

**309 Cherry Street – Phase 1 and Phase 2 – Zoning  
Amendment Application – Request for Direction Report**

<b>Date:</b>	April 23, 2018
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Acting Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 30 – Toronto-Danforth
<b>Reference Number:</b>	12 131809 STE 30 OZ; 16 271912 STE 30 OZ

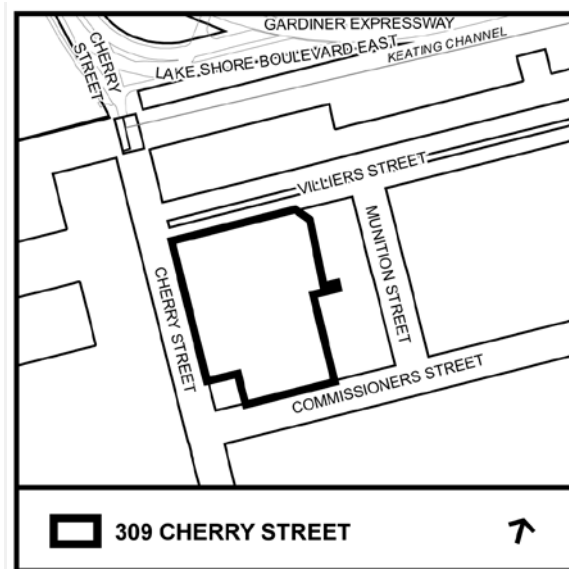
**SUMMARY**

This report reviews a Phase 1 (12 131809 STE 30 OZ) and Phase 2 (16 271912 STE 30 OZ) development proposal, as a combined, inappropriate development proposed for the subject site.

In March 2012, Aird & Berlis LLP submitted a rezoning application for the northern half (Phase 1) of the site on behalf of the landowners (two Ontario numbered companies, 2034055 Ontario Limited and 1337194 Ontario Inc.). This application is considered Phase 1 of a proposed two-phase development on the subject site.

In December 2016, Castelpoint Numa submitted a rezoning application for the southern half of the site (Phase 2) on behalf of the landowners (the same two Ontario numbered companies noted above). This application is considered Phase 2 of a proposed two-phase development on the subject site.

The Phase 1 application proposes to develop the northern half of the subject site with a mixed-use development comprising of an eight-storey office/retail base building, a 26-storey residential tower and two partially retained heritage buildings. The Phase 2 application proposes to



develop the southern half of the subject site with an 11-storey building along Cherry Street and a 52-storey building atop a podium base ranging in height from 4 to 12-storeys along Commissioners Street and the proposed future Foundry Street.

The combined Phase 1 and Phase 2 proposals do not conform to the Council-adopted direction for the Port Lands and Villiers Island, as outlined through the Port Lands Planning Framework and the Villiers Island Precinct Plan, respectively.

On October 31, 2014, the applicant appealed their Phase 1 proposal to the Ontario Municipal Board ("OMB" or "Board") (now known as the Local Planning Appeal Tribunal – "LPAT" or "Tribunal") on the grounds that Council has failed to make a decision within the prescribed timelines in the *Planning Act*. A Request for Directions Report was adopted by City Council on March 31, 2015 pertaining to this application. Further information on that decision is found within this report. This report updates City Planning's position on the Phase 1 application.

On June 1, 2017, the applicant appealed their Phase 2 proposal to the OMB on the grounds that Council has failed to make a decision on the application within the prescribed timelines in the *Planning Act*. A pre-hearing conference related to both the Phase 1 and Phase 2 matters is scheduled for June 15, 2018.

This report reviews both the Phase 1 and Phase 2 applications to amend the Zoning By-law. Staff recommend that Council authorize the City Solicitor, City Planning staff and other appropriate City staff attend the LPAT hearing to oppose the applications in their entirety.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff to attend the Local Planning Appeal Tribunal hearing to oppose the appeal of both of the Zoning By-law Amendment applications for 309 Cherry Street as discussed in this report.
2. City Council authorize the Acting Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor, to identify the services, facilities and matters pursuant to Section 37 of the *Planning Act* to be secured in the event the Local Planning Appeal Tribunal approves the Zoning By-law amendment application as proposed in whole or in part.
3. City Council direct City Planning staff, in the event that the Local Planning Appeal Tribunal allows the appeal in whole or in part, to request that the Local Planning Appeal Tribunal withhold its Order(s) approving the applications until such time as the Tribunal has been advised by the City Solicitor that:

- a. the applicant has received final approval of any Official Plan Amendment application(s) required for the approved development;
- b. the Toronto and Region Conservation Authority and Chief Planner have provided, in writing, the necessary conditions to ensure the potential risk to human health and safety and damage to property and to reduce any potential liability of public authorities where a landowner elects to proceed with the development prior to the completion of necessary flood protection infrastructure;
- c. the proposed Zoning By-law Amendments are in a form satisfactory to the Chief Planner and City Solicitor; and
- d. a Section 37 Agreement has been executed and registered to secure the Section 37 contribution and related matters satisfactory to the Chief Planner.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

### **Port Lands Acceleration Initiative and Flood Protection**

At its meeting of July 6-8, 2010, City Council adopted the staff report from the Deputy City Manager, entitled "Lower Don Lands Project", dated May 31, 2010. This report sought City Council support for a number of studies and plans completed by Waterfront Toronto and the TRCA for the lands south of the rail corridor, east of Small Street, West of the Don Roadway and north of the Ship Channel known as the "Lower Don Lands". City Council adopted the following recommendations:

- 1. Support the preferred alternative of the Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment and its submission to the Minister of the Environment for approval;
- 2. Endorse the Lower Don Lands Framework Plan (May 2010) to guide the revitalization of the Lower Don Lands and endorse the Keating Channel Precinct Plan (May 2010) as it relates to lands west of and including Cherry Street;
- 3. Authorize Waterfront Toronto to put the Lower Don Lands Class EA Infrastructure Master Plan (May 2010) in the public record in accordance with the requirements of the Municipal Class Environment Assessment; and
- 4. Authorize Waterfront Toronto to put the Keating Channel Precinct Class EA Environmental Study Report (May 2010), as it relates to lands west of and including Cherry Street, in the public record in accordance with the requirements of the Municipal Class Environmental Assessment while addressing the need for the lowering of Cherry Street north of the CN rail underpass.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX45.15>

At its meeting of August 25-27, 2010, City Council adopted Official Plan Amendment (OPA) 388 and 389 for the Lower Don Lands (including lands north of Keating Channel) and By-law 1174-2010 which facilitates the development of the Keating Channel Precinct West. OPA 388 includes policies intended to preserve the proposed alignment of the Lower Don Lands EA and to provide for phasing and controlled development. It was premised in part on the Don Mouth Naturalization and Port Lands Flood Protection EA, as well as other Environmental Assessments to facilitate the development of the Keating Channel Precinct West. The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.TE36.19>

At its meeting of September 21 and 22, 2011, City Council endorsed the protocol for the revitalization of the Port Lands, which initiated the Port Lands Acceleration Initiative (PLAI), a joint effort involving the City of Toronto, Waterfront Toronto, and Toronto and Region Conservation Authority (TRCA). The Council direction included a review of the studies previously endorsed by City Council related to the above-mentioned "Lower Don Lands Project" and the development of a business and implementation plan. The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX9.6>

At its meeting of October 2-4, 2012, City Council adopted the staff report entitled "Port Lands Acceleration Initiative – Final Report", dated August 24, 2012. City Council endorsed the Summary of Findings of the initial phase of the PLAI process and adopted recommendations and directions to amend the Don Mouth and Lower Don Lands environmental assessments, based on a revised flood protection scheme. The Council decision also initiated the Port Lands Planning Framework and precinct planning for three areas within the Port Lands. The applicant of the current proposal deputed at Executive Committee and provided a written submission to City Council requesting that the 309 Cherry Street site be included within the boundaries of the Cousins Quay Precinct (today known as the Villiers Island Precinct). City Council directed City staff to consider expansion of precinct boundaries to address the applicant's submissions to Community Council. Additionally, staff were directed to address a number of issues identified by Lafarge Canada Inc., including land use compatibility issues associated with their continued operation. The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX22.1>

The written submission from the applicant's deputation is available here:

<http://www.toronto.ca/legdocs/mmis/2012/cc/comm/communicationfile-32025.pdf>

At its meeting of May 7, 2013 City Council adopted the staff report entitled "Port Lands Acceleration Initiative – Update", dated April 9, 2013. City Council adopted recommendations that revised the precinct boundaries for the Cousins Quay Precinct (now referred to as the Villiers Island Precinct) and the Film Studio District, ensured

coordination of the Port Lands Planning Framework with the South of Eastern Strategic Direction, and approved a review of Toronto Port Lands Corporation (TPLC) agreements, policies and practices in the Film Studio District. The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX31.8>

At its meeting of July 8-11, 2014, City Council adopted the staff report entitled, Port Lands Acceleration Initiative Phase 2 – Progress Report, dated June 5, 2014. Among 13 recommendations adopted by City Council, three had direct implications for the subject property of this report:

1. City Council directed the Deputy City Manager Cluster B and the Chief Planner and Executive Director, City Planning, with Waterfront Toronto, to complete the development of the Port Lands Planning Framework, Port Lands and South of Eastern Transportation and Servicing Class EA Master Plan, Film Studio District and Cousins Quay/Villiers Island precinct plans, based on the Land Use Direction in Appendix 3 to the report (June 5, 2014) from the Deputy City Manager, Cluster B including any amendments recommended for the Central Waterfront Secondary Plan and implementing planning instruments such as Zoning By-laws or a Development Permit System, and report back to Planning and Growth Management Committee in the first half of 2015.
2. City Council authorized City staff and Waterfront Toronto to complete revisions to the Lower Don Lands Class EA Infrastructure Master Plan Environmental Study Report and file the report in the public record, in accordance with the requirements of the Municipal Class Environment Assessment process.
3. City Council authorized the City Manager, the Deputy City Manager Cluster B, and the Deputy City Manager Cluster A and Chief Financial Officer, in consultation with Waterfront Toronto, to initiate discussions with federal and provincial officials regarding one-third funding contributions to accelerate the design and construction of Port Lands flood protection and related infrastructure, and report back to City Council in the first half of 2015.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.11>

At its meeting of July 7, 2015, City Council adopted the staff report entitled Waterfront Strategic Review, dated June 19, 2015, which contained recommendations to support, in principle, the undertaking of a second phase of waterfront revitalization supported by tri-government funding and governance. Flood protection was identified as a priority capital project.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX7.6>

At its meeting of November 8, 2016, City Council adopted the staff report entitled Port Lands Flood Protection – Due Diligence Review and Next Steps, dated October 21, 2016. City staff recommended next steps for the Port Lands Flood Protection project. The recommendations pertain to the subject application as the site is within the flood plain and requires full flood protection prior to development.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX18.3>

### **Ports Lands Planning Framework and Villiers Island Precinct Plan**

At its meeting on July 4, 2017, City Council adopted the May 16, 2017 staff report from the Deputy City Manager, Cluster B, entitled "Port Lands Planning Initiatives – Interim Report". This report summarized the findings of the Port Lands Planning Framework and the Port Lands and South of Eastern Transportation and Servicing Master Plan (TSMP), and included a draft Port Lands Official Plan modification.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.4>

On December 5, 2017, City Council adopted the September 27, 2017 staff report from the Deputy City Manager, Cluster B, entitled "Port Lands Planning Initiatives – Final Report". This report builds on the May 16, 2017 staff report and addressed the direction provided by City Council at that time. As part of its decision, City Council adopted the Port Lands Planning Framework, endorsed the Villiers Island Precinct Plan, and instructed the City Solicitor to request the Local Planning Appeal Tribunal to repeal Official Plan Amendment 388 and modify the former City of Toronto Official Plan and Central Waterfront Secondary Plan, substantially in accordance with the draft Port Lands Official Plan modification, among other matters.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>

### **309 Cherry Street Development Applications**

At its meeting of March 31, 2015, City Council adopted the staff report entitled 309 Cherry Street – Zoning Amendment Application – Request for Direction Report, dated January 14, 2015. The recommendations adopted by City Council were as follows:

1. City Council direct the City Solicitor to request that the Ontario Municipal Board not schedule a hearing on the appeal of the zoning amendment application for 309 Cherry Street, as the application and its appeal are considered premature until such time as the Province has approved the Lower Don Lands Infrastructure Environmental Assessment, and City Council has made decisions on the Port Lands Planning Framework and Villiers Island Precinct Plan.

2. City Council direct City Planning staff to evaluate this application in the context of the Port Lands Planning Framework and Villiers Island Precinct Plan currently under development, and report to City Council on the evaluation and review of the application shortly after the completion of these planning initiatives.

The City Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE4.12>

At its meeting on April 4, 2017, Toronto and East York Community Council deferred consideration of a preliminary staff report associated with the Phase 2 proposal for 309 Cherry Street until such time as the Director, Community Planning, Toronto and East York District received written feedback from and consulted with Waterfront Toronto on the subject development application.

The Community Council decision and staff report are available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE23.65>

## **ISSUE BACKGROUND**

### **Proposal**

The combination of the Phase 1 and Phase 2 development applications propose the following for the subject site:

- On the Phase 1 lands, a 26-storey residential tower on an 8-storey base building with retail and office uses are proposed; and
- On the Phase 2 lands, a 11-storey, mixed-use building with retail at grade fronting Cherry Street and a 52-storey building atop a base building ranging in height from 4 to 12 storeys and fronting Commissioners Street and Foundry Street (a proposed north-south road) are proposed.

The total density of the combined proposal is an FSI of 5.53, calculated as the total combined proposed GFA of 111,462.8 square metres, divided by the total site area of 20,150.4 square metres.

There are five heritage buildings either within, or adjacent to, the subject site, detailed as follows:

- 275 Cherry Street is a one-storey building, formerly the Dominion Bank (current Cherry Street restaurant), at the northeast corner of Cherry Street and Commissioners Street. This building was added to the City of Toronto Heritage Inventory in February 2003 and is located adjacent to the Phase 2 lands of the subject site, as shown on Attachment 10;
- 281 Cherry Street is a two-storey building, and is the former Toronto Hydro Substation, fronting Cherry Street and north of Commissioners Street. This

building was added to the City of Toronto Heritage Inventory in June 2003 and was designated through Part IV of the Ontario Heritage Act in June 2013. This building is located adjacent to the Phase 2 lands of the subject site, as shown on Attachment 10;

- 16 Munition Street is a one-storey building, and is the former Queen's City Foundry, fronting Munition Street and south of Villiers Street. This building was added to the City of Toronto Heritage Inventory in July 2003 and is located east of the subject site, as shown on Attachment 10;
- 309 Cherry Street (I), the former Bank of Montreal, is a one-storey building that is situated at the southeast corner of Cherry Street and Villiers Street. The building was added to the City of Toronto Heritage Inventory in August 1976 and is located within the Phase 1 portion of the subject site, as shown on Attachment 10;
- 309 Cherry Street (II), the former William McGill Company Building, is a partial one- and two-storey building that fronts onto Cherry Street, south of Villiers Street. The building was added to the City of Toronto Heritage Inventory in February 2003. The building is located within the Phase 1 portion of the subject site, as shown on Attachment 10.

### Phase 1

The Phase 1 application, submitted by Aird and Berlis on behalf of landowners 2034055 Ontario Limited and 13337194 Ontario Inc., seeks to amend City of Toronto Zoning By-law 438-86 to permit a mixed-used development on the northern half of the 309 Cherry Street property. The proposal consists of a 26-storey residential tower on an 8-storey base building with retail and office uses. The proposed eight-storey base building fronts on Villiers Street.

A total combined gross floor area of 38,425m<sup>2</sup> is proposed, comprising 27,649 m<sup>2</sup> of residential gross floor area and 10,776 m<sup>2</sup> of office and retail gross floor area. 370 residential units, 457 vehicular parking spaces and 97 bike parking spaces are proposed within the development.

A proposed central, curved, privately-owned, publicly accessible open space area from Villiers Street to Commissioners Street occupies the space between the existing Cherry Street heritage buildings and the proposed base/tower building. Pedestrian access to the residential tower and office base building is proposed from three possible directions: the central courtyard space to the west of the tower, a pedestrian entrance/corridor off Villiers Street to the north, and from the vehicular drop-off area to the east of the building. Vehicular access to the site is via a proposed north-south private drive on the east side of the property, connecting Villiers Street to Commissioners Street. This driveway/laneway would provide access to an underground ramp, loading area and the drop-off space on the east side of the proposed development.



The Phase 1 application was originally submitted in March 2012 and since May 2012, until early 2015 had been held in abeyance at the applicant's request. The application was held pending completion of the first phase of the Port Lands Acceleration Initiative (PLAI), and subsequently pending completion of the Villiers Island Precinct Plan. These initiatives, as detailed within this report, received Council-adoption and Council-endorsement in December 2017.

For further detailed information on the Phase 1 application (#12 131809 STE 30 OZ), including applicant submitted site and elevation plans, refer to the City staff Request for Directions Report, available at the following link:  
<http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-75119.pdf>

## Phase 2

The Phase 2 application, submitted by Castlepoint Numa on behalf of landowners 2034055 Ontario Limited and 1337194 Ontario Inc., seeks to amend City of Toronto Zoning By-law 438-86 to permit a mixed-used development on the southern half of the subject site at 309 Cherry Street. The proposal consists of an 11-storey, 36.8 metre high mixed-use building with retail at grade fronting Cherry Street and a 52-storey, 161.1 metre high mixed-use building atop a base ranging in height from 4-storeys (16.1 metres) to 12-storeys (39.8 metres) and fronting Commissioners Street and Foundry Street (a proposed north-south road). Specifically, the 4-storey portion of the base building is proposed to front onto Commissioners Street and the 12-storey portion of the base building is proposed to front onto a future east-west road.

The south wall of the proposed 11-storey building will directly abut the existing designated heritage building at 281 Cherry Street.

A total combined gross floor area of 73,037.8 square metres is proposed for the two buildings, comprising 71,614.3 square metres of residential gross floor area and 1,423.5 square metres of non-residential gross floor area. The total density proposed is 7.26 times the area of the lot (the lot area is 10,055.1 square metres). 1,013 residential units, 737 vehicular parking spaces and 1,038 bicycle parking spaces are proposed within the development. The vehicular and bicycle parking is proposed to be located within three levels of below grade parking, excluding 112 bicycle spaces which are to be located at grade. Vehicular access to the below grade parking is from the future proposed north-south road (Foundry Street) that is located east of the subject site.

The interior of the Phase 2 subject site is proposed to be a publicly-accessible open space, which will have a range of hard and soft landscaping and is currently intended to provide a range of programming opportunities. In addition to the publicly-accessible open space, the proposal includes indoor and outdoor amenity space associated with the mixed-use buildings. Based on the number of units proposed (1,013), the applicant is required to provide a minimum of 2,026 square metres of indoor and 2,026 square metres of outdoor amenity space. The applicant is proposing 2,037 square metres of indoor amenity and 1,065 square metres of outdoor amenity. Pedestrian access to the 11-storey mixed-use building is proposed to be from the east-west road on the northern portion of the site,

while access for the 52-storey tower is proposed to be from the east-west road to the north and the proposed Foundry Street to the east.

Attachments 1 through 5 provide the site plan and elevations for the Phase 2 proposal. A 3D perspective drawing is found in Attachment 11 and a summary of the statistics for the submitted application is provided in Attachment 12.

The applicant is also proposing that a holding symbol ("H") be placed on the amended zoning for the subject property, pending resolution of various matters, including the provision of appropriate infrastructure and servicing for the lot.

### **Site and Surrounding Area**

The site is located within the 325 hectare (800 acres) Port Lands area, a man-made industrial area created through fill in the early 1900s, located east of Toronto's downtown area between the Inner Harbour and Leslie Street and south of Lake Shore Boulevard East. The Port Lands are a challenging area to redevelop due to the requirements for flood protection, infrastructure, soil remediation and geotechnical considerations.

The site at 309 Cherry Street comprises the majority of the block bounded by Villiers Street to the north, Cherry Street to the west, Commissioners Street to the south and Munition Street to the east. It has a total area of approximately 20,150 square metres or just over two hectares. The Phase 1 application comprises the northern portion of the subject site, for an approximate total area of 10,122 square metres, or approximately 1 hectare. The Phase 2 application comprises the southern portion of the subject site, for a total area of 10,055.1 square meters, or approximately 1 hectare.

The Phase 1 lands have 78 metres of frontage along Cherry Street and a depth of 131 metres. The Phase 2 lands have 45 metres of frontage along Cherry Street and a depth of 118.7 metres. The site is essentially flat. The west and south frontages of the 309 Cherry Street site are lined by several non-native trees and shrubs.

At present, the 309 Cherry Street site is occupied by an environmental waste management company, which has been operating on the premises since 1999. Prior to this use, the site had been used as an oil refinery. Most of the northern portion of the site is vacant and used as storage and surface parking for trucks and larger vehicles. Several large former oil storage silos and tank structures are situated on the south portion of the site, none of which are currently in use and are therefore being decommissioned over time. At the southwest corner of the 309 Cherry Street, adjacent to the site, are two heritage buildings (275 Cherry Street, listed in the City's Inventory, and 281 Cherry Street, designated through Part IV of the Ontario Heritage Act).

The larger Port Lands area contains a diverse mix of both vacant and active industrial lands, a film studio complex, offices, recreation facilities, entertainment uses and parks.

The following is a description of the uses surrounding the subject site.

- North: Immediately north of the site, at the northeast corner of Cherry Street and Villiers Street, is a one-story restaurant (2 Villiers Street) surrounded by surface parking and landscaped open space. North of the restaurant is the Keating Channel, a man-made, east-west outlet of the Don River. Further east are the listed one-storey Toronto Harbour Commissioners storage buildings (62 Villiers Street) with associated surface parking and loading facilities for barges and other boats using the Keating Channel.
- West: On the west side of Cherry Street opposite the 309 Cherry Street site is Cousins Quay, a man-made quay constructed in the 1930s (242 Cherry Street). A recycling operator, Toronto Port Authority dry dock, and boat docking services generally occupy the area; Marine Terminal 35 (MT35), a large, rectangular warehouse building abutting the lake with access for freighter docking, abuts the Inner Harbour. MT35 is listed on the City's Inventory of Heritage Properties. To the northwest of the subject property are the former Essroc silos (312 Cherry Street), also listed on the City's Inventory of Heritage Properties, that are currently vacant with Essroc's recent relocation to the East Port area of the Port Lands.
- South: South of the 309 Cherry Street site, on the south side of Commissioners Street is a large (8 hectare) vacant site (51 Commissioners Street) that is used on a temporary basis for film crews and entertainment productions such as the Cirque de Soleil. East of this site at Munition Street is a two-storey brick building that was formerly a fire hall and now houses the Toronto Fire Fighters Association Headquarters (39 Commissioners Street); this building was listed on the City's Inventory of Heritage Properties in 2003. Southwest of the subject property are two other listed heritage properties: 275 Cherry Street, a one-storey red brick building at the northeast corner of Cherry and Commissioners Streets that is now a restaurant, but was formerly occupied by the Dominion Bank (listed in 2003); and 281 Cherry Street, a two-storey, red brick building (listed in 2003) that houses a Toronto Hydro substation and was designated in 2013. Southwest of the subject site across Polson Quay is Lafarge's concrete operation at 54 Polson Street; Lafarge has indicated that it will continue its port and industrial operations at this site for the foreseeable future.
- East: On the same block as the 309 Cherry Street site, at the southwest corner of Villiers Street and Munition Street, is the former Queen's City Foundry building listed on the City's Inventory of Heritage properties in 2003. The building/site is privately owned and houses sound/rehearsal studios. Immediately south is a white, two-storey warehouse building (54 Commissioners Street) owned by Waterfront Toronto. On the east side of Munition Street are various one and two-storey office, warehouse and industrial production buildings, as well as extensive ancillary surface parking for vehicles and transport trucks and vacant lands.

## **Planning Act, Provincial Policy Statement, and Provincial Plans**

Section 2 of the *Planning Act* sets out matters of Provincial interest that the Council of a municipality and the Tribunal shall have regard for. These matters include some of the following:

- the protection of ecological systems, including natural areas, features and functions;
- the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- the orderly development of safe and healthy communities;
- the adequate provision of a full range of housing, including affordable housing;
- the adequate provision of employment opportunities;
- the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians; and
- the promotion of built form that,
  - is well-designed,
  - encourages a sense of place, and
  - provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.

Section 24(1) of the *Planning Act* states that "despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith."

The Provincial Policy Statement, 2014 (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;

- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit;
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character; and
- Ensuring the conservation of significant built heritage resources and significant cultural heritage landscapes.

Section 3.1.2 c) of the PPS, 2014, states that "development and site alteration shall not be permitted within: c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards, and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and natural hazard."

Section 3.1.4 a) of the PPS, 2014, states that "Despite policy 3.1.2, development and site alteration may be permitted in certain areas associated with the flood hazard along river, stream and small inland lake systems in those exceptional situations where a Special Policy Area has been approved. The designation of a Special Policy Area, and any change or modification to the official plan policies, land use designations or boundaries applying to Special Policy Area lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes or modifications."

The PPS, 2014 defines a Special Policy Area as "an area within a community that has historically existed in the flood plain and where site-specific policies, approved by both the Ministers of Natural Resources and Municipal Affairs and Housing, are intended to provide for the continued viability of existing uses (which are generally on a small scale) and address the significant social and economic hardships to the community that would result from strict adherence to provincial policies concerning development. The criteria and procedures for approval are established by the Province. A Special Policy Area is not intended to allow for new or intensified development and site alteration, if a community has feasible opportunities for development outside the flood plain."

The City of Toronto uses the PPS to guide its Official Plan and to inform decisions on planning and development matters. The PPS is issued under section 3 of the *Planning Act* and, according to subsection 3(5)(a) of the *Planning Act*, all decisions of Council affecting land use planning matters "shall be consistent with" the Provincial Policy Statement. Policy 4.7 further states that the Official Plan is the most important vehicle for implementing the PPS.

The Growth Plan for the Greater Golden Horseshoe, 2017 (the "Growth Plan") provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- Setting minimum density targets within settlement areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure;
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas; and
- Conserving irreplaceable cultural heritage resources.

Like other provincial plans, the Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the Greater Golden Horseshoe region.

The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by Council affecting land use planning matters are required by subsection 3(5)(b) of the *Planning Act* to conform with the Growth Plan.

### **Official Plan**

The former City of Toronto Official Plan is in effect in the Port Lands and designates the site *General Industrial Area* on Map 1. Further, the site is located within the *Port Industrial District* on Map 9 of the former City of Toronto Official Plan.

In addition, the site is located partially within the Lower Don Lands Special Policy Area, as shown on Map 3 of the former City of Toronto Official Plan, and is subject to flood risk. Development on lands designated Special Policy Area (SPA) within the Port Lands may not be permitted until flood remedial works are completed to flood protect the lands and enable comprehensive renewal and that the lands are flood-protected to at least the level of a 1:350 flood (that is on average, a flood that is anticipated to be equalled or exceeded only once in every 350 years), subject to review and approval by the Toronto and Region Conservation Authority. Further details regarding development within the flood plain lands are discussed below, including more recent policies adopted through the Port Lands Official Plan modification that better define Council's vision for development within a flood plain and the SPA, and that incorporate the works of the Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA), the process by which the lands will be flood protected.

The Central Waterfront Secondary Plan (CWSP), which was adopted by City Council in 2003 as an amendment to the former City of Toronto Official Plan, represents Council policy to guide revitalization in the Central Waterfront. The CWSP was appealed to the Ontario Municipal Board by numerous appellants and is not currently in effect for the Port Lands. Nonetheless, the CWSP is utilized to guide and inform planning in the Central Waterfront. The CWSP was amended for the Port Lands through Official Plan 388 in 2010. OPA 388 was also appealed to the Ontario Municipal Board by numerous parties, including the applicant of the subject application, and is not currently in effect.

The CWSP is premised on four key principles:

- Removing barriers and making connections;
- Building a network of spectacular waterfront parks and public spaces;
- Promoting a clean and green environment; and
- Creating dynamic and diverse new communities.

Under the original 2003 CWSP, the subject site was designated as *Parks and Open Space Areas*. The site and surrounding lands north of Commissioners Street were re-designated to *Regeneration Areas* through OPA 388 in 2010. The *Regeneration Areas* designation has been maintained, and further clarified, by the Port Lands Planning Framework and the Port Lands Official Plan modification. The *Regeneration Areas* designation in the CWSP allows for a wide variety of mixed-use development, including housing, offices and retail uses. The CWSP identifies that the Port Lands will generally be developed at a medium-scale with some lower elements and higher buildings in appropriate locations. Lower buildings are to be located along the water's edge, with retail and community activities concentrated at accessible locations to form a focus for the area.

The Plan also identifies that rezoning individual sites within *Regeneration Areas* will generally only be entertained once a context has been established for the evaluation of specific rezoning applications, through Precinct Implementation Strategies, or precinct plans as they are more commonly referred to. The purpose and objective for requiring

these plans prior to considering a rezoning is to ensure the comprehensive and orderly development of an area.

The majority of the Port Lands north of the Ship Channel are subject to flood risk. In 1994, the City implemented the Lower Don Special Policy Area (SPA) in the former City of Toronto Official Plan. Special Policy Areas recognize areas that have historically developed within a flood plain and provide for the continued viability of existing uses. A small portion of the subject site is located within the Special Policy Area boundary. The balance of the site is considered to be within a One Zone concept under the Provincial Policy Statement. Development is not permitted within a One Zone concept. OPA 388, which included the subject site, introduced a Two Zone Concept for floodplain management, as well as site and environmental planning policies. The Two-Zone Concept proposes a 'Floodway' and 'Flood Fringe', highlighting areas both not capable (floodway) and potentially capable (flood fringe) of accommodating development. Policy D\_26 was also introduced and identifies that development will not be permitted until specific criteria, such as the completion of flood protection works, are fulfilled. Section 4.4 of the Port Lands Official Plan modification, which is now Council's adopted policy direction for this area, states that "Development consisting of new and/or intensified land uses provided for in the Mixed-Use Residential and Productions, Interactive and Creative (PIC) Mixed-Use land use typologies identified in policies 4.3.1 and 4.3.2 requires the implementation of the flood remedial protection works in the DMNP EA." The subject site in relation to the most recent flood plain map, provided by TRCA, and the SPA is shown in Attachment 8 and 9.

Under the Toronto Official Plan (approved by the OMB in 2006), the subject property is within the *Downtown and Central Waterfront* on Map 2 – Urban Structure and is designated *Regeneration Areas* on Map 18 – Land Use Plan. The subject property is also partially covered under Special Policy Area 7 – Lower Don: Don River, on Map 11. Policies 3.4.5 and 3.4.11 b) within Chapter 3 of the Official Plan address development criteria within this floodplain Special Policy Area. The Toronto Official Plan is not in effect for the Central Waterfront, inclusive of the Port Lands. Further, the Plan's Special Policy Area (SPA) policies are currently under appeal and the SPA policies of the former City of Toronto Official Plan continue to be in effect. Although the policies of the Toronto Official Plan do not technically apply to the subject property, staff will consider them, where appropriate, during the review of this application, as they reflect much of the recent planning policy direction from both the City and the Province.

### **Port Lands Planning Framework**

On December 5, 2017, City Council adopted the Port Lands Planning Framework ("the PLPF") to guide the revitalization of the Port Lands. The PLPF is:

- A comprehensive vision and policy framework that will be used to guide the Port Lands transformation over the coming decades;
- An outline of the key city-building directions required to unlock and realize the Port Lands interim and full potential; and



- A rationale to support modifications to the Central Waterfront Secondary Plan and resolve appeals of the Central Waterfront Secondary Plan that reflect the results of extensive planning, technical studies, landowner and stakeholder consultation, and intent and purpose.

The PLPF outlines a detailed long-term vision for the Port Lands and provides the planning rationale for the Port Lands Official Plan modification. The vision for the Port Lands is for the area to transform into a number of new, vibrant districts with unique and memorable local identities and character that promote social interaction, cultural enrichment, ecological health, a low-carbon future, and a prosperous local economy. Each district will take its cue from the naturalized river valley and wild natural areas, spectacular waterfront parks and open spaces, and rich cultural heritage. The Port Lands are envisioned to have an eclectic mix of uses, offering diverse opportunities for Torontonians to live, work and play. A resilient urban structure will be established, connecting the Port Lands to the city and providing a robust legacy of fine-grained streets and blocks to allow the Port Lands to continue to evolve and transform over time.

Careful consideration has been provided to the introduction of sensitive uses in the area in recognition that portions of the Port Lands will continue to have port and industrial uses. The PLPF identifies and recommends a series of measures to ensure land use compatibility between the different uses. City Council, as per City staff recommendation, classified the Villiers Island, the McCleary District, Polson Quay and South River as Class 4 areas under MoECC Environmental Noise Guidelines, NPC-300, August 2013. This classification provides for higher noise permissions and also protects existing port and industrial uses.

### **Port Lands Official Plan Modification**

In addition to adopting the PLPF, City Council instructed the City Solicitor to request the LPAT to modify the former City of Toronto Official Plan and CWSP substantially in accordance with the Ports Lands Official Plan modification. The modification establishes a comprehensive set of policy directions to guide future development and redevelopment in the Port Lands. The modification:

- Updates and streamlines policy directions related to the Port Lands in the CWSP based on the outcomes and findings of the PLPF and previous undertakings. Generally, policy directions specific to the Port Lands are consolidated in a Port Lands Area Specific Policy;
- Introduces a Port Lands Area Specific Policy as a new Schedule to the CSWP, which provides more detailed policy directions specific to the Port Lands that build on the policy direction within the overarching framework established by the CWSP. The Area Specific Policy mirrors the directions and recommendations established in the PLPF.

As part of the Port Lands Area Specific Policy (Port Lands Official Plan modification), key direction is provided for the Villiers Island area, which includes the subject site of this report. In particular, the policy direction states the following for Villiers Island:

- S. 10.8.1: the overall character of Villiers Island will be mid-rise in nature, punctuated by a limited number of tall buildings in strategic locations;
- S. 10.8.7: a variety of tall building heights will be provided to punctuate the skyline within the mid-teens (approximately 50 metres) low-twenties (20 to 23 storeys or approximately 62 metres to 71 metres) to mid-twenties (24 to 26 storeys or approximately 74 metres to 80 metres), or as determined to limit shadow impacts on parks and open spaces in accordance with the policies of this Area Specific Policy;
- S. 10.8.8: notwithstanding the policy above, one tall building may be permitted in the high twenties (up to 29 storeys or approximately 89 metres) at Cherry Street (New) and Villiers Street without amendment to this Area Specific Policy to contribute to overall built form variability of the Island and provided the building has exceptional architectural features to positively reinforce the building identity within the overall Port Lands skyline.

#### Proposed Street Network within the Port Lands

Two Environmental Assessment processes established the major street and transit networks for the Port Lands:

- The Port Lands and South of Eastern Transportation and Servicing Master Plan (" the TSMP") undertaken as an integrated planning process with the PLPF; and
- The Lower Don Lands Infrastructure Master Plan ("the IMP"), completed in 2014.

The existing street network in the Port Lands reflects its historic industrial and port function. The PLPF establishes an extended and greatly improved network of public streets with a legible hierarchy of street types, local streets, shared streets and laneways. The current location of Cherry Street, which abuts the subject site on the west, will be recognized as a local street ("Old Cherry Street") and will no longer connect directly north of the Keating Channel, whereas new Cherry Street will be relocated further west and is recognized as a major street that connects north of the Keating Channel.

After extensive public and stakeholder consultation, the IMP Phase 1 & 2 EA and Keating Channel Precinct Environmental Study Report (ESR) Phase 3 & 4 EA were endorsed by City Council on July 6, 2010. This established the preferred transportation network and servicing approach for Villiers Island and Keating Channel. The local street network concept is reflected in the IMP, which includes a proposed north-south mid-

block street, shown as Street "K" in the ESR, and "Foundry Street" in other planning documents such as the Port Lands Planning Framework and Villiers Island Precinct Plan. The Port Lands Planning Framework and Villiers Island Precinct Plan further refine the alignment of Foundry Street, as a local and public City road, as well as the streetscape design of the 20 metre right-of-way.

## **Villiers Island Precinct Plan**

The Villiers Island Precinct Plan ("the VIPP") provides detailed planning direction to guide the revitalization of the Villiers Island into a new sustainable, walkable and connected mixed-use residential community with great parks and open spaces along the four distinct water's edges. Villiers Island will become a significant new regional destination and is primed to be the first climate positive community in the city. The VIPP builds on the directions and recommendations in the PLPF and will be used to provide context for and to inform future Zoning By-law amendments and Plan of Subdivision processes.

The height, massing and location of buildings have been carefully considered and studied, including ensuring excellent sunlight and wind conditions to support year-round activity in the Island's streets and open spaces.

In accordance with the Central Waterfront Secondary Plan, all future development applications will be required to address the vision, guiding principles and strategies, and guidelines for Villiers Island established through the VIPP.

## **Urban Design Guidelines**

### **City-wide Tall Building Design Guidelines**

In May 2013, Toronto City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use these Guidelines in the evaluation of all new and current tall building development applications. The Guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure they fit within their context and minimize their local impacts.

The city-wide Tall Building Design Guidelines are available at:

[http://www1.toronto.ca/city\\_of\\_toronto/city\\_planning/urban\\_design/files/pdf/tall-buildings.pdf](http://www1.toronto.ca/city_of_toronto/city_planning/urban_design/files/pdf/tall-buildings.pdf)

### **Avenues and Mid-Rise Buildings Guidelines**

In 2010, City Council adopted the Avenues and Mid-Rise Buildings Study. The study included guidelines which are intended to encourage the construction of better designed mid-rise buildings on the City's *Avenues*. The guidelines typically apply to sites designated *Mixed Use Areas*. While the guidelines do not apply to the Central Waterfront or lands designated *Regeneration Areas*, given that development in the Port Lands under the CWSP is generally to be of a medium scale, the guidelines will be considered in any evaluation of the application.

The city-wide Mid-Rise Design Guidelines are available at:  
<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=7238036318061410VgnVCM10000071d60f89RCRD>

Toronto City Council at its meeting on June 7, 2016 adopted the revised Mid-Rise Building Performance Standards Addendum for City staff to use together with the previously approved Mid-Rise Building Performance Standards in the preparation of area studies and during the evaluation of development applications where mid-rise buildings are proposed and the Performance Standards are applicable. The Addendum will be in use until such time as City Council considers and adopts updated Mid-Rise Building Design Guidelines in Q4, 2017.

The Mid-Rise Building Performance Standards Addendum incorporates a number of revisions that reflect and respond to the additional feedback concerning the Mid-rise Building Performance Standards received at the recent meetings of Committee and Council and based upon the monitoring review process.

Key revisions contained within the Addendum include:

- clarification concerning the relationship between Secondary Plan Areas and the use of the Performance Standards (Applicability of Performance Standards);
- the addition of recommended actions for Consultation, Context and Infrastructure;
- extensive clarification regarding the definition and determination of mid-rise building height (Performance Standard #1); and
- clarification on the presence and integration of rooftop equipment and mechanical penthouses (Performance Standard #13).

### **Growing Up: Planning for Children in New Vertical Communities**

In July 2017, Toronto City Council adopted the Growing Up Draft Urban Design Guidelines ("the Growing Up Guidelines"), and directed City Planning staff to apply the Growing Up Guidelines in the evaluation of new and under review multi-unit residential development proposals. The objective of the Growing Up Guidelines is that developments deliver tangible outcomes to increase liveability for larger households, including families with children at the neighbourhood, building and unit scale. The Growing Up Guidelines will be considered in the review of this proposal, as is consistent with the direction established within the PLPF.

Section 3.1 of the Guidelines details that units larger than one bedroom should be thoughtfully designed to accommodate children. To ensure a suitable unit size to accommodate families the Growing Up Guidelines details ranges for unit sizes of 87 to 90 square metres for two-bedroom units and 100 to 106 square metres for three-bedroom units.

The Council Decision and draft guidelines are available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.3>

## **Zoning**

The harmonized city-wide Zoning By-law does not apply to the subject the site. The former City of Toronto Zoning By-law 438-86 is in effect, and zones the subject site Industrial (I3 D2). The zoning permits industrial, commercial and institutional uses at a maximum density of two times the area of the lot. Residential uses are not permitted. A map of the existing zoning for the area can be found in Attachment 6.

## **Site Plan Control**

The site is subject to Site Plan Control. An application for site plan control has not been submitted with this zoning amendment application. Staff will not require a site plan application to be submitted until all outstanding policy and zoning matters associated with the Port Lands and Villiers Island Precinct have been resolved.

## **Toronto and Region Conservation Authority (TRCA) – Floodplain**

The Toronto and Region Conservation Authority (TRCA) recently completed updated flood modeling and mapping for the Lower Don floodplain. The subject site is within the floodplain, but will be removed from flooding upon implementation of various phases of the Don Mouth Naturalization and Port Lands Flood Protection EA (DMNP EA). The TRCA has requested that the applicant provide a Flood Study outlining how the proposal meets the requirements of the DMNP EA.

## **Reasons for the Application**

The application was submitted as the proposed residential uses and densities are not permitted under the existing Industrial (I3 D2) zoning for the site. The applicant is also requesting that a holding symbol ("H") be placed on the proposed amended zoning for the subject property.

## **Official Plan Amendment to Former City of Toronto Official Plan**

The application does not conform to the in effect, former City of Toronto Official Plan policies, particularly with respect to the site being designated *General Industrial Areas* and located within the *Port Industrial District*. The intent of the policies related to the land use designation and the site's location within the *Port Industrial District* is clearly indicated to continue the growth of industrial uses in this area. While this does not reflect Council's current vision for the Port Lands, the proposal does not conform to the in-effect, former City of Toronto Official Plan and an Official Plan Amendment application is required to be submitted by the applicant.

Any Official Plan Amendment that contemplates amending the boundaries of a Special Policy Area, amending any of the Special Policy Area policies, or redesignation of lands within a Special Policy Area will need to be approved by the Ontario Ministers of Municipal Affairs and Natural Resources and Forestry per the Provincial Policy

Statement, 2014. The TRCA will also need to review and advise on any proposed Official Plan Amendment.

### Official Plan Amendment to Port Lands Official Plan Modification

The application does not conform to the recent Council-adopted Port Lands Official Plan modification on various policy matters discussed in more detail below. The applicant has not proposed how they wish to amend this recently adopted policy document.

### **Community Consultation**

Though direction from Community Council to hold a community meeting was not received, City Planning staff, in discussions with the local Councillor, hosted a Community Consultation Meeting (CCM) at Jimmie Simpson Recreation Centre on April 16, 2018. The meeting was attended by approximately 15 community members and the applicant, who engaged in a discussion about the development proposal and the larger Port Lands Acceleration Initiative (i.e. the Port Lands Planning Framework, Villiers Island Precinct Plan, Don Mouth Naturalization EA, and South of Eastern Transportation and Servicing Master Plan).

A summary of the various issues raised at the CCM are as follows:

- Height of the proposed building; general comments received indicated some concern from the community on the proposed height of the building and its inconsistency with the direction in the Villiers Island Precinct Plan;
- Noise and air quality concerns; specific concerns raised by a representative of Lafarge Canada about issues and presumptions made within the applicant's noise and air quality studies;
- Provision of affordable rental housing; general comments about the lack of affordable rental housing proposed within the development at 309 Cherry Street;
- Prematurity of the application; general comments raised about why the application was even submitted at this time given the need to flood proof the Island which will take place over the next approximately 7-8 years;
- Oversupply of parking/future-proofing parking; some community members raised a concern regarding an over-supply of parking, considering the future multi-modal objectives of the Island and the potential to future-proof parking for electric vehicles;
- Schools on the Island; general comments about the provision of schools to ensure appropriate access for the future mixed-use community of Villiers Island; and

- Cycling opportunities within the development and on the Island; general comments made to request the development support the cycling objectives of the Villiers Island Precinct Plan.

City Planning staff engaged in further discussion with community members through email correspondence on the issues noted above.

### **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

In addition to the comments below, City Planning staff received comments from the Provincial Ministry of Municipal Affairs, dated April 10, 2017. The comments discuss issues of prematurity of the application due to the flood protection initiatives still being underway. The comments also discuss concern with the lands being proposed to be used for new residential development as the Special Policy Area is not intended to allow for new or intensified development and site alteration, if a community has feasible opportunities for development outside the flood plain. The comments conclude by recommending that the proposed Phase 2 development application for the subject site be refused. A copy of the letter is found in Attachment 13 to this report.

As well, City Planning staff received comments from the Toronto and Region Conservation Authority ("the TRCA"), dated May 15, 2017. The comments discuss issues with flood protection, stormwater management, and geotechnical information. The TRCA express that they will continue to work with the applicant, Waterfront Toronto, and the City of Toronto as planning for Villiers Island and the detailed design for the implementation of the DMNP EA advance. However, TRCA state that in the absence of this more detailed planning work, this application is considered premature. A copy of the letter is found in Attachment 14 to this report.

## **COMMENTS**

### **Port Lands Acceleration Initiative (PLAI) Projects**

As referenced in the Decision History section above, there are several on-going PLAI projects and studies, which provide an emerging planning framework and context within which the application has been properly and thoroughly evaluated. Key projects applicable to this application include:

1. Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA)
2. Lower Don Lands Infrastructure EA
3. Port Lands Planning Framework
4. Villiers Island Precinct Plan

City Staff and relevant agencies/divisions have been in regular discussions with the applicant on all of the above projects. More detailed engagement and discussions occurred with the applicant on a regular basis for the Villiers Island Precinct Plan and Port Lands Planning Framework.

Through the following comments, City Planning staff will review how the proposed development does not conform to the in effect provincial and local policies. In addition, City Planning staff will discuss how this proposed development for both Phase 1 and Phase 2 at 309 Cherry Street is substantially inconsistent with the Council-adopted Port Lands Planning Framework, and the Council-endorsed Villiers Island Precinct Plan, and is not supportable.

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

Section 24(1) of the *Planning Act* states that "despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith." The rezoning proposed by the applicant contemplates a land use that is not permitted by the in-effect land use designation of the former City of Toronto Official Plan. The applicant has not submitted an Official Plan amendment application, and, therefore, there is no opportunity for the rezoning application to be in conformity with the in-effect Official Plan. As the Official Plan is deemed by the PPS, 2014 to be the "most important vehicle for implementation of this Provincial Policy Statement", and as the proposed rezoning would not conform with the in-effect Official Plan, this proposal is deemed not to be consistent with the PPS, 2014.

The PPS, 2014 specifically states that "any change or modification to the official plan policies, land use designations or boundaries applying to Special Policy Areas lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes or modifications." As the current, in-effect land use designation for these lands only permits industrial development, and as the applicant's proposal contemplates the introduction of residential and commercial uses, an Official Plan amendment application needs to be submitted by the applicant to consider this land use change. As discussed above, no Official Plan amendment application has been submitted and therefore the provincial ministries have not had an opportunity to review, comment, and provide a decision on said application. Joint ministerial approval is required for any change or modification to the official plan policies, land use designations or to amend the Special Policy Area boundary that currently impacts the site in order to satisfy PPS, 2014 policy 3.1.4 a). As such, this proposal cannot be deemed to be consistent with the PPS, 2014.

The Port Lands Planning Framework (PLPF) is consistent with the standards set out in the PPS, 2014. This report will state that the proposed development at 309 Cherry Street is not in conformity with the policy direction of the PLPF. Therefore, as the proposed development on the subject site is not in conformity with the policy direction for the Port Lands, this proposal is deemed not to be consistent with the PPS, 2014.



Further, the PLPF is also in conformity to the Growth Plan for the Greater Golden Horseshoe, 2017 ("the Growth Plan"), and as the proposed development on the subject site is not in conformity with the policy direction for the Port Lands, this proposal is deemed not to conform to the Growth Plan, 2017.

The Downtown Urban Growth Centre is identified in the Growth Plan. The site is within the Downtown Toronto Urban Growth Centre, which is on track to achieve or exceed the Urban Growth Centres (UGC) density target of 400 jobs and people per hectare by 2031. The target is the average for the entire Downtown UGC area, and it is not for any one particular area within Downtown. The increased density that would result from the proposed development is not required to meet the minimum growth figures set out in the Growth Plan for the Greater Golden Horseshoe.

Given the above-noted reasons, the proposal does not have regard for Section 24(1) of the *Planning Act*, is not consistent with elements of the PPS, 2014 and does not adequately conform to the Growth Plan, 2017. As noted, the Official Plan is the most important vehicle for implementing Provincial policy and the proposal does not conform with the in-effect Official Plan, and does not conform or meet the intent of the Port Lands Planning Framework.

The remainder of this report will discuss various reasons why the proposed development should be refused by the LPAT, as well as highlighting further concerns that must be addressed, various concerns that could be managed by the rezoning of the site with a Holding symbol ("H").

### **Land Use – Former City of Toronto Official Plan**

As mentioned above, the former City of Toronto Official Plan is in effect in the Port Lands and designates the site *General Industrial Area* on Map 1. Further, the site is located within the *Port Industrial District* on Map 9 of the former City of Toronto Official Plan. The proposed development does not conform with the in-effect Official Plan designation for the site, and no Official Plan amendment application has been submitted to review against this non-conformity. An Official Plan amendment application is required to be submitted and shall be reviewed by the Provincial ministries identified within the PPS, 2014, as well as by the local municipality.

### **Land Use – Port Lands Planning Framework**

The land use designation discussed above is in effect, but does not represent the current policy framework for this area. As such, land use proposed through this development application is also reviewed against the most current adopted policy framework (the Port Lands Planning Framework and Villiers Island Precinct Plan) and the Central Waterfront Secondary Plan.

The subject site, and a majority of the future Villiers Island, is designated *Regeneration Areas* by the CWSP and reinforced by the PLPF. *Regeneration Areas* are defined in the CWSP as areas intended to provide for a broad mix of commercial, residential, industrial, parks and open space, and institutional uses in an urban form. In addition to this

designation from the CWSP, the PLPF provides more detailed land use direction for this area, including the subject site.

The land use direction in the PLPF classifies the subject site as Mixed-Use Residential (which is subject to appropriate source/receptor mitigation measures and a minimum amount of non-residential uses). The PLPF defines Mixed-Use Residential as areas that will achieve a multitude of objectives by ensuring a broad range of uses such as residential, offices, retail and services, institutional, and recreational and cultural activities.

Section 4.2.1 of the Port Lands Official Plan modification outlines the land use policies for Villiers Island. Pertaining specifically to the appropriate land use mix for the Island, Section 4.2.1d) states that "a mix of residential and non-residential uses will be required in Villiers Island. A minimum of 15 per cent of the Island's total gross floor area will consist of non-residential uses excluding retail and service uses. In addition, a minimum of five per cent of the Island's total gross floor area will consist of retail and service uses or other non-residential uses. Combined, the minimum non-residential requirements will result in at least 20 per cent of the Island's gross floor area. The precise location of the required non-residential uses is not prescribed by this policy and will be determined as zoning is advanced for the Island."

The gross floor area (GFA) land use mix proposed by both phases of this development is as follows:

	Phase 1	Phase 2	Combined
Residential GFA	27,649 m <sup>2</sup>	71,614 m <sup>2</sup>	99,263 m <sup>2</sup>
Non-residential GFA	10,776 m <sup>2</sup>	1,424 m <sup>2</sup>	12,200 m <sup>2</sup>
Total GFA	38,425 m <sup>2</sup>	73,038 m <sup>2</sup>	111,463 m <sup>2</sup>
Percentage of non-residential GFA of total	28%	2%	11%

The proposal is not providing the minimum amount of non-residential GFA (20%) which is required to produce a true mixed-use and complete community as envisioned by the PLPF and VIPP.

The residential and non-residential ratio contemplated in the Port Lands Official Plan modification applies to the entirety of Villiers Island. Should the development for Phase 1 and Phase 2 proceed as proposed, this would shift a majority of the non-residential land use obligation to the remainder of the landowners of the Island. This is not the intent of the policy as written in the Port Lands Official Plan modification and would set a negative precedent for future development on the Island.

As such, the proposal is wholly deficient and is not consistent with the direction of Mixed-Use Residential and does not conform to the policy direction that applies to Villiers Island. A development with the proposed land use mix would set an extremely negative precedent for the future development of the Island, and should be refused.

In addition to the Mixed-Use Residential classification for the subject site, another key aspect of the overall Villiers Island precinct is the creation of lively, active streetscapes. The PLPF identifies the streets adjacent to the subject site as Priority Retail Streets Frontages (the Cherry Street and Villiers Street frontages of the subject site), Secondary Retail Streets (the frontages on the future mid-block, shared street known as Centre Street), and Water's Edge Animation (the Commissioners Street frontage of the subject site).

The Phase 1 and Phase 2 developments propose non-residential active uses along the required street frontages; however, further clarity and understanding of the proposal is required to ensure this proposal complies with this vision. If the proposal is amended to address the lack of non-residential GFA outlined above, then the applicant should also outline how their proposed non-residential use strategy will be consistent with the streetscape objectives of the PLPF.

### **Inclusive Communities and Housing**

An important aspect of the future development of the Port Lands Mixed-Use Residential areas, particularly within Villiers Island, is the creation of inclusive communities. The PLPF and VIPP envision the creation of inclusive communities; a place where people of all incomes, ages and abilities coexist, and are equally afforded the ability to actively participate in all aspects of community life. The PLPF states that Villiers Island is a key opportunity area to ensure the entire port lands develops as an inclusive community and emphasizes the need for affordable rental housing to be delivered in lock-step with market ownership housing.

In addition to the PLPF, the CWSP also provides policy direction on housing, as follows:

- (P38) A mix of housing types, densities and tenures will accommodate a broad range of household sizes, composition, ages and incomes contributing to the vitality of the Central Waterfront as well as the opportunity for residents to remain in their communities throughout their lives.
  
- (P39) The overall goal for the Central Waterfront is that affordable rental housing and low-end-of-market housing comprise 25 per cent of all housing units (see Definitions in Schedule B). To the extent possible, and subject to the availability of funding programs and development cross-subsidization, the greatest proportion of this housing will be affordable rental with at least one quarter in the form of two-bedroom units or larger. Senior government funding programs to assist in the delivery of affordable rental housing will be aggressively pursued, and appropriate opportunities identified to take advantage of such programs.

It is clear that the policy direction for the central waterfront area, including the Port Lands and Villiers Island, is to develop a place that provides a mix of housing types, densities, tenures, and affordability.

Beyond affordability, the PLPF also identifies that housing in the Port Lands will provide for a diversity of choices in terms of unit sizes, types, affordability, and tenure to support the vision for complete, inclusive communities.

Section 8 of the Port Lands Official Plan modification provides policy direction for inclusive communities. Section 8.3 states that "residential developments will provide:

- 10 per cent of the total residential units as three-bedrooms or larger with a minimum unit size of 100 square metres; and
- 15 percent of the total residential units built as two-bedroom units or larger, with a minimum unit size of 87 square metres."

The proposed unit mix for both phases of this development is as follows:

	Phase 1	Phase 2	Combined
1-bedroom units	170	696	866
2-bedroom units	170	209	379
3-bedroom units	0	108	108
Total number of units	340	1,013	1,353
Percentage of 2-bedroom or larger units (inclusive of 3-bedroom units)	50%	31.3%	35.9%
Percentage of 3-bedroom or larger units	0%	10.7%	7.9%

As outlined above, the proposed unit mix, particularly from a 3-bedroom perspective, does not conform to the policy direction for the Port Lands.

The City's Growing Up: Planning for Children in New Vertical Communities draft urban design guidelines ("the Growing Up Guidelines") provides direction for family-friendly designed housing and are contemplated within the development of the PLPF. In particular, it addresses how good design at the unit, building and neighbourhood scales can improve the livability for current and future families residing in vertical communities. At the unit scale, the Growing Up Guidelines has identified size ranges for units (measured from the interior side of the walls, excluding mechanical space). The ranges would enable a diversity of bedroom sizes that would maintain the integrity and functionality of common space. The ranges consist of:

- 87 to 90 square metres (936 to 969 square feet) for two-bedroom units; and
- 100 to 106 square metres (1076 to 1140 square feet) for three-bedroom units.

The unit size ranges were integrated into the PLPF, which established the minimum unit size standards for both two- and three-bedroom units within the new mixed-use

communities of the Port Lands. Based on the information provided by the applicant and formally submitted to City staff, the proposed development does not provide for appropriate minimum two- and three-bedroom unit sizes and therefore does not conform to the policy direction for the Port Lands.

As it pertains to affordable rental housing, section 8.4 of the Port Lands Official Plan modification states that "new residential developments will provide affordable rental housing at the pace of and proportional to market developments." Further, section 8.7 states that "on land that is privately owned, as of the date of adoption of this Area Specific Policy, and in Mixed Use Residential and PIC Mixed-Use areas where residential uses are permitted, affordable rental housing will be provided in the form of one of the following methods or a combination thereof:

Affordable rental units:

- 5 per cent of the total residential gross floor area constructed and conveyed to the City as permanent affordable housing; and/or
- 10 per cent of the total residential gross floor area for a minimum period of 25 years; and/or
- 20 per cent of the total residential gross floor area as land, ready and available for development, and dedicated to the City for development of affordable rental housing.

The proposals for both Phase 1 and Phase 2 do not include any affordable rental housing, and are therefore not in conformity with the policy direction.

The above highlights how the proposal is entirely inconsistent with the vision for the central waterfront and Port Lands areas. Further, the proposal does not conform to the current policy direction for the Port Lands and Villiers Island. As such, the proposal should be refused by the LPAT.

### **Land Use Compatibility**

Section 4.2.1c) of the Port Lands Official Plan modification states that "Source mitigation at the Cement Terminal on Polson Quay and appropriate receptor mitigation will be required to be confirmed prior to rezoning lands for sensitive uses in Villiers Island. Appropriate source and receptor mitigation will be determined through the submission of detailed noise and/or air quality assessment(s). Any on-site source mitigation proposed at the Polson Street Cement Terminal on Polson Quay will require the agreement of the operator of the Cement Terminal."

The applicant submitted a noise and vibration study, and an air quality study with their Phase 2 application.

As it pertains to the existing industry, the conclusions of the noise and vibration study state that "noise from some industrial or commercial facilities in the vicinity of the site (Lafarge, Polson Pier, and the restaurant at the corner of Commissioners Street and Old Cherry Street) may impact the future development. Additional assessment of these sources is required to verify impacts on the proposed site, and development appropriate control strategies."

The conclusions of the air quality study submitted by the applicant state that "the industries in the area around the proposed 309 Cherry Street development generally are at suitable setback distances and not expected to cause adverse air quality effects at the development site. Most of these industries will eventually be displaced under the Villiers Island Precinct Plan. Preliminary screening-level dispersion modelling indicates that emissions of nitrogen oxides from the Portlands Energy Centre, located approximately 1.7km east of the development site, will exceed the provincial standard for 1-hour nitrogen oxide levels on the uppermost floors of the proposed 52 storey tower. It is recommended that the developers of 309 Cherry Street enter into discussions with the Portlands Energy Centre on how to resolve this issue."

The conclusions of both reports indicate potential concern and the requirement for further assessment to ensure appropriate land use compatibility. Further, source mitigation and receptor mitigation have not been confirmed. Therefore, the proposal does not conform to the current policy direction as outlined above.

## **Built Form**

The PLPF and VIPP provide clear built form direction for the Villiers Island area. Villiers Island is located within the Mid-rise Core area as outlined in the PLPF. The Mid-rise Core will be developed within an overall dense, mid-rise character. Villiers Island will have some of the greatest intensity and mix of uses in a dense, compact form as compared to the overall Port Lands area. High intensity does not require or mean tall buildings on every site or even within every district. The dominant building typology in these areas will consist of well-proportioned mid-rise buildings that will not overshadow, dominate or compromise the amenity of adjacent streets, open spaces, and buildings. Tall buildings, where permitted, will be generously spaced and strategically located to preserve a district's mid-rise character and ensure high standards for the provision of sunlight and sky view within the public realm and living/working environments.

Villiers Island will have a human-scaled, mid-rise character with some tall buildings of moderate height. The PLPF and VIPP provided careful planning for the buildings on the Island. The dominant building typology in Villiers Island will consist of mid-rise buildings, with tall buildings only permitted in select locations. The buildings heights outlined for the subject site range from 1 to 10 storeys, with permissions for a single tall building up to 24 storeys.

Section 10.8 of the Port Lands Official Plan modification provides key policy direction for Villiers Island and states that "the overall character of Villiers Island will be mid-rise

in nature, punctuated by a limited number of tall buildings in strategic locations." The policy direction also reflects the height limits discussed above.

The Phase 1 and Phase 2 development proposal provide the following built form:

- On the Phase 1 lands, a 26-storey residential tower on an 8-storey base building with retail and office uses is proposed; and
- On the Phase 2 lands, an 11-storey, mixed-use building with retail at grade fronting Cherry Street and a 52-storey building atop a podium base ranging in height from 4 to 12-storeys and fronting onto Commissioners Street and Foundry Street (a proposed north-south road) are proposed.

In addition to overall heights, the VIPP provides minimum tall building separation requirements of 40 metres between each tall building. This separation distance will ensure that tall buildings are well spaced from each other and do not become the dominant element in the skyline, while maximizing sky view and light penetration. The proposed tall buildings on the subject site do not achieve the 40 metre separation distance.

The proposed built form is inconsistent with the PLPF and VIPP and does not conform to the policy direction outlined for Villiers Island. The built form has negative implications for the carefully planned Villiers Island precinct and will set a negative precedent for future development on the Island.

The total density of the combined proposal is an FSI of 5.53, calculated as the total combined GFA of 111,462.8 square metres, divided by the total site area of 20,150.4 square metres. The proposal needs to demonstrate that the total density can be accommodated within the built form that is contemplated within the PLPF and the VIPP. Given the inappropriate nature of the built form proposed, City Planning staff also find that the total density of the combined proposal is inappropriate for the subject site. Based on these inconsistencies and the proposed over development of the site, the proposal in its entirety should be refused by the LPAT.

## **Sun and Shadow**

The VIPP requires development to minimize shadow impacts on parks, open spaces and the public realm to achieve the following sunlight at the spring (March 21) and fall (September 21) equinoxes (emphasis added below, highlighting the shadowing impact from the site onto the adjacent proposed public shared street):

- 7 hours of continuous sunlight on naturalized wetlands (below top of bank), including the naturalized coves along the Keating Channel from 10:18 am;
- 8 hours of continuous sunlight on Promontory Park from 10:18 am;
- 6 hours of continuous sunlight on Villiers Park from 9:18 am;
- 8 hours of continuous sunlight on River Valley Park from 9:18 am;

- Minimal shadow on the Keating Channel Promenade at noon, and 5 hours of continuous sunlight from 1:18 pm;
- 5 hours of continuous sunlight from 1:18 pm with interspersed shadow cast by tall buildings until 3:18 pm on the northern side of Villiers Street;
- **5 hours of continuous sunlight from 12:18 pm along the northern edge of Centre Street;** and
- 4 hours of continuous sunlight along Old Cherry Street from 10:18 am.

The applicant submitted a sun and shadow study for the Phase 2 development, which includes the tallest tower proposed at 52 storeys. The sun and shadow study displays shadowing along the northern edge of Centre Street from 9:18 am until 3:18 pm for both the spring and fall equinoxes, which is inconsistent with the direction of the VIPP.

The shadowing impacts further highlight the inappropriate built form and total building height proposed by the applicant.

### **Traffic Impact, Access, Parking**

As part of the Phase 1 application, the applicant proposed vehicular access to the site via a proposed north-south private drive (Foundry Street) on the east side of the subject site. The proposed Foundry Street would connect Villiers Street, on the north, to Commissioners Street, on the south. This driveway/laneway would provide access to an underground ramp, loading area and the drop-off space on the east side of the Phase 1 development. A total of 457 vehicular parking spaces, 97 bike parking spaces, and 2 loading spaces are proposed for Phase 1.

Access for the Phase 2 application is also proposed from the future, private drive (Foundry Street). A total of 737 vehicular parking spaces, 1,038 bike parking spaces, and 3 loading spaces are proposed for Phase 2.

As discussed earlier in this report, the proposed Foundry Street, was originally established by the Lower Don Lands Infrastructure Master Plan ("the IMP"), which also established the preferred transportation network and servicing approach for Villiers Island and the Keating Channel. The PLPF and VIPP further refine the alignment of Foundry Street, as a local and public City road, as well as the streetscape design of the 20 metre right of way.

The PLPF maintains movement and access, namely the creation of a comprehensive and sustainable transportation system, as a key objective for the future development of the Port Lands. The PLPF establishes an extended and greatly improved network of public streets with a legible hierarchy of street types, consisting of major streets, local streets, shared streets and laneways. The subject site fronts onto a proposed major street (Commissioners Street) to the south, a local street (Old Cherry Street) to the west, and a local street (Villiers Street) to the north. The subject site also fronts onto a proposed local street (Foundry Street) on the eastern portion that bisects the site in a north/south manner, and has a proposed laneway/shared street (Centre Street) bisecting the subject site in an east/west manner.



A key policy direction for ensuring appropriate movement and access within the Port Lands, as stated in Section 9.10 of the Port Lands Official Plan modification, is that "Streets will be public streets, and owned and maintained by the City. Land conveyed to the City for public streets will be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements." The applicant is proposing that the future local street to the east of their development proposal (Foundry Street) and that the future laneway/shared street (Centre Street) be maintained as private roads according to their development proposal. This proposal does not conform to the policy direction and is not supportable.

## **Servicing**

According to the Functional Servicing and Stormwater Management Report submitted by the applicant, the subject site will be serviced with a new sanitary sewer and a new watermain on Commissioners Street and new storm sewers on both Cherry Street and Commissioners Street.

Upon review of this report, Engineering and Construction Services staff have advised City Planning that the report does not provide any analysis or hydrant flow test results, since this infrastructure is to be constructed in the future. Further Engineering and Construction Services staff advise that due to the ongoing servicing work and overall study work in this area this application is premature from a servicing perspective.

The applicant has proposed to place a holding ("H") symbol on their site, through any rezoning approval, to require that the owner demonstrate to the satisfaction of Council that all infrastructure and servicing requirements necessary to accommodate development of the subject site and that all necessary transportation, servicing and infrastructure improvements necessary to serve development of the site for any phase of the development have been secured and/or shall be provided.

Given this strategy proposed, and the information on servicing and stormwater submitted by the applicant, City staff are unable to determine at this time whether appropriate servicing for the site will be achieved. While the applicant is proposing to resolve this matter by including an H symbol on their lands, City staff are of the opinion that the proposal should be refused in its entirety and, therefore, are not supportive of the use of an H symbol at this time. Should the application be revised to meet the vision and policies of the PLPF and the VIPP, an H symbol will be used to ensure appropriate matters, such as servicing and required infrastructure, are complete prior to any development proceeding. To do so, the applicant will be required to resubmit all necessary reports and work with City, Waterfront Toronto, and Toronto and Region Conservation Authority staff to resolve these outstanding infrastructure matters.

## **Cultural Heritage**

As mentioned above, and as shown on Attachment 10, there are five heritage buildings on, or adjacent to, the subject site. A key objective of the vision for the Port Lands is to celebrate and conserve the unique history of the Port Lands to create new experiences that build on the past and bolster character. In accordance with this vision for the Port

Lands, the Port Lands Official Plan modification, through section 6.2 states that "buildings, structures and/or landscapes with cultural heritage value or interest are identified on Map 3D and 3E and will be appropriately conserved and celebrated as important features of the Port Lands." The five heritage buildings shown on Attachment 10 to this report are also identified on Map 3D and 3E to the Port Lands Official Plan modification.

In addition, the VIPP specifically identifies Villiers Island as an important part of Toronto's pre-colonial, industrial and post-industrial history and that the area's industrial, cultural and natural heritage will become defining qualities and contribute to a sense of place as the area transforms into a new mixed-use community. The heritage buildings identified above require a thoughtful conservation strategy to best conserve the structures, while allowing for their adaptive re-use.

The VIPP provides that the heritage of the Island will be conserved through a cluster approach. Four of the five heritage buildings that are located on the west side of the subject site are part of one heritage cluster, while the heritage building on the east side is part of another heritage cluster. In accordance with the Toronto Official Plan, the PLPF, and the VIPP, the following matters, among other matters, must be addressed in all development proposals adjacent to or involving a heritage structure:

- New buildings must be physically and visually compatible with heritage structures and not negatively impact the heritage structure's cultural values and attributes;
- New development adjacent to or in proximity to a heritage structure will incorporate transitions through appropriate setbacks, stepbacks and other built form and massing techniques. Where tall buildings are permitted, stepping down and tapering of heights and tall building components will be required to reinforce and distinguish the historic character, setting and scale of the resources; and
- New development along the east side of Old Cherry Street and north side of Villiers Street should be carefully designed through siting, placing and massing to respect and create a desired street character and legible public realm.

City staff are of the opinion that the current proposal, for both Phase 1 and 2, is not physically and visually compatible with the existing heritage structures and may negatively impact the heritage structure's cultural values and attributes. City staff are also of the opinion that the proposal is not consistent with Policies 2.6.1 and 2.6.3 of the Provincial Policy Statement, 2014, nor does the proposal conform to the City's Official Plan Heritage Policies as the development does not appropriately respond to the existing heritage buildings located on and adjacent to the subject site. Based on these issues, and inconsistencies with both provincial and local policy, the proposal should be refused by the LPAT.

## **Parks and Open Spaces**

The vision of the Port Lands articulated in the PLPF is that it will be a living city throughout the year. The parks and open space system will consist of large multi-functional, city-wide destination signature parks and blue and green open spaces; local parks distributed across the different districts with play spaces, activities, and amenities for residents and workers; smaller parkettes and publicly accessible open spaces; and linear open spaces that either expand on the parks system or create enhanced linkages between the system of parks and open spaces.

The PLPF outlines a new policy direction for parkland dedication on privately-owned land, such as the subject site. The alternative dedication rate will be applied fairly and equitably across privately-owned sites based on residential density. A net development site on privately-owned sites will be defined as the net site excluding any streets, including instances where the City may be requested to accept private streets.

The alternative rate is stated within section 5.12 of the Port Lands Official Plan modification. This section states the following:

"On privately-owned land as of the date of adoption of this Area Specific Policy:

5.12.1 Parkland dedication will be utilized to support the delivery of local public parkland as a priority. An alternative parkland dedication will be applied to proposals for residential and for the residential portion of mixed-use development as follows:

- a) 15 per cent of the net site area, net of any streets (public or private), for proposals with a residential component that is less than a net FSI of 4.0;
- b) 30 per cent of the site area, net of any streets (public or private), for proposals with a residential component that is equal to or exceeds a net FSI of 4.0;
- c) 50 per cent of the site area, net of any streets (public or private), for proposals with a residential component that is equal to or exceeds a net FSI of 8.0.

5.12.2 Cash-in-lieu may be accepted at the sole discretion of the City and will only be applied towards the acquisition, design and construction of public parks within the Port Lands."

The application has not provided for parkland dedication based on the alternative rate above. City staff will discuss the appropriate parkland dedication requirement with the applicant should an appropriate development application be proposed. Parkland dedication will be pursued based on the above-noted alternative rate.

## **Community Services and Facilities**

Community infrastructure is a central component and integral building block for complete and vibrant places. Community infrastructure refers to public spaces and buildings that accommodate a range of services and facilities. The Official Plan and the CWSP emphasize that planning for community infrastructure is as important as planning for hard infrastructure in building successful and liveable places.

The PLPF includes conceptual locations for locating different community infrastructure in the Port Lands. The conceptual locations were established in consideration of the principles established by the PLPF, such as co-locating facilities with either other facilities or in mixed-use buildings. For Villiers Island, a child care centre has been conceptually proposed within the subject site, preferably located in a mixed-use building. The policy direction provides that the licensed non-profit child care centre should be developed with a minimum of 62 spaces.

The proposed development does not include a co-located, licensed non-profit child care centre. Further, the proposed development is at a density that was not contemplated by the PLPF or VIPP. City staff are of the opinion that the proposed development cannot proceed at its current density, or at the density envisioned within the PLPF and VIPP, without the provision of a child care centre. The proposal is not appropriate without the provision of a child care centre and should be refused by the LPAT.

## **Flood Plain and Future Flood Protection**

As noted in Attachment 8, the entirety of the subject site is located within, and is surrounded by, an existing Regulatory Flood Plain. The Regulatory Flood Plain is the approved standard used to define the limit of the flood plain in a particular watershed. Within the Toronto and Region Conservation Authority's jurisdiction, the Regulatory Flood Plain is based on the Regional Storms event (Hurricane Hazel), or the 100 year flood, whichever is greater.

Development is generally prohibited within the Regulatory Flood Plain. A small portion of the eastern side of the site is within a Special Policy Area (SPA). Lands within the SPA may develop under the existing Official Plan permissions subject to flood proofing, but any proposals for intensified land uses, in this case from the existing in-effect Official Plan, must go through a comprehensive review process and receive approval from the provincial Ministries of Municipal Affairs and Natural Resources and Forestry. New uses, like residential uses, including all buildings, structures and associated uses, and future development would require amending the SPA that impacts the subject site. To remove the lands from the SPA, and permit new residential uses, the lands must be flood protected.

Until the lands are flood protected, through the phased completion of the Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA), residential development cannot proceed on the subject site. While the applicant is proposing to resolve this matter by including a Holding ("H") symbol on their lands, City staff are of the position that the proposal should be refused in its entirety and, therefore, are not supportive of the use of an H symbol at this time. Should the application be

revised to meet the vision and policies of the PLPF and the VIPP, an H symbol will be used to ensure appropriate matters, such as flood protection, are complete prior to any development proceeding.

### **Section 37**

Following the submission of the Phase 1 and Phase 2 development applications, City staff determined it was not appropriate to discuss Section 37 benefits as the proposed development was not considered to be good planning.

Should a redevelopment of some form be approved through an LPAT hearing, City staff will be seeking a Section 37 contribution in accordance with the Council-adopted PLPF and Council-endorsed VIPP.

### **Waterfront Toronto Design Review Panel**

For any development application proposed within the central waterfront area, it is typical for the application to also be reviewed by Waterfront Toronto's Design Review Panel. To date, the application has yet to begin this review process, and this will be required to further assess the design aspects of the proposal against the direction provided within the Prot Lands Planning Framework and the Villiers Island Precinct Plan.

### **Conclusion**

As discussed in the City staff preliminary report dated March 17, 2017, City staff had serious and major concerns with the proposal as submitted, and outlined a list of issues that needed further review. The proposal, now reviewed against the Council-adopted Port Lands Planning Framework, and Council-endorsed Villiers Island Precinct Plan, reinforces the concerns previously outlined. There are major issues and inconsistencies with this proposal against the recently adopted planning framework and policy modifications that indicate this proposal should be refused by the LPAT in its entirety. These issues include, but are not limited to, land-use, built form, land-use computability, affordable housing, the applicant's proposed road network, community services, and flood protection. In addition, there are further issues that must be assessed, including site servicing, traffic, parking, and the eventual review by the Waterfront Toronto Design Review Panel.

In addition to the above, the proposal does not conform to the in effect former City of Toronto Official Plan.

The proposal for both Phase 1 and Phase 2 has the ability to set a negative precedent for the future development of the Villiers Island, is not in conformity to the policy direction of the Ports Lands Official Plan modification and is not in accordance with the Villiers Island Precinct Plan. Therefore, City staff are of the opinion that this application should be refused by the LPAT in its entirety.

In sum, the combined proposed development is not consistent with the PPS, 2014, does not conform with the Growth Plan, does not conform with the in-effect Official Plan land use designation, is an overdevelopment of the site, and does not represent good planning.

City staff will only continue discussions with the applicant should the applicant intend to submit a revised proposal that is consistent with the current planning direction in the Port Lands.

## **CONTACT**

Daniel Woolfson, Senior Planner  
Tel. No. 416-392-7574  
E-mail: Daniel.Woolfson@toronto.ca

## **SIGNATURE**

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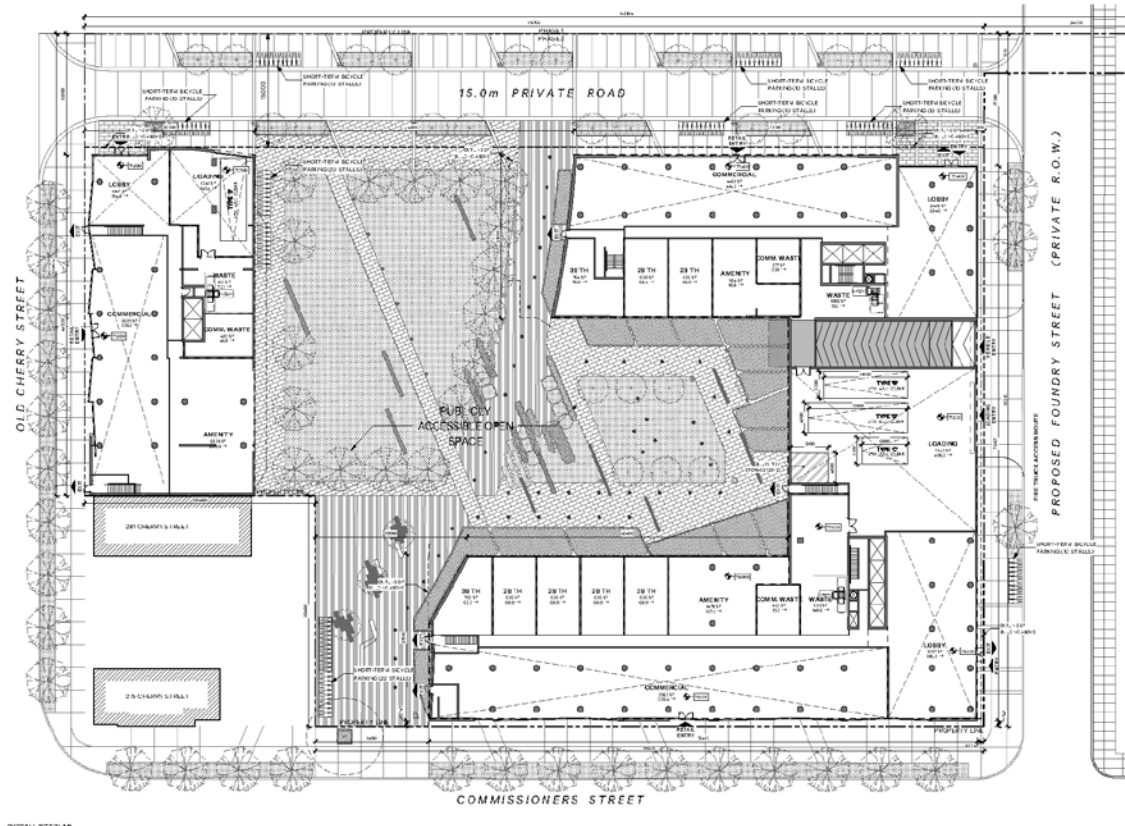
Lynda H. Macdonald  
Acting Director, Community Planning  
Toronto and East York District

(P:\2018\Cluster B\pln\TEYCC\8697960009.doc) – ca

## **ATTACHMENTS**

Attachment 1: Site Plan  
Attachment 2: South Elevation  
Attachment 3: North Elevation  
Attachment 4: East Elevation  
Attachment 5: West Elevation  
Attachment 6: Zoning  
Attachment 7: Official Plan  
Attachment 8: Flood Plain  
Attachment 9: SPA Map  
Attachment 10: Context Map and Heritage Buildings  
Attachment 11: 3D Model  
Attachment 12: Application Data Sheet  
Attachment 13: Letter from the Ministry of Municipal Affairs and Housing, April 10, 2017  
Attachment 14: Letter from the Toronto and Region Conservation Authority, May 15, 2017


# Attachment 1: Site Plan



OVERALL SITE PLAN  
DATE: 03/03/2017

## Site Plan

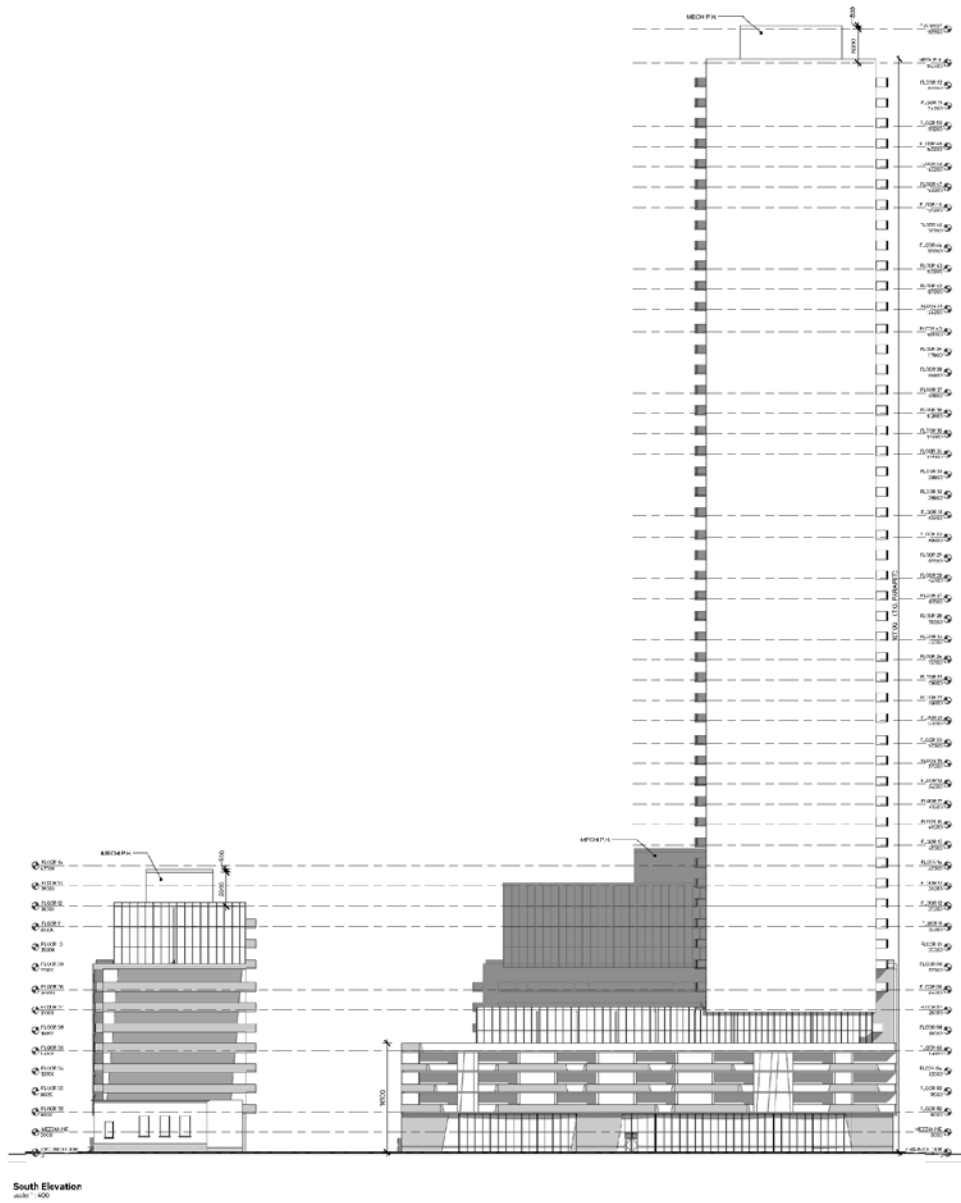
Applicant's Submitted Drawing

Not to Scale   
03/03/2017

## 309 Cherry Street

File # 16 271912 STE 30 OZ

## Attachment 2: South Elevation



South Elevation

Applicant's Submitted Drawing

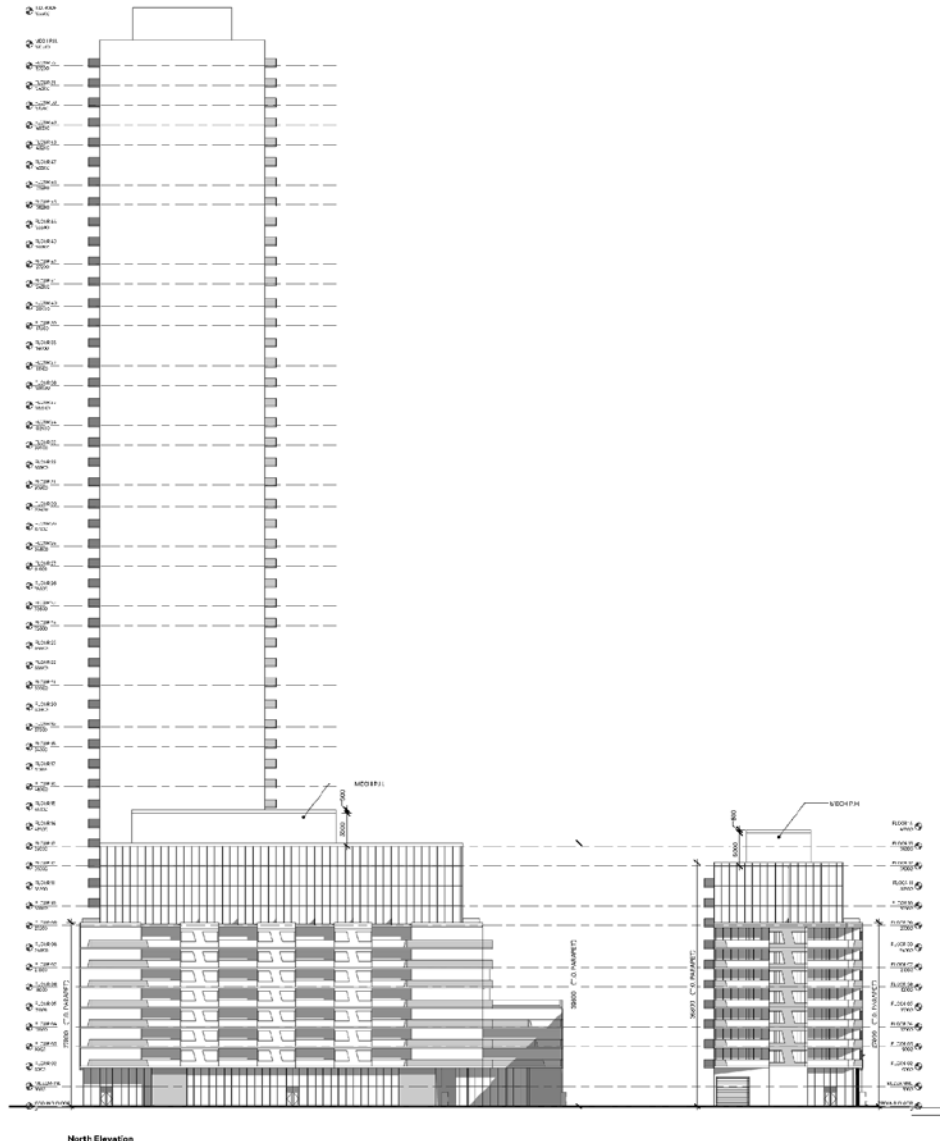
Not to Scale   
03/03/2017

309 Cherry Street

File # 16 271912 STE 30 OZ




# Attachment 3: North Elevation



## North Elevation

Applicant's Submitted Drawing

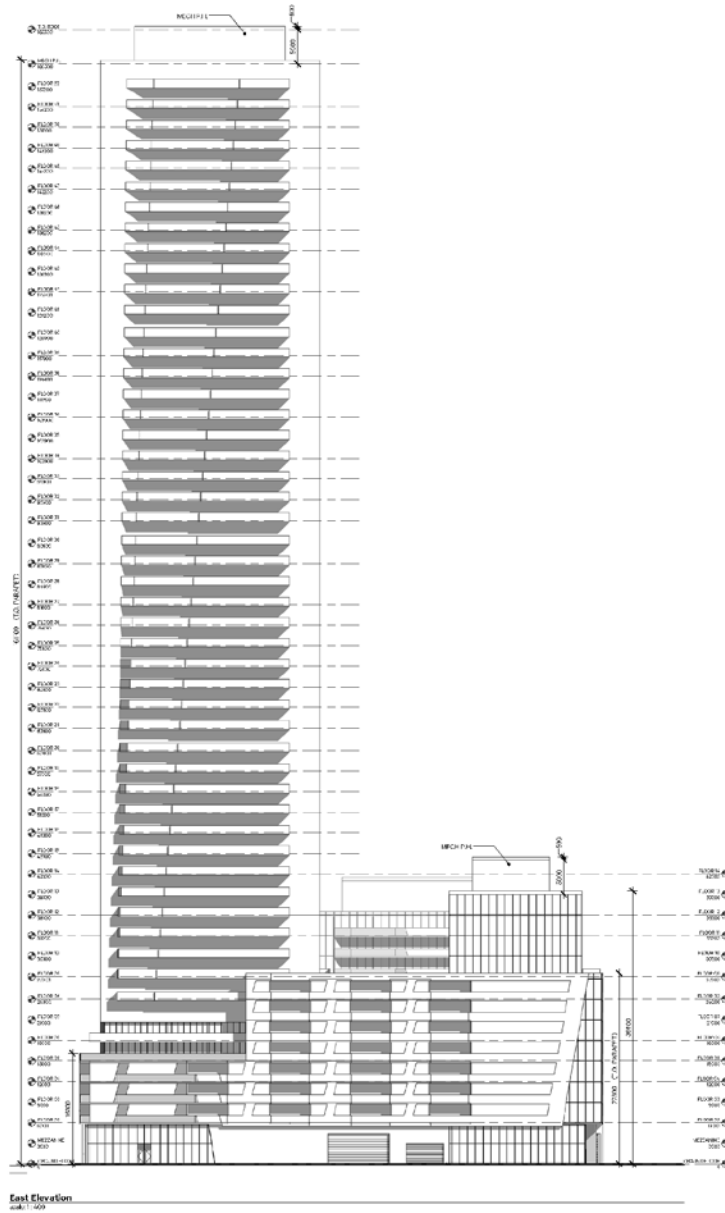
Not to Scale 

03/03/2017

## 309 Cherry Street


File # 16 271912 STE 30 OZ

# Attachment 4: East Elevation



## East Elevation

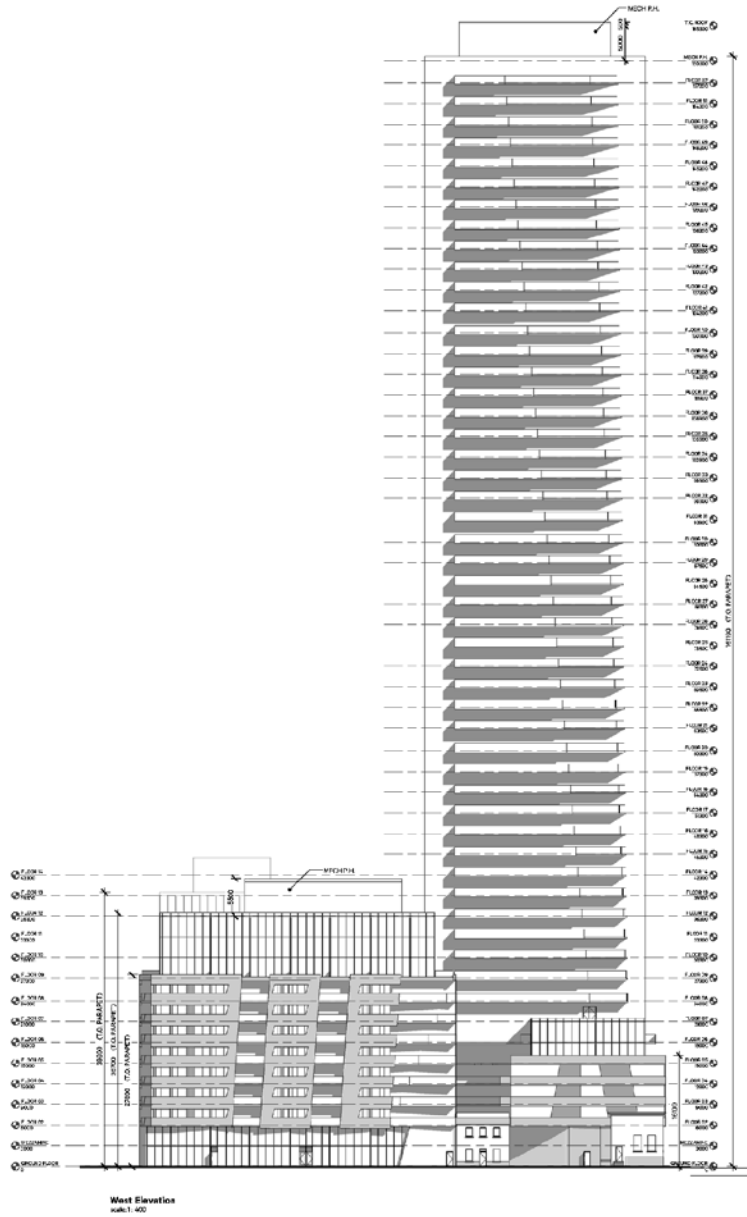
Applicant's Submitted Drawing

Not to Scale   
03/03/2017

309 Cherry Street

File # 16 271912 STE 30 OZ

# Attachment 5: West Elevation



## West Elevation

309 Cherry Street

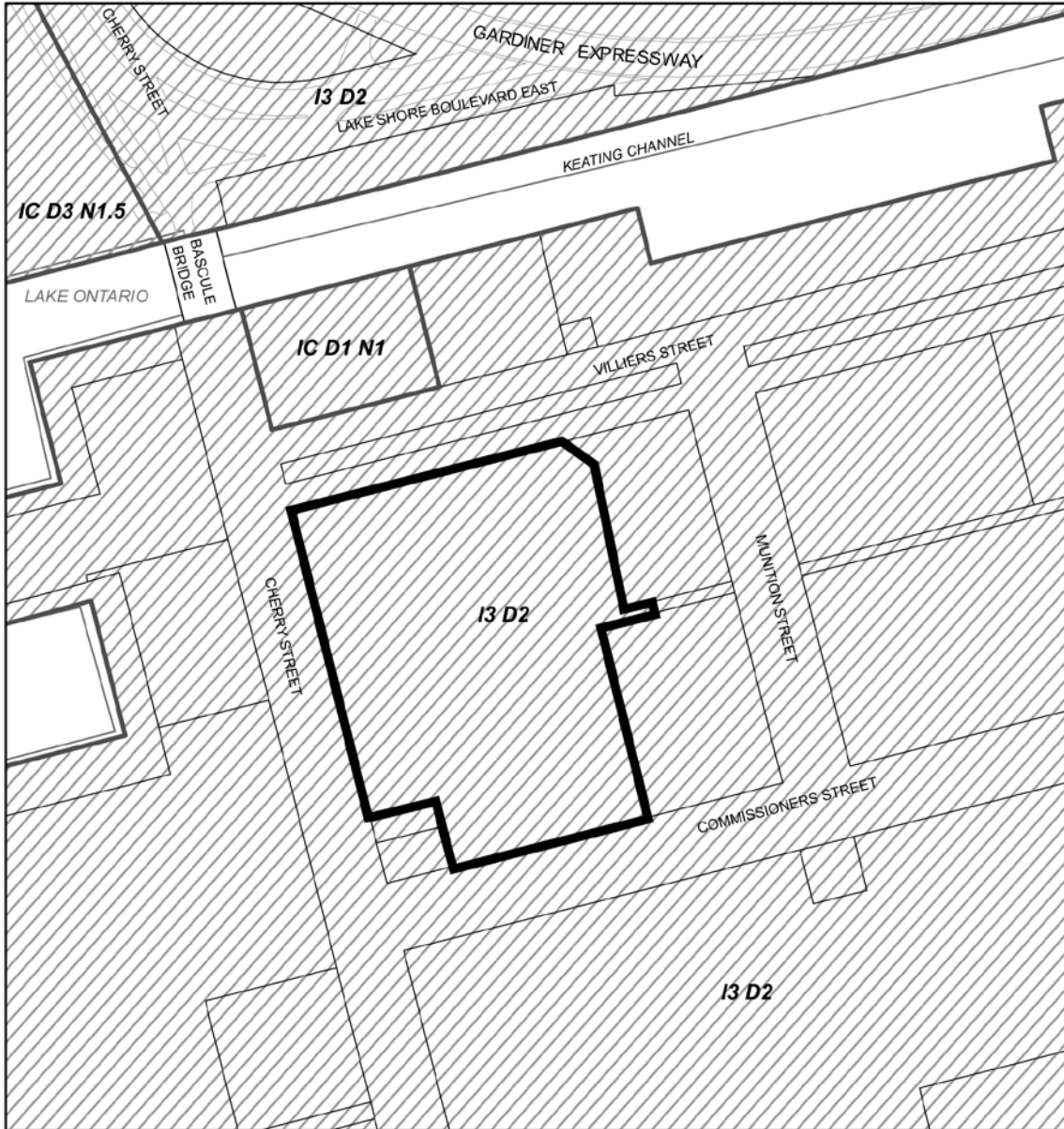
Applicant's Submitted Drawing

Not to Scale 

03/03/2017

File # 16 271912 STE 30 OZ

## Attachment 6: Zoning



**Zoning By-Law No. 569-2013**

**309 Cherry**

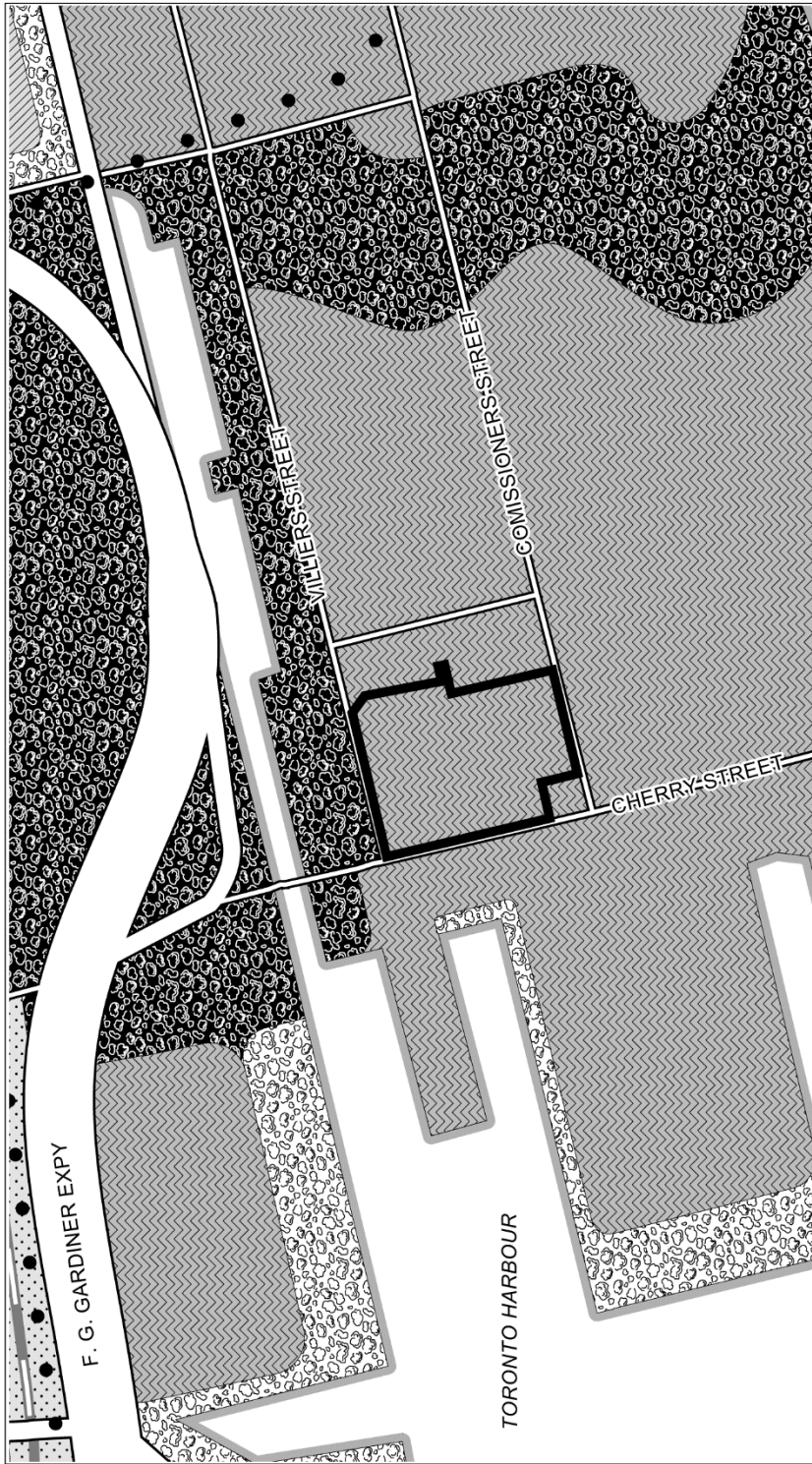
**File # 16 271912**

Location of Application

See Former City of Toronto By-Law No. 438-86  
 I3 Industrial District  
 IC Industrial District

Not to Scale  
 Extracted: 04/17/13

Attachment 7: Official Plan



309 Cherry Street

**Toronto**  
Extract from Official Plan



File # 16-271912 STE 30.0Z



↑  
Not to Scale  
04/17/2018

## Attachment 8: Flood Plain



-  Flood Plain
-  Subject Site

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### Flood Plain

Applicant's Submitted Drawing

Not to Scale   
03/07/2017

309 Cherry Street

File # 16 271912 STE 30 0Z

**Attachment 9: SPA Map**



- SPA Boundary
- ■ ■ ■ Subject Site

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**SPA Boundary**

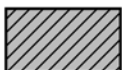
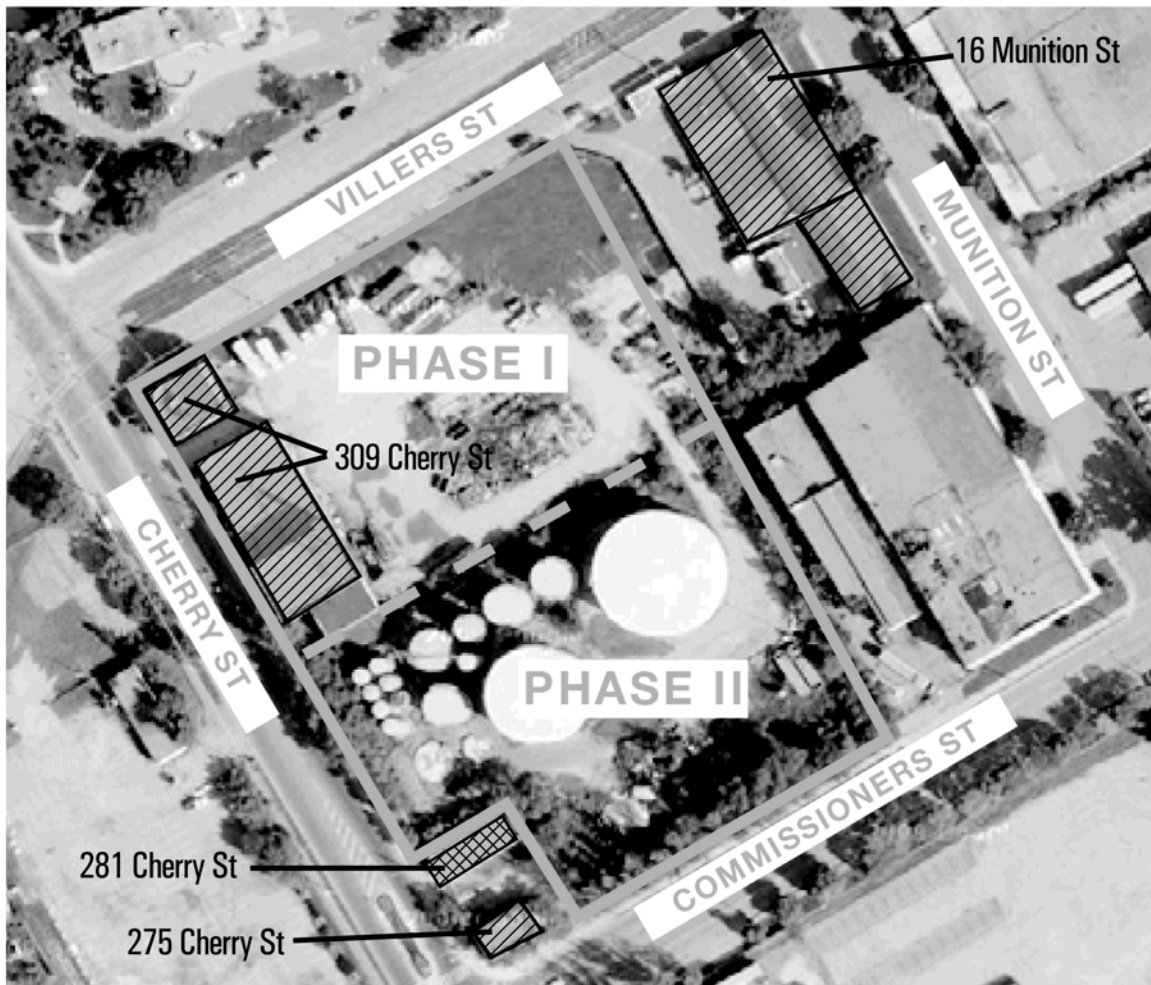
**309 Cherry Street**

Applicant's Submitted Drawing

Not to Scale   
03/07/2017

File # 16 271912 STE 30 0Z

**Attachment 10: Context Map and Heritage Buildings**



Listed on the Toronto Heritage Register



Designated under part IV of the Ontario Heritage Act

**Heritage & Phase Map**

**309 Cherry Street**

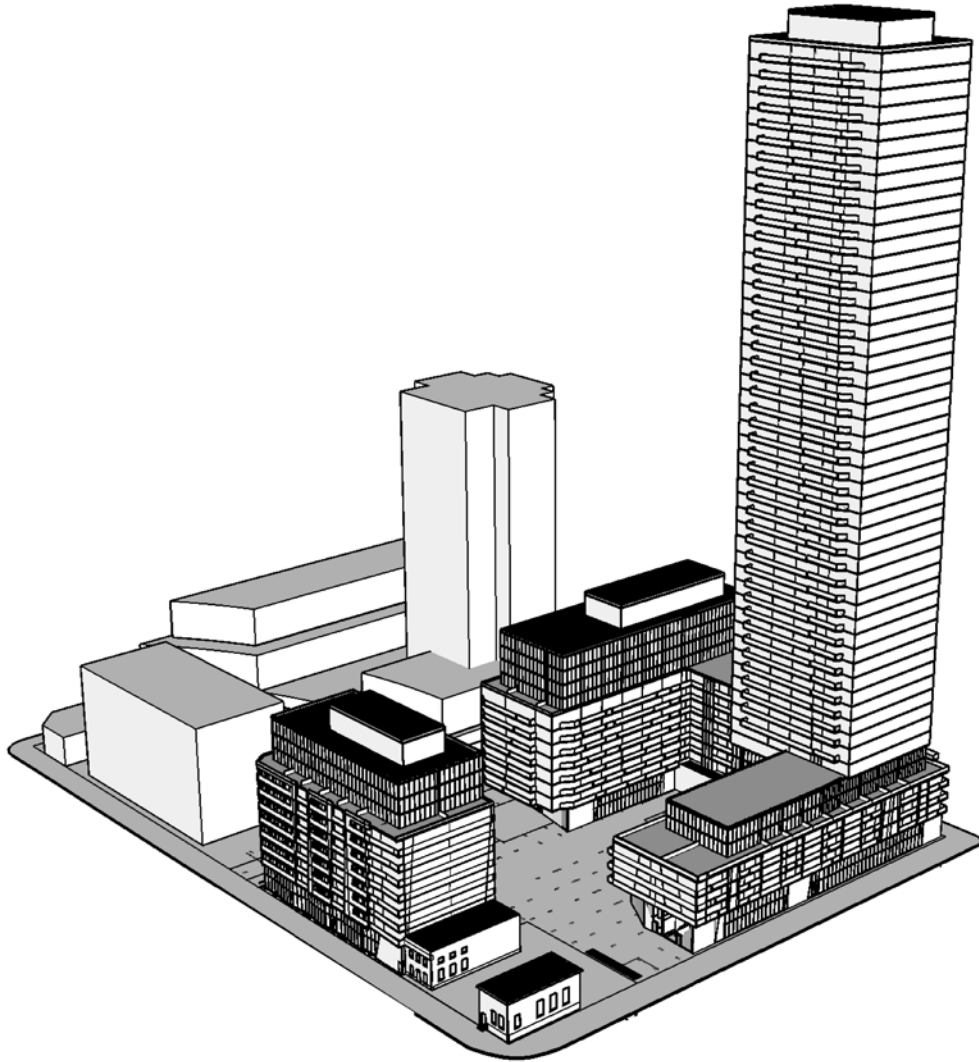
Applicant's Submitted Drawing

Not to Scale   
03/07/2017

File # 16 271912 STE 30 0Z



## Attachment 11: 3D Model



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### 3D Model

Applicant's Submitted Drawing

Not to Scale   
03/07/2017

309 Cherry Street

File # 16 271912 STE 30 0Z

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## Attachment 12: Application Data Sheet

Application Type	Rezoning	Application Number:	16 271912 STE 30 OZ
Details	Rezoning, Standard	Application Date:	December 30, 2016

Municipal Address: 309 CHERRY ST

Location Description: PLAN 520E PT BLK A K J \*\*GRID S3014

Project Description: Zoning By-law Amendment to permit the redevelopment of the site for an 11-storey mid-rise building along Old Cherry Street, one 52-storey tall building atop a podium base ranging in height from 4 to 12-storeys along Commissioners Street and Foundry Street, the creation of a 15 metres east-west private road along the north portion of the site and publicly accessible open space in the interior of the site.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
ELSA FANCELLO		SvN Architects + Planners	1337194 ONTARIO INC

### PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	
Zoning:	I3 D2	Historical Status:	N (two adjacent heritage properties)
Height Limit (m):		Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	10055	Height:	Storeys:	52
Frontage (m):	86.22		Metres:	160.5
Depth (m):	118.77			
Total Ground Floor Area (sq. m):	4475			<b>Total</b>
Total Residential GFA (sq. m):	71614.3		Parking Spaces:	851
Total Non-Residential GFA (sq. m):	1423.5		Loading Docks	4
Total GFA (sq. m):	73037.8			
Lot Coverage Ratio (%):	45			
Floor Space Index:	7.26			

### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:	Condo		
Rooms:	0	Residential GFA (sq. m):	71614.3
Bachelor:	0	Retail GFA (sq. m):	1423.5
1 Bedroom:	696	Office GFA (sq. m):	0
2 Bedroom:	209	Industrial GFA (sq. m):	0
3 + Bedroom:	108	Institutional/Other GFA (sq. m):	0
Total Units:	1013		

**CONTACT: PLANNER NAME: Daniel Woolfson, Senior Planner**  
**TELEPHONE: (416) 392-7574**

**Attachment 13: Letter from the Ministry of Municipal Affairs and Housing, April 10, 2017**

**Ministry of  
Municipal Affairs  
and Housing**

Municipal Services Office  
Central Ontario  
777 Bay Street, 13<sup>th</sup> Floor  
Toronto ON M5G 2E5  
Phone: 416-585-6226  
Fax: 416-585-6882  
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**Ministère des  
Affaires municipales  
et du Logement**

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Toronto ON M5G 2E5  
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April 10, 2017

Daniel Woolfson  
Planner

Community Planning, Toronto and East York District, East Section  
City of Toronto  
City Hall, 18th Floor, East Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Mr. Woolfson:

**Re: Application for Zoning By-law Amendment**  
**Location: 309 Cherry Street, Toronto**  
**Applicants: 1337194 Ontario Inc. and 2034055 Ontario Limited**  
**MMAH File No.: 20-ZBL-173336**  
**Toronto File No.: 16 271912 STE 30 OZ**

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This letter is in response to the City of Toronto's circulation of the above-noted application to the Ministry of Municipal Affairs and Housing ("MMAH") for review. The City has received an application for a Zoning By-law Amendment for the subject lands located at 309 Cherry Street. The Site is divided into two phases for redevelopment purposes. The Phase 1 Lands are located on the north portion of the Site and are approximately 1.01 hectares in size. In 2012, a rezoning application was submitted to the City of Toronto for the Phase 1 Lands, which proposed a 26-storey residential tower on an 8-storey base building with retail and office uses (the proposed 8-storey base building fronts on Villiers Street).

The Phase 2 Lands, which are the subject of this application, are located on the south portion of the Site and are approximately 1 hectare in size. The Owners are seeking a zoning by-law amendment for the Phase 2 Lands in order to permit the redevelopment of the site for an 11-storey mid-rise building along Old Cherry Street, one 52-storey tall building atop a podium base ranging in height from 4 to 12-storeys along Commissioners Street and Foundry Street. The application was submitted as the proposed residential uses, densities and heights are not permitted under the existing Industrial (I3 D2) zoning for the site.

Both the 2014 Provincial Policy Statement ("PPS") and Growth Plan for the Greater

**Attachment 13: Letter from the Ministry of Municipal Affairs and Housing, April 10, 2017**

Golden Horseshoe support intensification, redevelopment and compact form that is appropriate in type, scale and character where this can be accommodated while avoiding or mitigating risks to public health and safety.

As you are aware, a portion of the subject lands are located within the boundaries of the Lower Don Special Policy Area ("SPA"), and the other portion lies within the floodplain due to flooding risk from the Lower Don River. The Lower Don SPA is identified in Appendix B (Map 3) of the former City of Toronto Official Plan which includes the in-effect mapping and policies that apply to part of the subject lands. The policies require that any new development of the subject lands must be flood proofed at least to the level of a 1:350-year flood level.

Section 3.1.2 c) of the 2014 PPS states, "*Development and site alternation shall not be permitted within: c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and natural hazard.*"

As noted in the March 17, 2017 Staff Report to Toronto and East York Community Council, the site is designated as *General Industrial Area*, and the proposed development does not conform with the in force official plan designation; therefore an official plan amendment is required to be submitted by the applicant. Section 3.1.4 a) of the 2014 PPS states, "the designation of a Special Policy Area, and any change or modification to the official plan policies, land use designations or boundaries applying to Special Policy Area lands, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes or modifications."

Further, an SPA is not intended to allow for new or intensified development and site alteration, if a community has feasible opportunities for development outside the flood plain.

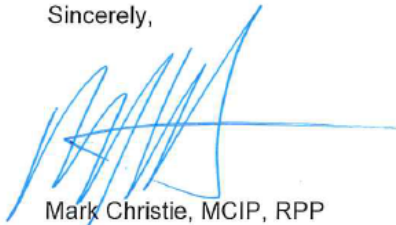
While the subject site is within the area covered by Official Plan Amendment (OPA) 388, which includes policies intended to preserve the proposed alignment of the Lower Don Lands EA and to provide for phasing and controlled development (currently before the Ontario Municipal Board; therefore not in effect). OPA 388 was premised in part on the Don Mouth Naturalization and Port Lands Flood Protection EA, as well as other Environmental Assessments to facilitate the development of the Keating Channel. As these flood mitigation assessments and initiatives are still underway, it would be premature to move forward with developing on the subject site.

**Attachment 13: Letter from the Ministry of Municipal Affairs and Housing, April 10, 2017**

In light of the foregoing, it is recommended that the proposed Zoning By-law Amendment application for the subject site located at 309 Cherry Street be refused.

Please feel free to contact Janani Mahendran, Planner in my office should you have any questions by telephone at (416) 585-7578 or by email at [Janani.Mahendran@ontario.ca](mailto:Janani.Mahendran@ontario.ca).

Sincerely,



Mark Christie, MCIP, RPP  
Manager, Community Planning and Development  
Municipal Services Office – Central Ontario

- c. Kerry Voumvakis, City of Toronto
- Christian Giles, City of Toronto
- Jeff Cantos, City of Toronto
- Steve Heuchert, TRCA
- Steven Strong, MNRF

**Attachment 14: Letter from the Toronto and Region Conservation Authority, May 15, 2017**



May 15, 2017

CFN 57381.01  
XREF CFN 47595.01

**BY E-MAIL ONLY**

Daniel Woolfson  
Senior Planner, Community Planning  
City Hall, 18th Floor, East Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Mr. Woolfson:

**Re: Zoning Amendment Application No. 16 271912 STE 30 OZ  
309 Cherry Street (Phase 2)  
City of Toronto  
1337194 Ontario Inc. (Castlepoint Numa)**

Thank you for the opportunity to review the following documents submitted for the above referenced Zoning By-law Amendment application for 309 Cherry Street, received on February 1, 2017 with additional information and application fees received March 23, 2017:

- Topographic Survey, prepared by Guido Papa, dated March 17, 2016;
- Planning and Urban Design Rationale, prepared by Bousfields, dated December 2016;
- Flood Study, prepared by Cole Engineering, dated March 15, 2017;
- Functional Servicing and SWM Report, Cole Engineering, dated March 2017;
- Architectural Drawings, prepared by SvN, dated December 30, 2016;
- Geotechnical Investigation, prepared by WSP Canada, dated December 23, 2016.

TRCA's mandate is to provide technical and planning review of the proposal to ensure consistency with the approved Don Mouth Naturalization and Port Lands Flood Protection Environmental Assessment (DMNP EA) as well as the Natural Hazards policies of the Provincial Policy Statement, 2014. We offer the following comments for consideration:

***Our Understanding of the Application***

We understand that the application proposes redevelopment of the site for an 11 storey midrise building along Old Cherry Street, one 52 storey tall building atop a podium base along Commissioners Street and Foundry Street and the creation of a 15 metre wide east-west private road and publicly accessible open space. The proposal is submitted in advance of any Ontario Municipal Board approvals of the Central Waterfront Secondary Plan to establish mixed residential permissions on this site.

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## Attachment 14: Letter from the Toronto and Region Conservation Authority, May 15, 2017

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### ***Flood Protection***

1. The subject property is located within the Regional Storm Floodplain of the Don River. Ultimately the site will be removed from the floodplain upon implementation of the approved Don Mouth Naturalization and Port Lands Flood Protection Project (DMNP). However, the preliminary grades identified in the EA and Drawing GR-2 prepared by MMM Group were prepared as a due diligence and validation document, and the final grades may change. Therefore, any planning work for this site should be considered after the DMNP detailed design has advanced to the point where grades can be accurately determined.
2. Notwithstanding the above, the assumptions made about the preliminary grading are inconsistent across the various drawings. Section 1.2 of the FSSR refers to Drawing GR-2 prepared by MMM Group and states that it is anticipated that the grades along Commissioners Street and Old Cherry Street will be raised to an elevation of 77.8 m and 76.8 m respectively. However, Drawing GR-2 shows elevations of 77.30 m, 77.89 m, and 77.25 m along Commissioners Street and does not show grades on Old Cherry Street. Drawing SG-01 shows future road grades along Commissioners Street and Old Cherry Street that do not match Drawing GR-2. Section 7 and 8.2 refers to information provided by Waterfront Toronto (Drawing GR-2 prepared by MMM Group) and states that future road elevations of 77.00 m and 77.90 m are proposed for Cherry Street and Commissioners Street respectively. Again, this information does not match Drawing SG-01. Please review the FSSR and drawings and correctly reference all future road grades once those grades can be more accurately determined.

### ***Stormwater Management***

3. Section 4.5 and Drawing SS-01 show a proposed 300mm dia. storm sewer connected to the future storm sewer connection on Commissioners Street. However, the details of the future storm sewer on Commissioners Street are not known at this time. Further, the HGL of all storm sewers are uncertain, and surcharging during major rain events, and possibly during smaller rain events, is a risk. We are concerned that it is too soon to move forward with functional design of the storm sewers when there are still many unknowns for the area. The review and approval of infrastructure and associated connections should be deferred to the DMNP / City infrastructure detailed design process.

### ***Geotechnical Borehole Information***

4. The geotechnical investigation references two new boreholes on the property showing depth to bedrock. Would it be possible to receive digital copies of this data and reports for inclusion in the overall Port Lands CBRA process? The huge variation in depth to bedrock (17m deep versus 44m deep) over a short lateral distance of just under 100m from each other should be included in our database. If the applicant is prepared to share this data, then they should contact Ken Dion at [kdion@trca.on.ca](mailto:kdion@trca.on.ca).

### ***Recommendation***

TRCA will continue to work with the applicant, Waterfront Toronto and the City of Toronto as planning for Villiers Island and the detailed design for the implementation of the DMNP advance. While this site will ultimately be removed from the floodplain, it is difficult for decisions to be made in the

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May 15, 2017

absence of this more detailed precinct planning. As such, we are of the opinion that the application is premature at this time.

We trust this is of assistance. Please feel free to contact me if you have any questions.

Sincerely,



Steven Heuchert, MCIP, RPP, MRTPI  
Associate Director, Development Planning  
Planning and Development  
416-661-6600 xt 5311

cc: Louis Bitonti, MMA ([louis.bitonti@ontario.ca](mailto:louis.bitonti@ontario.ca))  
Ken Dion, TRCA ([kdion@trca.on.ca](mailto:kdion@trca.on.ca))  
Elsa Fancello, Castlepoint Numa ([elsa@castlepointnuma.com](mailto:elsa@castlepointnuma.com))  
Christopher Glaisek, Waterfront Toronto ([cglaisek@waterfronttoronto.ca](mailto:cglaisek@waterfronttoronto.ca))  
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Steven Strong, MNRF ([steven.strong@ontario.ca](mailto:steven.strong@ontario.ca))

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