

By Email:

September 13, 2019

Ms. Ellen Devlin, Administrator
Toronto and East York Community Council
2nd Floor East Tower, Toronto City Hall,
100 Queen St. West
Toronto ON M5H 2N2

Dear Ms. Devlin:

**Re: Port Lands Zoning Review Study - Final Report
Agenda Items TE8.13**

The Toronto Port Authority (operating as "**PortsToronto**") thanks you for this opportunity to comment on the four (4) Zoning By-law Amendments (collectively the "**Port Lands By-laws**") for parts of the Port Lands. Namely, these are the:

Maritime Hub Zoning By-law;
Warehouse District Zoning By-law;
East Port and South Port Zoning By-law, and
Parks and Open Space Zoning By-law.

Port Lands By-laws

As you may know, PortsToronto is a federal government business enterprise governed by the *Canada Marine Act* and Letters Patents issued by the federal Minister of Transport, which works to ensure that Toronto Harbour is safe for boaters and visitors, and to protect the environment in the Harbour. In addition, PortsToronto is the owner and operator of the Marine Terminal property at 8 Unwin Ave., as well as the Outer Harbour Marina, Billy Bishop Airport and other properties. PortsToronto not only owns lands that it operates within the Port Lands, but also leases lands to others for their "port related" businesses. As well, PortsToronto has jurisdiction over port operations, which include the Marine Terminal as well as other users of the port (referred to herein as the "**Port**"). As such, the details of these By-laws are critically important to the success of the working Port into the future.

We are writing to provide the City with our comments with respect to the Port Lands By-laws all of which impact the Port to some degree. We reserve the right to make further comments as these by-laws evolve.

BACKGROUND

It is worth noting, we have had a number of discussions with Community Planning staff over the years and as recently as earlier this week. Also relevant, we provided Community Planning's Project Manager, Anthony Kittel, with our comments with respect to the Port Lands draft By-laws by letter dated July 31st, 2019 (copy attached).

We are pleased to say that the Port Lands By-laws generally acknowledge and/or recognize the importance of the Port as a vital element of infrastructure that is a key driver of the economic growth of Toronto. As highlighted in our July 31st letter, cargo consisting of, among other things, sugar, road salt, cement and aggregate, including stone and sand are all delivered directly into the heart of the City which has the added benefit of reducing the number of trucks on the road system in Toronto.

While the version of the Port Land By-laws that are before the Committee for review and consideration address a number of comments/concerns and questions as detailed in our July 31st letter, PortsToronto does have a few additional comments and suggestions regarding the Port Lands By-laws' impact on the Port and the continued movement of goods and cargo to and from the Port.

Our comments on the By-laws are categorized as follows: (i) comments applicable to all By-laws, and (ii) comments specifically related to details in each of the individual By-laws.

Comments common amongst the Port Lands By-laws

It is important that the By-laws ensure that the active Port function be allowed to evolve and expand into the future. In this regard, it is important that the By-laws ensure there are appropriate land uses permitted on lands used for Port purposes, as well as compatible land uses within lands near Port uses.

Our first comment relates to "patios" as a use. In our July 31st letter, we outlined our concern respecting patios. We have spoken with Mr. Kittel and he has outlined the background to the City's desire for permitting patios and, importantly for us, he has outlined that it is the City's position that "patios" are not considered a sensitive use and will, therefore, have no impact on the industrial and port uses permitted in the By-laws. On this basis we accept the City's position respecting the use.

Our second comment relates to vehicle and bicycle parking. While we are concerned about the implications of the proposed performance standards respecting vehicle and bicycle parking, we understand and accept the City's position respecting this. We reserve the right to revisit this issue if further information or details arise prior to the adoption of the By-laws.

Port Land By-law specific comments

Maritime Hub Zoning By-law

As you are aware, the Maritime Hub Zoning By-law applies to the lands that directly abut PortsToronto's property at 8 Unwin Ave., as well as additional lands located directly across Cherry Street. We continue to question the proposed reduction of the permitted density by 50%. We understand that the City's concern is that there is a lack of services to this area at this time. Maintaining the existing permissions will not impact this. In addition, if services are an issue with respect to a future proposal, the City has alternate means at their disposal to address the servicing issue. To reduce density permissions today in this manner is unnecessary.

With respect to the proposed uses, we agree with the general zoning classification of *Employment Industrial Office (EO)*, but we object to some of the proposed permissions, as well as prohibitions. As expressed in our July 31st letter, we cannot support "day nursery" as a permitted use in this location as such uses are considered to be sensitive land uses and are not best located next to the Marine Terminal and other Port uses. Further to our recent discussions with Mr. Kittel, we understand that the final version of this By-law will address our concern by removing a day nursery as a permitted use.

In terms of the uses that are proposed to be removed from the general *EO* permission, we suggest that the City is being too restrictive given the location of these properties. The by-law should permit Open Storage, a wide range of Manufacturing uses, Transportation uses, a Shipping Terminal and Port uses in this area. This is an active Port area which must be able to continue to function as it does today, and also be able to evolve, if needed, in a responsible manner.

Warehouse District Zoning By-law

The Warehouse District Zoning By-law applies to lands which, although not owned or leased by PortsToronto, support and/or do not conflict with the function of the Port today and into the future.

We note that further to our July 31st letter, the Warehouse District Zoning By-law has been amended to address two of our comments, namely, the originally proposed height and density restrictions. We support the proposed changes.

As detailed above, our concerns with respect to outdoor patios have been addressed if the City's position respecting sensitivity is correct.

East Port and South Port Zoning By-law

This By-law is of particular significance given that much of the life of the Port is derived from the waterway and the lands abutting or in near vicinity of the dock wall. The Ship Channel and Turning Basin are unique waterfront transportation spines for marine cargo. They are powerful focal points around which new communities and areas of employment will be built. The needs of Port users requires marine access along the Ship Channel and in the Turning Basin and dock wall. These spaces must be protected and enhanced.

We are pleased to note that all of the lands subject to this By-law amendment have an *Employment Industrial (E)* zone proposed with 2 times density permission. We note that the originally proposed height restriction of 20.0 metres has been removed.

With respect to the proposed uses, we agree with the general zoning classification of *Employment Industrial (E)*, but do have objections to some of the proposed prohibitions. We cannot support any restrictions on Office, Transportation Use or Shipping Terminals (outside of the Port-oriented Use area). Each of these can function well within the Port.

It goes without saying, we support the intention of protecting the dock wall areas for certain uses. Therefore, we request that the south-east portion of the Shipping Channel be described as being part of the "Port-oriented Use" area (Diagram 7). Today, there are a limited number of dock walls available for Port uses within the City of Toronto. By not identifying the south-east portion of the Shipping Channel for "Port-oriented Use" as outlined in Diagram 7 further diminishes the availability for this vital piece of Port infrastructure.

Lastly, from a functional standpoint, we cannot support fencing requirements in the Port-oriented Use area that faces the Shipping Channel or Turning Basin nor can we support any setback performance standards (Item O) that would restrict uses or structures from locating in the vicinity of the dock wall.

Parks and Open Space Zoning By-law

Our original concern with this By-law respecting outdoor patios has been discussed above. Our request respecting the inclusion of lands at 12 Leslie Street within the East Port area as a Port-oriented Use remains.

CONCLUSION

We thank you for the opportunity to provide these comments on the proposed Port Lands By-laws. We continue to offer to meet with the City to provide context to these comments and work towards a resolution to our concerns.

Yours truly,

TORONTO PORT AUTHORITY

per:



Christopher Sawicki, P.Eng
Vice President, Infrastructure, Planning and Environment

Copy to: Anthony Kittel, Project Manager, Community Planning
Bojan Drakul – PortsToronto
Craig Manuel – PortsToronto
Andrew Jeanrie, Bennett Jones

By Email:

July 31, 2019

Community Planning, Toronto and East York
City Planning Division
18th Floor East Tower, Toronto City Hall,
100 Queen St. W.
Toronto ON M5H 2N2

Attention: Anthony Kittel- Project Manager

Dear Mr. Kittel,

Re: Port Lands Zoning By-law Review

The Toronto Port Authority (operating as "**PortsToronto**") thanks you for this opportunity to comment on the four (4) draft Zoning By-law Amendments (collectively the "**By-laws**") for parts of the Port Lands that you recently provided us. Namely, these are:

- (a) Maritime Hub draft Zoning By-law;
- (b) Warehouse District draft Zoning By-law;
- (c) East Port and South Port draft Zoning By-law, and
- (d) Parks draft Zoning By-law,

Port Lands By-laws

As you know, PortsToronto is a federal government business enterprise governed by the *Canada Marine Act* and Letters Patents issued by the federal Minister of Transport, which works to ensure that Toronto Harbour is safe for boaters and visitors, and to protect the environment in the Harbour. In addition, PortsToronto is the owner and operator of the Marine Terminal property at 8 Unwin Ave., as well as the Outer Harbour Marina, Billy Bishop Airport and other properties. PortsToronto not only owns lands that it operates within the Port Lands, but also leases lands to others for their "port related" businesses. As well, PortsToronto has jurisdiction over port operations, which include the Marine Terminal as well as other users of the port (referred to herein as the "**Port**"). The details of these By-laws are critically important to the success of the working Port into the future.

We are writing to provide the City with our preliminary comments with the respect to the By-laws all of which impact the Port to some degree. We reserve the right to make further comments as these by-laws evolve.

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In general, we are pleased to say that the By-laws generally acknowledge and/or recognize the importance of the Port as a vital element of infrastructure that is a key driver of the economic growth of Toronto. Cargo consisting of sugar, road salt, cement and aggregate, including stone and sand are all delivered directly into the heart of the City which has the added benefit of reducing the number of trucks on the road system in Toronto.

While the By-laws recognize the importance of the Port, PortsToronto does have comments and suggestions regarding the By-laws impact on the Port and the continued movement of goods and cargo to and from the Port. Our comments on the By-laws are categorized as follows: (i) comments applicable to all By-laws' and generally technical in nature, and (i) comments specifically related to details in each of the individual By-laws.

Comments common to all four (4) By-laws

It is important that the By-laws ensure that the active Port function be allowed to evolve and expand into the future. In this regard, it is important that the By-laws ensure there are appropriate land uses permitted on lands used for Port purposes, as well as compatible land uses within lands near Port uses. We will have some specific comments in this regard in the by-law specific sections.

One of our general comments relates to the details generally provided on most of the diagrams attached to each of the By-laws. Many of the pages that were provided to us are maps without any content added to them, although the text in the By-laws that references them provides clues to the content. In some cases it may be that the "blank Diagram" is required in order to outline that a policy does not apply to any of the properties shown on the Diagrams. Please confirm if this assumption is correct.

On a related matter, we are particularly curious why there is a "Rooming House" overlay with each of the by-laws? Is this just a technical requirement of the parent By-law, similar to our hypothesis as to why some of the other diagrams are without content? We assume it is apparent that these non-residential zones should not have rooming houses within them.

An additional general comment is that there appears to be an issue with the properties description in the headings of the Warehouse Zoning By-law and the East Port and South Port Zoning By-laws.

By-law specific comments

a) Maritime Hub draft Zoning By-law

As you are aware, the Maritime Hub Zoning By-law applies to the lands that directly abut the PortsToronto's property at 8 Unwin Ave, as well as additional lands located directly across Cherry Street. Our first comment is that we question the justification of creating a height restriction of 30.0 metres in this part of the City and note that we do not believe the existing zoning provisions have any specific height restriction. We also note that the By-law proposes to lower the permitted density by 50%. Recognizing the nature of the businesses that operate in the Port or could operate in the Port, we do not support those proposed changes.

With respect to the proposed uses, we agree with the general zoning classification of *Employment Industrial Office (EO)*, but do have objections to some of the proposed permissions as well as prohibitions. We suggest that a more thorough discussion take place with you, but at this time, we cannot support "day nursery" as a permitted use in this location, as such uses are considered to be sensitive land uses and are not best located next to the Marine Terminal and other Port uses.

In terms of the uses that are proposed to be removed from the general *EO* permission, we suggest that the City is being too restrictive given the location of these properties. The by-law should permit Open Storage, a wide range of Manufacturing uses, Transportation uses, a Shipping Terminal and Port uses in this area. This is an active Port which must be able to continue to function as it does today, but must also be able to evolve, if needed, in a responsible manner. We cannot support, without justification, restrictions on the location of parking in relation to the street. This appears to be unjustifiable in a working Port.

b) Warehouse District draft Zoning By-law

The Warehouse District Zoning By-law applies to lands which, although are not owned by PortsToronto, would ideally support the function of the Port or at least not hinder its present operations or future capabilities.

As noted under the comments in the Maritime Hub By-law a height restriction is being proposed (18.5 meters) where there was none before. It would be worth providing the justification as the height limit may discourage certain uses from locating here that may be appropriate for these lands. We note that the present zoning for these lands was *Heavy Industrial* with the anticipated uses befitting its name. This would be expected for an area that benefits from being located in a vicinity of a working Port. An artificial height restriction may be counterproductive.

With respect to the proposed uses, we agree with the general zoning classification of *Industrial Light (EL)*. However, we do question how Item F would work. By definition Clause 60.10.20.100.12 is conditional *Open Storage*. The way the policy is drafted "enclosed" Open Storage would be warehousing by definition. Also, we believe Item F should be numbered Clause 60.1020.100. (12) and should come before Transportation Use and after Contractor's Establishment.

We also question the justification of Item (N) respecting outdoor patio use in combination with a list of uses provided in the By-law. Outdoor patios can be sensitive land uses and, as such, must be carefully controlled within proximity of a working Port area. We suggest that a more thorough discussion take place with you about this.

c) East Port and South Port draft Zoning By-law

This By-law is of particular significance given that much of the life of the Port is derived from the waterway and the lands abutting or in near vicinity of the dock wall. The Ship Channel and Turning Basin are unique waterfront transportation spines for marine cargo. They are powerful focal points around which new communities and areas of employment will be built. The needs of Port users requiring marine access along the Ship Channel and in the Turning Basin and dock wall space must be protected and enhanced.

We are pleased to note that all of the lands subject to this By-law amendment have an *Employment Industrial (E)* zone proposed with 2 times density permission.

Our first question relates to the proposed height restriction of 20.0 metres. We once again question the justification of creating a height restriction in this part of the City and note that we do not believe the existing zoning provisions have any specific height restriction. Recognizing the nature of the businesses that operate in the Port or could operate in the Port, we do not support this proposed height restriction.

With respect to the proposed uses, we agree with the general zoning classification of *Employment Industrial (E)*, but do have objections to some of the proposed permissions as well as prohibitions. As with the Maritime Hub, we suggest that a more thorough discussion take place with you, but at this time, we cannot support any restrictions on Office or Transportation Use as examples. Each of these can function well within the Port.

While we support the general intentions of protecting the dock wall areas for certain uses we still have a few comments. Firstly, the description of "Port-oriented Use" is narrowly defined and we would ask that we be given a chance to speak to staff about what should be included in the definition and if the area highlighted on Diagram 7 is appropriate. This concern relates to Item (I) as well.

In terms of how the By-law works, we were not able to determine the relationship between Item (A) ii. and its references to "warehouse and manufacturing" in relation to Item (C). If it is intended that the Port-oriented use reference to warehouse and manufacturing is to be that narrowly defined, we would suggest that the definition be amended. For example, there is no reference to Transportation Use or Shipping Terminal. We also have a question as it relates to any outdoor storage that is facing the dock wall – would any such outdoor storage require an opaque visual barrier including a fence.

With respect to Item (H), we do not support an arbitrary limitation on the floor area of a Shipping Terminal.

In regards to Item (N), we disagree with this requirement. It is a working Port and vehicle parking is appropriate in the areas this By-law proposes to prohibit.

In terms of reviewing Diagram 7, we question why the lands on the south side of the shipping channel east of the turning basin do not have "Port-oriented" restrictions on them. It would seem appropriate. One typographical comment is that the Diagram 7 does not hyphenate "Port-oriented" and the text does.

Lastly, we cannot support, without justification, restrictions on the location of parking in relation to the street given this is a working Port.

d) Parks draft Zoning By-law

Our primary concerns with this by-law are (a) the as of right permission for Outdoor Patios for the reasons set out above; and (b) the inclusion of lands at 12 Leslie Street which are lands leased by Ports Toronto and more appropriately located within the East Port area.

CONCLUSION

Once again, we thank you for the opportunity to review and provide these further comments on the Draft Zoning By-laws. We would like an opportunity to meet with the City to provide context to these comments and we look forward to such a meeting occurring quickly.

Yours very truly,

Toronto Port Authority

per:



Christopher Sawicki, P.Eng.
Vice President, Infrastructure, Planning and Environment

Copy to: Bojan Drakul – PortsToronto
Craig Manuel – PortsToronto