

**Removal of a Portion of Lower Don Special Policy Area -  
Official Plan Amendment - Directions Report**

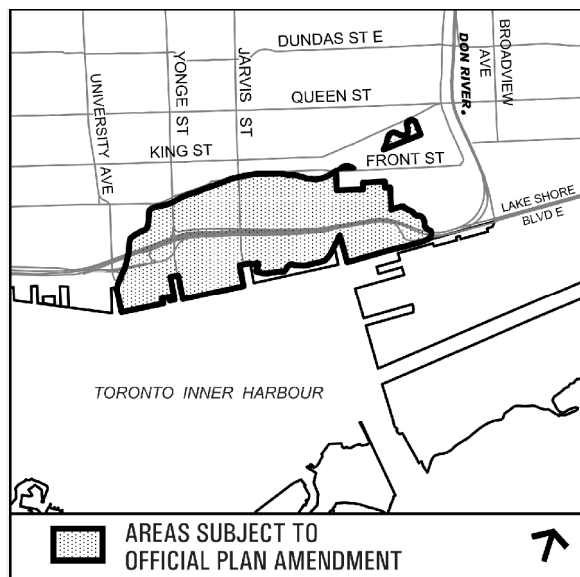
<b>Date:</b>	May 18, 2012
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Wards 28 – Toronto Centre-Rosedale
<b>Reference Number:</b>	12 167105 STE 28 OZ

**SUMMARY**

This report reviews and recommends proceeding with a City-initiated process to amend the former City of Toronto Official Plan and new Official Plan, subject to the completion of the Flood Protection Landform located in the West Don Lands.

Map 3 of the former City of Toronto Official Plan identifies flood plain lands including the Lower Don Special Policy Area (SPA), which require flood proofing measures for new development approvals. This report addresses an area generally west of the Don River, north of Keating Channel, south of Front Street and east of York Street known as the *Downtown Spill Zone*, as shown in Attachment 1.

When the Flood Protection Landform (FPL) is completed the potential for flooding in the *Downtown Spill Zone* is eliminated and the area will no longer be within the flood plain of the Don River. This report recommends commencing the process to amend both the former and the new Official Plans for the City of Toronto to remove the affected lands from the Lower Don SPA and seeks Community Council's direction on the community consultation process.



## RECOMMENDATIONS

### The City Planning Division recommends that:

1. City Council direct staff to commence the process with the Province and TRCA to amend the Official Plan to remove the *Downtown Spill Zone* from the Lower Don Special Policy Area.
2. Staff be directed to schedule a community consultation meeting together with the Ward Councillor.
3. Notice for the community consultation meeting be defined through consultation with the Ward Councillor and TRCA.
4. Notice for the public meeting under the Planning Act be given according to the regulations under the Planning Act.

### Financial Impact

The recommendations in this report have no financial impact.

## DECISION HISTORY

In response to several site specific Official Plan and zoning amendments being sought within a portion of the Lower Don SPA ("Downtown Spill Zone"), the Province sent a letter dated May 26, 2010 proposing that the City amend the former City of Toronto Official Plan to create an "interim" policy regime in which Council could approve Official Plan and zoning amendments permitting new development under the condition that a Holding symbol 'h' be inserted into the implementing zoning by-law. This 'h' could only be removed once the Flood Protection Landform to protect the *Downtown Spill Zone* from flooding was deemed functional and complete by the TRCA and the area had been removed from the Lower Don SPA.

City Council adopted Official Plan Amendment (OPA) 389 on August 27, 2010 as By-law 1172-2010 which amends the former City of Toronto Official Plan. OPA 389 addresses the Province's direction with respect to inserting Holding symbols into the implementing zoning by-laws for approved development. It also enables the removal of the *Downtown Spill Zone* from the SPA once the West Don Flood Protection Landform (FPL) is constructed, and includes policies that reflect Section 3.1.3 of the 2005 Provincial Policy Statement (PPS) requiring that any proposal to change land use or modify the boundary or site specific policies within an SPA be municipally initiated and approved by the Province prior to adoption by Council. OPA 389 is under appeal to the OMB and is not in effect.

## **BACKGROUND**

### **Proposal**

This City-initiated Official Plan Amendment (OPA) commences the process to amend the 'in force' policies of the former City of Toronto Official Plan to remove the area identified as the *Downtown Spill Zone* from the Lower Don Special Policy Area (SPA). It is also proposed that the new Official Plan also be amended to remove the lands from the Lower Don Special Policy Area shown on Map 11-2.

### **Flood Protection Landform (FPL)**

The flood risk to the City of Toronto downtown core will be eliminated in a portion of the Lower Don Special Policy Area ("*Downtown Spill Zone*") once the Flood Protection Landform (FPL) at the West Don Lands is fully constructed and the Toronto and Region Conservation Authority (TRCA) deems the landform to be functional and complete. The FPL is the last of several flood protection measures to be completed for *the Downtown Spill Zone*.

The construction of the FPL was started by Ontario Realty Corporation (now merged with Infrastructure Ontario) in 2007 when they began work on the West Don Lands. The final stages of construction are now underway. The TRCA is the agency completing the "wet side" of the FPL including the armoured slope and landscaping. It is estimated that work will be substantially complete by mid-November of 2012.

### **Downtown Spill Zone**

The affected area includes the west portion of the flood plain of the Lower Don River, specifically the "*Downtown Spill Zone*". This area is generally located north of the Inner Harbour and the Port Lands, west of the Don River, south of King Street, and east of York Street as shown in Attachment 1. The *Downtown Spill Zone* encompasses parts of the downtown core including the Distillery District, St. Lawrence, Corktown and Harbourfront neighbourhoods.

### **Provincial Policy Statement**

Section 3.1 of the Provincial Policy Statement, 2005 provides the Province with the mandate to regulate land use planning and development within areas of natural hazard, including flood plain management. While development within flood plains is generally prohibited, the PPS permits limited development in established areas ("Special Policy Areas") under certain conditions such as the provision of ingress and egress and flood proofing of buildings. The Ministry of Natural Resources (MNR) and the Ministry of Municipal Affairs and Housing (MMAH) co-ordinate the review of applications within areas identified as Special Policy Area (SPA).

3.1.3(a) of the Provincial Policy Statement, 2005 (PPS) states that any changes or modifications to the site-specific policies or boundaries of a Special Policy Area (SPA) must be approved by the Ministers of Municipal Affairs and Housing (MMAH) and

Natural Resources (MNR) prior to the approval authority approving such changes or modifications.

## **Official Plan**

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

Policy 2.68 of the former Official Plan requires, among other matters, that proposed development in the Lower Don flood plain comply with the policies of the Lower Don Special Area Policy (SPA). These policies are in force for the area identified as SPA, which includes the *Downtown Spill Zone*, and only permit development on the condition that the proposed development is flood proofed to the level of a 1:350 year flood (a rare severe flood similar to the flood that occurred during Hurricane Hazel in 1954).

## **Reasons for the Amendment**

The lands shown on Maps 1, 2, 3 & 5 within Appendix B of the former City of Toronto Official Plan (*Downtown Spill Zone*) are subject to the flood plain policies of the Provincial Policy Statement (Section 3.1 of the PPS 2005), the regulatory policies of the Toronto and Region Conservation Authority (TRCA) and the SPA policies of the former City of Toronto Official Plan, which remain in effect.

Under Policy 3.1.3 (a) of the Provincial Policy Statement, 2005 (PPS) any changes or modifications to the site specific policies or boundaries of a Special Policy Area (SPA) must be approved by both the Ministers of Municipal Affairs and Housing (MMAH) and Natural Resources (MNR) prior to the approval authority (in this case, the City of Toronto) approving such changes or modifications.

With Council's support, City staff will undertake the next steps in compliance with the approval process.

## **COMMENTS**

These City-initiated OPAs commence the process to remove the area identified as the *Downtown Spill Zone* (Attachment 1) from the Lower Don Special Policy Area (SPA) in both the former City of Toronto Official Plan and new Official Plan. Until such time as the SPA is removed, the 'in force' SPA policies constrain opportunities for development and require provincial approvals.

With the completion of the Flood Protection Landform (FPL) in the West Don Lands, the flood protection works to physically remove the *Downtown Spill Zone* hazard will be completed, and the SPA for this area will no longer be required.

The TRCA anticipates that the FPL will be substantially complete in the late fall of 2012. When the FPL is in place, the risk of flooding in the *Downtown Spill Zone* will be eliminated and the lands will no longer be within the flood plain.

The Province requires that OPA amendments to the SPA be municipally initiated. The City will work with the Province and the TRCA to provide the required documentation to proceed with the approval process. Potential documentation may include digital mapping, the draft OPA and OP schedules, draft zoning by-law provisions and relevant background and information and planning studies done for the area.

## **CONCLUSION**

With the Flood Protection Landform in its final stages of construction by the TRCA, the City should commence the process with the Province and TRCA to remove the *Downtown Spill Zone* from the Special Policy Area in both the former City of Toronto Official Plan and new Official Plan.

## **CONTACT**

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## **SIGNATURE**

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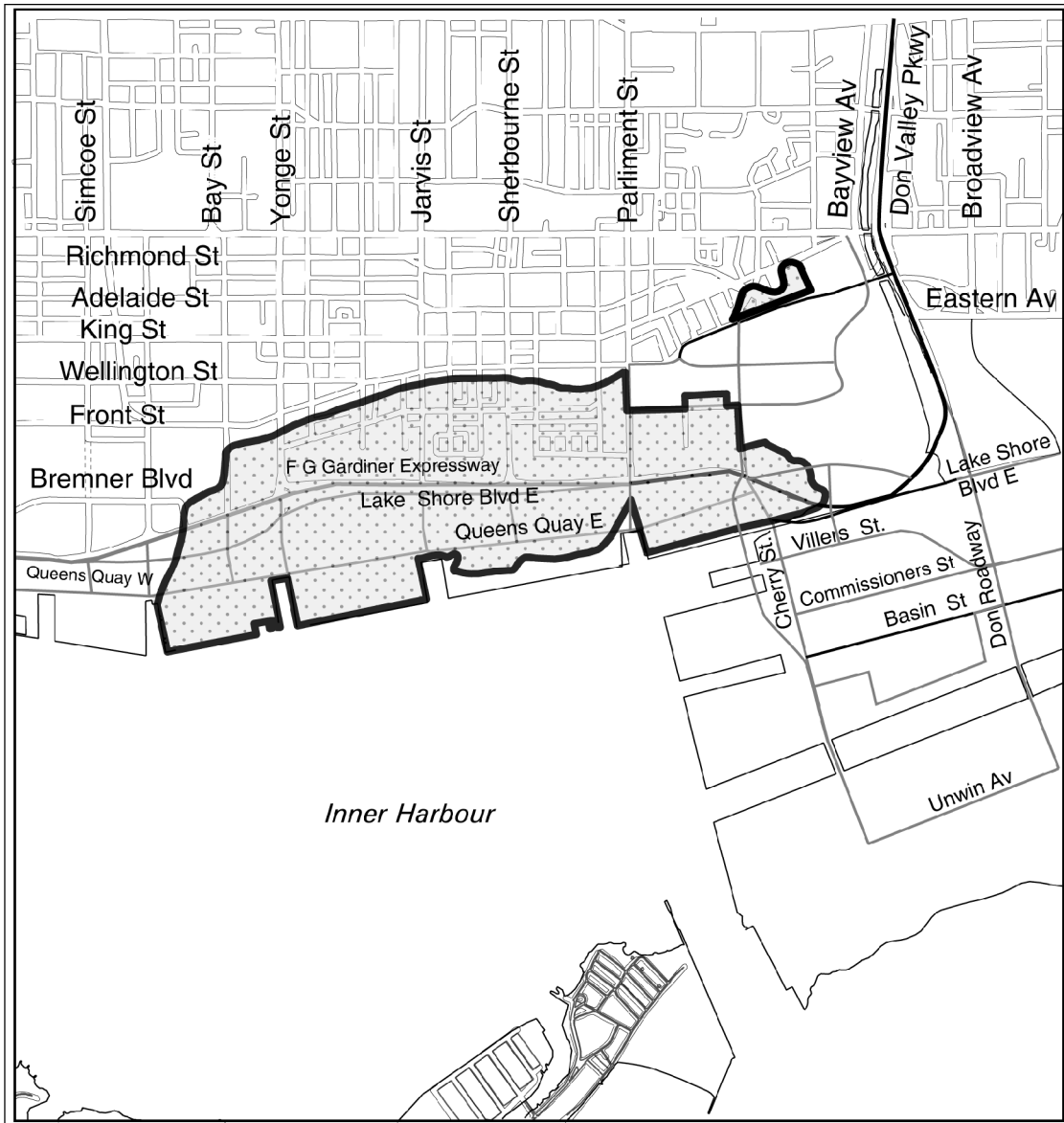
Raymond David, Director  
Community Planning, Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Downtown Spill Zone

# Attachment 1: Downtown Spill Zone



## Removal of SPA

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Not to Scale  
05/22/2012