

# **TORONTO** STAFF REPORT

January 19, 2006

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Subject: Refusal and Directions Report  
OPA & Rezoning Application 05 171818 STE 28 OZ  
Applicant: MHBC Planning Limited  
Architect: Page + Steele Architects  
429 Lake Shore Blvd E  
Ward 28, Toronto Centre-Rosedale

## Purpose:

This report reviews and recommends refusal of an application to amend the Official Plan and the Zoning By-law for a comprehensive redevelopment at 429 Lake Shore Boulevard East and 324 Cherry Street which includes a two-storey 7,246 m<sup>2</sup> (78,000 ft<sup>2</sup>) home improvement store (Home Depot); a four-storey above ground parking structure; 11 residential buildings for a total of 2,280 residential units; and an urban park/square.

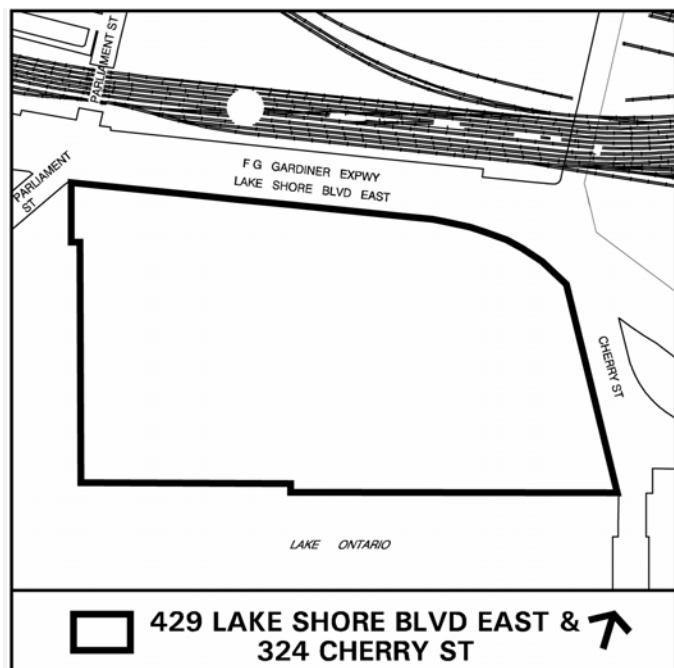
## Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

## Recommendations:

It is recommended that City Council:

- (1) refuse the application to amend the Official Plan and Zoning By-law 438-86, as amended, of the former City of Toronto, in its current form for the reasons outlined in this report; and
- (2) request the applicant to participate in a Working Committee, chaired by the Toronto Waterfront



Revitalization Corporation (TWRC) and comprised of appropriate City staff and other stakeholders, for the completion of the Precinct Plan for the east of Parliament lands (Parliament to Cherry Streets) in the East Bayfront Precinct Plan area.

### Background:

#### Proposal

In August 2005, Home Depot Holdings Inc. and 3589196 Canada Limited submitted an application, which includes a Concept Plan, to amend the Official Plan and Zoning By-law of the former City of Toronto for their land holdings from Parliament Street in the west to Cherry Street in the east. The application proposes:

- a two-storey, 7,246 m<sup>2</sup> (78,000 ft<sup>2</sup>) home improvement store (Home Depot) and Garden Centre;
- a four-storey parking structure to be used exclusively for the home improvement store;
- six residential condominium towers ranging in height from 33 to 55 storeys;
- three four-storey podium residential buildings allowing for retail uses at grade;
- two 10-storey podium residential buildings allowing for retail uses at grade;
- the extension of Queen's Quay East and the creation of a public park/open space along the southerly portion of the property;
- the creation of an urban park/square; and
- the creation of an internal street network within the site.

The application proposes a total of 153,960 m<sup>2</sup> of residential gross floor area (approximately 2,280 residential units) and approximately 32,880 m<sup>2</sup> of non-residential gross floor area.

#### History

In 1997, Home Depot submitted an application for an Official Plan Amendment, Zoning By-law Amendment and Site Plan Approval for a stand alone Home Depot store totaling 9,940 m<sup>2</sup> (107,000 ft<sup>2</sup>). The zoning on the site permitted one retail store to a maximum of 4,500 m<sup>2</sup> (48,400 ft<sup>2</sup>).

At the time of the application, the Port was also being considered as a possible location for an Athlete's Village for the 2008 Olympics, and the plans for a large format retail store in this location did not fit within this longer term vision. This site was and continues to be considered a gateway site as it is situated at the entrance to the Port Industrial District, and any use located on this property should contribute to the image and future potential of adjacent lands

Staff also recommended that the City develop an approach to big box retail which went beyond the policies set out in the in-force Official Plan and which would address where such uses might appropriately be located.

In response to this, a report entitled “City of Toronto: Impacts of Large Format Retail Development in the South District” was prepared by the Climans Group Inc. in July 2000 for the City of Toronto Urban Development Services Department.

Staff advised that a proposed retail warehouse use was not in conformity with the goals and objectives set out for development in Section 9 “Economic Activity”, and Section 14 “The Waterfront” of the in-force Official Plan.

City staff recommended refusal of the 1997 application as premature given the lack of policy direction that would guide future development on this unique waterfront site.

City Council adopted the staff recommendation to refuse the application in 1998 and the application was referred to the Ontario Municipal Board. A lengthy OMB hearing ensued in 1999, and the OMB dismissed the development application on the basis that a favourable decision was premature given the City’s Olympic bid and because a Part II Plan had not been prepared for the East Bayfront area.

#### Site and Surrounding Area

The Concept Plan area in the current application encompasses the lands bounded on the west by Parliament Street/Parliament Street slip, on the north by Lake Shore Boulevard East, on the east by Cherry Street and on the south by Lake Ontario. The lands are currently owned by three separate property owners, and the applicants have indicated that the adjacent land owner supports the general urban fabric and streetscape plan submitted. For the purposes of this report, therefore, these properties will be considered as one consolidated site.

The total site area is 9.9 hectares (24.4 acres) and forms the eastern portion of the East Bayfront Precinct Plan area.

The following uses surround the development site:

North: immediately north of the site is the CN Rail corridor, beyond which is the Distillery District mixed-use neighbourhood;

South: immediately south of the site is Lake Ontario inner harbour, beyond which are industrial uses as part of the Port Industrial area;

East: the lands east of the site are primarily industrial; and

West: currently, the lands west of the site are primarily industrial, with lands north of Queen’s Quay East in private ownership and the lands south of Queen’s Quay East owned by the City (through the Toronto Economic Development Corporation – TEDCO). This area is known as the East Bayfront Precinct Plan area and City Council recently adopted the East Bayfront Precinct Plan and Class Environmental Assessment Master Plan.

The East Bayfront area is located south of the Gardiner/Lake Shore corridor bounded by Jarvis Street in the west and Cherry Street in the east. The area covered by the recently adopted Precinct Plan is the 25 ha (62 acre) portion between Jarvis and Parliament Street. The future East Bayfront is envisioned as a mixed-use precinct with a diversity of employment and residential uses along with a significant public realm. Approximately 6,300 residential units and 185,800 m<sup>2</sup> (2 million ft<sup>2</sup>) of non-residential development is proposed to be built over a period of 15 years.

#### Official Plan

The site is designated as “Central and East Bayfront” in the Official Plan of the former City of Toronto and is subject to site specific policies. Section 14.28 of the Plan contains “Planning and Urban Design Principles for Central and East Bayfront” which state that development proposals in the Central and East Bayfront will be based on the following principles, amongst others:

- the physical form of new development should include in the East Bayfront, buildings with low to medium heights stepping down to the water;
- preservation of expansive views from the City to the water;
- new development in the Central and East Bayfront should reinforce the goal of increased public enjoyment and use of the Waterfront;
- the area south of Queen’s Quay East should include a linked system of public open spaces and parkland which, among other things, contributes to the creation of a comprehensive waterfront trail;
- redevelopment should be based on a street system, including the possible realignment and extension of the eastern part of Queen’s Quay East, which improves connections between the City and Central and East Bayfront; accommodates the Gardiner Expressway in its present location but allows for its removal or restructuring; and establishes Queen’s Quay East as a significant waterfront boulevard; and
- consistent, comprehensive and equitable approaches to flood control and soil remediation and other environmental measures.

Further, Policy 14.34 of the Plan states that due to important site planning, environmental, economic development, housing and transportation-related consideration in the East Bayfront and the area’s importance within the waterfront, it is the policy of Council not to pass by-laws to permit redevelopment in any portion of the East Bayfront until it has adopted detailed policies in a Part II Plan. It should be noted that the Central Waterfront Secondary Plan, which was adopted by City Council in April 2003 but under appeal and at the OMB, includes policies with respect to the redevelopment of the East Bayfront.

## New Toronto Official Plan

At its meeting of November 26, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new Plan, in part, with modifications. The Minister's decision has been appealed in its entirety. The Official Plan is before the Ontario Municipal Board.

When the Plan comes into full force and effect, the majority of the site will be designated as "Regeneration Area", with the lands along the water's edge and Parliament Street slip designated as "Parks" and the east end of the site as "Natural Areas".

Regeneration Areas provide for a broad mix of commercial, residential, light industrial, parks and open space, institutional, live/work and utility uses in an urban form. According to the new Plan, for each Regeneration Area, a framework for new development will be set out in a Secondary Plan. In this case, this framework for new development has been set in the Central Waterfront Secondary Plan.

With respect to lands designated as Parks and Open Spaces, the new Plan states that development is generally prohibited except for recreational and cultural facilities, conservation projects, public transit and essential public works and utilities. Areas designated as Natural Areas will be maintained primarily in a natural state, while allowing for compatible recreational, cultural and educational uses and facilities as well as conservation projects, public transit and public works for which no alternatives are available.

For City Council's information, the application as currently submitted would not conform to the Open Space and Natural Areas policies of the new Official Plan as the proposal shows several residential buildings and the home improvement store on lands designated Natural Areas.

## Central Waterfront Secondary Plan

The Central Waterfront Secondary Plan (CWSP) was adopted by City Council in April, 2003. The Secondary Plan is currently before the Ontario Municipal Board. The next pre-hearing conference to deal with outstanding appeals, including an appeal by the owners of the subject site (Home Depot) is scheduled for April 6 and 7, 2006.

The CWSP identifies the East Bayfront as becoming a prominent new waterfront address for working and living with an abundance of waterfront activities, including a new water's edge promenade and other public activities in a series of new public spaces. The Plan further states that development adjacent to the water's edge promenade shall consist of low and medium scale buildings that will reinforce the safety and usability of the public spaces.

The subject site is designated as "Regeneration Areas" and "Parks and Open Space Areas" in the Secondary Plan.

The Secondary Plan identifies parks and open space areas as used for parks, open spaces, natural areas and plazas, and can also include compatible community, recreation, cultural, restaurant and entertainment facilities.

Regeneration Areas are blocks of land that may be subdivided into smaller areas for a wide variety of mixed-use development and are generally subject to Precinct Implementation Strategies. The Plan calls for water's edge sites to be subject to the highest quality of design excellence. Development along the Public Promenade at the water's edge should be generally low to moderate in scale and views of the lake from the city protected. Precinct implementation strategies will address design issues by identifying appropriate scale, range of uses and ensuring design excellence.

Further, with respect to retail uses, Policy 43 of the CWSP states: "Large scale, stand-alone stores and/or "power centres" are not part of the vision for the Central Waterfront. New retail development will only be considered within the context of the City's urban planning principles and must be supportive of the other core principles and policies of this Plan. Retail and other uses which require large areas of unscreened surface parking will not be permitted. Within the West Don Lands, this policy does not supersede S. 10.2 and S. 5.3 of the King Parliament Secondary Plan."

While the CWSP is still before the OMB, Policy 43, as it applies to the West Don Lands Precinct Plan has now been approved.

The CWSP does allow for residential development as part of aspiring new mixed-use waterfront communities; however, as submitted, the application would not conform to policies in the CWSP because the Plan does not envision 33 to 55 storey buildings adjacent to the water's edge. Significant portions of the subject site have been designated as Parks and Open Spaces which do not permit the scale of development proposed by the applicants on this site.

In addition, Policy 43 would not permit a stand-alone Home Depot store on this site.

#### East Bayfront Precinct Plan

The CWSP anticipates the preparation of precinct implementation strategies to provide for comprehensive orderly development, soil cleanup, flood control, servicing, urban design, community improvement and environmental performance standards. Amongst the elements required in precinct implementation strategies are the following:

- height and massing;
- streets and blocks structure;
- location/phasing of parks, open spaces, public use areas, trails and access linkages;
- urban design provisions including quality of waterfront streets, the public realm, signage; and
- provisions for road, transit trails and bicycle route alignments.

The Precinct Plan exercise that was undertaken by the (TWRC) in conjunction with City staff for the East Bayfront area was designed to incorporate these noted elements.

The East Bayfront area is located south of the Gardiner/Lake Shore corridor bounded by Jarvis Street in the west and Cherry Street in the east. However, the area that was brought forward for Council's endorsement was the 25 ha (62 acre) stretch between Jarvis Street and Parliament Street. The Precinct Plan work for the lands between Parliament and Cherry Street, and the subject of this development proposal, will be brought forward to Council once the direction arising from two major Environmental Assessments – the Queen's Quay East extension and the mouth of the Don River naturalization – has been established. The approved Precinct Plan looks at the lands east of Parliament Street in a conceptual nature only.

The Precinct Plan allows for a range of built form including loft-type mixed use buildings, low and mid-rise buildings, townhouses, mews houses and small floor plate point towers. Building heights rise in tiers from 20 metres (4-6 storeys) along the water's edge promenade to 38 metres (10-12 storeys) along both sides of Queen's Quay East. Along the Gardiner/Lake Shore corridor, a 46 metre (14 storey) building street wall is proposed with an allowance for some buildings to rise to 58 metres (18 storeys). In order to provide for a distinctive skyline profile, interest and variety of built form, the plan provides for four slender 120 metres (35 to 40 storey) buildings at entry points to the precinct. These point towers will be limited in their floor plate to 740 m<sup>2</sup> (8,000 ft<sup>2</sup>) to prevent them from taking on the proportions of a "slab" building.

It is likely that some of the development principles established in the Precinct Plan with respect to height and massing, amongst others, for west of Parliament Street will guide Precinct Planning work for east of Parliament Street.

As submitted, the development application would not conform to the policies in the East Bayfront Precinct Plan with respect to building heights and overall density numbers. The Precinct Plan calls for the tallest building element to be no more than 40 storeys in height, and limits them to a total of four such buildings to act as entry points at key intersections throughout the precinct. Six buildings ranging from 33 to 55 storeys are being proposed in the development application with no rationale as to where they are being placed.

With respect to overall density, while the eastern portion of the East Bayfront Precinct has been discussed in conceptual terms only pending the completion of further EA work, the Precinct Plan calls for an overall gross floor area in the lands between Parliament and Cherry Streets of approximately 32,944 m<sup>2</sup> (354,617 ft<sup>2</sup>) for both residential and non-residential development. The development application proposes a total of approximately 186,840 m<sup>2</sup> (2,011,194 ft<sup>2</sup>) which amounts to more than five times the density contemplated by the Precinct Plan for this 9.7 ha (24 acre) site.

## Zoning

In 1995, in recognition of the instability of the East Bayfront as a redevelopment area, the former City of Toronto Council established a Working Committee to review the East Bayfront planning

framework. One of the objectives of the study was to identify where additional non-residential land uses could be permitted.

As a result of this study, a new mixed industrial-commercial category “IC D3 N1.5” was introduced by By-law 1997-0184. The amount of non-residential floor area for commercial and institutional uses was raised from 0.5 to 1.5 times the area of the lot and new retail development east of Jarvis Street was capped at 4,500 m<sup>2</sup>.

Comments:

This application was originally submitted in August 2005 and is considered incomplete because the following background reports have yet to be submitted:

- Planning Rationale Study
- Transportation Impact Study
- Servicing Report
- Stormwater Management Report
- Arborist Report
- Sun/Shadow Study
- Environmental Impact Study

Given that these reports were not submitted, the application has not been streamed in the City’s STAR application tracking system.

Notwithstanding the absence of this required background documentation, City staff has some fundamental concerns with respect to the application.

The East Bayfront Precinct Plan that was adopted by City Council in December 2005 provides the foundation for the preparation of a comprehensive Zoning By-law to regulate future developments. However, the Precinct Plan is currently focused on the Jarvis Street to Parliament Street area and refers to the lands to the east of the Parliament Street basin on a conceptual level only in order to demonstrate future potential. There are two complex infrastructure and design elements which are the focus of specific EAs and which will affect how the site will ultimately be developed. The first is the naturalization of the mouth of the Don River and related flood protection requirements for the Port Lands. The second is the design and alignment of Queen’s Quay Boulevard as it extends east of Parliament Street and intersects with Cherry Street. Both of these infrastructure components are the subjects of EAs which are currently underway.

Don Mouth Naturalisation and Port Lands Flood Protection Project

The Toronto and Region Conservation Authority (TRCA) has initiated the Don Mouth Naturalisation and Port Lands Protection Project on behalf of the TWRC. This project will develop a preferred design to transform the existing mouth of the Don River, including the Keating Channel into a more natural river outlet into the lake.

Two EA processes will be required to develop a preferred design for the mouth of the Don River and flood protection project. The first EA process will meet the provincial EA requirements



through an Individual Environmental Assessment, as defined in the Ontario Environmental Assessment Act. The second EA process will address federal concerns using an Environmental Screening process as defined by the Canadian Environmental Assessment Agency. However both reports will be developed in coordination to streamline the process and ensure that all requirements for both levels of government are addressed at the same time.

A Technical Advisory Committee (TAC) has been struck for the Individual EA process comprised of stakeholders, technical representatives and community leaders. The TAC consists of representatives from numerous community groups, government agencies and organizations, including Home Depot Canada. The TAC's role is to provide advice and streamline the development of the EAs by providing a forum for agency consultation. Representatives from Home Depot have been invited to participate in the TAC and public meetings.

The TRCA's consultant team has presented a draft set of four alternatives with respect to a renaturalised mouth of the Don River which will be assessed during the EA process. These alternatives were presented at a Public Forum on January 10, 2006. Two of the alternatives include flood passage on a portion of the subject site which would impact the future redevelopment of these lands. The TRCA has indicated, however, that it is too early in the process to make a final determination on a preferred alternative.

The TRCA has further stated that the application is premature until such time as the EA process is complete and the preferred design for the Don Mouth Naturalisation and Port Lands Flood Protection is approved by both the Ontario Ministry of the Environment and the federal government.

#### Queen's Quay East Road Extension EA/Land use study east of Parliament Street lands

The TWRC has indicated that the Terms of Reference for the Class EA work for the Queen's Quay road extension and land use and urban design component for the east of Parliament lands is now complete and consultant services are currently being tendered. The anticipated schedule is to have this work completed in approximately one year's time.

The TWRC further advised that an east of Parliament Street Working Group made up of TWRC, City staff, stakeholders and property owners in the affected area will be in place once the consultants have been selected.

With respect to the development proposal, the TWRC has indicated that they cannot support the application at this time given their concerns with respect to the proposed 55-storey tower at the water's edge. Further, the application's proposed southerly route for the Queen's Quay East extension could potentially conflict with the EA for the naturalization of the mouth of the Don River. As well, the proposed intersection of Queens Quay East with Cherry Street and Lake Shore Boulevard East potentially conflicts with the EA work for the extension of Queens Quay East.

Until such time as substantive work is done on these two EA's, which will give staff direction as to the proposed outcome of the final alignment of Queen's Quay East and the mouth of the Don

River, it is premature for staff to provide an appropriate analysis of the development proposal. Staff therefore recommends that the proposal be refused in its present form until an appropriate amount of information is available to inform a professional planning opinion and to make a recommendation with respect to redeveloping these lands.

Staff further recommends that the applicants participate in a Working Group to be chaired by the TWRC and made up of staff from the TWRC, City of Toronto, TRCA and other affected stakeholders. This group would be similar to the TAC process undertaken by the TRCA for the Don Mouth Naturalisation EA scope of work.

Notwithstanding the prematurity of the application, it should also be emphasized that the application as presently submitted, does not conform to many of the in force and proposed policy directives for this waterfront site, as outlined in the body of this report. This position has also been supported by the TWRC and TRCA.

Depending upon the outcome of the EAs, portions of the site will still have development potential. The scope of work that will be undertaken through the east of Parliament Street Working Group will help to inform the most appropriate form of development for these lands.

Conclusions:

Staff are recommending refusal of the application in its present form and request the applicant to participate in a Working Committee chaired by the TWRC and comprised of City staff and other stakeholders for the completion of the Precinct Plan for the east of Parliament lands (Parliament to Cherry Streets) in the East Bayfront Precinct Plan area.

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List of Attachments:

Attachment 1: Site Plan  
Attachment 2: Zoning

### Attachment 1: Site Plan



TORONTO INNER HARBOUR

## 429 Lake Shore Boulevard East & 324 Cherry Street

### Site Plan

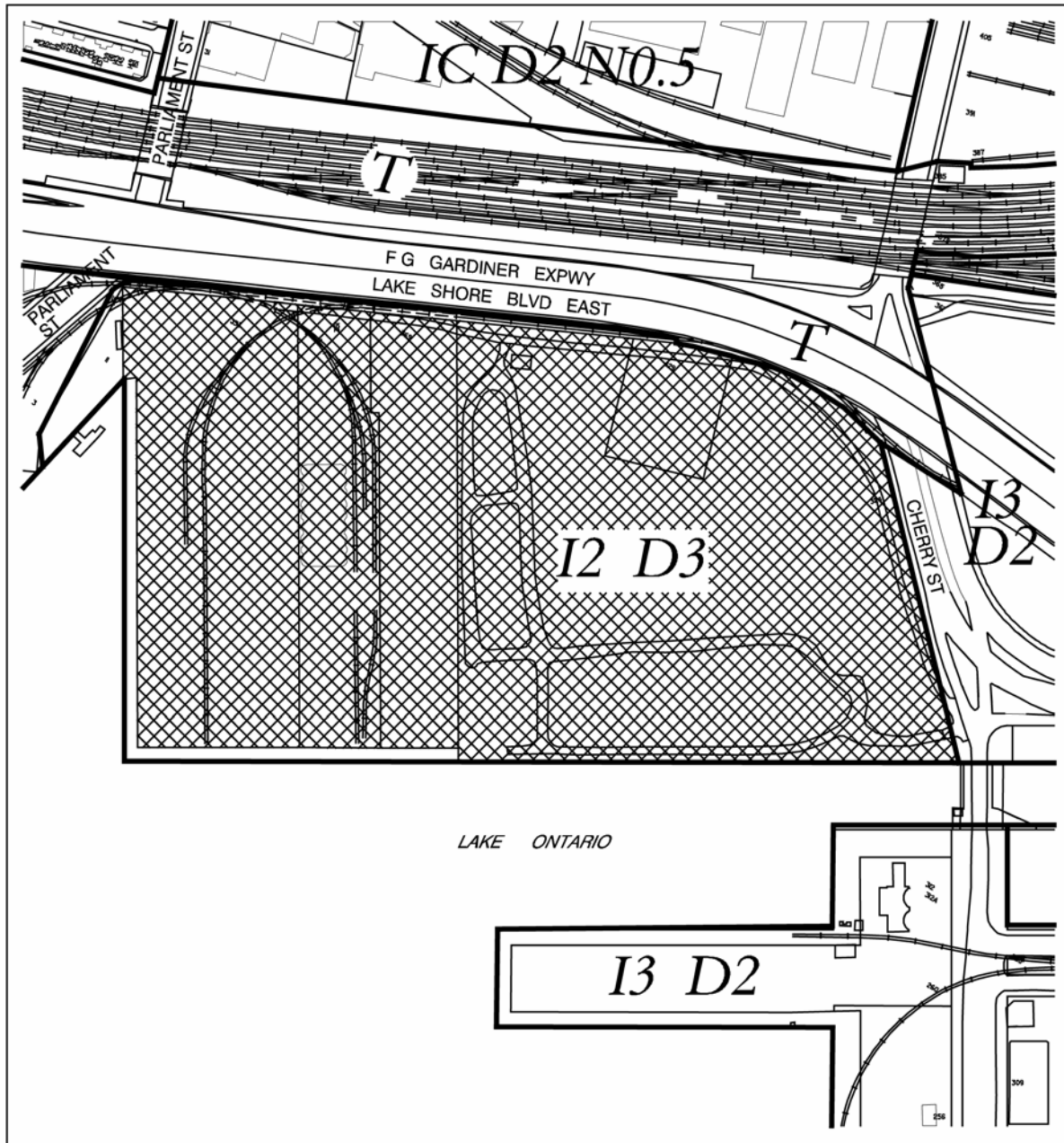
Applicant's Submitted Drawing

Not to Scale  
01/11/06



File # 05\_171818

Attachment 2: Zoning



 **TORONTO** City Planning  
Division  
**Zoning**

429 Lake Shore Blvd East & 324 Cherry St

File # 05\_171818

- I2 Industrial District
- I3 Industrial District
- IC Industrial District
- T Industrial District



Not to Scale  
Zoning By-law 438-86 as amended  
Extracted 01/10/06 - DR