



STAFF REPORT ACTION REQUIRED

Zoning Status of Casinos in Toronto and East York District

Date:	September 5, 2012
To:	Toronto and East York Community Council
From:	Chief Planner and Executive Director, City Planning Division Executive Director Building, Chief Building Official
Wards:	14, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, and 32
Reference Number:	IBMS Folder No. 12 226741 SPS 00 TM

SUMMARY

At its meeting of February 14, 2012, Toronto and East York Community Council requested the Chief Planner, in consultation with the City Solicitor and Chief Building Official to report to the September 11, 2012 meeting of the Toronto and East York Community Council regarding the zoning status of casinos in Toronto and East York District. This report provides information regarding the above request.

RECOMMENDATIONS

The City Planning Division and Toronto Building recommends that:

1. Toronto and East York Community Council receive for information the report (September 5, 2012) from the Acting Chief Planner and Executive Director, City Planning, and Chief Building Official, Toronto Building, entitled "Zoning Status of Casinos in Toronto and East York District".

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of February 14, 2012, Toronto and East York Community Council requested the Chief Planner and Executive Director, City Planning in consultation with the City Solicitor and the Chief Building Official to report to the September 11, 2012 meeting of the Toronto and East York Community Council on the zoning regulations governing casinos (also known as gaming sites or gaming premises) as a land use in the

Toronto and East York District, and any necessary actions to prohibit casinos, gaming sites or gaming premises under the zoning by-laws for the Toronto and East York Community Council area.

At its meeting on May 14, 2012, Executive Committee, considered Motion MM22.2 referred by City Council on April 10 and 11, 2012, EX20.15 "No Casino without a Referendum". The item was referred to the City Manager, to report back to Executive Committee at its October 9, 2012 meeting. The Report from the City Manager will address a range of issues associated with a potential casino in the City of Toronto. The information contained in this report was prepared independently from the forthcoming City Manager's Report.

COMMENTS

City of Toronto Official Plan

The Official Plan does not specifically mention, either permitting or prohibiting, casinos or gaming establishments in the City of Toronto.

Zoning Status and Process to Prohibit or Permit a Casino in Toronto and East York District

The following tables outline four potential scenarios in which a casino or gaming establishment may be considered for approval within Toronto and East York District:

Scenario 1:	Permitted as-of-right in the Zoning By-law.
Does this currently apply?	Neither Zoning By-law 438-86, as amended, nor the Draft City-wide Zoning By-law would permit a casino. See Sections "Zoning By-law 438-86" and "Draft City-Wide Zoning By-law" of this report for further detail.
Process by which Council may:	
Prohibit the use:	No revisions to either Zoning By-law would be required, as they do not currently permit a casino or gaming establishment.
Permit the use:	The Zoning by-law would require revisions to permit this use and apply standards. Notwithstanding this, the Province may issue a Ministerial Zoning Order to allow for this use.

Scenario 2:	Site-specific zoning amendment application made under the Planning Act.
Does this currently apply?	To-date, an application has not been made. Notwithstanding this, an application for any use or form can be made. An application for a casino or gaming establishment would be reviewed through the City's planning process and assessed on its merits.
Process by which Council may:	
Prohibit the use:	Planning Staff would prepare a report and zoning by-law that either recommends approval or refusal of the application. Council may adopt, adopt with amendments or recommend refusal of Staff's recommendations.
Permit the use:	Council ultimately has the authority to prohibit or permit this use, subject to any appeals made to the Ontario Municipal Board.

Scenario 3:	Site proposed for casino or gaming establishment to be located on lands at Exhibition Place. Exhibition Place Board of Governors decides to allow for this use.
Does this currently apply?	No decision to allow for this use to-date has been made. However, Zoning By-law 438-86, as amended, does not apply to development on lands at Exhibition Place.
Process by which Council may:	
Prohibit the use:	Section 406 of the City of Toronto Act, 2006 contains provisions respecting Exhibition Place that entrust its management and operations to the Board of Governors. The provisions include broad use permissions to allow listed uses and "for any other purpose that the City may approve".
Permit the use:	

Scenario 4:	Site proposed for casino or gaming establishment to be located on Provincially-owned lands, such as Ontario Place.
Does this currently apply?	Provincially-owned / operated lands are exempt from municipal zoning by-laws. Zoning By-law 438-86, as amended, does not apply.
Process by which Council may:	
Prohibit the use:	Council does not have authority in this scenario.
Permit the use:	

Zoning By-law 438-86

The use of a lot or the erection or use of a building for the purposes of a casino located on privately-owned land in the downtown is subject to By-law 438-86, as amended. By-law 438-86, as amended, does not define the term casino, but does make reference to both "teletheatre gambling" and "mechanical or electronic game machine to be used for the purpose of gambling".

There is a possibility of establishing a limited as-of-right benefit from the undefined term teletheatre gambling, which is identified within two defined terms within Section 2(1) of By-law 438-86, as amended, under the definition of "*place of amusement*" and "*restaurant*". In applying this approach, a limited gambling operation may be permitted in the Reinvestment Districts, Mixed-use Districts and the Industrial Districts. Under the principal use of a "*place of amusement*" or a "*restaurant*", a maximum permitted area of six percent of the non-residential gross floor area or 47 square metres, whichever is the lesser, can be used for teletheatre gambling. At present, although the City of Toronto Zoning By-law 438-86, as amended does not define the term "teletheatre gambling", the Ontario Racing Commission currently shows that the former City of Toronto boundary has seven licensed teletheatres, for a total of nine within the new City of Toronto boundaries. Given the limited scope of teletheatre gambling as an accessory use, it is unlikely that a gambling operation at the scale of a casino would fit this definition.

Several definitions under the Section 2(1) of Zoning By-law 438-86, as amended, including "*concert hall*", "*entertainment facility*", "*hotel*", "*pinball or electronic game machine establishment*", "*place of amusement*", "*place of assembly*", and "*restaurant*", specifically prohibit mechanical or electronic game machines to be used for the purpose of gambling.

There are no provisions in By-law 438-86, as amended, that would permit a casino or gaming establishment. The only way by which a casino could be permitted on privately-owned lands is by way of a site-specific zoning amendment.

Draft City-Wide Zoning By-law

The new, City-Wide Zoning By-law (not in-force to-date), includes the definition "Gaming Establishment" as premises used for the purpose of wagering on games of chance under Province of Ontario legislation, excluding bingo or other lottery events licensed by the City of Toronto for charitable purposes. However, "Gaming Establishments" are not currently permitted anywhere in the city.

The Draft City-Wide Zoning By-law does not apply to the two sites identified earlier in this report, under Scenarios 3 and 4 - Exhibition Place and Ontario Place.

Conclusions

There are no provisions in Zoning By-law 438-86, as amended, that would permit a casino or gaming establishment in Toronto and East York District. A casino could only be permitted on privately-owned lands by way of a site specific amendment or Ministerial Zoning Order. On privately-owned lands, the possibility of a limited use of teletheatre gambling is permitted as-of-right as an accessory use to a "*place of amusement*" or a "*restaurant*" and subject to qualifications and restrictions within the Reinvestment Districts, Mixed-Use Districts and Industrial Districts.

Although Zoning By-law 438-86, as amended, does not permit a casino, Zoning By-law 438-86 does not apply to development on lands at Exhibition Place or Ontario Place. Both Exhibition Place and Ontario Place are subject to separate decision-making processes.

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