

## **126, 132 and 142 John Street, 259, 261, 263 and 267 Richmond Street West and 41 to 59 Widmer Street - Zoning Amendment Application – Supplementary Report**

Date: November 8, 2021

To: City Council

From: Chief Planner and Executive Director, City Planning

Ward: 10 - Spadina-Fort York

**Planning Application Number:** 19 144266 STE 10 OZ

### **SUMMARY**

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On February 24, 2021, Toronto and East York Community Council considered item TE23.10 - 126, 132 and 142 John Street, 259, 261, 263 and 267 Richmond Street West and 41 to 59 Widmer Street - Zoning Amendment Application – Final Report dated February 5, 2021.

The Final Report recommended approval of the application to amend the Zoning By-law to permit a mixed-use development having non-residential uses in a 3 to 8 storey base building, and residential uses in two towers above with total heights of 37 and 42 storeys. The community benefits recommended to be secured in the Section 37 Agreement include a cash contribution in the amount of \$6,200,000.00 towards the provision of affordable housing, the provision of an on-site non-profit licensed Childcare Centre, and other matters to be secured to support the development of the site.

On March 10, 2021, and at meetings thereafter, City Council deferred consideration of Item TE23.10 and directed Planning staff to work with the applicant to resolve outstanding concerns and refine the proposed Section 37 community benefits package and Zoning By-law. On October 1 and 4, 2021, Council deferred consideration of Item TE23.10 to the November 9 and 10, 2021 meeting of City Council and directed the Chief Planner and Executive Director, City Planning to submit a report providing an update to City Council.

This report recommends approval of the application to amend the Zoning By-law and provides revised recommendations for a Section 37 community benefits package. The recommended Zoning By-law Amendment is consistent with the Provincial Policy Statement (2020), conforms to and does not conflict with the Growth Plan for the Greater Golden Horseshoe (2020), and conforms to the City's Official Plan, including relevant Secondary Plans.

## RECOMMENDATIONS

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The Chief Planner and Executive Director, City Planning recommends that:

1. City Council delete Toronto and East York Community Council's Recommendation 1 and replace it with the following:

"1. City Council amend Zoning By-law 569-2013, for the lands at 126, 132 and 142 John Street, 259, 261, 263 and 267 Richmond Street West and 41 to 59 Widmer Street, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 1 to the Supplementary Report (November 8, 2021) from the Chief Planner and Executive Director, City Planning."

2. City Council delete Toronto and East York Community Council's Recommendation 2.

3. City Council delete Toronto and East York Community Council's Recommendation 5 and replace it with the following:

City Council direct that the owner be required to enter into an Agreement pursuant to Section 37 of the Planning Act to secure the following community benefits at the owner's expense, as follows:

a. a cash contribution of six million, two hundred thousand (\$6,200,000.00) dollars to be allocated towards the provision of new affordable housing and/or the Toronto Community Housing Corporation revolving capital fund for repairs to Toronto Community Housing Corporation housing in the local Ward, at the discretion of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, whereby:

i. two million and one-hundred thousand (\$2,100,000.00) dollars shall be paid to the City by the owner within thirty (30) days after the last day the Zoning by-law Amendments are in full force and effect and the statutory appeal period has lapsed; and

ii. four million and one-hundred thousand (\$4,100,000.00) dollars shall be paid to the City by the owner prior to the issuance of the first above-grade building permit for any building on any part of the lands;

b. the cash contributions referred to in Recommendations 4(a)(i) and 4(a)(ii) shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Agreement to the date of payment;

c. in the event the cash contributions referred to in Recommendations 4(a)(i) and 4(a)(ii) above have not been used for the determined purpose within three years of the amending Zoning By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided the purpose is identified in the Official Plan and will benefit the community in the vicinity of the lands;

d. the provision of a non-profit licensed Child Care Centre to be located in the base building of the development on the lands, comprising a minimum of 780 square metres of interior space and approximately 390 square metres of exterior space adjacent to the interior space, including outdoor storage, and the provision for a child pick-up and drop-off area, with the precise location, capacity and related matters to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the General Manager, Children Services and such Child Care Centre shall generally be in accordance with the following:

i. shall be constructed, finished, furnished and equipped by the owner, including a minimum of two (2) parking spaces reserved for the exclusive use of the child care facility between the hours of 6:30am and 7:00pm from Monday to Friday, and an additional two (2) parking spaces reserved for the exclusive use of the child care facility for pick-up/drop-off operations between the hours of 6:30am and 10:00am and the hours of 3:00pm to 6:30pm from Monday to Friday. These spaces to be assigned accordingly, and be located in close proximity to the elevators providing the shortest route between the underground parking garage and the child care facility, which shall be barrier-free. A parking pass will be provided for officials conducting inspections of the child care facility;

ii. prior to the issuance of any above grade building permit for any portion of the lands, a letter of credit in the amount sufficient to guarantee 120% of the estimated cost of the design, construction and handover of the Child Care Centre complying with the specifications and requirements of the Section 37 Agreement, shall be provided to the City to the satisfaction of the General Manager, Children's Services and the Chief Financial Officer and Treasurer,

iii. prior to the earlier of residential occupancy of the building in which the Child Care Centre is located and/or registration of any condominium for the building in which the Child Care Centre is located, the Child Care Centre shall be conveyed to the City, at no cost to the City, in fee simple, in an acceptable environmental condition to the satisfaction of the Executive Director, Corporate and Real Estate Management and City Solicitor;

iv. the details of the other matters as described in these Recommendations, such as timing, location, obligations and any such matters to implement the Child Care Centre, in respect of the non-profit

licensed Child Care Centre community benefit will be finalized between the owner and the City and will be substantially in accordance with the City of Toronto's Child Care Development Guidelines (2016) and to the satisfaction of the Executive Director, Corporate and Real Estate Management, the General Manager, Children's Services, and the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor; and

v. on, or prior to, the conveyance of the Child Care Centre, the City and the owner enter into, and register on title to, the appropriate lands an Easement and Cost Sharing Agreement for nominal consideration and at no cost to the City, that is in a form satisfactory to the City Solicitor; the Easement and Cost Sharing Agreement shall address and/or provide for the integrated support, use, operation, maintenance, repair, replacement and reconstruction of certain shared facilities, and the sharing of costs, in respect thereof, of portions of the subject lands to be owned by the City and the owner as they pertain to the Child Care Centre, and the development to be constructed within the base building of the development;

e. prior to the conveyance of the Child Care Centre, the owner shall pay to the City the sum of \$500,000.00 to provide one-time cash contributions in support of the Child Care Centre, allocated generally as follows:

i. a one-time cash contribution in the amount of \$250,000.00 to the City's Child Care Capital Reserve Fund to be used towards Start-Up Operating Costs, to replace appliances and large equipment due to wear and tear, and to support ongoing financial viability, to be paid prior to the child care facility being made available to the City;

ii. a one-time cash contribution in the amount of \$250,000.00 towards toys, furnishing and equipment in accordance with provincial and municipal standards based on a mutually agreeable inventory list provided by the Child Care Centre Operator and/or the General Manager of Children's Services, which will be finalized and approved by the General Manager of Children's Services;

iii. the cash contributions referred to in Recommendations 4(e)(i) and 4(e)(ii) shall be indexed upwardly in accordance with the Statistics Canada Residential or Non-Residential, as the case may be, Building Construction Price Index for the Toronto Census Metropolitan Area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table 18-10-0135-01, or its successor, calculated from the date of the Agreement to the date of payment; and

iv. the owner and the City acknowledge and agree that the owner shall have no obligation to replace or repair the supplies, equipment and furnishings that are required to equip the Child Care Centre."

5. City Council delete Toronto and East York Community Council's Recommendations
6. c. and g. replace them with the following:

c. through the Site Plan Application review process, the owner agrees to secure the specific design, location, and configuration of an at grade mid-block pedestrian connection between John Street and Widmer Street which will be open to members of the public for access at certain times of the day and night, generally aligned with the operating hours of the commercial uses within the development, on the plans and drawings to be approved pursuant to Section 114 of the City of Toronto Act, 2006, and secured in a Site Plan Agreement with the City without the requirement for an easement, the determination of which is to the satisfaction of the Chief Planner and Executive Director, City Planning;

g. prior to final Site Plan Approval for any part of the site, the Owner shall submit a certificate from an appropriate corporate officer to the Chief Planner and Executive Director, attesting that, for a period of 6 months commencing after the first Site Plan Application for the development on the site, the owner has used commercially reasonable efforts (i) to identify a potential theatre/cinema tenant or other similar tenant satisfactory to the owner and interested in leasing space in the development and (ii) if identified, to reach lease terms acceptable to the owner in its reasonable business judgement including without limitation as to rent;"

6. City Council determine that the revisions reflected in the proposed Zoning By-law Amendments appended to this Supplementary Report as Attachment No. 1 are minor in nature and pursuant to Section 34 of the Planning Act, no further public notice is required in respect of the proposed Zoning By-law Amendments.

## **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

## **DECISION HISTORY**

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On February 24, 2021, Toronto and East York Community Council considered item TE23.10, 126, 132 and 142 John Street, 259, 261, 263 and 267 Richmond Street West and 41 to 59 Widmer Street - Zoning Amendment Application – Final Report dated February 5, 2021.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE23.10>

On March 10, 2021, City Council deferred consideration of Item TE23.10 to provide additional time for staff and the applicant to discuss and refine the proposed Section 37 community benefits package and Zoning By-law.

At its meetings of April 7, 2021, May 5, 2021, June 8, 2021, and July 14, 2021, City Council deferred consideration of the Item.

On October 1, 2021, City Council deferred consideration of the Item to the November 9 and 10, 2021 meeting of City Council to permit the Chief Planner and Executive Director, City Planning to submit a report providing an update to City Council.

## **COMMENTS**

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Since March 10, 2021, City Planning staff and the applicant worked together to resolve the proposed community benefits pursuant to section 37 of the Planning Act. Minor revisions are proposed to the section 37 provisions to provide clarity to the City and the applicant.

The Draft Zoning By-law amendments were also further refined to better reflect the proposed development, including minor revisions to mapping to clarify setbacks and setbacks of the different components of the development and ensuring alignment of provisions within the by-law. Further, since the Final Report, Toronto Buildings and the Zoning Team have advised that amendments to former City of Toronto Zoning By-law 438-86 are no longer required for this site given that several appeals to the City-wide Comprehensive Zoning By-law 569-2013 have been resolved and its regulations are now generally in force for this site. Therefore, Toronto and East York Community Council Recommendation 2 to amend By-law 438-86 is no longer required.

### **Section 37**

The applicant, in consultation with City Planning staff and the Ward Councillor, has agreed to provide community benefits to be secured in a Section 37 Agreement under the Planning Act. The community benefits and other matters to be secured in the Section 37 Agreement remain generally consistent with those recommended by Toronto and East York Community Council, with minor revisions as follows:

The non-profit licensed child care centre is recommended to be provided to the City through the conveyance of a freehold interest, at no cost or expense to the City, and include a minimum of two (2) parking spaces reserved for exclusive use of the Child Care Centre throughout its operating hours and two (2) parking spaces for exclusive use of the Child Care Centre during drop-off and pick-up windows. The previous recommendations had specified the provision of the Child Care Centre as either freehold conveyance or 99 year lease, and a minimum of five (5) parking spaces for the exclusive use of the Child Care Centre. Additionally, the previously identified one-time cash contributions in support of the child care facility totalling \$500,000 are to be divided between two capital reserve funds, rather than three capital reserve funds as previously

recommended, to reflect changes in procedure and reserve fund structure by Children's Services.

The details of the proposed publicly-accessible ground level mid-block pedestrian connection between John Street and Widmer Street are recommended to be secured in the future Site Plan Agreement rather than by an easement as previously recommended.

Additional details regarding the owner's obligations with respect to retaining a cinema use on site are now specified in the recommendations, rather than being deferred to the Section 37 agreement. Prior to final Site Plan Approval for any part of the site, the Owner would be required to provide certification that they have used commercially reasonable efforts to identify a cinema or other similar tenant for the development and, if identified, to reach acceptable lease terms, for a period of 6 months after the first Site Plan application.

## **Conclusion**

The recommended revisions to the draft Zoning By-law are consistent with the Provincial Policy Statement (2020) and conform to, and do not conflict with, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020. Furthermore, the recommended revisions conform to the Toronto Official Plan and continue to present an appropriate redevelopment of the subject site. This Supplementary Report contains a revised Draft Zoning By-law Amendment which is recommended to replace the two Draft Zoning By-law Amendments contained in the February 5, 2021 Final Report. The revised By-law reflects changes which are minor in nature and do not alter the intent of the draft By-laws attached to the Final Report of February 5, 2021.

## **CONTACT**

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## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Chief Planner and Executive Director  
City Planning

## **ATTACHMENTS**

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Attachment 1: Draft Zoning By-law Amendment to By-law 569-2013

