

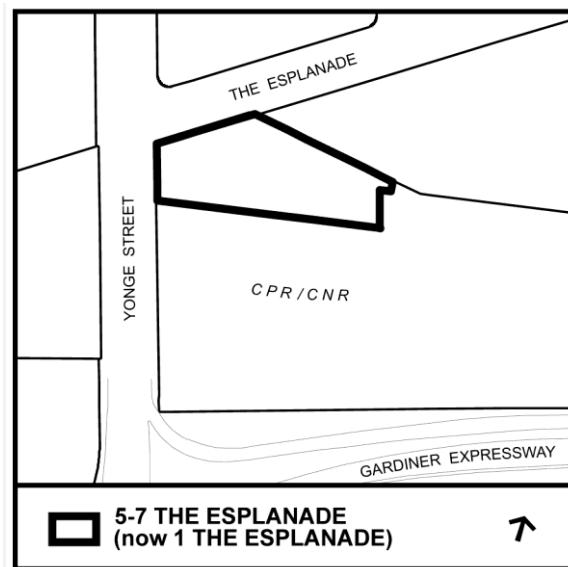
**5-7 The Esplanade (now 1 The Esplanade) – Official Plan Amendment and Zoning By-law Amendment Applications – Supplementary Report**

<b>Date:</b>	November 8, 2013
<b>To:</b>	City Council
<b>From:</b>	Chief Planner and Executive Director, City Planning
<b>Wards:</b>	Ward 28 – Toronto Centre-Rosedale
<b>Reference Number:</b>	P:\2013\Cluster B\PLN\City Council\CC13094 08 231943 STE 28 OZ (OPA) and 08 223450 STE 28 OZ (Zoning)

**SUMMARY**

At its meeting of August 25-27, 2010, City Council approved Official Plan and Zoning By-law amendment applications for 5-7 The Esplanade (now 1 the Esplanade) to permit the development of a 32-storey residential tower on top of a 4-storey mixed-use base building for a total of 36-storeys and 271 dwelling units. The proposed building height is 112 metres (118 metres to the top of the mechanical penthouse).

Recommendation No. 4 in the final staff report requires Official Plan Amendment (OPA) 389 to be adopted by Council and in force before the Bills implementing the Official Plan and zoning by-law amendments for this proposal could be brought forward to Council for introduction. OPA 389 contains conditions for permitting development to proceed within a floodplain. A holding provision "H" was also included in the draft zoning by-law. The lifting of the "H" was to occur through a separate application after the construction of the West Don Flood Protection Landform was deemed complete and functional from a floodplain management perspective by the Toronto



and Region Conservation Authority (TRCA).

Since Council approval of the Official Plan and Zoning By-law amendment applications for this proposal in 2010, the Flood Protection Landform has been constructed and the area is no longer considered at risk for flooding. Therefore, both OPA 389 and the holding provision in the draft zoning by-law are no longer necessary.

This report recommends removal of Recommendation No. 4 from the Council approved final report for this proposal and removal of the "H" from the draft zoning by-law. It also recommends that the Bills implementing the proposal on the subject site be brought forward to Council for enactment and that Council repeal the Official Plan for the former City of Toronto, and all subsequent amendments thereto, insofar as it applies to lands known as 1 The Esplanade. City Planning is recommending all the Recommendations in the final report for this proposal be deleted and restated comprehensively including amendments to reflect the changes noted in this report.

## **RECOMMENDATIONS**

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**The City Planning Division recommends that the Recommendations in the report dated July 28, 2010 be deleted and replaced with the following:**

1. City Council amend the Official Plan, for the lands at 5-7 The Esplanade (now 1 The Esplanade) substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 1 to the report from the Chief Planner and Executive Director, City Planning dated November 8, 2013.
2. City Council repeal the Official Plan for the former City of Toronto, and all subsequent amendments thereto, insofar as it applies to lands known as 5-7 The Esplanade (now 1 The Esplanade), as shown on the attached Schedule A.
3. City Council amend Zoning By-law 438-86 for the lands at 5-7 The Esplanade (now 1 The Esplanade) substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 2 to the report from the Chief Planner and Executive Director, City Planning dated report dated November 8, 2013.
4. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and/or draft Zoning By-law Amendment as may be required.
5. Before introducing the necessary Bills to City Council for enactment, require the owner to enter into an Agreement pursuant to Section 37 of the Planning Act to secure the following benefits:
  - a. prior to the issuance of above grade permits, provide a cash contribution of \$1,500,000.00, which is to be used for the following:

- i. \$1,000,000.00 for PATH connections including, a pedestrian bridge over Yonge Street and a bridge to 2 Church Street, and/or the future signalization of Yonge Street and The Esplanade;
  - ii. \$250,000.00 for streetscape improvements within the St. Lawrence Neighbourhood;
  - iii. \$50,000.00 for the North St. Lawrence Market redevelopment;
  - iv. \$100,000.00 for implementation of the Sherbourne Promenade Plan; and
  - v. \$100,000.00 for implementation of the Heritage Interpretation and Old Town Toronto Heritage Lighting Plans;
- b. require that the cash amounts identified in “a.” above shall be indexed annually in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
  - c. provide and maintain public works pursuant to a Percent for Public Art Program to be located on publicly accessible portions of the site to a value not less than one percent of the gross construction costs of all buildings and structures to be erected on the site;

The following matters are to be secured as a legal convenience in the Section 37 Agreement:

- d. Provide and maintain within the site a publicly accessible PATH walkway connection located within the podium from the west end of the podium adjacent to Yonge Street through the podium at the second level to the east end of the podium adjacent to the TPA garage, substantially in accordance with the 2<sup>nd</sup> Floor Plan, drawing A3.2, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
  - i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;
  - ii. be satisfactorily illuminated; and
  - iii. enter into a Wayfinding Agreement and Easement Agreement;

- e. Provide and maintain within the site a publicly accessible PATH walkway connection from the second level within the podium from the west end of the podium down to the ground floor providing access to the street, substantially in accordance with the 2<sup>nd</sup> Floor Plan drawing A-3.2 and Ground Floor Plan, drawing A-3.1, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
  - i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;
  - ii. be satisfactorily illuminated; and
  - iii. enter into a Wayfinding Agreement and Easement Agreement;
- f. provide knock-out panels along the second floor portion of the podium at the western most edge adjacent to Yonge Street and the eastern most edge adjacent to the Toronto Parking Authority lot to accommodate a potential future connection to the PATH system, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the General Manager of Economic Development;
- g. Provide and maintain within the site, publicly accessible Public Exhibition Space in conjunction with the PATH walkway connection located within the western edge of the podium on the second floor and ground floor, substantially in accordance with the 2<sup>nd</sup> Floor Plan drawing A-3.2 and Ground Floor Plan, drawing A-3.1, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
  - i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;
  - ii. be satisfactorily illuminated; and
  - iii. enter into a Wayfinding Agreement and Easement Agreement;
- h. pay all costs associated with the PATH connection through the podium and the construction and maintenance of the Public Exhibition Space;
- i. as part of the Site Plan Approval process, the owner shall provide 1:50 scale drawings for the podium along The Esplanade, Yonge Street and east

elevation adjacent to 25 The Esplanade with building materials labelled to the satisfaction of the Chief Planner and Executive Director;

- j. the owner shall incorporate in the construction of the building, and thereafter maintain, exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director;
- k. be required to build in conformity with the Toronto Green Standard Checklist as submitted by the applicant and date stamped received by January 6, 2009; and
- l. enter into a Site Plan Agreement under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

### **Site Specific Official Plan and Zoning By-law Amendment applications for 5 – 7 The Esplanade (now 1 The Esplanade).**

At their meeting of August 25-27, 2010, City Council approved Official Plan and Zoning By-law amendment applications for 5-7 The Esplanade to permit the development of a 32-storey residential tower on top of a 4-storey mixed-use base building for a total of 36-storeys and 271 dwelling units. The proposed building height is 112 metres and 118 metres to the mechanical penthouse.

The final report can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-32622.pdf>

### **Lower Don Special Policy Area and Official Plan Amendment 389**

In response to several site specific Official Plan and zoning by-law amendments being sought within a portion of the Lower Don Special Policy Area ("Downtown Spill Zone"), City Council adopted OPA 389 on August 27, 2010, as By-law 1172-2010 which amends the former City of Toronto Official Plan. The Downtown Spill Zone is an area generally west of the Don River, north of Keating Channel, south of Front Street and east of York Street. OPA 389 enabled the removal of the Downtown Spill Zone from the Special Policy Area (SPA) after the West Don Flood Protection Landform was constructed, and included policies that reflect Section 3.1.3 of the 2005 Provincial Policy Statement. The Statement requires any proposal to change land use or modify the boundary or site specific policies within an SPA be municipally initiated and approved by the Province prior to adoption by Council. OPA 389 was appealed to the Ontario Municipal Board (OMB) and is not in effect.

With the West Don Flood Protection Landform nearing completion, the City initiated the process to remove the Downtown Spill Zone from the Lower Don SPA. At its meeting of June 11, 12 and 13, 2012, City Council adopted the recommendations of a staff Directions Report dated May 18, 2012. The report recommended that staff commence the process with the Province and TRCA to amend the Official Plan to remove the Downtown Spill Zone from the Lower Don SPA. This process is currently underway.

The Directions Report can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-47458.pdf>

## **COMMENTS**

### **Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement generally does not permit development and site alteration within floodplain areas. However, Section 3.1.3 of the 2005 Provincial Policy Statement allows development and site alteration in exceptional situations where a SPA has been approved. The designation of a SPA, and any change or modification to the site-specific policies or boundaries applying to a SPA must be approved by the Minister of Municipal Affairs and Housing and the Minister of Natural Resources.

The City of Toronto's downtown core SPA is in a unique situation. Unlike other jurisdictions, the flood risk was to be eliminated in a portion of the Lower Don SPA when the Lower Don River West Flood Remedial Flood Protection Project (the Flood Protection Landform) was fully constructed and the TRCA deemed the landform complete. At the time of approval of the applications for the subject site, the landform was under construction. Once finalized, certain lands in the downtown core, which include the subject site, would be removed from the floodplain.

In order to allow the City to make planning decisions in this part of the Lower Don SPA in advance of the SPA removal, provincial staff agreed to consider an interim policy regime for the City with respect to approvals regarding land use or policy changes. This interim regime is based on the City's commitment not to issue building permits related to new development requiring Official Plan or Zoning By-law amendments to the current Official Plan and Zoning By-law until the landform is deemed complete by the TRCA. This approach required inserting a "holding" provision into the SPA policies within the former City of Toronto Official Plan. Zoning by-laws related to the new development are to be put on "hold" pursuant to Section 36 of the Planning Act. The lifting of the "hold" would only occur after the TRCA deemed the landform complete and functional from a floodplain management perspective. The Province was concerned that new, intensified development may occur in the area prior to completion of the flood protection works, thereby increasing the risk due to flooding.

City Council at its meeting of July 5-7, 2010, endorsed the "Lower Don Lands Official Plan Amendment and Keating Channel Precinct West Zoning By-law" Directions Report dated June 18, 2010. The report outlined a process for the comprehensive removal of the SPA for the Lower Don and included draft OPA No. 389 to the former City of Toronto

Official Plan. OPA No. 389 allows City Council to enact amending zoning by-laws pursuant to Sections 34 and 36 of the Planning Act to permit holding provisions. Development is not permitted until the Flood Protection Landform is complete. OPA 389 was appealed to the OMB and is not in effect. A holding provision was incorporated in the draft zoning by-law attachment to the Council-approved final report for this proposal to ensure that no development occurs until the Flood Protection Landform is complete.

In a letter dated November 1, 2012, the TRCA confirms that the Flood Protection Landform has been "completed to a level of substantive structural completion and now provides functionally sound flood protection" to the area in which the subject site is located (see Attachment # 3). The risk of flooding in the Downtown Spill Zone has been eliminated and the lands are in the process of formally being removed from the flood plain with the new city-initiated OPA 394.

The City and the Province are in the process of finalizing city-initiated OPA 394 to remove the area identified as the Downtown Spill Zone from the Lower Don Special Policy Area in both the former City of Toronto Official Plan and new Official Plan. A documentation package has been submitted to the Province for the Ministers' approval. Following the Ministers' approval, the amendment will be enacted by the City as OPA 394.

OPA 389 is now redundant since construction of the Flood Protection Landform is complete and the subject site is no longer at risk of flooding. Therefore, Recommendation No. 4 in the final staff report for the subject site requiring OPA 389 to be in effect prior to the Bills for this development being brought forward to Council is no longer necessary. In addition, the Holding provision or "H" in the Council approved draft zoning by-law for the subject site is also no longer necessary.

On October 31, 2013, the Ministry of Municipal Affairs and Housing issued a letter to City Planning on behalf of the Province of Ontario, through their 'One Window' coordination process. It states that they have no objection to City staff recommending to City Council the enactment of the site specific Official Plan amendment and zoning by-law amendment for this proposal (see Attachment. No. 4).

## **Official Plan**

In 2002, the new Official Plan for the City of Toronto was adopted. The SPA policies in the new Official Plan have not been approved by the Province. As a result, the SPA policies of the former City of Toronto Official Plan remain in effect.

Policy 2.68 of the former City of Toronto Official Plan requires that proposed development in the Lower Don flood plain comply with the policies of the Lower Don SPA. These policies are in force for the area identified as a SPA, which includes the Downtown Spill Zone. They only permit development on the condition that the proposed development is flood proofed to the level of a 350 year flood (a rare, severe flood similar to the flood that occurred during Hurricane Hazel in 1954).

The subject site is currently designated "Utility Corridor" in the current Official Plan. The "Utility Corridors" designation does not permit any residential or mixed land uses such as live-work, retailing or commercial uses. An amendment to the Official Plan is required in order to permit the proposed uses. It was approved by Council at its meeting on August 25-27, 2010. The Bill implementing the Official Plan amendment has not yet been brought forward for enactment by Council.

## **Zoning**

The site is currently governed by Zoning By-law 438-86, as amended. The site is zoned both T (south portion of site) within an 'Industrial District' which permits transportation uses, and zoned CR T4.0 C4.0 R2.5 (north portion fronting on Yonge Street and The Esplanade) within a 'Mixed-Use Districts' which permits a mix of residential and commercial uses to a maximum density of 4 times the area of the lot area, and a height limit of 46 metres.

The draft zoning by-law amendment was approved by Council at its meeting on August 25-27, 2010, and would amend the zoning permissions on the site to permit the proposed development. The draft zoning by-law has not been brought forward for enactment by Council.

## **Conclusion**

Recommendation No. 4 in the final report for the subject site requires OPA 389 to be in effect prior to the OPA and draft zoning by-law being brought forward to Council for enactment. The draft by-law also includes a Holding Symbol "H" on the implementing zoning. Both requirements are measures taken to ensure development could not proceed until proper flood protection is in place. The TRCA has confirmed that the Flood Protection Landform is substantially complete and that the area in which this site is located is no longer at risk of flooding. The Province of Ontario has confirmed in writing that they have no objection to the bills implementing this development being brought forward to Council for enactment.



Therefore, City Planning recommends removal of Recommendation No. 4 from the Council approved final report for this proposal and removal of the "H" from the draft zoning by-law. It also recommends that the Bills implementing the proposal on the subject site go forward to Council for enactment and that Council repeal the Official Plan for the former City of Toronto, and all subsequent amendments thereto, insofar as it applies to lands known as 1 The Esplanade. City Planning is recommending all the Recommendations in the final report for this proposal be deleted and restated comprehensively including amendments to reflect the changes noted in this report.

## **CONTACT**

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## **SIGNATURE**

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Jennifer Keesmaat, MES MCIP RPP  
Chief Planner and Executive Director  
City Planning

## **ATTACHMENTS**

Attachment 1: Draft Official Plan Amendment  
Attachment 2: Draft zoning By-law Amendment  
Attachment 3: Letter from the Toronto and Region Conservation Authority  
Attachment 4: Letter from the Ministry of Municipal Affairs on Behalf of the Province of Ontario

**Attachment 1: Draft Official Plan Amendment**

Authority: Toronto and East York Community Council Item ~ [or Report No. ~, Clause No. ~] as adopted by City of Toronto Council on ~, 2013

Enacted by Council: ~, 2013

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. ~-2013**

**To adopt an amendment to the Official Plan  
for the City of Toronto  
respecting the lands known municipally in the year 2013, as  
1 The Esplanade**

WHEREAS authority is given to Council under the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*, respecting the removal of these lands from the Lower Don Special Policy Area floodplain and the re-designation of the lands to Mixed Use Areas; and

WHEREAS the Provincial Policy Statement 2005 requires that any change or modification to the boundaries applying to a Special Policy Area must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such change or modifications; and

WHEREAS the Honourable Minister of Municipal Affairs and Housing has advised by letter dated October 31, 2013 that the Ministries have no objection to Council amending its Official Plan to exclude the affected lands from the Lower Don Special Policy Area and its floodplain;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The attached Amendment No. 138 to the Official Plan is hereby adopted pursuant to the *Planning Act*, as amended.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

Frances Nunziata,  
Speaker

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

**AMENDMENT NO. 138 TO THE OFFICIAL PLAN**  
**LANDS MUNICIPALLY KNOWN IN THE YEAR 2013 AS**  
**1 THE ESPLANADE**

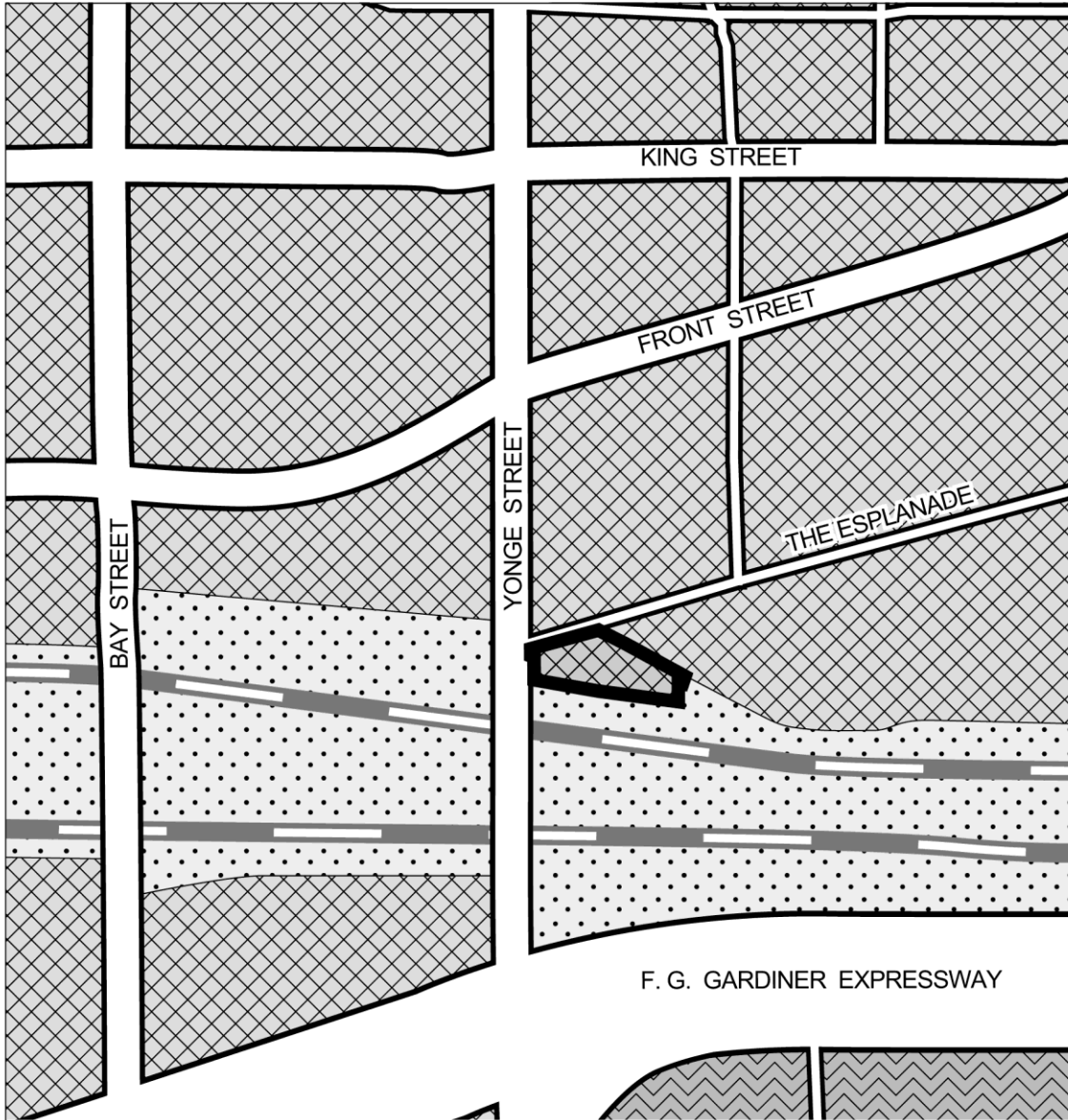
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The Official Plan of the City of Toronto is amended as follows:

1. Map 7, Lower Don River and Map 10, Special Policy Areas Key Map, are amended to exclude lands known municipally as 1 The Esplanade, as shown on the attached Schedule A, from the Lower Don Special Policy Area floodplain.
2. Map 18, Land Use Plan, is amended by re-designating the lands known municipally as 1 The Esplanade from *Utility Corridors* to *Mixed Use Areas*, as shown on the attached Schedule A.

The Official Plan for the former City of Toronto, and all subsequent amendments thereto, insofar as it applies to lands known as 1 The Esplanade, as shown on the attached Schedule A, is hereby repealed.

Schedule A



**TORONTO** City Planning

**Official Plan Amendment #138**

Revisions to Land Use Map 18 to Redesignate lands from Utility Corridors to Mixed Use Areas

**1 The Esplanade**

File # 08\_231943 and 08\_223450

-  Site Location
-  Mixed Use Areas
-  Utility Corridors
-  Regeneration Areas



Not to Scale  
07/09/2013

## Attachment 2: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ [or Report No. ~,  
Clause No. ~] as adopted by City of Toronto Council on ~, 20~  
Enacted by Council: ~, 20~

### CITY OF TORONTO

Bill No. ~

BY-LAW No. ~20~

**To amend General Zoning By-law No. 438-86 of the former City of Toronto, as amended, with respect to the lands municipally known as  
1 The Esplanade**

WHEREAS authority is given to Council by Section 34 and 36 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law with respect to the lands municipally known as 1 The Esplanade; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities, services and matters set out in Appendix 1 hereof, the provisions of which shall be secured by an agreement or agreements pursuant to Section 37(3) of the *Planning Act*.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* Pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, being “A By-law to regulate the use of land and the erection, use, bulk, *height*, spacing and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, shall continue to apply to the *lot*.

4. In addition, none of the provisions of this By-law or of Zoning By-law No. 438-86, as amended by By-law 860-2008, shall apply to prevent the erection and use of below *grade* residential *parking spaces*, *bicycle-parking spaces-visitor* and *bicycle-parking spaces occupant* which are accessory to the *lot* comprising the lands municipally known as 8 The Esplanade in the year 2010 or the obligations pursuant to Section 37 of the *Planning Act* set out in By-law 860-2008 with respect to this permission on the *lot*.
5. District Map 51G-321 Appendix ‘A’ is hereby amended as shown on the attached Map 1.
6. None of the provisions of Sections 2 – Definitions with respect to the definition of “*grade*”, “*height*”, “*lot*”, and Sections 4(2)(a), 4(5), 4(12), 4(13), 4(17), 8(3) Part I, 1, 2, and 3, 8(3) Part II 1(a)(ii), 8(3) Part III 1(a), 9(1)(f), 9(3) Part I, and 13 of Zoning By-law No. 438-86, being a by-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto, as amended, shall apply to prevent the erection and use of a *mixed use building* on the *lot* shown on Map 1 attached to and forming part of this by-law provided that:
  - (a) the *lot* comprises the lands outlined in heavy lines on Map 1 attached hereto and forming part of this By-law;
  - (b) no above grade portion of any building or structure is located otherwise than wholly within the areas delineated by heavy lines as shown on Map 2 attached to and forming part of this by-law;
  - (c) the *height* of any building or structure or portion thereof, including those elements referred to in Section 4(2)(a)(i) and (ii) of Zoning By-law No 438-86, as amended, does not exceed the heights in metres shown on Map 2 attached to and forming part of this by-law;
  - (d) minimum required yard setbacks on the lot for the building or structures or portion thereof shall not be less than the distance in metres shown on Map 2 attached to and forming part of this by-law;
  - (e) no portion of a residential tower portion of the *mixed use building* located above a building height of four (4) storeys, shall be located closer than 18 metres from the east property line as shown on Map 2 attached to and forming part of this by-law;
  - (f) the *residential gross floor area* erected or used shall not exceed 29,430 square metres, of which a maximum 22,637 square metres may be used for residential uses and a maximum of 6,793 square metres may be used as a *parking garage* at or above grade;

- (g) a minimum of one hundred and forty-four (144) residential *parking spaces* serving the residential uses erected on the lot shall be provided at *grade* or in an above *grade parking garage*, which *parking garage* facility comprises part of the *mixed use building*, provided that an additional six (6) *car share parking spaces* are provided on the ground floor at *grade*;
- (h) *non-residential gross floor area* erected or used for any permitted *non-residential use* shall not exceed 950 square metres of which not less than 539 square metres shall be erected and used as a City of Toronto *PATH* and used as *Public Heritage Exhibit Space* and 411 square metres used as *street-related retail and service uses*;
- (i) *residential amenity* space located outdoors shall be located on the roof of a four storey podium having a minimum area of 1,796 square metres and provided it is in a location adjoining or directly accessible from the indoor *residential amenity space*;
- (j) *residential amenity space* located indoors shall not be less than 832 square metres;
- (k) a maximum of 290 square metres of indoor *residential amenity* space, may include up to two (2) guest suites comprised of a bedroom, bathroom and wet sink kitchenette as a permitted *accessory* use;
- (l) no residential *visitor parking spaces* shall be required;
- (m) no *parking spaces* shall be required for 950 square metres of *non-residential uses*;
- (n) a maximum of twenty (20) *parking spaces* may have lengths of 5.3 metres; in all other respects and for all other *parking spaces*, the *parking spaces* provided shall comply with the size of *parking space* stall dimension provisions of Zoning By-law 438-86 as amended;
- (o) a maximum of twenty (20) *parking spaces* having a length of 5.3 metres, and complying with all other respects of the by-law regarding *parking spaces*, may be included in the calculation for total required parking;
- (p) a minimum of 200 *bicycle parking spaces* - shall be provided and maintained on the *lot* for residents and visitors of 5-7 The Esplanade in addition to any requirement for 8 The Esplanade (formerly 1 Front Street East), of which, a minimum of 160 *bicycle parking spaces - occupant* shall be provided and a minimum of 40 *bicycle parking space - visitor* shall be provided;
- (q) *bicycle parking spaces - occupant* shall not be combined with storage lockers for residential units;

- (r) the maximum number of *dwelling units* erected or used on such lands does not exceed 271, of which, a maximum 10 *dwelling units* located within the 4-storey podium fronting along The Esplanade, may be *live-work units*;
  - (s) 10 percent of the units shall be built as convertible units that may initially contain fewer than three bedrooms, provided that such units retain the ability to be converted to contain three or more bedrooms through relatively minor changes to internal wall configurations;
  - (t) a minimum of 35% of the *dwelling units* erected and used on the *lot* shall be 2-bedroom or larger *dwelling units*;
  - (u) provide continuous weather protection with a minimum depth of 3.0 metres and a minimum height of 3.0 metres along The Esplanade and Yonge Street;
  - (v) the minimum floor to ceiling height of the ground floor shall be 5 metres;
7. For the purposes of this by-law:
- (a) “*car share*” means the practice where a number of people share the use of one or more cars that are owned and operated by a profit or non-profit Car Sharing organization and to use a Car Share vehicle, a person must meet the membership requirements of the car sharing organization, including the payment of a membership fee that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven and include the use of cars on an hourly basis. The Car Share Parking spaces provided shall be for the use of at least the residents and other occupants of the lot;
  - (b) *car share parking space* is a parking space exclusively reserved and signed for a car used only for Car Share;
  - (c) “*grade*” means 76.78 metres Canadian Geodetic Datum, CGD, as measured from The Esplanade;
  - (d) “*height*” means the height above *grade* as defined herein, and as shown on Map 2 for the various components of the *mixed use building*;
  - (e) “*lot*” means the lands shown outlined in heavy lines on Map 1 attached to this By-law;
  - (f) “*owner*” means the owner and/or lessee of the *lot* or any portion of the *lot* but shall not include Metrolinx, the Metrolinx GO Transit Division or the Greater Toronto Transit Authority;
  - (g) “*PATH*” shall mean the above grade, at grade and below grade walkway system as it exists from time to time but which at the date of this By-law



connects the buildings in the downtown core of the City of Toronto, from the Toronto Coach Terminal (North) to the Air Canada Centre (South) and from Metro Hall (West) to the Cambridge Suites Hotel (East), and which passes through and/or near the property of the *owner*.

- (h) “*Public Heritage Exhibit Space* “ shall mean a publicly accessible portion of a building used for community activities including, but not limited to, arts, crafts, social, charitable and educational activities, and for the display and exhibition of items including, but not limited to, art work, archives, books, historical documents and other items to promote public awareness and the history of the St. Lawrence Neighbourhood, but shall not be used for commercial purposes.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

Frances Nunziata,  
Speaker

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

## APPENDIX 1

### SECTION 37 PROVISIONS

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* of the *site* to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

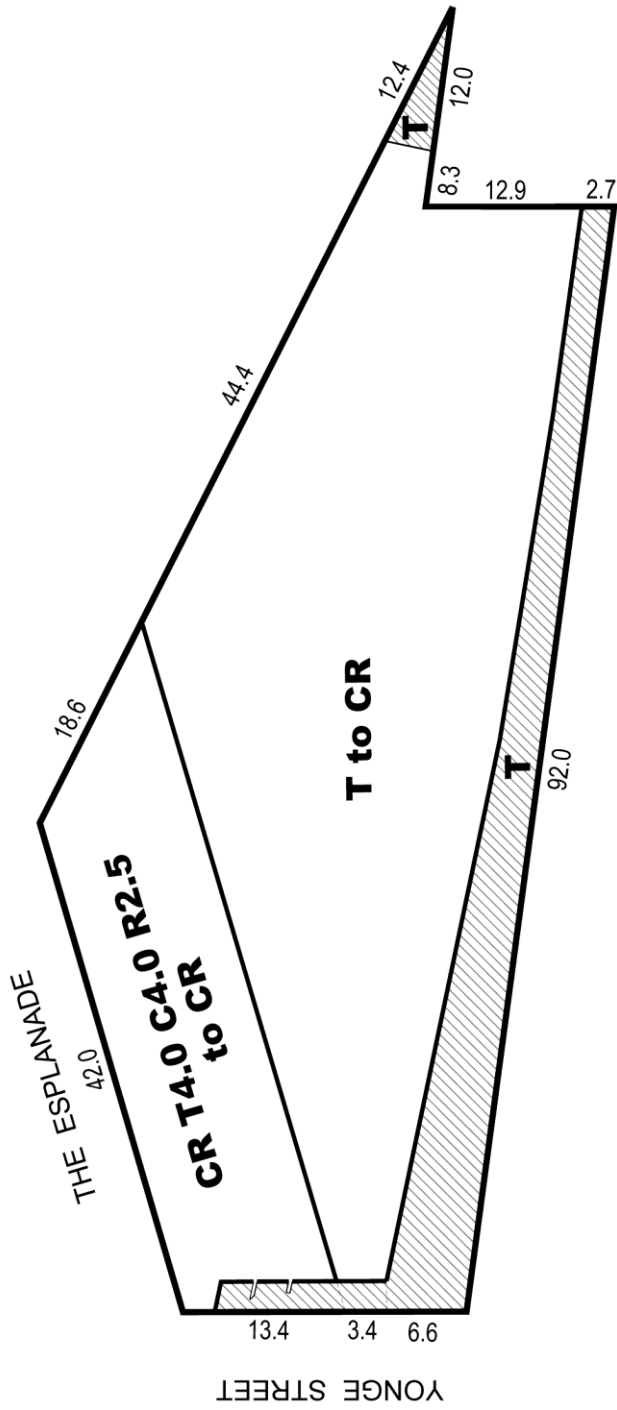
- a. prior to the issuance of above grade permits, provide a cash contribution of \$1,500,000.00, which is to be used for the following:
  - i. \$1,000,000.00 for PATH connections including, a pedestrian bridge over Yonge Street and a bridge to 2 Church Street, and/or the future signalization of Yonge Street and The Esplanade;
  - ii. \$250,000.00 for streetscape improvements within the St. Lawrence Neighbourhood;
  - iii. \$50,000.00 for the North St. Lawrence Market redevelopment;
  - iv. \$100,000.00 for implementation of the Sherbourne Promenade Plan; and
  - vi. \$100,000.00 for implementation of the Heritage Interpretation and Old Town Toronto Heritage Lighting Plans;
- b. require that the cash amounts identified in “a.” above shall be indexed annually in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
- c. provide and maintain public works pursuant to a Percent for Public Art Program to be located on publicly accessible portions of the site to a value not less than one percent of the gross construction costs of all buildings and structures to be erected on the site;

The following matters are to be secured as a legal convenience in the Section 37 Agreement:

- d. Provide and maintain within the site a publicly accessible PATH walkway connection located within the podium from the west end of the podium adjacent

- to Yonge Street through the podium at the second level to the east end of the podium adjacent to the TPA garage, substantially in accordance with the 2<sup>nd</sup> Floor Plan, drawing A3.2, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
- i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;
  - ii. be satisfactorily illuminated; and
  - iii. enter into a Wayfinding Agreement and Easement Agreement;
- e. Provide and maintain within the site a publicly accessible PATH walkway connection from the second level within the podium from the west end of the podium down to the ground floor providing access to the street, substantially in accordance with the 2<sup>nd</sup> Floor Plan drawing A-3.2 and Ground Floor Plan, drawing A-3.1, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
- i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;
  - ii. be satisfactorily illuminated; and
  - iii. enter into a Wayfinding Agreement and Easement Agreement;
- f. provide knock-out panels along the second floor portion of the podium at the western most edge adjacent to Yonge Street and the eastern most edge adjacent to the Toronto Parking Authority lot to accommodate a potential future connection to the PATH system, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the General Manager of Economic Development;
- g. Provide and maintain within the site publicly accessible Public Exhibition Space in conjunction with the PATH walkway connection located within the western edge of the podium on the second floor and ground floor, substantially in accordance with the 2<sup>nd</sup> Floor Plan drawing A-3.2 and Ground Floor Plan, drawing A-3.1, prepared by Page + Steele Architects Planners and date stamped by the City Planning Division on December 19, 2009, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, which shall;
- i. remain open and accessible to the public between the hours of 6:00 a.m. to 2:00 a.m., 365 days a year;

- ii. be satisfactorily illuminated; and
- iii. enter into a Wayfinding Agreement and Easement Agreement;
- h. pay all costs associated with the PATH connection through the podium and the construction and maintenance of the Public Exhibition Space;
- i. as part of the Site Plan Approval process, the owner shall provide 1:50 scale drawings for the podium along The Esplanade, Yonge Street and east elevation adjacent to 25 The Esplanade with building materials labelled to the satisfaction of the Chief Planner and Executive Director;
- j. the owner shall incorporate in the construction of the building, and thereafter maintain, exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director;
- k. be required to build in conformity with the Toronto Green Standard Checklist as submitted by the applicant and date stamped received by January 6, 2009; and
- l. enter into a Site Plan Agreement under Section 41(16) of the Planning Act and Section 114 of the City of Toronto Act.



 Lands to remain zoned T (Transportation District)

NOTE:  
All dimensions are in metres.



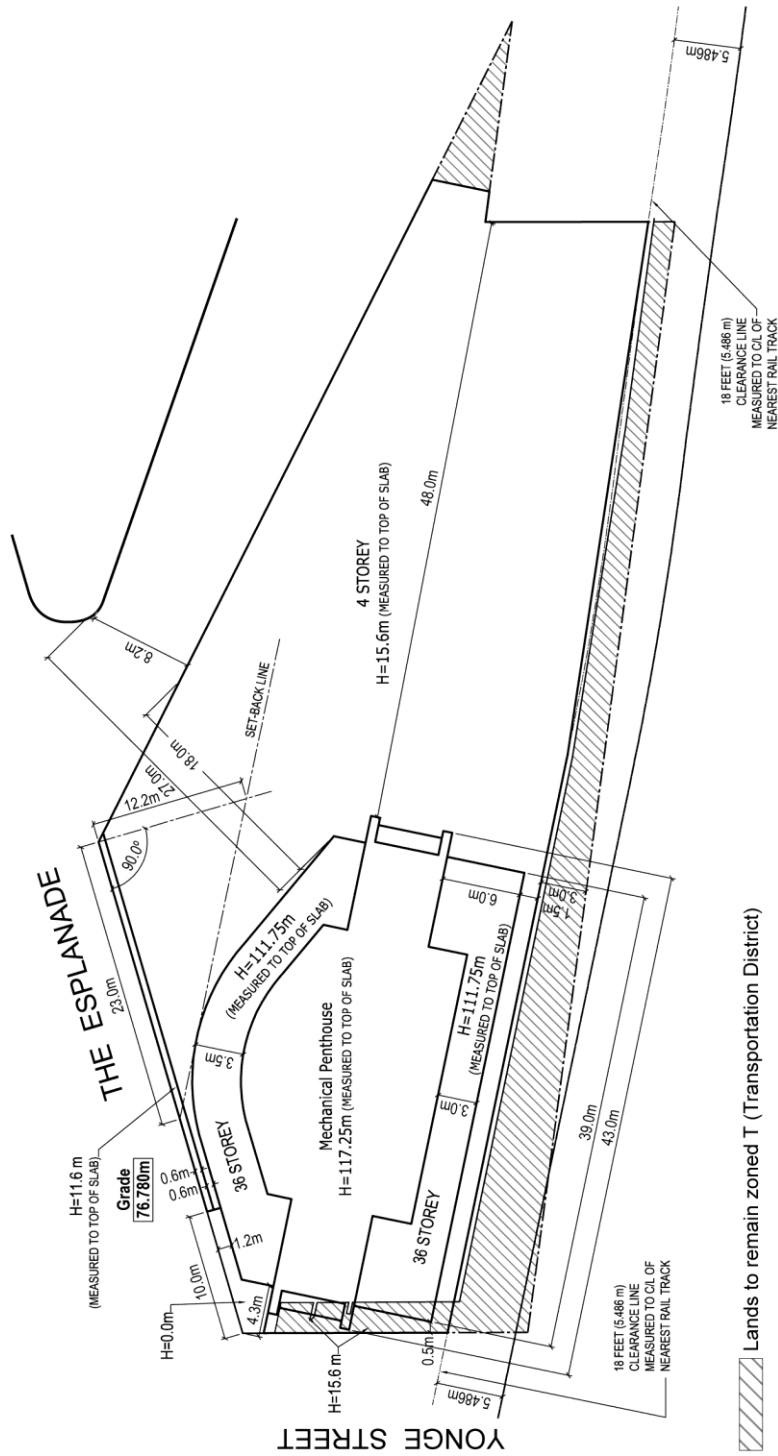
Map 1

Not to Scale  
10/31/2013



# 1 The Esplanade

File # 08\_231943 and 08\_223450



Legend: Lands to remain zoned T (Transportation District)

NOTE:  
 H denotes height in metres above grade. All dimensions are in metres.



## Attachment 3: Letter from the Toronto and Region Conservation Authority



November 1, 2012

CFN 41854.13  
CFN 43438.03  
CFN 43438.04  
CFN 45079.15

### VIA MAIL AND EMAIL

Peter Au	Jamie McEwen
Toronto Buildings	City Planning
Toronto City Hall	Toronto City Hall
100 Queen Street West	100 Queen Street West
Toronto, ON M5H 2N2	Toronto, ON M5H 2N2

Dear Mr. Au and Mr. McEwen:

### **RE: West Don Lands Flood Protection Landform Confirmation of Functional and Structural Completion**

The TRCA hereby confirms that the Flood Protection Landform (FPL) has been completed to a level of substantive structural completion and now provides functionally sound flood protection to the level of the Regulatory Flood to the developable blocks located north of the Keating Channel within the West Don Lands and lands to the west within the downtown portion of the City of Toronto.

Some minor deficiencies as well as aesthetic finishing works still exist; however, a permanent level of flood protection has been achieved. Any minor deficiencies will be dealt with through ongoing and continuing construction activities managed through Infrastructure Ontario.

Based upon the structural completion of the FPL in combination with the completed widening of the CNR Kingston line bridge, regulatory flood protection exists and all residual flood risk has been removed from the lands noted above. Removal or lifting of any remaining flood risk based conditions such as occupancy limitations or floodproofing requirements attached to any Planning Act approvals can now proceed. In addition, TRCA has no objection to the removal of the Special Policy Area as identified in Toronto and East York Community Council Item No. TE.19.5 adopted by City Council on October 30, 2012.

TRCA will shortly be updating its Regulatory Floodplain mapping and, subsequently, identifying areas that will remain regulated under O. Reg. 166/06. This will include all lands consisting of the physical FPL plus a 15 metre allowance to the west. Until such time, please continue to consult with Steven Heuchert, Senior Manager, Planning and Development at xt. 5311 as to whether certain properties in the vicinity of the FPL require TRCA review and regulatory approvals.



Tel. 416.661.6600, 1.888.872.2344 | Fax. 416.661.6898 | info@trca.on.ca | 5 Shoreham Drive, Downsview, ON M3N 1S4

Member of Conservation Ontario

[www.trca.on.ca](http://www.trca.on.ca)

We trust this is of assistance, and we are very pleased to have worked with the City of Toronto, Waterfront Toronto and the Province to effect a significant reduction in flood risk to properties, residents and business owners in the downtown core.

Please feel free to contact Steven Heuchert, Senior Manager, Planning and Development if you have any questions or require clarification.

Sincerely



Brian Denney, CAO  
Toronto and Region Conservation  
Extension 6290

cc. David Black, Minister's Office, Infrastructure Ontario  
Serge Chuckseev, Infrastructure Ontario  
Mark Christie, MMAH  
Meg Davis, Waterfront Toronto  
David Jackson, Cityscape  
David Wex, Urban Capital  
Steven Heuchert, TRCA



## Attachment 4: Letter from the Province of Ontario

**Ministry of  
Municipal Affairs  
and Housing**  
Municipal Services Office  
Central Ontario  
777 Bay Street, 2<sup>nd</sup> Floor  
Toronto ON M5G 2E5  
Phone: 416-585-6226  
Fax: 416-585-6882  
Toll-Free: 1-800-668-0230

**Ministère des  
Affaires municipales  
et du Logement**  
Bureau des services aux municipalités  
du Centre de l'Ontario  
777, rue Bay, 2<sup>e</sup> étage  
Toronto ON M5G 2E5  
Téléphone: 416-585-6226  
Télécopieur: 416-585-6882  
Sans frais: 1-800-668-0230



13-60611

October 31, 2013

Mr. Gregg Lintern, MCIP RPP  
Director, Community Planning  
Toronto & East York District  
City of Toronto  
City Hall, 18<sup>th</sup> Floor East Tower  
100 Queen Street West  
Toronto ON M5H 2N2

Dear Mr. Lintern:

Minister Linda Jeffrey has forwarded to me your letter dated June 28, 2013 regarding a site-specific Official Plan Amendment and Zoning By-law Amendment to permit a land use change introducing residential uses for a property located at 1 The Esplanade, in the City of Toronto. More specifically, the applications are to permit a 36 storey mixed-use development containing 271 residential dwelling units.

As you are aware, this property is located within the boundaries of the lower Don River floodplain special policy area (SPA). Earthworks were undertaken to eliminate flooding on certain portions within the SPA.

The Toronto and Region Conservation Authority (TRCA) issued a letter on November 1, 2012 indicating that the construction of the landform is complete, and that it now provides functionally sound flood protection to the level of the regulatory flood.

Additionally, the City has embarked on an official plan amendment to alter the boundaries of the Special Policy Area (SPA). This request includes a draft of the City-initiated Official Plan Amendment 394 (OPA 394) which proposes to remove the affected lands from the Lower Don SPA.

A letter was recently sent to the City outlining the outstanding information required to finalize the modifications to the Special Policy Area and the related land use policy.

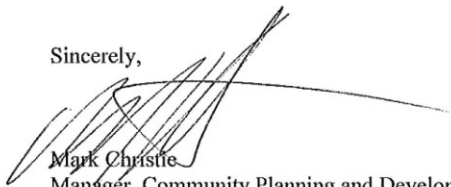
While I understand the City does not wish undue delay of this matter, the Province has an interest in ensuring that the boundary change is consistent with provincial policy and

meets the requirements of related guidelines. To this end, provincial staff remain committed to continuing to work with the City to complete this process in as expeditious a manner as possible.

On the basis of the November 1, 2012 the letter from Mr. Brian Denny, CAO of the TRCA's which states that flood protection is in place, and with the on-going work of the City to address the Special Policy Area and the related land use policy modifications required as a result of the flood protection works, we would have no objections to city staff recommending to city council the enactment of the site specific Official Plan amendment and zoning by-law amendment.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Christie', with a long horizontal line extending to the right.

Mark Christie  
Manager, Community Planning and Development