

True North Square:

A critical examination of privately owned public space

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True North Square plaza, south and north. Source: Winnipeg Free Press

Abstract

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Winnipeg's downtown has entered a new era of revived interest and development. Over the span of the last decade and a half, more than two billion dollars have been invested in our downtown core. One of these projects is the True North Square development, a proposed mixed use project which will include retail, residential, office and a luxury hotel. While the project has attracted a lot of positive media attention, as well as general nods of approval from urban planning experts, there have also been some criticisms. One area of concern, and the focus of this Case-in-Point, is the publically funded, privately owned public space. Privately owned public spaces have a long history in many North American cities. While privately owned public spaces are a way to provide much needed public space in cities, they have been largely criticized for accessibility and equity reasons. Privately owned public spaces are often highly ordered and privately policed spaces where activities are strictly controlled. As such, one major criticism of these spaces is that they are contrived social environments where activities are narrowly tailored to specific segments of the population, essentially creating little more than festival and event spaces. Moreover, certain groups of people who are deemed undesirable may also be removed from privately owned public space due to broad loitering policies and other subjective regulations. Drawing on examples from cities with a long history of using privately owned public space to create public space, the City of Winnipeg can formulate a range of policy tools to ensure that True North Square becomes a highly accessible and well used public amenity.

Introduction

The last quarter of the twentieth century was not kind to downtown Winnipeg. This era was marked by a period of financial drought and poor public perception. However, over the last ten years the downtown area has seen a substantive increase in new investment interest. New downtown development is reviving once abandoned buildings and in-filling once decrepit surface parking lots.

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One project in particular that is receiving a lot of attention is True North Square. True North Square will be a three phase \$400-million-dollar project that will offer new residential, office, and retail opportunities (MacNeill, 2016). While the True North Square has been generally well received, there have been concerns raised about the design of the project. One major concern relates to the public plaza component of the development. The current proposed public plaza for True North Square will be a tax

increment financed, privately owned public space, or POPS for short. POPS have been criticized for being inaccessible and inequitable spaces that are not truly public. And there are serious questions about the “publicness” of the True North Square’s proposed plaza. (Milgrom, 2016). This Case-in-Point seeks to explore the issues

True North Square is a mixed-use development that will be constructed on two parking lots facing each other on Carlton Street south of Graham Avenue (MacNeill, 2016). The project as envisioned, will be downtown Winnipeg’s most substantive private lead investment in recent years. The three phase development, with the first phase

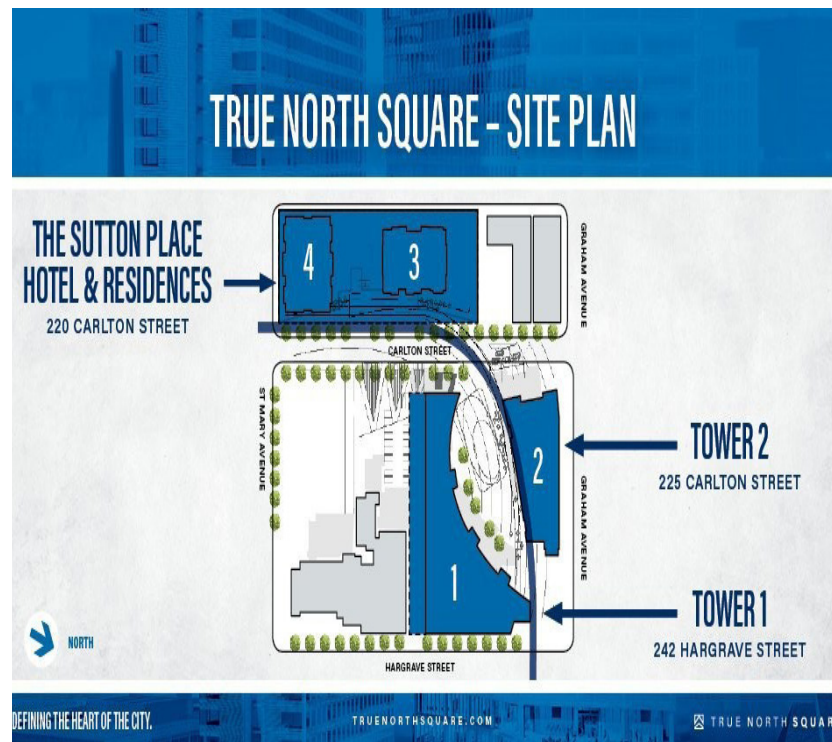


Figure 1: True North Square figure ground. Source: Winnipeg Sun

surrounding privately owned public space and potential policy solutions to ensure that the public space component of True North Square is as equitable and accessible as possible.

Background: True North Square

currently under construction, will cost approximately \$400 million dollars (MacNeill, 2016). The mixed uses will include a hotel, as well as residential, commercial and office space. The hotel will be located (figure 1) on the west side of Carlton street, north of St. Mary Avenue, and will include two towers (Image 1). On the east side of Carlton another two towers will

be developed. The tower to the south will offer office space, while the tower abutting Graham will offer 145 residential units (figure 1). The ground floor of the office and retail tower will also include retail space and a public plaza (figure 1). To create the plaza, 17.6 million dollars of public money will be invested through a tax increment financing scheme (CBC News, 2016). In many ways this project is a positive step forward for the downtown area but questions on the ‘publicness’ of the plaza, and the use of public money to create it remain.

POPS: The Facts

Cities are made up of a variety of public meeting spaces. These spaces include public amenities such as public parks, sidewalks, libraries, and other examples. However, cities are also made up of a range of quasi-public meeting spaces. These meeting spaces are open to the public, but in the private realm, such as restaurants, cafes, and bars. Although open to the public, owners of these private spaces can set rules of admittance and conduct. There is another kind of space in cities though... these are privately owned spaces, which in theory, are meant to act like public spaces. These areas are known as privately owned public spaces. POPS are commonly described as:

“urban spaces that are the result of some kind of trade-off

between local government and private landowners or developers. Landowners are granted the right to build a bulkier building than allowed by existing planning regulations, receive a tax cut, or are exempted from other building form limiting regulations. Accepting this bonus from the public side, the developer is then obliged to provide a publicly usable space. The space remains in private property but must be usable in principle by all members of the public at any time” (Dimmer, p. 4, 2013).

While most POPS are produced through density bonuses, stipulated in zoning by-laws, which increase the maximum allowable floor area ratio of a building, in return for public amenities such as public plazas, other policy tools can also be used for their creation. This is the case in Winnipeg, where tax increment financing is being used to, in theory, incentivize development in parts of downtown Winnipeg. Through tax increment financing, the government provides a portion of future increased tax revenue towards improvements in the designated area. For Winnipeg’s TIF area, this money is being used for public amenity improvements. Instead of the government providing concessions to a private development in order to create a public good, here the government is providing funding

for a public good to incentivize development. Regardless of which policy tool is used, the outcome is the same - a new public square.



Image 1: Hotel and residential on Carlton.
Source: The Globe and Mail

History of POPS

Today POPS can be found around the world. However, their origin story begins in New York City. In 1916 New York City was the first to introduce zoning regulations in North America. The 1916 zoning resolution set out regulations for uses and massing, among other things (Kayden, 2013). These new regulations were, in part, a response to technological advancements in building techniques that allowed for the construction of building heights never seen before.

It would take over forty years for the city to reevaluate its

zoning resolution, which by the 1950s had become a regulatory behemoth with over 1,500 amendments (Kayden, p. 3, 2000). In the 1950s, there was a push to modernize and improve New York's zoning regulations, which culminated in a new zoning resolution in 1961. Within the new zoning resolution was a novel regulatory option for height and setback modifications that allowed for new architectural styles (Kayden, p. 11, 2000). Now developers could produce buildings that rose from base to top with no staggered setbacks, in the Modernist tradition. With these new regulations, the city could grant extra floor area through incentive zoning in return for the creation of privately owned plazas, which would be accessible to the public at large (p. 11). The intent of this new policy was two fold: one, to create openings between buildings that would allow for more light to pass through to street level; and two, to create places for people to relax and congregate.

Over time, POPS became the dominant vehicle for which public space amenities were created in New York. Between 1961 and 1973, 193 plazas and arcades were built as part of density bonus agreements (Kayden, 2000, p. 12). This new regime proved to be so popular that in this same time period, seventy percent of all eligible density bonus developments created some form of POPS. As

of the early 2000s there were over 500 such spaces in New York City (Kayden, 2000, vii). Promulgated as a remedy for cash strapped municipalities looking to create more public space, density bonus agreements or other tax benefit provisions have acted as a catalyst for the growth of POPS globally. Quantity and popularity however, does not guarantee good quality.

Analysis: Problems and Policy Solutions

There are many who are concerned that the proliferation of POPS around the world is degrading the quality of our civic spaces (Németh & Schmidt, 2011; Schmidt, Németh & Botsford, 2011; Nemeth, 2008). Since the 1960s, POPS have been scrutinized in New York and elsewhere, mostly for usability reasons. More recently, POPS and their limitations have come to the fore because of property owners' responses to public protests in these privately owned spaces during the Occupy movement, as was the case in Zuccotti Park (Image 2) (Dimmer, 2013).

To understand the shortcomings of POPS, one must once more go back to their place of inception: New York City. In 1971, with over ten years of plaza development through

density bonus schemes, it had become evident that most of the plazas and arcades were completely unusable as public spaces (Kayden, 2000). As Jerold Kayden (2000) discusses, the publicly accessible spaces built within this time period "were empty expanses of concrete, seen by users as desolate, depressing, cold and aesthetically hostile environments" (p. 16). These were not only desolate, poorly designed spaces, but were in fact openly hostile to people. Elements such as spikes were often laid out on places where people might sit to discourage passersby from stopping. By the mid-1970s research conducted by William Whyte and others precipitated a reform movement that would bring greater design rigor and scrutiny to open spaces created through density bonus policies (Kayden, 2000).

Research in New York comparing pre and post-reform POPS indicates that post-reform spaces are generally better designed and more people friendly, in that they employ the use of lighting, food carts, art, and seating more readily than their pre-reform cousins (Schmidt, Németh & Botsford, 2011, p. 278). That being said, while post-reform spaces have design elements that encourage use more so than their predecessors, other controls are used in post-reform spaces that discourage use,



Image 2: Zuccotti Park in New York City. Source: WikiCommons

such as subjective rules, night time controls, gates, doors and other barriers (Schmidt, Németh & Botsford, 2011, p. 278). These features are not as readily found in the pre-reform spaces. While all of these features are

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meant to control and limit use by those who are deemed undesirable by the owners of these private spaces, the subjective rules put in place by property owners were found to be particularly egregious. These rules are frequently and implicitly employed to deter homeless people and other undesirable populations from using POPS.

For instance, it was found that rules such as “no shopping carts”, “no loitering”, “no sleeping”, or “no photography” were used to specifically target homeless populations or to limit freedom of expression. (Schmidt, Németh & Botsford, 2011). Recently, research has also been conducted to see how POPS compare to other kinds of public spaces (Németh & Schmidt, 2011). While the use of POPS was encouraged, Németh and Schmidt (2011) found that “on balance, the privately owned public spaces we examined are more controlled or behaviorally restrictive than publicly owned spaces” (p. 16). Moreover, these spaces more heavily rely on surveillance, security and design to control individuals. Németh and Schmidt (2011) found that “the reliance on the private sector to supply publicly accessible spaces often results in the creation of vibrant but frenetic and highly programmed ‘festival’ spaces in which designers employ an array of techniques, tools, and activities

to manipulate and program the use of, and behavior within, such spaces” (p. 20). The more cities rely on POPS to create public space, the more inequitable access to outdoor public space becomes, as those who do not fit in are excluded from access and use. We also, in turn, create seemingly pleasant environments that are devoid of conflict or tension, as forms of public expression are limited (e.g. bans on public protest, and photography). This is not to say that POPS, or any public space for that matter, should not be controlled. Security and safety for all users is important. However, cities must be careful to not use a concern for safety as a smokescreen for racist and marginalizing policies.

By relying on incentive zoning which creates privately held, but publically accessible spaces, the public realm has been diminished. The literature on the subject indicates that these spaces are not as inclusive and diverse, as owners of these

spaces are able to sift out users based on their narrow interests (Németh, 2008, p. 2482). To conclude, Németh argues that “people’s behavior is controlled in public spaces, but privately managed spaces that are open to the public can more easily exclude certain individuals and are not held to the same level of accountability and oversight as public spaces” (Németh, 2008, p. 2482).

Policy recommendations

The above discussion mirrors the concerns that the Head of City Planning at the University of Manitoba, Professor Richard Milgrom, voiced in a recent Winnipeg Free Press Column (2016). Professor Milgrom raised concerns about creating a space that is not fully public and that mainly functions as a highly controlled event space, which excludes other users from enjoying it. Learning from other localities that have used POPS, or alternatives to POPS to create public space, the City of Winnipeg can ensure that a more usable and accessible plaza is created.

Create public spaces

The first policy option is not particularly innovative or exciting: don’t create POPS at all. In the case of Winnipeg,

if the City is to use financial resources to improve public space amenities as a way to spur development, then those spaces should be publicly owned and managed. While there are issues with with control and access in public spaces as well, the research indicates that compared POPS they fair much better (Németh & Schmidt, 2011). Public spaces are generally less controlled and more democratic. However, in an era of constrained municipal budgets the City may not want to take on the financial responsibility of maintaining more public amenities.

Community management approach

Alternatively, the City could also use a community or a co-management approach. In Seattle for instance, the City has focused on creating community owned public spaces (Hou, 2013). Here the City provides matched funding and other resources to help community groups and non-profit organizations to create public amenities. Through the creation of community organizations and land trusts, Seattle has created numerous new places for people to congregate. Adapting such a policy for TIF financed public spaces, the City of Winnipeg could provide the necessary resources to create an arms-length organization to design,

operate and program the True North public plaza, as well as for future public spaces in the downtown area. The City would provide the necessary resources to build the plaza and for initial start-up of the community organization to manage the space. The property owners would have a seat at the table, but a broader management mandate would be created by drawing on the knowledge of individuals working with poverty reduction organizations and Indigenous groups as well as other experts. Although this option may be off the table for True North Square, it is a policy option that could be considered for feature tax increment financed publicly accessible spaces.

Policy framework for POPS

Putting this more idealistic option aside, and assuming the plaza will be managed as a more conventional POPS, the City has an array of policy tools at its disposal to ensure that it remains as accessible as possible to all potential users. The city does have some design control over private developments. Given that the city is providing financial resources to this project it can leverage this in any negotiations on how the space is designed and operated. Learning from the New York example above, it is vitally important that the City mandate the highest standard in

design quality. As such, the City should mandate design features that encourage not only programmed use, but general and everyday public use through accessibility, seating, lighting, shading, art and other public amenities (Németh, 2011). Corporate signage and advertisements should also be limited as to ensure greatest sense of publicness (Németh, 2011).

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Moreover, Nemeth (2011) argues that any POPS should be inspected by public space advocates, and that property managers should be educated on their legal requirements regarding access to the plaza. The City must clearly articulate in policy and by-law regulations what legal requirements would be required of True North Square (or any other POPS). The City for instance could stipulate that a public plaza or square must be open 24-hours a day and minimize arbitrary rules that limit and constrain the use of space. As discussed above, these arbitrary rules are most often focused at populations deemed undesirable such as the homeless, and poor. Last but not

least, following the lead of the 1974 reforms in New York City, the plaza should have clear signage that indicates that space is publically accessible. Other cities have gone so far as to create a registry of publically accessible spaces to inform the public of spaces that are available to them (Badger, 2012). While such a registry may not be seen as important now, as more POPS are created, greater transparency will facilitate use and public sense of ownership.

Conclusion

Public spaces should instill in people a sense togetherness and diversity, as well as a deference to others regardless of the what they look like, or where they come from. Conversely, public spaces can also be places of conflict and tension, allowing for the expression of protest. Sadly, most POPS have missed the mark on this front, as they are often homogenous and sanitized environments. Learning from the shortcomings as well as successes of POPS in other cities, Winnipeg can create a space that is more equitable and inclusive. The limiting factor will be political will.

If the City of Winnipeg does not take heed of the experiences and failings of other jurisdictions, it will be doomed to funnel financial resources into what will likely become at best, a seemingly pleasant but sterile environment, and at worst an

environment that is hostile for those deemed undesirable by the property owner. Importantly, this issue goes beyond True North Square.

If the City of Winnipeg does not take heed of the experiences and failings of other jurisdictions, it will be doomed to funnel financial resources into what will likely become at best, a seemingly pleasant but sterile environment, and at worst an environment that is hostile for those deemed undesirable by the property owners.

If the City of Winnipeg is going to rely on tax increment financing as an instrument to incentivize development in the downtown, and moreover, if these funds are to be used for the development of POPS, a well guided policy and regulatory framework needs to be established to ensure that these places become equitable and democratic civic spaces. Anything else should be considered myopic and a failure of political and civil leadership.

Resources

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