out his planning responsibilities will be required to take these matters into account. This will mean, for example, in approving official plans the minister's main concern will be the protection of provincial policies and interests.

Another new provision allows the Minister of Housing to issue policy statements on planning matters which are considered to be of provincial interest. Such statements may be issued by the Minister of Housing acting alone or by the Minister of Housing acting in conjunction with another minister. These policy statements are intended to fall between a regulation - which has the full force of law and is, therefore, relatively inflexible – and a guideline which is an advisory document and has no legislative force.

An approving authority at the provincial or municipal level, including the Ontario Municipal Board, is required "to have regard to" the contents of the policy statement. The wording used will put a definite onus on the approving authority to consider fully the policy in question, but the scope will be there to permit the authority to decide that in a specific case it would be unreasonable or inappropriate to apply the policy either in whole or in part.

The provisions in the present Planning Act which allow the minister to delegate any of his powers to a municipal council has been repeated but two changes have been made: delegation can also be made to planning boards in northern Ontario; and the present policy on delegation will be broadened so that counties may be delegated minister's authority to approve plans of subdivision and condominium and lower-tier official plans.

In addition, cities and separated towns outside restructured upper-tier municipalities may also be delegated approval authority for subdivision and condominium plans.

In order to qualify for this delegated power, a municipality will be required to have adopted an official plan, employ permanent professional planning staff, have approved administrative procedures and sufficient financial resources to administer the powers.

Provincial ministries and other public agencies will be required to consult with municipalities and take municipal planning policies into account before carrying out any public undertakings that may affect a particular municipality. The same requirement will also apply to Ontario Hydro. This will mean that municipalities will be made aware of any proposed provincial works before they take place.

Local Planning Administration

This section deals primarily with the new arrangements for joint planning.

The joint planning provisions reflect the proposals of the white paper. In southern Ontario, except for municipalities in regions, joint planning becomes a voluntary exercise. To facilitate the change all existing joint planning areas will be automatically dissolved within one year of the new act coming into force. It will, however, be possible for existing boards to be re-established if this is desired. Although these transitional provisions are not in the draft act, they will be included in the final version that will be introduced into the legislature.

The transitional provisions will also provide that, in the event that existing joint planning areas are dissolved or changed, any existing joint plan will remain in force until amended or replaced by plans prepared under the new Act, or the new joint planning provisions.

These provisions will allow two or more municipalities, by agreement, to establish a planning area and appoint a planning board. Provincial approval will not be required. The only change from the white paper is that boards may still include non-elected lay persons. However, at least one representative from each municipality must be elected and elected representatives must form a majority.

A joint planning board will be able to undertake any task assigned to it by the member municipalities. These can include providing staff support to member municipalities, advising on planning issues of a municipal or area-wide nature, reviewing development proposals and preparing and recommending on zoning bylaws and official plans.

There are options for the preparation of official plans where joint boards have been formed. If asked by any member municipality, the planning board can prepare an official plan for that particular municipality. Or, if asked by all of the municipalities, the board can prepare a joint official plan for the entire planning area. A joint official plan must be adopted by a majority of the municipal councils in the planning area before it can be submitted to the minister for approval. Joint planning boards in the north may be established either for municipalities and unorganized areas, or solely for unorganized areas.

There are two changes from the white paper.

The first is that the minister's approval will be required in all instances where a joint planning area is established, just as it is now. There are two reasons for this change: because of the unique situation in northern Ontario, there may be unorganized areas next to municipalities which the minister may want to include in the planning area; secondly, the draft legislation contains new provisions enabling the minister to delegate some of his planning authority, such as the granting of consents, to a planning board in the north. In such cases it seems reasonable for the minister to be satisfied that the area is a viable planning unit.

The second change is that in northern Ontario existing joint planning areas will not automatically be dissolved after one year as is the case in the south. This decision was made because these joint planning areas are the only practical way in the absence of an upper tier of local government to come to grips with "area-wide" planning concerns.

The minister will continue to remain responsible for specifying the number of members from each municipality in the planning area and for appointing members from unorganized lands. Municipalities will appoint their own members, and at least one must be a council member.

A joint planning board in the north will prepare a joint plan, which again would need to be adopted by a majority of the councils in the planning area before submission to the minister for approval. As well, any municipality in a joint planning area would be permitted to also prepare its own official plan if a council so decides.

Official Plans

Provisions for the preparation and approval of official plans and official plan amendments are basically the same as outlined in the white paper, with two exceptions.

The first concerns the way in which the minister handles requests for referring official plans to the OMB. The white paper said the minister should have complete discretion in granting or refusing such requests.

This has been changed. Instead it will become mandatory for the minister to refer official plan matters to the board when a request is made by a qualified agency or individual within 28 days of the adoption of the plan by the municipal council.

If these conditions are not met, the minister has the discretion on whether or not to refer a plan to the OMB.

The second change involves the provisions to permit the minister to request a municipality to incorporate matters of provincial interest into an official plan.

If a municipality fails to amend its plan within a specified time, the minister may make the amendment. Before doing so, however, he may ask the OMB to hold a hearing and report to him on the proposal.

The official plan sections contain other revisions. A new definition of an official plan has been made, placing greater emphasis on providing guidance primarily for the physical development of a municipality. Nevertheless, in carrying out planning activities, municipalities must have regard for relevant social and economic matters.

The authority to prepare an official plan will rest directly with the municipal council and not the planning board as is the case under the present act. Therefore a municipality will no longer have to be formally defined as a planning area in order to prepare a plan.

Another new provision enables ministerial approval of official plan amendments to be waived. This would occur when the minister is satisfied that a provincial interest is not affected by the amendment. The minister can quickly notify a municipality that he intends to waive approval and the amendment comes into effect once the 28 day appeal period expires.

Another change as set out in the white paper provides that bylaws and public works will only be required to "generally conform" to the official plan rather than "conform" as is now the case. This new provision will provide more flexibility in interpretation of official plans while maintaining the integrity of the policies. It should also reduce the need for legalistic or vague wording and should substantially reduce the number of amendments to official plans.

Some changes will cause modifications in the way the overall official plan process works. The revised process is as follows:

All affected persons will have to be notified before a municipality can adopt an official plan or an official plan amendment. Although not mandatory, notification may be given to specific provincial and local agencies which may be affected by the amendment.

The intent is to provide prior notice of a proposed action and require a municipality to hold a public meeting to give affected persons an opportunity to comment on the proposal before a decision is made.

The form of notification, to be prescribed by regulation, will indicate what is being proposed and when it will be dealt with.

Once council adopts the official plan or amendment, it is submitted, along with proof of public and agency involvement, to the approval authority. Members of the public and agencies who have requested notice of council's decision must be notified within seven days.

Upon receiving an official plan, the approving authority will review it, resolve any conflicts, and approve it. In the case of an amendment, approval may be waived. The new act requires a waiting period of 28 days after municipal adoption to allow those notified to request referral to the OMB.

One new provision has been added. If the approving authority does not approve an official plan or an amendment, the municipality must be notified. The municipality then has 60 days in which to request that the matter be referred to the OMB.

In all cases where an official plan or amendment is referred to the OMB, the board's decision is final unless the minister has previously stated that it is a matter of provincial significance. In such cases the board will hold a hearing and make a recommendation to the minister who then makes the final decision.

Land use controls and administration

Part five of the draft act sets out a series of provisions relating to the control and regulation of land uses. The first section provides for the passing of zoning bylaws which are much the same as the existing act, except that bylaws are referred to as zoning bylaws rather than restricted area bylaws. Two further changes have been made.

- Because of the Supreme Court of Canada's decision on the definition of "family" in the North York zoning bylaw case, municipalities have been prevented from imposing restrictions on who can occupy land or buildings. The problem is that while this is generally desirable there are special situations where restrictions should be allowed.

To provide for this, municipalities will be permitted to zone for occupancy by a class or classes of persons. These will be set out in a regulation and will include such uses as senior citizen and student accommodation.

- Municipalities will be able to zone any land or buildings for temporary uses for renewable periods of up to three years.

In addition, new procedures have been established for notification, hearing and appeal on zoning bylaws. The same procedures also apply to some other special bylaws which can be passed under this part of the act, such as holding bylaws and bonus bylaws.

When a zoning bylaw is prepared or a request for an amendment is received, affected persons and agencies must be notified at least 30 days in advance that the municipal council intends to hold a meeting to consider the passing of the bylaw. Persons and agencies affected by the action will be set out in a regulation, and the notice will outline the proposed bylaw or amendment, the time and the date of the municipal meeting. A meeting must be held so that the public may make representations before a decision is made.

After council gives final reading to the bylaw those persons who attended the municipal meeting and registered as well as those agencies which requested a copy of the decision must be notified of the decision. They will have 28 days from the date of the decision to lodge an appeal with the OMB. If, following the expiry of the 28 days, no appeal is made, the bylaw automatically comes into effect.

A significant change from the white paper is directed at providing relief in those situations where individuals were unable to attend the public meeting. In these cases any person who was originally notified of council's intent to consider a bylaw but who did not qualify as an appellant may apply within the 28 day appeal period to the OMB to receive appellant status, and the board may grant such status.

A notice of appeal which sets out the objection to the bylaw and the reasons in support of the objection must be filed with the municipal clerk. Upon receipt of the notice, the clerk must forward it to the board together with:

- A copy of the bylaw;
- A list of the persons and agencies notified of council's intent to consider a bylaw;
- A list of the persons and agencies notified of the decision;
- All written submissions and material presented at the meeting and copies of agency comments.

It should be noted that minutes of the meeting are not required

Once the OMB receives an appeal it schedules a hearing and can add, as a party to the appeal, any other person who applies to the board. This is a further change from the white paper. As well, anyone who is not a party to the appeal can still make representations, but cannot call witnesses or cross examine other parties.

The board may, at its discretion, establish the issues that are in dispute and once established, no new evidence or argument may be introduced at the hearing that is not relevant to the established issues, unless the board agrees. Having heard the evidence, the board may dismiss the appeal or approve the bylaw in whole or in part, and direct the municipality to make appropriate adjustments to it.

The decision of the board will be final. However, a new provision has been added allowing the minister to designate any bylaw which has been appealed to be of provincial interest. This provision is similar to the one under the official plan sections. In such instances the board would conduct a hearing and report back to the minister who would then make the final decision.

Three new special zoning provisions have been added in the draft act.

- Municipalities will be able to incorporate holding provisions into a zoning bylaw to establish future permitted uses which can come into effect once specific conditions are met.

- Municipalities will be able to pass bylaws providing for the granting of density bonuses. (Before either of these two provisions can be used a municipality must have official plan policies in force relating to the control applications.)

- Municipalities will be able to place a temporary freeze on land uses for a two-year period, extendible for a further one-year period, in order to revise existing or introduce new land use policies.

Because it is not appropriate to give a warning in advance of the imposition of interim control bylaws, no prenotification is required before the bylaw is passed. However, once the bylaw has been passed, affected persons must be notified. They have the right of appeal to the OMB.

Land use controls and administration (cont'd.)

The sign control legislation currently in the Municipal Act has been transferred to this part of the Planning Act. The provisions relating to the dedication of parkland in conjunction with zoning bylaws has been re-enacted, but a new provision has been added stating that the date for determining the amount of money to be paid, in lieu of land dedication, is to be the day of the issuing of a building permit.

Another new section allows a municipality to zone land for public purposes for a period of three years when a draft plan of subdivision or an amendment to a zoning bylaw is approved.

However, this is conditional on the municipality paying to the owner an amount of money equal to 10 per cent of the value of the land.

When the municipality or a local board acquires the land zoned for public purposes, the value of the land is to be calculated as of the day before the granting of the draft approval or the passing of the zoning bylaw.

The bylaw must also provide for an alternative private use of the land which would automatically come into effect upon the lapsing of three years unless the municipality takes steps to re-enact the bylaw.

The present provisions for the appointment of a committee of adjustment and the granting of minor variances to zoning bylaws has also been retained. They remain essentially unchanged except that no restrictions are placed on membership of a committee enabling council members and employees, as well as appointed people, to be members.

The notification, hearing and appeal provisions for zoning variances are similar to those for zoning bylaws. A 28 day appeal period has been established aligning the variance process with the appeal provisions for other instruments. The OMB may dismiss an appeal if it feels that the grounds of appeal are insufficient.

The last new provision in this part of the act provides for a right of entry to an officer to enforce zoning bylaws provided that a search warrant is first obtained, eliminating a serious problem relating to enforcing infractions which take place inside of buildings.

Subdivision of Land

Part six of the draft act brings together all of those provisions relating to the subdivision of land; the provisions for subdivision control, for approving plans of subdivision, and for the granting of consents. Although a few changes have been made these controls are essentially the same as in the present act.

A major change from the white paper is to delete recommendations for the elimination of universal part-lot control. Because of overwhelming opposition on the grounds that many unsuitable lots could become eligible for development, it was decided that the new act would retain the same part-lot control provisions as in the present act.

A few changes have been made to procedures for approving plans of subdivisions. First, future conditions imposed on draft approval must be "related" to the proposed development, rather than being "advisable", as at present.

Secondly, while municipalities still can require the conveyance of five per cent of land, or cash-in-lieu, for park purposes for residential uses, they will only be able to require a maximum of two per cent for commercial or industrial development proposals.

Procedures relating to the approval of a plan of subdivision essentially remain unchanged, although it is expected that the authority for approval will be greatly extended by enabling the delegation of powers to counties, cities and separated towns outside of regions

The only significant change occurs where the approving authority intends to refuse a plan. In such instances written notice with reasons must be given to the applicant. The refusal becomes final if the applicant does not request referral to the OMB within 60 days of the giving of the notice.

As in the case of plans of subdivision, the consent system has few alterations. One change that has been made extends the appeal period from 21 days to 28 days to bring it into line with other instruments. The OMB can also examine the merits of an appeal and, if insufficient, dismiss the matter without a hearing.

The most important change involves the consent function. In future it will be vested with the councils of metropolitan, regional or district municipalities. Outside these areas it will be vested with councils of counties, cities or separated towns. A council will also be able to delegate consent granting authority to a committee of council, an appointed official or a land division committee, or, in the case of a city or separated town outside of a region, to a committee of adjustment.