

40 The Esplanade – City Initiated Amendment to Site Specific Zoning By-law – Final Report

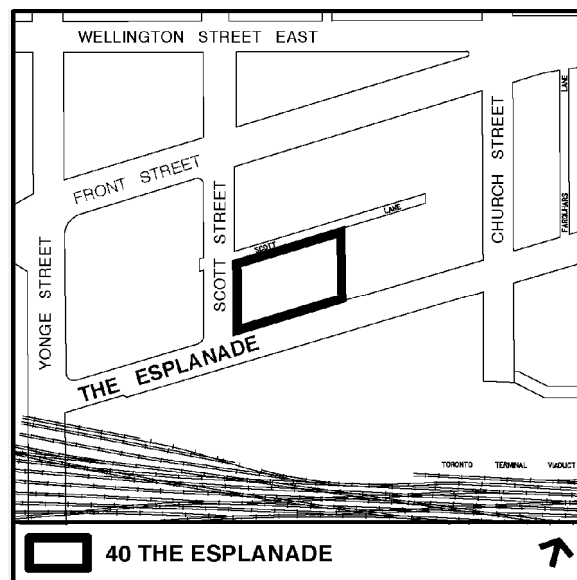
Date:	August 7, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	04 108075 STE 28 OZ

SUMMARY

By way of Order No. 2799 issued on October 3, 2006, the Ontario Municipal Board approved Official Plan Amendment No. 342 (By-law No. 25-2007) of the Official Plan for the former City of Toronto and site specific Zoning By-law No. 26-2007 to permit a mixed use development with two residential condominium towers and retail uses at grade on the lands municipally known as 40 The Esplanade. A Section 37 Agreement was entered into, which required the Owner of the lands to, amongst other matters, contribute \$700,000 (with indexing) towards the creation of a municipal park on the lands bordered by The Esplanade, Market Street, Wilton Street and Lower Jarvis Street (known municipally as 125 The Esplanade).

This report recommends that By-law No. 26-2007 be amended to direct the funds originally allocated to the park to be reallocated to the Market Street Streetscape Improvement Project. This is a road narrowing and flexible boulevard project on Market Street between Front Street East and the Esplanade, less than two blocks east of the subject property. Any remaining unused portion of the funds would be directed to local parkland creation or improvements and/or local streetscape enhancement projects.

This report further recommends that the Section 37 Agreement for 40 The Esplanade be amended to reflect the reallocation of the \$700,000.00 cash contribution (now \$738,674.79 with interest).



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Site Specific Zoning By-law No. 26-2007 to reallocate financial contributions in the Section 37 Agreement for 38-40 The Esplanade as contemplated in this report (August 7, 2012) from the Director, Community Planning, Toronto and East York District, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 1;
2. City Council authorize the City Solicitor, in consultation with relevant City staff, to amend the registered Section 37 Agreement for 40 The Esplanade to reflect the reallocation of a portion of the \$700,000 cash contribution originally committed to the creation of a park at 125 The Esplanade as follows:
 - a. up to \$700,000 (with indexing) to be directed to the Market Street Streetscape Improvement Project;
 - b. the remainder to be directed to local parkland creation or improvements and/or local streetscape enhancement projects;
3. City Council authorize the appropriate City officials to take the necessary action to give effect to the above, including execution of the amended Section 37 Agreement and appropriate redistribution of the original cash contribution made to the City by the owner as applicable; and
4. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Pursuant to Ontario Municipal Board Order No. 2799 issued on October 3, 2006 site specific Official Plan Amendment No. 342 (By-law No. 25-2007) and site specific Zoning By-law No. 26-2007 were approved. The Ontario Municipal Board approved site plans and drawings for 40 The Esplanade in Decision Order No. 3023 issued on October 26, 2006. Together, these approvals permitted the development of two residential condominium towers with a five storey podium and retail uses at grade.

COMMENTS

Section 37 Agreement

The Section 37 Agreement, entered into as part of the approvals process for the then-proposed development at 40 The Esplanade, was registered as Instrument No. AT1168989 on June 15, 2006. Section 3 of the Agreement requires the owner to pay to the City \$700,000.00 "... as a contribution towards the creation of a municipal park on the lands bordered by The Esplanade,

Staff report for action – Final Report – 40 The Esplanade

Market Street, Wilton Street and Jarvis Street [municipally known as 125 The Esplanade] ...” This payment has been received by the City and through interest is now at \$738,674.79. The development has been constructed and is occupied; however none of the Section 37 contribution monies have been spent.

At its meeting on January 10, 2012 Toronto and East York Community Council approved proposed alterations to Market Street between Front Street East and The Esplanade, outlined in the December 16, 2011 Staff Report from Transportation Services:

<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-43499.pdf>

Community Councils have delegated authority from City Council to deal with such matters, therefore this approval is considered a Council approval.

The proposed alterations include a road narrowing and flexible boulevard on the west side of Market Street, as identified in drawing 421G-0531, dated December 2011, (See Attachment 2 of this report). In order to implement these alterations, work needs to be completed in conjunction with final streetscaping work associated with a new development at 10-12 Market Street. The re-allocated funds will assist with completion of this project.

Given the longer than anticipated current timeline for the development of the park at 125 The Esplanade, there is an opportunity to reallocate a portion of the funds originally earmarked for this park to the Market Street Streetscape Improvement Project. It is not anticipated that the reallocation of the funds will delay or affect the creation of a park at 125 The Esplanade, as the park's establishment is contingent upon the completion of the redeveloped North Market at 92 Front Street East. The site at 125 The Esplanade will be the site of a temporary building that will house the functions of the St. Lawrence Market North building until the new building is completed. The design for the new North Market was selected through an international design competition although a Site Plan Control application has not yet been submitted for the winning design. It is likely that the new North Market building will not be completed until 2015, leaving several years available for new funding to be allocated to the creation of the new park at 125 The Esplanade.

Residents and the board of directors of the condominium at 40 The Esplanade, as well as the original developer, Cityzen, have been notified of this re-allocation and the bylaw amendment. Staff expect to have their consent prior to the September 11, 2012 Community Council meeting. If their approval is not given, the bylaw will not move forward.

Official Plan

Site specific Official Plan Amendment No. 342 of the Official Plan for the former City of Toronto was not included in the Toronto Official Plan because the development conforms to the intent and policies of the new Official Plan.

The proposed reallocation of the Section 37 contribution towards the Market Street Streetscape Improvement Project is consistent with the policies in the City of Toronto Official Plan. Policy 2.2.1.11 in the Downtown Accessibility and Mobility Section of Chapter Two states that "A program of street improvements will be developed to enhance the pedestrian environment and measures undertaken to make it safer to walk and cycle in the Downtown." Policy 6 in Section 5.1.1 of the Official Plan, discussing eligible Section 37 community benefits for a development

project, identifies "streetscape improvements on the public boulevard not abutting the site". The proposed project does not abut the site and is a Council approved streetscape improvement.

Zoning By-law No. 26-7007 (OMB)

Section 1 (15) of the site specific Zoning By-law (By-law No. 26-2007) contains specific reference to the nature and amount of the community benefits to be secured in the Section 37 Agreement. Accordingly, amendments to both the Section 37 Agreement and Section 1 (15) of site specific Zoning By-law No. 26-2007 are required in order to reallocate a portion of the Section 37 funds from the park to the Market Street Streetscape Improvement Project as recommended in this report.

The revised community benefits recommended to be secured through amendments to the Section 37 Agreement and the site specific Zoning By-law are as follows:

1. A cash contribution in the amount of \$700,000.00 (with indexing) towards the Market Street Streetscape Improvement Project;
2. Any unused portion from the \$700,000 (with indexing) for the Market Street Streetscape Improvement Project be directed towards local parkland creation or improvements and/or local streetscape enhancement projects.

The recommended amendments to Zoning By-law No. 26-2007 are included in the draft Zoning By-law Amendment attached as Attachment No. 1 of this report.

CONTACT

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SIGNATURE

Raymond David
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment
Attachment 2: Market Street – Proposed Roadway Alteration

Attachment 1: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

BY-LAW No. _____

To further amend By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 40 The Esplanade.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Section 1. (15) of By-law No. 26-2007 is amended by:
 - (1) deleting the text of subsection (a) and replacing it with the following:

“pays to the City the sum of \$700,000 prior to the issuance of the first *foundation building permit*, towards the Market Street Streetscape Improvement Project and any remaining unused portion towards local parkland creation or improvements and/or local streetscape enhancement projects.

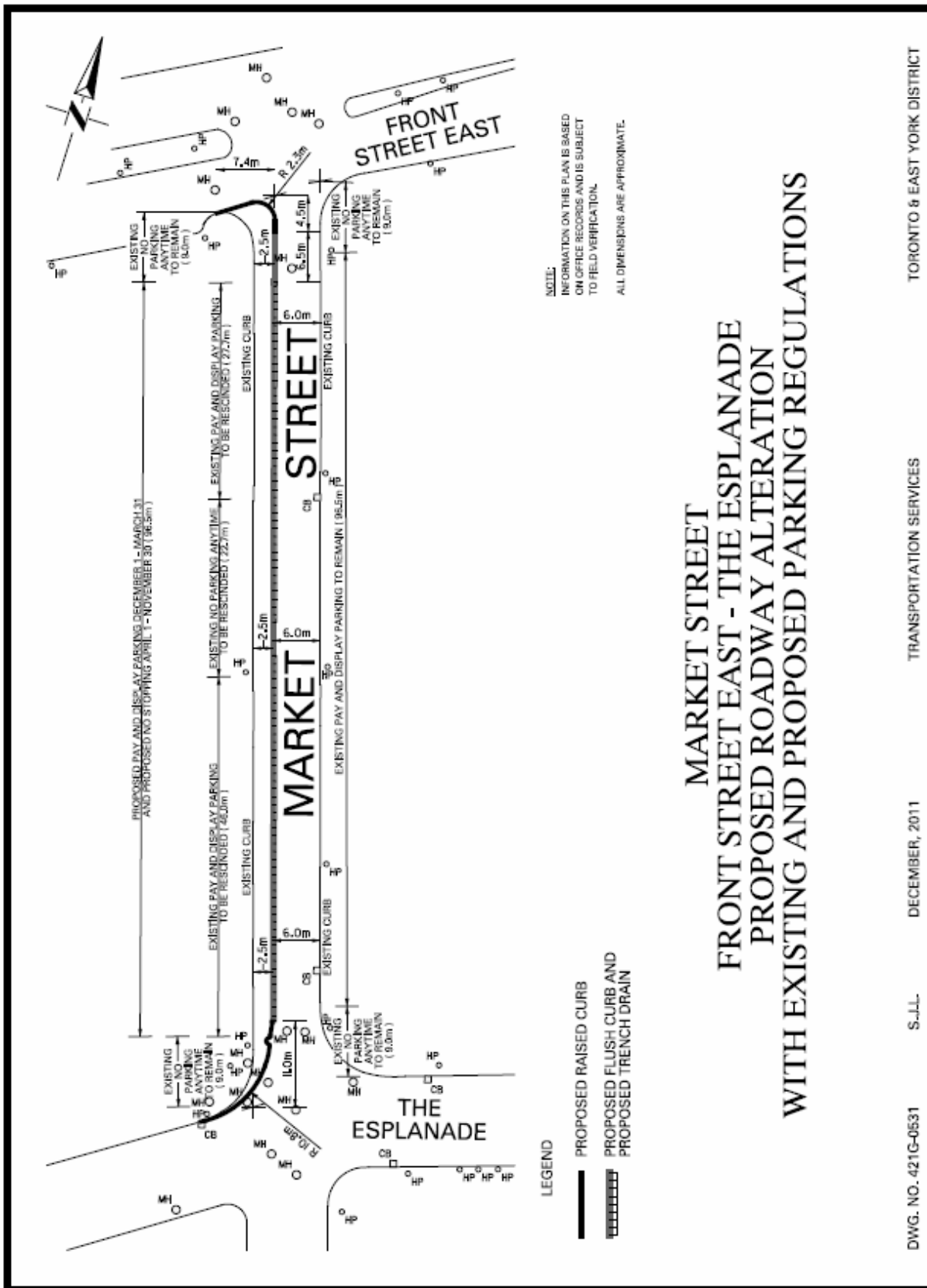
ENACTED AND PASSED this ~ day of ~, A.D. 2012.

Rob Ford,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

Attachment 2: Market Street – Proposed Roadway Alteration



**MARKET STREET
FRONT STREET EAST - THE ESPLANADE
PROPOSED ROADWAY ALTERATION
WITH EXISTING AND PROPOSED PARKING REGULATIONS**

TORONTO & EAST YORK DISTRICT

TRANSPORTATION SERVICES

DECEMBER, 2011

S.-J.L.

DWG. NO. 421G-0631