

Unilever Precinct Planning Study Secondary Plan and Planning Framework, and East Harbour Official Plan and Zoning By-law Amendment Applications – Supplementary Report

Date: June 26, 2018

To: City Council

From: Chief Planner and Executive Director, City Planning

Wards: 30

SUMMARY

At its meeting on June 7, 2018, Planning and Growth Management Committee (PGMC) held a Statutory Public Meeting for the Unilever Precinct Secondary Plan and East Harbour Zoning By-law Amendments (the "East Harbour by-laws"). PGMC adopted the recommendations of staff with the exception of referring Recommendation 8, which dealt with Section 37 considerations, for further comment from the local councillor with a view to achieving a better off-site affordable housing package and report directly to City Council, including with any required modifications.

This supplementary report summarizes the adjustments to the Section 37 package described in the June 5, 2018 Report from the Chief Planner, achieving the direction of PGMC above. It also summarizes staff-recommended refinements to the Secondary Plan, Planning Framework, and East Harbour by-laws, as a result of further discussions. Attachments 1, 2, 3 and 4 to this report comprise the modified versions of the Secondary Plan, Planning Framework, and East Harbour by-laws, recommended to Council.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning, recommends that:

1. City Council delete Planning and Growth Management Committee Recommendation 1 and replace it with the following:

City Council adopt the Official Plan Amendment for the Unilever Precinct Secondary Plan, attached as Attachment 1 to the report (June 26, 2018) from the Chief Planner and Executive Director, City Planning.

2. City Council delete Planning and Growth Management Committee Recommendation 2 and replace it with the following:

City Council endorse the Unilever Precinct Planning Framework, dated June 2018, attached as Attachment 2 to the report (June 26, 2018) from the Chief Planner and Executive Director, City Planning.

3. City Council delete Planning and Growth Management Committee Recommendation 3 and replace it with the following:

City Council amend Zoning By-law 438-86, as amended, for the lands at 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue, substantially in accordance with draft Zoning By-law Amendment in Attachment 3 to the report (June 26, 2018) from the Chief Planner and Executive Director, City Planning.

4. City Council delete Planning and Growth Management Committee Recommendation 4 and replace it with the following:

City Council amend Zoning By-law 569-2013 for the lands at 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue, substantially in accordance with the draft Zoning By-law Amendment, in Attachment 4 to the report (June 26, 2018) from the Chief Planner and Executive Director, City Planning.

5. City Council add the following recommendation:

City Council require the owner(s) of 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue (the "East Harbour Lands") to enter into and/or register an Agreement(s) pursuant to Section 37 of the Planning Act, together with satisfactory provisions in the amending by-laws, to secure the items described below, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor and at the owner's expense, before introducing the necessary Bills to City Council for enactment of Recommendations 3 and 4 above:

- a. Public art on site equivalent to a minimum value of \$10,500,000, generally in accordance with the approach outlined in the City of Toronto's Percent for Public Art Guidelines. Art will be provided throughout the development, with delivery linked to development phasing, and in accordance with the Public Art Plan contained within the Unilever Precinct Planning Framework. Details will be further defined through the completion by the landowner of a Public Art Master Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor and the community.
- b. Design, construction, and provision by the owner of a minimum of 1,400 square metres of gross floor area to be used as affordable incubator

employment space. The space will be finished to a shell condition, to be leased at nominal cost to the City for a term of 25 years within the approved development, with a contribution by the owner of \$613,291 towards the fit-out of the space. The owner consents to the City subleasing the workspace to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver the small business incubation programming.

c. Design, construction, and provision by the owner of a minimum of 2,800 square metres of gross floor area, with a prominent ground floor presence and being on the first and second storeys, to be to be used as affordable community and/or cultural space. The space will be finished to a shell condition, to be leased at nominal cost to the City for a term of 25 years within the approved development, with a contribution by the owner of \$1,226,581 towards the fit-out of the space. The owner consents to the City subleasing the community and/or cultural space to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver the programming.

d. A cash contribution by the owner to the City of \$5,000,000 to be allocated to support the construction of off-site affordable rental housing in the immediate area.

e. A cash contribution by the owner to the City of \$3,500,000 to be allocated to community services and facilities priorities to serve the area worker population as well as the adjacent neighbourhood, including all or some combination of:

1. non-profit licensed workplace ancillary daycare facilities to serve the worker population;
2. multi-purpose community space to be located in an accessible and highly visible location for non-profit community organizations to deliver human services and/or arts and cultural programs all or some combination of;
3. improvements to library and recreation facilities that serve the area; and/or
4. the refurbishment and adaptive reuse of the listed buildings at 433 and 447 Eastern Avenue buildings, in the event that these buildings are no longer required for municipal works yard purposes and surplus, with such contribution to be specifically targeted towards the adaptive reuse of these buildings for arts and cultural uses.

f. The design, construction and maintenance of landscape and public realm improvements on top of the flood protection landform, at a value of at least \$1,000,000, the timing of and design of which shall be to the satisfaction of the Toronto and Region Conservation Authority and the Chief Planner and Executive Director, City Planning.

g. East Harbour will be developed in phases, and the owner will provide the community benefits set out in Parts a to f above in accordance with the

phases set out below in Table 1, with the phases as generally illustrated on Attachment 7 to the report (May 24, 2018) from the Chief Planner and Executive Director, City Planning. The community benefits for each phase, including the timing and location thereof, shall be secured in phase-specific Section 37 Agreement(s), to be executed prior to the issuance of the first above-grade building permit for each phase, as applicable. Each phase-specific agreement(s) shall address the appropriate timing of the contributions in relation to the gross floor area under development.

Table 1: Section 37 Phasing

Phase	Section 37 Obligation
A	<ul style="list-style-type: none"> • Design and construction of incubator space in the amount of 1,400 square metres, in accordance with Part b above. • Financial contribution towards fit-out costs to a minimum amount of \$613,291.
B	<ul style="list-style-type: none"> • Delivery of public art valued at a minimum of \$3,570,000. • Design and construction of public realm improvements on top of a flood protection landform, at a minimum value of \$1,000,000, to the satisfaction of the Toronto and Region Conservation Authority and the Chief Planner and Executive Director, City Planning. • A financial contribution of \$3,500,000 to the City, to be allocated to off-site affordable rental housing
C	<ul style="list-style-type: none"> • Delivery of public art valued at a minimum of \$3,735,000. • Design and construction of non-profit community/cultural space in the amount of 2,800 square metres, in accordance with Recommendation c. • Financial contribution towards fit-out costs to a minimum amount of \$1,226,581. • Financial contribution of \$1,000,000 to the City, to be allocated to community services and facilities priorities as set out in Part e above.
D	<ul style="list-style-type: none"> • Delivery of public art valued at a minimum of \$1,100,000. • A financial contribution of \$1,500,000 to the City, to be allocated to off-site affordable rental housing • A financial contribution of \$1,000,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as set out in Part e above.
E	<ul style="list-style-type: none"> • Delivery of public art valued at a minimum of \$2,095,000. • A financial contribution of \$1,500,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as set out in Part e above.

h. Council authorizes staff to move the community benefits in Table 1 between phases, without requiring an amendment to the zoning by-laws, as long as any such changes are secured in the phase-specific

agreement(s) pursuant to Section 37(3) of the Planning Act, or amendments thereto, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

i. Council authorizes staff to make minor adjustments to Schedule B to the zoning by-laws referenced in Recommendations 3 and 4 above, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Economic Development and Culture, and the Director, Real Estate Services.

j. In the event the cash contributions referred to in Parts a.-g. above have not been used for the intended purpose within ten (10) years of the date of the issuance of the first above-grade building permit for the identified timeframe within the subject provision, the cash contribution may be directed for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

k. The payments required in Part a.-g. above, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.

l. The benefits identified in Parts b. and c. above will be administered by the General Manager, Economic Development & Culture, subject to terms and conditions to the satisfaction of the Director, Real Estate Services.

m. The following matters shall be secured in the Section 37 Agreement and the zoning by-law amendments as a legal convenience to support development at the owner's expense, with the timing of matters to be secured in phase-specific Section 37 Agreement(s) where appropriate, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor:

1. The owner shall agree to provide the following, to the satisfaction of the General Manager, Transportation Services, the Chief Engineer and Executive Director, Engineering and Construction Services, the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:

A. Transportation, streetscape, intersection and public realm improvements linked to the development proposal, including letters of credit to secure works.

- B. Construction of a Flood Protection Landform, in accordance with the final detailed design of the Port Lands Flood Protection project, and conveyance of the constructed landform in its entirety to the Toronto and Region Conservation Authority.
- C. Submission of a Construction Management Plan and Traffic Mitigation Plan for each phase of development, to the satisfaction of the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.
- D. Creation of area-specific design guidelines to the satisfaction of the Chief Planner and Executive Director, City Planning, to govern design excellence and high quality materials for the future buildings within the Precinct.
- E. Construction and maintenance of the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time.
- F. Provision and implementation of landscape phasing plans to reflect interim conditions for each development phase during its construction period.
- G. Publicly-Accessible Privately Owned Space (POPS), easements over the POPS, and other public access easements as necessary over privately-owned open spaces, all to provide public access for use by the general public, which easements shall include provisions for rights of support if necessary, and insurance and indemnification of the City by the owner, to the satisfaction of the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor. The public access easements are to be conveyed to the City free and clear of all physical and title encumbrances unless otherwise agreed to by City Planning and the City Solicitor. The owner shall own, operate, maintain and repair the POPS and other publicly accessible spaces. The owner shall install and maintain signage within the POPS, in accordance with the City's Urban Design Guidelines for POPS.
- H. Prior to issuance of the first above grade building permit for any phase or substantial building of at least 20 metres or 6 storeys, the owner shall, at the request of the Chief Planner and Executive Director, City Planning, submit an updated, detailed Wind Study including wind tunnel analysis, satisfactory to the Chief Planner and Executive Director, City Planning, which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, and the owner shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning.
- I. Prior to issuance of the first above grade building permit for any phase or building, the owner shall submit, or provide updated

submissions of, a compatibility study or studies, which shall be prepared to the satisfaction of the City of Toronto in consultation with the Ministry of the Environment and Climate Change, evaluating how potentially sensitive uses in the given phase or building within 1,000 metres of existing major facilities such as the Enbridge facility located at 405 Eastern Avenue and the City works yard located at 433 Eastern Avenue and 50 Booth Avenue, would affect the ability of those facilities to carry out normal business activities. The compatibility study or studies shall also evaluate potential adverse effects from odour, noise and/or other contaminants on anticipated users of the proposed sensitive uses, and recommend how potential adverse effects may be mitigated to minimize risk to public health and safety and to ensure the long term viability of major facilities. Mitigation measures shall be implemented by the proponent of development and secured through planning instruments.

- J. At the time of registration of draft plan of subdivision, in accordance with Section 42 of the Planning Act, the owner shall convey to the City an on-site parkland dedication with direct frontage on New Street E, south of New Street E and east of the Don Roadway, as shown generally on the Master Plan Update dated May 2018, page 13, prepared by Urban Strategies Inc., with satisfactory arrangements in the Section 37 Agreement(s) to secure the conveyance (which may include the provision of letters of credit or other securities) for lands to be developed in advance of the registration of the draft plan of subdivision, all to the satisfaction of the General Manager, Parks, Forestry & Recreation (PFR), and the City Solicitor.
- K. The owner shall at its expense provide knock-out panels along the north walls of any future concourse level of the buildings immediately adjacent to the Transit Hub, for potential future underground pedestrian network connections, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- L. The owner shall, at the request of the Toronto Transit Commission (TTC), agree to complete a TTC technical review(s) respecting the development and a potential future Relief Line TTC second exit/entrance facility, and shall address all concerns arising from the technical review(s) to the satisfaction of the TTC in consultation with the Chief Planner and Executive Director, City Planning Division, and Metrolinx.
- M. The owner shall convey an easement or fee simple conveyance to the City and Toronto Transit Commission (TTC), at its election, for access and other rights as may be required for the TTC second exit/entrance facility over and through the portion of development lands owned by the Owner, should such be requested to connect to the Relief Line in future.
- N. The owner shall enter into agreement(s) with the Toronto Transit Commission that will set out the Owner's obligations to construct and maintain a new exit/entrance within the development and the

necessary easements in place for public egress and ingress. The terms of the agreement shall be negotiated with the Owner, in consultation with the Chief Planner and Executive Director, City Planning Division and the agreement shall be to the satisfaction of TTC in consultation with the Chief Planner and Executive Director, City Planning Division.

6. City Council, pursuant to subsection 45(1.4) of the *Planning Act*, R.S.O. 1990, c. P.13, permit applications for minor variances from the former City of Toronto Zoning By-law No. 438-86 and City-wide Zoning By-Law 569-2013 in respect of the renovation, extension and adaptive reuse of the existing former Unilever Soap Factory at 21 Don Valley Parkway, and to refine the boundaries of zoning mapping in accordance with design and construction details of the flood protection landform and/or transit station, before the second anniversary of the day on which the Zoning By-law amendments in Recommendations 3 and 4 above are enacted.

7. City Council determine that no further notice is required pursuant to section 34(17) of the *Planning Act*, R.S.O. 1990, c. P.13. with respect to the changes to the proposed Zoning By-law Amendments.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

At its meeting of June 7, 2018, Planning and Growth Management Committee held a statutory public meeting on the Unilever Precinct Secondary Plan and the East Harbour Zoning By-law Amendments. At that meeting, the Committee adopted staff's recommendations with the exception of Recommendation 8, which related to Section 37 matters. Recommendation 8 was referred to staff for further discussion with the Local Councillor, with a view to achieving a better off-site affordable housing package. Staff were asked to report directly to Council on the outcomes of these further discussions, including any required modifications.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG30.5>

COMMENTS

The Comments section of this report summarizes modifications recommended to the East Harbour Section 37 package, and to the Unilever Precinct Secondary Plan, Planning Framework, and the East Harbour by-laws.

1. East Harbour Section 37 Package

In the June 5, 2018 Supplementary Report from the Chief Planner and Executive Director, City Planning, the details of the East Harbour Section 37 package were described. On June 7, 2018, PGMC referred the Section 37 recommendation to staff for further discussion with the local councillor, with a view to achieving a better off-site affordable housing package.

Through discussions with the local councillor and First Gulf, agreement has been reached to increase the off-site affordable rental housing contribution from \$2.5 million to \$5 million dollars. Equivalent contribution decreases of \$500,000 to each of public art, community services and facilities, the Broadview Underpass public realm, the flood protection landform public realm, and above base park improvements, allowed for this increase to be accomplished within the same package value envelope as had been previously established. Changes to the recommended Section 37 package are summarized in Table 2 below.

Table 2: Section 37 Modification Summary

Category	June 5 Staff Report	Revision
Public Art	\$11,000,000	\$10,500,000
Affordable Incubator Space	1,400 square metres \$613, 291 fit-out	Unchanged
Affordable Community and/or Cultural Space	2,800 square metres \$1,226,581 fit-out	Unchanged
Off-site Affordable Rental Housing	\$2,500,000	\$5,000,000
Community Services and Facilities	\$4,000,000	\$3,500,000
Broadview Underpass Public Realm	\$500,000	-
Flood Protection Landform Public Realm	\$1,500,000	\$1,000,000
Above Base Park Improvements	\$500,000	-

2. Recommended Modifications to the Implementing Secondary Plan, Planning Framework and Zoning By-laws

Amended versions of the East Harbour by-laws have been prepared to reflect the modifications described above. These are attached as Attachments 3 and 4 to this report.

In addition to modifying Section 37, staff have continued conversations with area landowners, Metrolinx and the Toronto Transit Commission, the Toronto and Region Conversation Authority, Waterfront Toronto, and members of the public leading up to and following the June 7 PGMC meeting. The Unilever Precinct Secondary Plan, Planning Framework, and the East Harbour by-laws attached to this report reflect the additional recommended modifications emerging from these discussions.

The recommended modifications do not change the intent or function of the planning instruments. Recommended modifications to the Secondary Plan and Planning Framework clarify and reorganize policies related to the public realm and built form, and add sidebars to further define key concepts.

Recommended modifications to the zoning by-laws update the Section 37 language, and also further refine the descriptions of permitted and prohibited uses; the approach to securing private open spaces; the format of describing required setbacks, setbacks and separations; the holding provisions; and other technical matters.

First Gulf has indicated their intent to submit a site plan approval application for the renovation and adaptive reuse of the Soap Factory building in the fourth quarter of 2018. Future site plan approval will not precede the coming into force of the East Harbour by-laws, with zoning bills to advance in accordance with Recommendation 6 from the June 7 PGMC meeting.

Given the current uncertainty respecting certain boundary lines, including for the flood protection landform and future roadways, staff are recommending relief from the two year statutory prohibition on variances with respect to the Soap Factory building. It is anticipated that the Soap Factory site plan application will be considered within the two years immediately following enactment of the East Harbour by-laws. Any variances requested would continue to be required to meet the *Planning Act* tests.

Should any refinements be identified as desirable in the consideration of these items, staff will provide a subsequent report to the July 2018 meeting of the Planning and Growth Management Committee and/or Council, as necessary.

CONTACT

Carly Bowman, Senior Planner, Tel. No. 416-338-3788,
Email: carly.bowman@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning

ATTACHMENTS

Attachment 1: Draft Official Plan Amendment
Attachment 2: Unilever Precinct Planning Framework
Attachment 3: Draft Zoning By-law Amendment, 438-86
Attachment 4: Draft Zoning By-law Amendment, 569-2013