

CITY OF BRAMPTON  
COMPREHENSIVE ZONING BY-LAW REVIEW

Technical Paper #5  
Amenity Areas and Density Bonusing

DRAFT | June 7, 2018

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# 1 Introduction

## 1.1 Background

The City of Brampton (“City”) is undertaking a review of Comprehensive Zoning By-law No. 270-2004 (“ZBL Review”). The ZBL Review includes the development of a number of technical papers to identify directions and address key issues. The Zoning Issues and Analysis Report, prepared August 2017 by WSP Group, identified amenity areas and density bonusing (Section 37 of the *Planning Act*) as two topics to be examined in greater detail through technical papers.

As the City continues to experience intensification and higher-density development, density bonusing is a tool that may assist in the provision of community benefits to support this type of growth. Requirements for amenity areas can help ensure that higher-density development also provides adequate and appropriate recreational and leisure space.

## 1.2 Purpose of this Technical Paper

The purpose of this technical paper is to identify and analyze approaches to addressing amenity areas and density bonusing in the City of Brampton. This will inform options for the ZBL Review and may represent a source of context for other City led initiatives.

## 1.3 Overview of this Technical Paper

This technical paper addresses two distinctive topics: Amenity Areas and Density Bonusing. Amenity Areas are addressed in Section 2 and Density Bonusing is addressed in Section 3. Section 4 summarizes the recommendations made in this paper.

## 2 Amenity Areas

### 2.1 Context

#### 2.1.1 What are Amenity Areas?

Amenity areas refer to indoor and outdoor social, recreation, and multi-purpose spaces provided in association with residential uses. Generally, amenity areas are not regulated or specifically addressed in the context of single detached dwellings, semi-detached dwellings or street-related townhouses, since these types of uses are typically associated with a sufficient amount of outdoor amenity space. Rather, amenity areas are typically addressed and regulated in the context of mixed-use and multi-residential development such as cluster/stacked townhouses, and apartments, where there may be a need to ensure a sufficient amount of amenity space is provided to support recreational needs and access to outdoor space. These areas are typically reserved for the exclusive uses of residents and their guests. Some common examples of both indoor and outdoor amenity areas include the following:

- Gym/yoga room
- Balcony
- Lounge
- Children's play area
- Library/workspace
- Rooftop patio
- Vegetable garden
- Pool/sauna

Amenity areas can be broadly categorized as either communal (e.g., a pool or lounge) or exclusive (e.g., balcony associated with a unit). Amenity areas can be further classified as indoor or outdoor spaces.

#### 2.1.2 Amenity Areas in Brampton's Context

The City of Brampton's historical development patterns have been dominated by low-rise, low-density suburban development. Housing, in this context, has predominantly taken the form of single-detached and semi-detached units having front yards, back yards, and considerable indoor living space. This type of housing has, by its nature, and through zoning requirements such as front and rear lot line setbacks, provided a sufficient quantum (generally speaking) of amenity areas, in the form of required minimum yards and the use of those yards (landscaping, green space, private pools, decks, patios, etc.).

Provincial policy, changing housing needs and a limited supply of greenfield lands, are contributing to a shift towards more mid-rise and high-rise development in the City.

Living in smaller units which are typically not ground-related, high-rise and mid-rise dwellers require a certain amount, and quality, of indoor and outdoor amenity space. These areas serve a multitude of functions such as supporting social interaction amongst residents, providing play areas for children and families, and as well as opportunities for exercise, relaxation and well-being. Currently, the City of Brampton's Comprehensive Zoning By-law does not contain requirements for the provision of amenity areas, as discussed below.

#### 2.1.3 City of Brampton Zoning By-law 270-2004

While the City's in-effect zoning by-law does not address the provision of amenity areas, it does include requirements for the provision of 'landscaped open space' defined as:

*an unoccupied area of land which is used for the growth, maintenance and conservation of grass, flowers, trees and shrubs and other vegetation, and may include a surfaced walk, patio, screening, pool or similar visual amenity, but shall exclude any driveway, ramp, car parking or loading area, curb, retaining wall, or*

*any covered space beneath or within any building or structure.*

Requirements for landscaped open space typically range between 40% to 60% of lot area for apartment zones, depending on the zoning category. For townhouse zones, between 40% to 100% of the yard area (excluding driveways, accessory buildings, etc.) is typically required to be landscaped open space other than a driveway, an encroachment, or an accessory building.

The current zoning provisions requiring Landscaped Open Space may help to ensure that a certain degree of outdoor amenity area is provided in the form of patios, yards, pools, etc. However, this would depend on the specific use of the Landscaped Open Space, which is not specifically regulated. If the Landscaped Open Space is provided in the form of formal landscaping, for example, then the Landscaped Open Space requirement provides only minimal opportunity for recreational activity and use by residents.

## 2.2 Policy Considerations

### 2.2.1 City of Brampton Official Plan

The City of Brampton's Official Plan was adopted in 2006 and partially approved by the Ontario Municipal Board in 2008. The Plan represents overarching vision and guidance for growth and development in the City.

The Plan provides some direction with respect to the provision of adequate amenity areas for multiple residential development. Under Section 4.1, Residential, Policy 4.1.1.9 states that *"the City shall encourage, where deemed appropriate, on-site amenities and facilities in multiple residential development commensurate with the anticipated resident composition of the subject development."*

Further, within the Plan's Public Parkland Section, Policy 4.6.2.5 states that *"the City will require developers of multiple residential developments (i.e. block townhouses and apartments) to provide on-site recreational facilities to supplement the public parkland system."*

Finally, Policy 4.10.3.1, Multi-Storey Buildings, states that *"Sufficient on-site amenities and facilities should accommodate the anticipated use of the building."* Policy 4.10.3.1.1 states that *"mid-rise buildings shall address "sufficient on-site indoor and outdoor amenities such as gardens."*

### 2.2.2 Secondary Plans

The City of Brampton currently has 54 secondary plans which form part of the Official Plan. The secondary plans include more detailed policies for specific communities and areas within the City. The City is currently undertaking a secondary plan review/consolidation with the goal of combining, updating, and renaming its secondary plans, as appropriate.

As the majority of the City's secondary plans cover areas of predominantly single-detached development, as well as industrial areas, the City's secondary plans provide only limited policy direction on amenity areas, with the exception of several 'Special Policy Areas' that are identified within secondary plans which are typically general in nature. For example, Policy 5.7.2 c) v) in the Hurontario-Main Secondary Plan pertains to Special Policy Area 2 and states that *"amenity areas are to be provided in conjunction with the development of the lands to service the recreational needs of residents."* Similar policies respecting special policy areas are provided in the Queen Street Corridor Secondary Plan and Brampton North Secondary Plan.

### 2.2.3 Region of Peel Official Plan

The Region of Peel Official Plan was adopted by Regional Council in 1996 and establishes a long-term strategic policy framework for growth and development in the Region.

The Plan does not explicitly address the provision of amenity areas but does provide some direction related to the provision of recreational opportunities. Under the Urban System policies, Policy 5.3.1.3 provides that it is a general objective of the Plan to *"establish healthy complete urban communities that contain living, working and recreational opportunities which*

*respect the natural environment, resources, and characteristics of existing communities.”*

#### 2.2.4 Region of Peel Affordable Housing Design Guidelines and Standards for Apartment Buildings, 2015

The Region of Peel’s Affordable Housing Design Guidelines and Standards for Apartment Buildings are intended to provide minimum acceptable construction standards for affordable apartment housing.

One of this document’s guiding principles is to develop housing projects that are not only affordable, but provide a quality of liveable space and amenities that meet the current and foreseeable needs of the tenants. Guidelines are also provided for the design and provision of both indoor and outdoor amenity space. The guidelines contain no direction applicable to zoning.

#### 2.2.5 City of Brampton Parks and Recreation Master Plan

Brampton City Council endorsed a new Parks and Recreation Master Plan in June 2017. The document provides guidance regarding the City’s delivery of parks, open space, recreational facilities over the next 15 years. The document identifies 114 recommendations with timeframes for implementation. There are no particular recommendations or indication of recreational needs that could directly inform the development of amenity area requirements in the Zoning By-law.

#### 2.2.6 Development Design Guidelines

The City’s Development Design Guidelines (2003) provides guidance for the detailed design of a variety of land uses in the City, and are used to assist City staff review of development applications. The document contains only limited reference to amenity areas:

- Among guidelines for residential areas, there are limited references to the need

to establish setbacks that enable amenity areas for ground-related units.

- The Guidelines for Transit-Supportive Townhouse Design provide several references to amenity areas (balconies, decks). For back-to-back townhouses, balconies can be provided to offset limitations on amenity space. It is suggested that townhouse blocks can be positioned around amenity areas and open spaces to enhance their character. The guidelines for Common Townhouse Amenity Areas (4.5.5) intend for these spaces to be located centrally or as a connecting element and for the spaces to function as focal points and not leftover spaces. Amenity areas are to be functional and proportional to the number of units being served. These areas are to be universally accessible and windows should face the use to create surveillance. The areas should include pedestrian lighting and seating/waste/mail kiosks may be clustered.

### 2.3 Comparing Municipal Approaches

The purpose of this section is to understand how other municipalities are addressing amenity areas. This will assist in developing and evaluating options for the City of Brampton. The following municipal case studies have been chosen based on one or more of the following considerations:

- a) Comparability to the City Brampton in terms of size and/or location; or
- b) Recent examination of amenity areas and/or policy work respecting amenity areas.

Note this work is supplemented by a similar analysis conducted by the City, attached as Appendix C.

#### 2.3.1 City of Mississauga

Analysis of the City of Mississauga’s approach to amenity areas is particularly relevant for the City

of Brampton given the similar urban contexts of these two municipalities and their proximity.

City of Mississauga Zoning By-law 0225-2007 includes requirements for amenity areas (which it defines as “*an area designed for active or passive recreational uses, such as, but not limited to, children’s play areas, seating areas, sports facilities and fitness rooms for the shared or communal use of the residents of a dwelling.*”

Amenity areas are required to be provided in zones permitting horizontal multiple dwellings with more than 6 dwelling units and in all apartment zones (4 storeys and above). This is required to be provided at a rate of 5.6 m<sup>2</sup> per dwelling unit or 10% of the site area. Additionally, a minimum of 50% of the percentage of the total Amenity Area is to be provided in one contiguous area.

Apartments are also required to provide a minimum outdoor at-grade Amenity Space of 55 m<sup>2</sup> per building. Exception zones provide more precise site-specific amenity area requirements.

While minimum Amenity Area requirements are separate from Landscaped Area requirements in Mississauga’s Zoning By-law, Landscaped Area could in some cases also contribute to amenity area requirements (by way of overlap) where those amenities are outdoors.

To illustrate zoning requirements for amenity areas and further guide their design, Mississauga has produced a document titled Standards for Outdoor Amenity Areas, 2014. This guidance document sets out qualitative and quantitative standards for amenity areas adapted specifically to the needs of seniors and children, respectively.

The City of Mississauga’s Official Plan, approved by Regional Council in 2011, does not provide specific policies respecting amenity areas.

### 2.3.2 City of Toronto

The City of Toronto has experienced unprecedented growth in multi-residential development over the past decade. Between 2006 and 2016, over 143,000 new dwelling units were constructed in the City of Toronto, 80% of which were in buildings greater than 5 storeys.

This has prompted significant discussion and analysis of amenity areas in the City of Toronto.

Overarching policy direction for amenity areas is provided in the City of Toronto Official Plan. Policy 3.1.2.6 states that “*Every significant new multi-unit residential development will provide indoor and outdoor amenity space for residents of the new development. Each resident of such development will have access to outdoor amenity spaces such as balconies, terraces, courtyards, rooftop gardens and other types of outdoor spaces.*”

The City of Toronto’s Zoning By-law 569-2013 defines ‘Amenity Space’ as indoor or outdoor space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities.

Apartment buildings with 20 or more dwelling units in the Residential Zone, Residential Apartment Zone, Residential Apartment Commercial Zone, Commercial Residential Zone, and Commercial Residential Employment Zone, are required to provide amenity space at a minimum rate of 4.0m<sup>2</sup> for each dwelling unit, of which:

- a) At least 2.0 m<sup>2</sup> for each dwelling unit is indoor amenity space;
- b) At least 40.0m<sup>2</sup> (of the total) is outdoor amenity space in a location adjoining or directly accessible to the indoor amenity space; and
- c) No more than 25% of the outdoor component may be a green roof.

In May 2017, Toronto released its Growing Up Guidelines which, in accordance with the City’s Zoning By-law, apply to all new multi-residential building development comprising 20 units or more. The Guidelines re-affirm the importance of both indoor and outdoor amenity space in supporting a variety of age groups and activities. The guidelines provide a particular focus on creating amenity space that is supportive of children and families.



### 2.3.3 City of Burlington

The City of Burlington’s in-effect Official Plan does not provide explicit policy direction related to the provision on amenity areas. However, Burlington’s proposed new Official Plan which is intended to be adopted in early 2018, contains a number of policies addressing amenity areas. Notably, proposed policy 8.3.5(1) e) states that *“Development on lands designated Residential – High Density should provide a functional outdoor common amenity area at grade level for use by residents.”*

The Proposed Official Plan (February 2018 draft) defines Amenity Areas as *“an interior area within a residential building or an outdoor area exterior to the residential building which is designed and intended primarily for the leisure and recreation of the occupants of the building.”*

The City of Burlington’s in-effect Zoning By-law 2020 defines ‘Amenity Area’ as an *“area situated within the boundaries of a project and intended for recreational purposes, which may include open spaces, patios, balconies, communal play areas, lounges, sundecks and roofdecks but shall not include the area occupied at grade by the buildings, service areas, parking and driveways.”*

Amenity Areas are required to be provided in all High Density Residential zones, subject to the requirements in Table 1. It should be noted that a reduced Amenity Area requirement of 15m<sup>2</sup> per ‘efficiency dwelling unit’ (60m<sup>2</sup> max.) is permitted in some zones.

**Table 1: City of Burlington Amenity Area Provisions**

Zone	RH1	RH2	RH3	RH4	RH5
Max Height	6 storey	18 storey	24m	12 storey	no max
Amenity Area	25m <sup>2</sup> per BR	25%	25m <sup>2</sup> per unit; 100m <sup>2</sup> min	25m <sup>2</sup> per BR	25m <sup>2</sup> per BR

### 2.3.4 City of Ottawa

The City of Ottawa Official Plan, adopted by Ottawa City Council in 2003, contains guiding policies for the provision of private amenity areas. Notably, Policy 3.6.6.5 b) vi) directs that residential development in the Central Area and its surrounding neighbourhoods is to provide “usable private outdoor space, such as balconies, as well as usable semi-private outdoor and/or indoor amenity areas, such as meeting and/or exercise rooms, small outdoor landscaped areas, and/or the use of green roof areas for passive outdoor activity.”

The City of Ottawa’s comprehensive Zoning By-law 2008-250 contains a detailed matrix in Section 137 (excerpt included as **Appendix B**) which sets out private amenity area requirements for a multitude of dwelling types including rooming houses, low-rise apartments, high-rise apartments and retirement homes, among others.

In addition to requiring a total amount of amenity area to be provided for each dwelling type, the by-law requires a certain amount of this amenity area to be communal (i.e. shared amongst residents). For example, apartment buildings and mid-rise buildings are required to provide 6m<sup>2</sup> per dwelling unit, and 10% of the gross floor area of each rooming unit (non-self-contained unit). At a minimum, 50% of this area is required to be communal.

The zoning by-law also contains provisions for the layout of Private Amenity Space. For example, in the scenario above, amenity space is required to be aggregated into areas of up to 54m<sup>2</sup>, and where more than one aggregated area is provided, at least one must be a minimum of 54m<sup>2</sup>.

### 2.3.5 City of Kingston

In 2015 the City of Kingston undertook an Amenity Area Review as part of its official plan review. The review’s final recommendations included the following:

- Requiring amenity areas to be provided on a per-unit basis (rather than based

on the number of bedrooms as it had been previously);

- Adding minimum functional design principles and standards for amenity areas into the Official Plan, the zoning by-laws and Urban Design Guidelines; and
- Providing separate rates for downtown zones (10m<sup>2</sup>/unit) and the rest of the City (18.5m<sup>2</sup>/unit).

The recommendation to have a separate lower rate for downtown zones is intended to recognize the greater supply of public spaces and amenities in the downtown area. The City of Kingston is currently in the process of preparing a new City-wide Zoning By-law to consolidate, update and replace its five in-effect zoning by-laws.

The recommendations included a consistent definition for amenity area to be used in the Zoning By-law and Official Plan:

*an outdoor area exterior to the residential building, or interior area common to all residential units within a residential building, which is designed and intended primarily for the leisure and recreation of the occupants of the building.*

### 2.3.6 Town of Milton

The Town of Milton Official Plan, adopted 1996, contains some high-level policies respecting the provision of amenity areas. While the Town’s Zoning By-law does not contain any general provisions for amenity areas, it does contain a definition for Amenity Areas as follows:

*the area situated on a residential lot that is intended for recreational purposes, and may include landscaped open spaces, patios, balconies, communal play areas, lounges, decks and other similar uses but shall not include a swimming pool or areas occupied at grade, by service areas, parking areas, aisles or access driveways associated with the development.*

While Milton’s Zoning By-law does not include amenity area requirements in its general

provisions, the definition above has been used in site-specific zoning by-law amendments to require amenity areas.

### 2.3.7 Town of Oakville

The Town of Oakville Official Plan, adopted in 2009, and the Town of Oakville Zoning By-law 2014-014, do not include policies or provisions respecting amenity areas.

### 2.3.8 City of Brampton Amenity Area Study

The City of Brampton recently conducted an internal review of best practice and local context regarding amenity areas. The report is attached to this Technical Paper as **Appendix C**. The report focuses on outdoor amenity space.

The report acknowledges that the recent emphasis on intensification including multi-unit residential will increase the need for outdoor amenity space (as discussed earlier in this Paper).

The report examines the approaches used by a wide range of municipalities with similar pressures. It notes that some municipalities manage certain aspects of amenity areas via design guidelines, whereas other aspects are managed by regulation (zoning).

The report also identifies several recent/ongoing development applications in Brampton which contributes to the understanding of the City's individual context. Among 9 site plan applications/developments reviewed (largely townhouse developments), a minimum amount of amenity space per unit provided was about 8.4 m<sup>2</sup> per unit; the maximum provided was about 18.8 m<sup>2</sup> per unit. It appears the calculation was inclusive of only parkettes, tot lots and similar features and did not include landscaped areas. Further, the calculation did not include privately accessed individual amenity space, such as balconies.

The City's proposed definition focuses on the provision of shared amenity space in the outdoors:

*Uninterrupted outdoor open area within the boundary of the lot that can be shared by all the residents for active and passive recreational use.*

The City recommends regulations or parameters based on the number of units:

- 0-4 units – no private outdoor amenity space required
- 5-19 units – 15.0m<sup>2</sup> per unit
- 20 or more units – 10.0m<sup>2</sup> per unit

The design recommendations focus on the use of private amenity space for children's play areas or use by senior citizens. Other design considerations include Crime Prevention Through Environmental Design (CPTED) principles; barrier-free access to an enclosed common area; Low Impact Development (LID) principles with consideration for light/shade and light reflection; connections to larger landscape areas; CSA standards for play equipment. For larger developments with more than 200 units, further recommendations for a maximum play area of 600m<sup>2</sup> is recommended and private amenity spaces should be aggregated into areas of not less than 50m<sup>2</sup>.

The appendices to the study provide more detail regarding the case studies reviewed by the City.

### 2.3.9 Summary of Municipal Approaches and Principles

The majority of municipalities examined as part of this review have official plan policies and zoning by-law provisions addressing amenity areas. A table comparing zoning provisions reviewed as part of this paper is included in **Appendix A**.

Generally speaking, the more urbanized (or urbanizing) municipalities (e.g., Toronto, Ottawa, and Mississauga) have detailed policies and provisions whereas more suburban, and smaller municipalities (e.g., Oakville and Milton) have fewer or no policies/provisions.

Overall, zoning by-law provisions and approaches vary greatly. The most common and straightforward approach is to require a certain

amount of amenity area per unit for multi-residential development types. The amount of amenity area requirement, based on the municipalities reviewed, ranges from 4m<sup>2</sup> per unit (City of Ottawa) to 25m<sup>2</sup> per bedroom (City of Burlington). There are numerous other variations amongst the provisions, such as what constitutes an acceptable component of an amenity area, how the amenity areas are to be aggregated, and so on.

## 2.4 Lessons Learned

Based on the experience of other municipalities examined in this paper, the following lessons learned should be considered:

- Amenity area requirements should relate to context, as the City of Kingston example illustrates. In an urban context where a broad range of public amenity offerings exist, lesser requirements for amenity areas may be appropriate;
- Amenity areas are typically required beyond a certain development scale threshold (e.g., over six units);
- Some municipalities have separate requirements for indoor amenity areas and outdoor amenity areas (e.g., the City of Toronto);
- Some municipalities allow for overlap between landscaped area requirements and outdoor amenity area requirements;
- Amenity area requirements may be calculated on the basis of units or bedrooms. Calculation based on units is a more straightforward approach;
- In the absence of general zoning provisions requiring amenity areas, providing a definition for amenity areas allows these to be required for site-specific zoning by-law amendments when appropriate;
- Amenity areas play a key role in supporting families with children in higher

density developments, as demonstrated by the City of Toronto;

## 2.5 Overall Options

### Option 1: Zoning Provisions for Amenity Areas

Including provisions in the City of Brampton's zoning by-law requiring the provision of amenity space would be consistent with the approach taken by many comparable municipalities and ultimately support intensification in a manner that meets the social and recreational needs of residents. This approach would also be consistent with the policies of Brampton's Official Plan reviewed in Section 2.2.1, which generally intend for the provision of private amenity space.

For simplicity and clarity, Amenity Area requirements should be calculated on a per-unit basis. Consideration should be given to the following:

- Whether it is desirable to include requirements for both indoor and outdoor amenity areas;
- Whether it is desirable to include requirements for communal versus private (accessed from individual unit) amenity areas; and
- The appropriate amount of Amenity Area per unit.

### Option 2: No Zoning Provisions for Amenity Areas

This approach would leave the provision of amenity areas to the discretion of developers and builders and may not ensure intensification and multi-unit development supports the social and recreational needs of residents.

However, this approach may have some benefits. Requiring minimum amenity areas could contribute to the cost of multi-residential development and therefore represent a potential barrier to this type of development. Additionally, it could be argued that providing fewer amenity areas would necessitate greater use to be made of parks, public squares, cafes, etc., where these amenities exist or are planned.

## Guidelines

In combination with Options 1 or 2, there may be value in providing guidelines for private amenity space. This can help provide additional details that would be otherwise difficult or too detailed to implement in zoning. The guidelines would need to be implemented through the development review process.

## 2.6 Detailed Amenity Area Analysis and Recommendations

### 2.6.1 Key Considerations and Analysis

#### 2.6.1.1 Overall Objective of Regulating Amenity Areas

The City has acknowledged the need to better regulate amenity areas associated with development, in light of increased pressure for multi-unit developments, such as a variety of townhouse typologies, mixed-use developments, and apartments.

The key objective of regulating amenity areas in development is to ensure that residents have access to outdoor space and amenities. This can be essential in contexts where there are no nearby parks or public spaces that support the specific recreational needs of the residents. Amenity areas provide residents with outdoor access or recreational facilities that are in close proximity to their residence, helping to provide recreational options and social interactivity for persons with reduced mobility.

The City has emphasized a desire to see the regulation of amenity areas focus on communal, outdoor space. It is recognized, however, that municipalities vary widely in this approach. Some municipalities enable inclusion of indoor amenities (e.g., a fitness centre in a condominium building) and some municipalities allow privately-accessed amenity spaces (e.g., balconies) to be included in the achievement of a minimum amenity space requirement. This analysis considers all options, which is critical since Brampton will see an increased need to accommodate a wide variety of different

development typologies (e.g., townhouses versus high-rise) and contexts (e.g., greenfield versus intensification).

#### 2.6.1.2 Regulation of Indoor vs. Outdoor Areas

Amenity areas can be distinguished as being indoor or outdoor. Indoor amenity areas tend to be provided principally within larger multi-storey condominium developments, which may offer communally accessible fitness rooms, a swimming pool, or other similar recreational facilities for use by residents in the building(s). For most townhouse units, however, amenity areas will likely need to take the form of outdoor space where there are no common indoor areas.

While outdoor amenity areas are essential for townhouse developments, indoor communal amenity areas are suitable to address at least some of the recreational needs of residents of mid-rise and high-rise developments. Furthermore, in some contexts, there may be limited space on the lot to provide outdoor amenity areas. It is noted that indoor communal amenity areas can provide recreational use during winter months and in poor weather which can be desirable for meeting recreational needs year-round.

Regulating indoor communal amenity areas can also be challenging, as it will be difficult to verify eligible indoor communal amenity areas being proposed in buildings. Over time, these areas can also change at the discretion of the condominium corporation. However, as has been noted, there are municipalities (e.g., Toronto) that enable indoor communal amenity spaces to contribute to the requirement.

Accordingly, it is suggested that a comprehensive regulatory framework for managing amenity areas should recognize the role of both indoor and outdoor communal amenity areas in meeting the recreational needs of residents. If it is a desire by the City to only regulate communal outdoor spaces and avoid the challenges involved in regulating indoor space, then the amenity space standard should be appropriately established to recognize the difficulty involved in meeting the requirement in higher density contexts. Options

for introducing flexibility in higher density contexts is discussed further in subsequent sections.

### 2.6.1.3 Regulation of Private (Exclusive) vs. Communal Amenity Areas

As indicated, municipalities vary in terms of their regulation and management of “private” versus “communal” amenity areas. Private (i.e., exclusive) spaces refer to those amenity areas that are accessible only by an individual unit (such as a balcony or private terrace). In other cases, the amenities are intended to be communal, with access available to all residents. For clarity purposes, the use of the terms of “private” and “communal” should be used accordingly.

For clarity, no municipalities were identified that regulate private amenity spaces separately (i.e., requiring balconies to be provided). Rather, the focus is on setting out an amenity area requirement which can be achieved by either the provision of communal space or some combination of communal and exclusive amenity space.

Both private and communal spaces contribute to meeting the recreational needs of residents in different ways. Private spaces such as balconies provide outdoor access with a passive function (generally limited to sitting, reading, dining outdoors). However, communal amenity spaces enable a greater level activity, depending on the programming of the space, and can provide children’s play areas, sitting areas, or programmed facilities such as tennis courts. Additionally, communal spaces enable social interaction between residents. Municipalities vary in their approach to whether private amenity spaces count towards achieving the amenity space requirement. There is an option to either set out communal space requirements specifically, or to set out a relatively higher combined standard for both communal and private amenity space.

### 2.6.1.4 Definition

A definition is an essential component of an effective regulatory framework. The definition for amenity areas should establish a clear

expectation of what elements of the development will work towards achieving the minimum requirement.

It will be difficult to specifically manage the types of programming that should be expected for amenity areas in a zoning by-law. Some developments, for example, may be geared toward a specific demographic such as seniors, and in that case a children’s play area will be less suited to meeting the recreational needs of residents. Thus, zoning by-laws manage “inclusions” and “exclusions” with respect to what will count towards meeting the minimum private amenity requirement. This can be complemented by guidelines which can set out more detailed recommendations for programming based on unit types, and other considerations. More detailed programming of amenity areas should be decided during the site plan approval stage.

There will be a need to clearly define amenity areas, which is an essential component of all of the municipal approaches reviewed. The definition provides the mechanism for indicating what specific features can constitute the amenity area.

A comprehensive set of potential definitions which address various types of amenity space (indoor versus outdoor and common versus private) are listed below. Ultimately the City will need to integrate the appropriate definitions to reflect the ultimately decided upon amenity area regulatory framework. For example, if there is no desire to regulate private amenity areas, then the associated “private” definitions below would not be required.

**Amenity area** shall mean a common (accessed by all residents of a development) or private area (accessed by individual dwelling units) that is designed and intended to be used for passive or active recreational purposes, and shall include a balcony, patio, terrace, at-grade garden or yard, rooftop/terrace garden, garden, children’s play area, sports facilities, fitness facilities, seating/lounge area, or a park/parkette.

**Private amenity area** shall mean an amenity area with direct access from an individual dwelling unit and intended for exclusive use of

*residents of that dwelling unit, such as private balconies, patios, terraces, etc.*

**Common amenity area** shall mean an amenity area intended for use by all residents of the building or development such as parks, children play area, lounges, games rooms, sport/fitness facilities, swimming pools, etc.

**Common indoor amenity area** shall mean a common area located inside the building, and accessible via a common entry to all residents of the building. A common indoor amenity area shall be inclusive of areas located in the basement, main floor, podium level or roof top and intended for the passive or active recreational purposes. The common indoor amenity area shall include a fitness facility such as gymnasium, swimming pool; common play rooms such as a games room, billiard rooms, and other facilities intended for recreational purposes, but does not include common lounge area, mail room, laundry rooms, parking areas, or other similar areas that do not provide a recreational purpose.

**Common outdoor amenity area** shall mean a common outdoor area located at grade on the same lot as the development and intended exclusively for the passive and recreational purposes of the residents of the development and may include common landscape gardens, children's play areas, sitting area, outdoor fitness elements, sports facilities, parkettes and other similar facilities intended for recreational purposes.

The definitions above are provided for guidance only and there may be a need to refine the definitions prior to integrating into the Zoning By-law to suit the specific regulatory framework.

#### 2.6.1.5 Minimum Amenity Area Required

The key component of regulating amenity areas is establishing a standard for the minimum amenity area required. Municipalities generally choose between a per-unit standard or a per-bedroom standard. A per-unit standard is simpler to implement, and the requirement can be calculated as long as the maximum number of units for the development are known.

The per-bedroom standard is more difficult to implement, as it requires a firm understanding of the number of bedrooms associated with each unit. It may be difficult to ascertain compliance with this standard without a refined site plan. Furthermore, it raises interpretation challenges with respect to what constitutes a bedroom based on the floor plans.

The intent of establishing a standard based on a per-bedroom basis is to provide an amenity area that will be more proportional to the number of residents expected to live in the development. This approach has some merit, but it can arguably increase the cost of units with more bedrooms (which would be suitable for larger household sizes).

A per-unit standard is recommended at this time, for simplicity in administration and other reasons as noted.

The precise standard identified by other municipalities varies, based on individual context, as well as what constitutes the required amenity area. A standard that includes private amenity areas (balconies) in the calculation should be higher than a standard that excludes those uses. Similarly, the standard should be considerate of whether indoor amenity areas are also included. Consideration can be made to Brampton's context, including some complete and recent development proposals as identified in Appendix C. For existing developments, amenity areas ranged from about 8.4m<sup>2</sup> per unit to up to 18.8m<sup>2</sup> per unit.

A minimum standard of approximately 6.0 m<sup>2</sup> - 10.0m<sup>2</sup> of communal amenity area per unit would be generally suitable, in consideration of best practices and Brampton's context. Other comparable municipalities set out a standard in the order of 6.0 m<sup>2</sup> per unit, whereas the examples reviewed in Brampton typically provided a larger value, closer to 10.0m<sup>2</sup>. If the City's preference was to include exclusive private amenity area (balconies) towards meeting the requirement, a higher standard should be used (say 12.0-15.0m<sup>2</sup> per unit) and there would be an expectation that a minimum proportion of amenity space would be provided for communal use (say 50%).

A related matter is regarding whether to distinguish requirements for indoor or outdoor amenity space. As noted previously, both indoor and outdoor amenity space provides suitable recreation opportunity which fulfills the intent of regulating minimum amenity area. The type of amenity space (whether indoor or outdoor) will likely relate to the proposed development: townhouse developments will likely need to achieve the space outdoors, as there is unlikely to be a communal indoor space; higher density developments, which are directed to intensification areas of the City, are likely to provide a greater proportion of indoor amenities, which can serve to give flexibility to situations where there is less land available.

City staff have expressed to WSP that there is a preference for focusing on the regulation of communal outdoor amenity area. We understand that this is due in part to the difficulty in confirming suitable indoor spaces and the risk that the spaces can be reconfigured by the condominium corporation over time. In our opinion, indoor and outdoor amenities both help fulfill the specific purpose of regulating amenity area, and indoor amenity spaces have advantages with respect to year-round usage and potential for programming. We note that other municipalities regulate indoor space.

However, it is suitable for the City to focus on regulating outdoor common amenity area only, provided there is an appropriate standard applied. Further, this approach must also recognize that there will be some limitations for certain types of development to achieve the outdoor amenity area requirement. A regulatory framework that focuses only on regulating outdoor amenity space should be complemented by some flexibility for these higher-density contexts where there is relatively limited space. Some of these flexibility opportunities for higher density development are discussed in subsequent sections.

#### 2.6.1.6 Aggregation of Amenity Areas, and Minimum Dimensions and Thresholds

In addition to the proposed definition and minimum amenity area requirements, some municipalities have included other expectations,

such as the location of amenity areas and the aggregation of a minimum size or even minimum dimensions of individual amenity areas. This is something that may also be further described in complementary amenity area guidelines.

The notion of requiring the aggregation of amenity space is desirable from the perspective of providing a functional recreational space with substantial opportunity for a programmed activity or for social interaction. A common standard, for example, is to require at least one amenity area to achieve a minimum aggregate of 50m<sup>2</sup>. This is a suitable approach to ensure the provision of a substantial amenity space. The approach used in Mississauga which requires a minimum of 50% of amenity space to be aggregated is also a suitable option. In larger developments, however, this could limit site planning flexibility (e.g., a 300-unit development would be required to aggregate 1,500m<sup>2</sup> of amenity space).

Many municipalities only require minimum amenity space where development meets a minimum threshold (typically between 6 and 20 units). Alternatively, some municipalities have different minimum amenity area standards per unit, depending on the size of development. Generally, in consideration of best practice, a minimum threshold of 8 units should be identified, requiring about 80m<sup>2</sup> of amenity space. This would enable a 50m<sup>2</sup> aggregated area as noted above to be reasonably achieved.

Further, the City has raised the potential of setting out varied requirements based on the number of dwelling units, such as setting out a higher per-unit requirement for smaller developments (e.g., 8-20 units) compared with larger developments (e.g., over 20 units). We find this approach represents an appropriate option; however, the intent of this approach is alternatively achieved by establishing a minimum threshold combined with a suitable minimum per unit amenity area requirement. Within the framework suggested so far in this Paper, the minimum amenity area for any development that could apply would be 80 m<sup>2</sup> with a minimum aggregated area of 50 m<sup>2</sup>.

A few municipalities have implemented minimum dimensions for amenity space. This could limit flexibility and may be best implemented in the



design guidelines, as the minimum dimension will vary based on the specific use of the space.

#### 2.6.1.7 Relationship to Landscaping Requirements

The function of landscaping is principally aesthetic, and may also contribute to buffering and enhancing the streetscape where adjacent to a side walk. Landscaping in itself provides a very limited passive recreational opportunity, and in some cases the opportunity may not exist depending on the specific use of the landscaped area. The intent of amenity area requirements is to provide opportunities for social interaction and recreation. Thus the provision of a landscaping feature without a recreational component should not contribute to achieving an amenity area requirement, since it does not likely meet the intent of a landscaped open space requirement.

A second matter to be considered is whether the provision of an amenity area should contribute to the requirement for minimum landscaped open space. In Brampton, minimum landscaped open space requirements are provided within the provisions for each residential zone. Landscaped open space is defined to include unoccupied land used for maintaining and conserving grass and other vegetation and may also include walkways and similar uses. Since the intended function of these spaces is principally aesthetic (with opportunity for water infiltration, screening, and buffering), and since amenity areas are intended for principally recreational purposes and not currently regulated in the Zoning By-law, minimum landscaped open space and amenity area requirements should be treated distinctively.

Municipalities vary with respect to whether amenity area requirements should be counted towards achieving minimum landscaped open space. It is important to ensure that the minimum landscaped open space requirement is achievable and appropriate, when a portion of the lot will now be required to provide amenity area in addition to the landscaped open space areas. In the R4B zone, for example, there is a minimum landscaped open space requirement of 60%. The remainder of the lot would need to accommodate the building (maximum lot coverage of 25% by the main building), parking areas, driveways and

the new amenity area requirement, which may not be realistic. Accordingly, while it is appropriate to regulate amenity areas distinctively from landscaped open space, there is a need to review and update landscaped open space requirements to ensure all of the provisions work well together and are realistic.

#### 2.6.1.8 Distinguishing Standards for Different Contexts

Some municipalities have provided different standards across different contexts. In Kingston, for example, a lower standard was recommended for the downtown area, to recognize proximity and concentration of public and other amenities. Further, lower amenity area requirements are identified by municipalities to reduce development costs and recognize constraints in providing amenity area in limited space.

It is noted that there would be no particular need to establish different standards geographically if the amenity area requirement permitted both indoor and outdoor amenity space to count towards achieving the requirement. This flexible approach would be suitable in all contexts, such as townhouses and higher density developments, since the developer would have a wide range of options for meeting the requirement.

However, as noted, it is understood that the City would prefer to focus its amenity area regulatory framework on outdoor communal amenity areas, given there may be challenges in administering indoor amenity area requirements.

There are two main options to introduce flexibility to amenity area requirements in lieu of allowing for both indoor and outdoor amenity areas to contribute to achieving the requirement:

- a) **Reduced Standards in Higher Density Areas with a Concentration of Public Amenities:** A reduced amenity area standard may be established for certain areas where there is a concentration of public amenities, such as Downtown Brampton, and other intensification areas (major transit station areas, intensification corridors, etc.). However, many of Brampton's intensification areas

are continuing to grow and evolve, and the City's Downtown continues to be the principal focus of higher density uses and public and cultural amenities in the City.

An approach of establishing a lower requirement for Downtown Brampton and potentially within the broader Urban Growth Centre may be considered, in the order of 4.0 m<sup>2</sup> to 6.0 m<sup>2</sup> per unit, reflecting Toronto's current City-wide standard (at 4.0 m<sup>2</sup>) at the lower end of the potential range and up to 6.0 m<sup>2</sup> which is the standard previously recommended as the lower end of the overall range and comparable with other municipalities, such as Ottawa and Mississauga. Over time, the lower standard could be applied to other areas, such as intensification corridors, as densities increase and the range of public amenities increase.

- b) **Reduced Standards in Close Proximity to Parks:** There may also be a rationale for establishing amenity area requirements that consider proximity to nearby parks, plazas and other amenities. Proximity to parks and open space can help fulfill some of the functions of an amenity area requirement.

In the interest of creating a user-friendly zoning by-law, the provisions of the By-law should be clear and presented up front to the user. In order to establish reductions in amenity areas in proximity to parks, it would be preferable to identify the parks within the zoning by-law itself (either through mapping or clear definitions) and not reference other documents, especially documents which are subject to change. It is not desirable for a zoning by-law to require the user to reference other documents to confirm compliance with the by-law. It should be self-contained as a principle.

The appropriateness of a suitable reduction based on proximity to parks can also be difficult to rationalize, as it

could be very site-specific, depending on the amenities provided in the park. A smaller, passive park space would not necessarily fulfill all of the functions intended to be provided by amenity area, whereas a larger park with a greater range of amenities can help achieve the function.

In consideration of these matters, it is therefore recommended that reductions to amenity area requirements due to proximity to parks not be considered as an as-of-right regulation in the by-law, due to the site-specific nature of the potential rationale. Proximity to parks may instead represent a rationale for a minor variance to the amenity area requirement.

- c) **Permit Rooftops/Terraces/Greenroofs to Contribute to the Requirement:** To provide additional flexibility to higher-density uses where the lot area is too constrained to accommodate the amenity area requirement, the City may enable green roofs or similar rooftop/terrace amenities to contribute to the requirement. In some municipalities, this is capped at contributing to 25-50% of the requirement, so that a substantial portion of the amenity area is provided at grade.

## 2.6.2 Conclusions and Recommendations

It is desirable for the City of Brampton to establish some standards in its Zoning By-law to set out a clear expectation for multi-unit, townhouse and mixed-use development proposals that best meet good planning principles for the provision of amenity areas. These expectations must balance flexibility to minimize the need for variances, while meeting the City's expectations and public interests for amenity areas.

The City's planning policy framework does not set out substantial explicit guidance for regulating amenity areas. However, the need for amenity space is acknowledged in references in the City's

Development Design Guidelines and in some of the Secondary Plans. Further, regulating amenity space will contribute to some of the broader policies and objectives of the Official Plan. Accordingly, there is a sufficient basis to establish a regulatory framework for amenity areas in the interest of setting out clear development expectations and better positioning the City to respond to an increasing number of proposals for higher densities of development.

The City is also in need of an approach that will best serve amenity area needs for a variety of different building typologies and contexts. Accordingly, there is a need to consider both indoor and outdoor communal facilities. Some building typologies are relatively limited in their ability to accommodate each form of amenity area, and thus all types of amenity areas must be considered. As noted, it has been the City's preference to exclude private amenity spaces (balconies) from meeting the requirement, and this approach is appropriate provided the minimum amenity area requirement reflects the exclusion.

In summary, the following zoning requirements are proposed:

- A definition of amenity area is proposed, that addresses indoor and outdoor amenities but excludes private exclusive amenities like balconies. This paper proposes other definitions. It is recommended that refinements to the definitions may be required depending on the ultimate framework that is implemented.
  - The suggested standard is between 6.0 m<sup>2</sup> and 10m<sup>2</sup> per unit for communal amenity area space. This recommended standard assumes that exclusive amenity spaces are excluded from contributing to the requirement. Should private space ever be considered as contributing towards the requirement (balconies), a suggested standard is 15 m<sup>2</sup> per unit, and further that a minimum 50% of amenity space be communal.
- To provide flexibility for different typologies and contexts, different standards for indoor or outdoor amenity space are not proposed. Rather, both indoor and outdoor amenities are proposed to contribute to achieving amenity space requirements as above, with the understanding that outdoor areas will generally be more appropriate for townhomes while a greater mix of indoor uses will likely be more appropriate for mid- and high-rise developments. This flexible approach enables the provisions to be appropriate and suitable for different contexts in Brampton.
  - Further to the point above, it is recognized the City is cautious of the challenges associated with counting indoor amenity area in the achievement of a minimum amenity area requirement, such as the difficulty in confirming whether proposals meet the requirement and the risk involved if the indoor spaces change over time. Should the City opt to regulate only outdoor amenity area, the previously recommended standard remains appropriate, but the approach should consider some flexibility to recognize that lot areas will be constrained in certain contexts. Opportunities to provide flexibility in lieu of allowing indoor amenity area to be counted can include:
    - Establishing a lower requirement in Downtown Brampton, with consideration made to expand the lower requirement to other geographies over time as they similarly intensify (addressed through future zoning by-law amendments). A reduced standard in the order of 4.0 m<sup>2</sup> to 6.0 m<sup>2</sup> in Downtown Brampton and other areas can be considered.
    - The City can introduce permissions to enable rooftop

amenities, terraces and other amenities provided in association with higher-density uses contribute towards meeting the private amenity area requirement. This can be associated with a maximum percentage.

- It is recommend that reduced standards where development is in close proximity to public parks not be introduced as-of-right in the Zoning By-law, due to the site-specific nature of the rationale and difficulty in setting out a user-friendly framework. Rather, this can be considered through a rationale for a minor variance.
- A minimum threshold of 8 units is proposed to be subject to amenity area requirements.
- A minimum of one aggregated area consisting of at least 50m<sup>2</sup> is recommended.
- There is an option to establish separate requirements for smaller-scale developments (e.g., 8 – 20 units) compared with larger scale developments (e.g., over 20 units). However, the requirements as recommended in this Paper provide for a suitable amenity area to be established for any development that meets the threshold of 8 units.
- It is suggested that the requirement for private amenity areas and minimum landscaped open space (per the individual zone provisions) be treated distinctively, since they provide different functions. The provision of private amenity area should not contribute to achieving minimum landscaped open space, and minimum landscaped open space should not contribute to achieving private amenity area requirements. Outdoor amenity areas should be encouraged to locate adjacent to other landscaped areas, such as landscape

buffers, where possible, as this contributes to the overall open space quality of the site. How different amenity areas and other landscaped areas optimally relate can be illustrated in greater detail in complementary guidelines. There is, however, a need to review minimum landscaped open space requirements to ensure they are achievable in light of the new private amenity area requirement.

In conclusion, the City has discretion to establish a regulatory framework for managing amenity areas. The recommendations contained in this report are intended to set out considerations for the City's development of the framework. There are many different suitable approaches to regulating amenity areas, which must balance the need to provide appropriate amenity space while ensuring that the requirements are realistic, contextually appropriate and can be easily administered and understood.

### 2.6.3 Content of Complementary Guidelines

The recommended zoning requirements provide a framework for establishing minimum requirements for private amenity areas. However, there are other aspects of amenity areas that will benefit from development guidelines, which are too detailed to be reasonably implemented in zoning:

- The **preferred types of amenity areas**, based on the building typology and intent. For example, it may be desirable to encourage play areas for townhouse developments consisting principally of two or more bedroom units. Developments consisting of one bedroom units or seniors' apartments may be better suited to other amenities. The appropriate use and proportion of indoor versus outdoor amenities based on typology should be indicated.
- The **location of amenity areas** on the lot is best managed by design guidelines, as

it will depend greatly on the context, the lot configuration and development.

- **Minimum dimensions** for amenity spaces are best addressed in the guidelines, as they should also depend on the type of amenity being provided.
- **Other specific design standards**, such as consideration for Crime Prevention Through Environmental Design, 'eyes on the street', lighting, orientation, and detailed accessibility requirements, are best addressed through guidelines as they will relate to the specific type of amenity and the locational context.

## 3 Density Bonusing

### 3.1 Context

#### 3.1.1 What is Density Bonusing?

Density bonusing is a planning tool which allows municipalities to permit additional height and/or density, beyond what would otherwise be permitted by the zoning by-law, in exchange for community benefits. Density bonusing is an optional tool that is authorized under Section 37 of the *Planning Act*. The exchange of community benefits is negotiated between the municipality and the proponent/developer and typically implemented through a site-specific zoning by-law amendment which sets out both the height/density increase and the community benefits being exchanged. Benefits may be provided (e.g., constructed) directly by the applicant/developer or be provided as cash-in-lieu.

Density bonusing has been used most effectively by large urban municipalities, notably the City of Toronto, and has been used to secure a wide range of benefits, some of the most common being:

- Streetscape improvements
- Public art
- Transit improvements
- Daycare facilities
- Recreation and community service
- Open Space
- Preservation of environmental features and natural heritage
- Heritage conservation
- Affordable housing

### 3.2 Legislative Context

#### 3.2.1 The Planning Act

The *Planning Act* establishes the authority of municipalities to allow increased height or density

in return for community benefits where the municipality's Official Plan contains enabling provisions. The Act states that the increased height or density may be permitted in return for the provision of "facilities, services or matters," but provides no further direction or limitation on what this may include. The Act sets out the ability to establish Section 37 agreements, and register these agreements against the land to which they apply, subject to the provisions of the *Registry Act* and the *Land Titles Act*.

#### 3.2.2 Smart Growth for Our Communities Act, 2015 (Bill 73)

The *Smart Growth for Our Communities Act* made changes to the *Planning Act*, including the addition of new requirements to Section 37. New provisions, which came into force on July 1, 2016, require municipal treasurers to provide Council with an annual financial statement on density bonusing that is available to the public and the Minister of Municipal Affairs, on request. All money received by a municipality under Section 37 is now required to be paid into a special account and spent only for facilities, services and matters specified in the zoning by-law.

#### 3.2.3 Ontario Municipal Board

While the *Planning Act* provides a framework for the use of density bonusing, decisions of Ontario municipal board (OMB) have provided some additional clarity with respect to the appropriate use of this tool.

Generally speaking, OMB decisions have supported the need for a reasonable, clear and defensible relationship between the development under consideration and the proposed community benefits. Otherwise put, there should be a "nexus" between the development and the proposed benefits.<sup>1</sup>

The OMB has also expressed that benefits should be outlined in an Official Plan and be clear, fair and transparent.<sup>2</sup>

<sup>1</sup> Douman, R. and Foran, P. Ontario Planning Legislation and Commentary, 2012.

<sup>2</sup> City of Toronto. Section 37 Review Final Report. Prepared by Gladki Planning Associates, 2014.

### 3.3 Policy Context

#### 3.3.1 City of Brampton Official Plan

The City of Brampton's in-effect Official Plan contains policies enabling the use of density bonusing under Section 5.0, Implementation, as follows:

##### *"5.12 DENSITY BONUS BY-LAW or DENSITY TRANSFERS*

*The Planning Act permits municipalities to authorize density bonuses on specific sites in exchange for such facilities, services or matters as are set out in a zoning by-law. The use of density bonusing is subject to the Official Plan containing provisions relating to this regulatory mechanism.*

##### *Objective*

*To authorize, when appropriate, the selected implementation of density bonus provisions for the increased height and density of development otherwise permitted in the applicable zoning by-law for the purpose of securing amenities, features or infrastructure for public benefit.*

##### *Policies*

*5.12.1 Pursuant to Section 37 of the Planning Act, 1990, the City may enact a zoning by-law authorizing increases in height and density of development otherwise permitted in the by-law in exchange for such facilities, services or matters as set out in such a by-law.*

*5.12.2 Authorized increases in height and density shall not result in a scale or intensity of development which is inappropriate for the host neighbourhood or which would exceed the capacity of available community and physical services within the area subject to density bonuses.*

*5.12.3 In considering any application for height and density bonusing, the following facilities, services and other matters, among other items, may be exchanged for density bonusing provisions:*

*(i) Road network, traffic or transit improvements;*

*(ii) Superior architectural design;*

*(iii) Streetscape improvements and gateway enhancements;*

*(iv) Daycare facilities;*

*(v) Recreation and other community service or open space facilities;*

*(vi) Preservation of environmental features; and,*

*(vii) Heritage conservation.*

*5.12.4 Any facilities, services or matters obtained through density bonusing provisions shall be logically applied to areas impacted by bonusing provisions so that the impacted community realizes benefits obtained through density bonusing.*

*5.12.5 Bonusing provisions shall not be applied for any facilities, services or matters to which the City is entitled to obtain through the City of Brampton Official Plan, the Planning Act or any other legislative authority.*

*5.12.6 The site specific zoning by-law amendment passed pursuant to Section 34 of the Planning Act which permits the increased height and density for any particular development shall describe the facilities, services or matters which are being exchanged for the authorized increases in height and density.*

*5.12.7 The proponent or landowner will be required to enter into an agreement with the City, pursuant to Section 37 of the Planning Act which will address the implementation of the density bonusing provisions. Such agreement shall be registered against the title of the lands to which it applies.*

*5.12.8 The City may develop bonusing policies on a City wide, area specific or site specific basis. Bonusing policies developed for specific sites or areas of the City shall be included in relevant Secondary Plans in accordance with the policies of this Plan, and shall specify the amount of additional height and density to be permitted in return for public benefit received."*

The Official Plan also contains a number of policies which speak specifically to the use of density bonusing to secure environmental and heritage benefits. Specifically, these policies authorize the use of density bonusing to secure benefits associated with:

- The Natural Heritage System (4.5.6.20);
- Valleylands and Watercourse Corridors (4.5.7.12);
- Woodlands and The Urban Forest (4.5.8.10);
- Wetlands (4.5.9.8);
- Environmentally Sensitive / Significant Areas (4.5.10.7);
- Fish and Wildlife Habitat (4.5.12.8);
- Environmental Buffers, Setbacks and Linkages (4.5.13.13); and
- Conservation and heritage designation to assist heritage preservation (4.9.9.2).

It should be noted, however, that many of the features and resources listed above may already be protected through various local and Provincial policy, so it is assumed the use of density bonusing would relate to restoring features or creating linkages between features.

Overall, the Official Plan's density bonusing policies are fairly robust in establishing a local framework for the use of density bonusing while reserving an adequate degree of implementation flexibility.

### 3.3.2 Secondary Plans

The City of Brampton's secondary plans are generally silent on the use of density bonusing with the exception of the Hurontario-Main Corridor Secondary Plan, adopted March 2017. Section 5.14 of the Hurontario-Main Corridor Secondary Plan states that height and density bonusing:

*“may be granted to developers for providing public benefits that may not be required already as part of the site plan process, such as affordable housing, public space for art, below grade parking, or transit facilities, provided that the overall benefit exceeds the cost*

*associated with permitting the taller or higher density building.”*

### 3.3.3 Peel Region Official Plan

The Peel Region Official Plan (1996, as amended), contains some high-level direction on the use of density bonusing at the local municipal level. Specifically, Policy 5.8.3.2.4 states that it is the policy of Regional Council to “*encourage the area municipalities to add a density bonusing provisions to their respective official plans and develop detailed implementation guidelines and protocols.*”

## 3.4 Comparing Municipal Approaches

The purpose of this section is to understand how other municipalities are addressing density bonusing. This will assist in developing and evaluating options for the City of Brampton. The following municipal case studies have been chosen based on one or more of the following considerations:

- a) Comparability to the City Brampton in terms of size and/or location; or
- b) Innovative or interesting approaches to density bonusing.

### 3.4.1 The City of Mississauga

The City of Mississauga has considerable experience negotiating density bonuses having secured \$3.7 million in Section 37 benefits in 2016 alone. In order to provide Mississauga City staff, Councillors and the development industry with clear procedural guidance respecting density bonusing, Mississauga established its Corporate Policy and Procedure: Bonus Zoning in 2012. This document is intended to clarify:

- How Section 37 is to be applied to achieve the goals of Mississauga's Official Plan;
- The type and size of developments eligible for density bonusing; and



- The process and procedure for negotiating Section 37 Agreements.

In the City of Mississauga, the negotiation of a Section 37 agreements begins with Council's approval of the development proposal in principle and determination that the proposed increase in height and/or density is acceptable. In determining an appropriate value of benefits to be received in exchange for the increased height/density, Mississauga strives to achieve a value of benefits '*consistent with practices in surrounding municipalities, e.g., in the approximate range of 20% to 40%*' of the land value uplift resulting from the increase.

In order to determine the uplift value resulting from the height and/or density increase, Mississauga obtains an independent real estate appraiser, at the cost of the developer, to prepare an appraisal. Ward councillors are consulted in the course of negotiating a Section 37 agreement to help identify appropriate and desirable community benefits. A Section 37 report is prepared indicating the mutually agreed-upon financial contribution/community benefit to be secured and timing of provision.

### 3.4.2 The City of Toronto

The City of Toronto has extensive experience using density bonusing. Between 1998 and 2014, the City of Toronto secured \$309 million in cash benefits and \$212 million in payments and accrued interest through Section 37. To help guide Section 37 negotiations, the City of Toronto's Section 37 Implementation Guidelines were adopted by Toronto City Council in 2007 and revised most recently in 2016. Toronto City Council also adopted a Protocol for Negotiating Section 37 Community Benefits in 2007.

The Section 37 Implementation Guidelines build on Toronto's Official Plan policies and provide more detailed direction on:

- The types of benefits typically secured; and
- When it is appropriate to use Section 37.

The guidelines are clear that no City-wide quantum or formula exists for calculating the

value of Section 37 benefits and that Section 37 agreements are negotiated on a case-by-case basis. Determining appropriate and desirable benefits is to be determined through public consultation, discussion among City Planning staff, the owner/developer, the local Councillor, and other City or agency staff. Consideration must also be given to the strategic objectives and policies of the Official Plan. The payment of community benefits secured as cash is typically required prior to the issuing of an above-grade building permit.

The Protocol for Negotiating Section 37 Community Benefits (now consolidated with the Section 37 Implementation Guidelines) outlines more detailed protocol for consultation with ward councillors and local communities.

Some secondary plans in the City of Toronto (notably the North York Centre and Sheppard East Subway Corridor) build upon Official Plan policies for density bonusing. Secondary plan policies typically relate to benefits that are desirable in the secondary plan area (e.g., day-care facility or community centre) and the appropriate levels of increased height/density in exchange for such facilities.

### 3.4.3 The City of Vaughan

City of Vaughan Council adopted its Section 37 - Policies and Implementation Guidelines in 2015. The Guidelines are intended to bring more clarity to the Section 37 negotiation process and identify which types of development are eligible for consideration of density bonusing. Prior to the establishment of these guidelines, Section 37 agreements had been negotiated on an ad hoc basis.

Vaughan's Guidelines state that Section 37 is primarily intended for Intensification Areas, as identified in the City of Vaughan Official Plan. Negotiations are to be led by the Planning department but the Mayor, Regional Councillors, and Ward Councillor are to be consulted prior to the initiation of negotiations with the owner/developer.

Unlike the City of Mississauga and City of Toronto, the City of Vaughan's Guidelines include

a valuation methodology. On average, the City seeks to achieve a value for community benefits that represents a range between 20-35% of the increase in land value resulting from the increase in height and/or density. The steps involved in this methodology can be summarized as follows:

1. Determine “base density”
2. Determine the buildable Gross Floor Area (GFA) from “base density”
3. Determine the land value that corresponds to base density
4. Determine the land value that corresponds to the proposed density
5. Calculate the increase in land value and maximum Section 37 contribution (being 20-30% of increased land value).

### 3.4.4 The City of London

The City of London takes a different approach to density bonusing by providing up-front “as-of-right” provisions within its comprehensive zoning by-law. Specifically, these provisions relate to heritage building designation, public open space, and day care facilities, as summarized below.

#### Heritage Building Designation

The by-law allows for increased density in exchange for the designation of buildings or structures designated as historically significant.

#### Open Space

The by-law provides that for every 100m<sup>2</sup> of public open space which is dedicated to the City (in excess of the required parkland dedication) the density of the residential development may be increased by one unit per each up to 25% of the total number of units that would otherwise be permitted.

#### Day Care Facilities

The by-law provides that where day care facilities are provided within commercial or mixed-use buildings of a certain size, the floor area devoted to the day care facilities is not included in calculation of the floor area ratio, the maximum gross or gross leasable floor area permitted, or parking requirements for the building.

While London's Zoning By-law only includes provisions respecting these three types of benefits, it should be noted that London's Official Plan authorizes the use of bonusing to secure a broader range of benefits which are negotiated on a more ad hoc basis. Site specific zoning amendments made through a Section 37 agreement are listed in London's consolidated Zoning By-law and indicated with a "B."

### 3.4.5 City of Kitchener

Similar to the approach taken by the City of London, the City of Kitchener's in-effect Zoning By-law 85-1, includes “as-of-right” provisions for bonusing. The Zoning By-law allows additional floor space ratio to be obtained in exchange for three types of benefits: residential floor area, amenity area, or heritage conservation.

For Residential Floor Area (e.g., in the Retail Core zone), the bonus floor space ratio is calculated by multiplying the proposed residential floor area by the residential “bonus value” contained in the regulations of the applicable zoning category. For example, if the residential bonus value is 4, each square metre of residential floor area would permit 4m<sup>2</sup> of additional floor area. Bonus floor space cannot exceed 20,000m<sup>2</sup>. Bonus floor area in exchange for amenity space and heritage conservation are also calculated using a bonus value applied to a formula.

The City of Kitchener is currently undertaking a zoning by-law update. A current draft of the new Zoning By-law also includes “as-of-right” provisions for bonusing which continue to be calculated using a bonus value. The draft provisions, however, would only apply within the City's Urban Growth Centre zones (City Centre District, Civic District, Innovation District and Market District of Kitchener's Official Plan).

The draft provisions would allow for an increase to the maximum floor space ratio in return for facilities, services or matters as are listed in the by-law. The draft by-law contains a table listing various benefits (grouped into categories) and assigns certain bonus values to each. For example, the provision of public art valued at between \$75,000 and \$150,000 would equate to

a bonus value of 0.25 equating to a 25% increase in floor space ratio.

The City of Kitchener's in-effect Zoning By-law also allows bonus floor space ration to be transferred to another property within the same zone. This provision is not carried forward in the present version of Kitchener's Draft Zoning By-law.

### 3.5 Density Bonusing Potential in Brampton

#### Short-Term Approach: Density Bonusing Guidelines

Consistent with the approach being taken by a number of other municipalities in the Greater Toronto Area, the City of Brampton could develop Guidelines for Bonusing. This approach would provide clarity and transparency in any Section 37 negotiations, thereby assisting the public, City Council, and the development industry. This approach would also be consistent with direction in the Official Plan for Peel Region which encourages area municipalities to "*develop detailed implementation guidelines and protocols.*"

Density bonusing guidelines should, at minimum, address the following:

- Guiding principles for the appropriate use of density bonusing;
- Procedures for negotiations and consultation with various parties;
- Types of development proposals or scenarios in which density bonusing should be considered;
- Process for assessing land value uplift resulting from increased height/density; and
- Appropriate range of value to be recaptured in form of benefits.

In developing such guidelines, it is recommended that consultation be held with senior planning and legal staff at the City; City Councillors; development industry stakeholders (e.g., BILD);

and senior management from any City departments who may have a role in administering or overseeing potential benefits.

#### Long-Term Approach: As-of-Right Density Bonusing Provisions in Zoning

As density bonusing is a new and untested policy in the City we do not recommend including it in the zoning by-law until Council has established more detailed guidelines for implementation and until its utility in the context of Brampton has been further explored. Currently, the Official Plan provides very broad policy for the use of density bonusing. Without any prior best practice in implementing the policy, it would be very difficult to establish prescriptive as-of-right zoning requirements without more specific direction.

Once these steps have been taken, Brampton could introduce up-front bonusing provisions into its zoning by-law similar to the approaches taken by the City of London and the City of Kitchener. These could apply City-wide or to targeted areas within the City. The City's Official Plan contains enabling policies for this approach to density bonusing (Section 5.2.8).

While this approach brings predictability to the Section 37 process, it also removes flexibility and does not allow the City to assess the appropriateness of benefits and additional density on a site-by-site basis.

This approach may also be more suited to smaller cities (relative to Brampton) such as London and Kitchener where higher-density growth pressures are limited.

## 4 Conclusions and Preliminary Recommendations

### 4.1 Amenity Areas

Based on the policies and various municipal approaches reviewed in this paper, it is recommended that zoning by-law provisions requiring minimum standards for the amenity areas be considered as part of Brampton's Zoning By-law review. While it is recognized that the requirement could potentially increase cost of development, introducing the provisions is supported by current City planning policy, and there are many comparable municipalities that have introduced these provisions. In some cases, the provisions may already reflect current market practices and will ensure at least a minimum standard is being achieved.

In the context of shifting development patterns and policy in the City of Brampton, including greater focus on intensification and multi-residential development, standards for amenity areas will ensure that associated social and recreational needs are addressed. While some municipalities do not implement these provisions, they do provide a degree of prescriptiveness that may be beneficial in Brampton's context. Over time, the performance of the provisions may be monitored and adjusted.

This report identifies a potential framework for managing amenity areas in zoning and through complementary design guidelines (Section 2.6). As has been noted, there are numerous varied approaches that can be taken that could be suitable in Brampton's context. The approach suggested in this Paper is intended to provide a good degree of flexibility for different unit types and to fundamentally achieve the objective of providing useful, suitable recreational space for residents. The regulatory framework should be complemented by guidelines to address aspects of amenity areas that are not suitably regulated by zoning. The City should establish a framework that best meets its needs with respect to administration, providing for an appropriate

amount of amenity space, and providing user-friendly zoning provisions.

### 4.2 Density Bonusing

Based on the policies and various municipal approaches reviewed in this Paper, and recognizing the policy context which encourages intensification in certain areas of the City, if the City has intentions to utilize density bonusing (as contemplated by the Official Plan), it is suggested that the City of Brampton consider developing bonusing guidelines or a protocol before introducing as-of-right provisions to the Zoning By-law. The City would likely need to have additional experience in negotiating community benefits as part of bonusing to begin to form a basis for any guidelines/protocol and before introducing as-of-right provisions.

This approach brings clarity and transparency to the process while preserving an important degree of flexibility. This approach allows each proposal to be reviewed on a case-by-case basis and ultimately reserves City Council's ability to determine the appropriateness of additional density, and the benefits being exchanged.

Guidelines would typically be developed in consultation with a range of stakeholders and address, at a minimum:

- Guiding principles for the appropriate use of density bonusing;
- Procedures for negotiations and consultation with various parties;
- Types of development proposals or scenarios in which density bonusing should be considered;
- Process for assessing land value uplift resulting from increased height/density; and
- Appropriate range of value to be recaptured in form of benefits.

## Appendix A: Summary of Amenity Area Zoning Provisions

Municipality / Zoning By-law	Development Types Requiring Private Amenity Areas	Rate	Amenity Area Definition
City of Burlington / Zoning By-law 2020	<ul style="list-style-type: none"> <li>Apartment Buildings</li> <li>Stacked Townhouses</li> <li>Retirement Homes</li> </ul>	<ul style="list-style-type: none"> <li>Generally 25 m<sup>2</sup> per bedroom (see Figure 1)</li> </ul>	The area situated within the boundaries of a project and intended for recreational purposes, which may include open spaces, patios, balconies, communal play areas, lounges, sundecks and roofdecks but shall not include the area occupied at grade by the buildings, service areas, parking and driveways.
Town of Oakville	N/A – no provisions	N/A – no provisions	N/A – no provisions
City of Ottawa / Zoning By-law 2008-250	<ul style="list-style-type: none"> <li>Includes Apartments, Mixed-use, and Retirement Home.</li> </ul>	<ul style="list-style-type: none"> <li>Apartments /Mid-rise - 6m<sup>2</sup> per dwelling unit, and 10% of the gross floor area of each rooming unit.</li> </ul>	The total passive or active recreational area provided on a lot for the personal, shared or communal use of the residents of a building or buildings, and includes balconies, patios, rooftop gardens and other similar features, but does not include indoor laundry or locker facilities.
City of Kingston / Zoning By-law under review.	N/A – ZBL review underway	N/A – ZBL review underway  Staff recommending 10m <sup>2</sup> /unit downtown and 18.5m <sup>2</sup> /unit in rest of City	N/A – ZBL review underway
Town of Milton / Zoning By-law 016-2014	N/A – Site-specific provisions only	N/A – Site-specific provisions only	The area situated on a residential lot that is intended for recreational purposes, and may include landscaped open spaces, patios, balconies, communal play areas, lounges, decks and other similar uses but shall not include a swimming pool or areas occupied at grade, by service areas, parking areas, aisles or access driveways associated with the development
City of Mississauga / Zoning By-law 0225-2007	<ul style="list-style-type: none"> <li>Townhouses of 6+ dwelling units</li> <li>apartments (4 storeys and above)</li> </ul>	<ul style="list-style-type: none"> <li>5.6 m<sup>2</sup> per dwelling unit or 10% of the site area</li> </ul>	An area designed for active or passive recreational uses, such as, but not limited to, children's play areas, seating areas, sports facilities and fitness rooms for the shared or communal use of the residents of a dwelling.
City of Toronto / Zoning By-law 569-2013	<ul style="list-style-type: none"> <li>Buildings of 20+ units</li> </ul>	<ul style="list-style-type: none"> <li>4 m<sup>2</sup> per dwelling unit (at least 2 m<sup>2</sup> to be provided as indoor space, along with other requirements)</li> </ul>	Indoor or outdoor space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities.

Appendix B: Excerpt from City of Ottawa Zoning By-law 2008-250  
 Section 137

I	Land Use	II	Total Amenity Area	III	Communal Amenity Area	IV	Layout of Communal Amenity Area
(1)	Rooming House or Rooming House, Converted in any Residential zone within the area shown as Area A on Schedule 321	7.5m <sup>2</sup> per rooming unit up to 8 units, plus 3m <sup>2</sup> per unit in excess of 8.	100% of the amenity area	Communal amenity area must: -be located at grade and in the rear yard; -be landscaped; -consist of at least 80% soft landscaping; and -abut the rear lot line, unless the lot has access to a rear lane.			
(2)	Three-unit Dwelling in any Residential zone within the area shown as Area A on Schedule 321	45m <sup>2</sup>	100% of required amenity area	Communal amenity area must: -be located at grade and in the rear yard; be landscaped; -consist of at least 80% soft landscaping; and -abut the rear lot line, unless the lot has access to a rear lane.			
(3)	Low-rise Apartment Dwelling in any Residential Zone within the area shown as Area A on Schedule 321	15m <sup>2</sup> per dwelling unit up to 8 units, plus 8m <sup>2</sup> per unit in excess of 8.	100% of the amenity area required for the first 8 units.	Communal amenity area required for the first 8 units must: -be located at grade and in the rear yard; -be landscaped; -consist of at least 80% soft landscaping; and -abut the rear lot line, unless the lot has access to a rear lane			
(4)	Low-rise apartment dwelling of more than 4 units in any zone, other than a residential zone located within Area A on Schedule 321 (By-law 2016-131)	8m <sup>2</sup> per dwelling unit, and 10% of the gross floor area of each rooming unit	A minimum of 50% of the required total amenity area	Aggregated into areas up to 54m <sup>2</sup> , and where more than one aggregated area is provided, at least one must be a minimum of 54 m <sup>2</sup>			
(5)	Apartment Building, mid-high rise	8m <sup>2</sup> per dwelling unit, and 10% of the gross floor area of each rooming unit	A minimum of 50% of the required total amenity area	Aggregated into areas up to 54 m <sup>2</sup> , and where more than one aggregated area is provided, at least one must be a minimum of 54 m <sup>2</sup>			
(6)	Mixed Use Building, with 9 or more dwelling units or rooming units	8m <sup>2</sup> per dwelling unit, and 10% of the gross floor area of each rooming unit	A minimum of 50% of the required total amenity area	Aggregated into areas up to 54 m <sup>2</sup> , and where more than one aggregated area is provided, at least one must be a minimum of 54 m <sup>2</sup>			

## Appendix C: City of Brampton Amenity Areas Study (see separate attached document)

See separate document.