

324 Cherry Street and 429 Lake Shore Boulevard East – Technical Amendment to the Zoning By-law – Final Report

Date: September 13, 2021

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: 10 - Spadina-Fort York

Planning Application Number: 21 149632 STE 10 OZ

SUMMARY

This City-initiated technical amendment to Zoning By-law 1174-2010 will bring the maps into compliance with changes resulting from the detailed design of new roads and related infrastructure in the area.

This report outlines the minor changes proposed to the streets and blocks in Zoning By-law 1174-2010 and how they respond to multiple ongoing capital projects in the Keating Channel Precinct. The proposed changes are consistent with the planning vision and policy intent for the area.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Zoning By-law 1174-2010 for the lands at 324 Cherry Street and 429 Lake Shore Boulevard East substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No.1 to this report (September 10, 2021) from the Director, Community Planning, Toronto and East York District.
2. 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 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

Lower Don Lands Environmental Assessment and Keating Channel Environmental Study Report

The Council-adopted Lower Don Lands Infrastructure Master Plan (IMP) Environmental Assessment (Phase 1 and 2 of the EA process) and Keating Channel Environmental Study Report (Phases 3 and 4 of the EA process) established the streets and blocks pattern for Keating Channel – West, as well as the water, sewer and stormwater servicing strategy. Preferred Cherry Street cross-sections and a functional plan were included within the IMP.

The IMP cross-sections were included within the 3C Waterfront Urban Transportation Consideration Report Appendix C: Lower Don Lands Infrastructure Master Plan and Keating Channel Precinct Environmental Study Report Cross-Sections as reference for street design of the lands at 324 Cherry Street and 429 Lake Shore Boulevard East. These lands are a part of Keating Channel Precinct and are subject to a draft plan of subdivision that will enable a multi-phased mixed use development of the site.

Keating Channel and East Bayfront Settlements

The City of Toronto passed the Central Waterfront Secondary Plan in April 2003 and subsequently zoning by-laws for the East Bayfront (By-law No. 1049-2006) and North Keating (By-law No. 1174-2010). Within these two precincts there were a total of 6 private land owner appellants to the Central Waterfront Secondary Plan and area specific By-laws.

City Council, at their meeting on November 19, 2013, provided direction to staff regarding resolution of several outstanding appeals of the Central Waterfront policies of the 2006 Official Plan and Central Waterfront Secondary Plan, as well as East Bayfront – West Zoning Bylaw No. 1049-2006 and Keating Channel – West Zoning Bylaw No. 1174-2010.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE28.41>

Subsequently City Council adopted a series of reports dealing with various aspects of the proposed East Bayfront and Keating Channel settlements, as noted below:

March 20, 2014

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE30.17>

Technical Amendment to Zoning By-law - 324 Cherry Street 429 and Lake Shore Boulevard East – Final Report

May 6, 7 and 8, 2014

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM51.46>

July 8, 9, 10 and 11, 2014

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE33.19>

August 25, 26, 27 and 28, 2014

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.CC55.13>

December 11, 2014

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC2.5>

City Council, at its meeting on February 3 and 4, 2016, directed staff to change the terms of settlement for East Bayfront and Keating Channel Local Planning Appeal Tribunal (LPAT) appeals to the Central Waterfront Secondary Plan, including 324 Cherry Street and 429 Lake Shore Boulevard East, based upon proposals from the appellants. City Council directed staff to conclude settlement negotiations based upon the "Confidential Attachment".

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.CC12.13>

A draft plan of subdivision application (File No. 16 271924 STE 28 SB) was received on December 30, 2016 for 324 Cherry Street and 429 Lake Shore Boulevard East and proposes to subdivide the 5.76 hectare site into seven blocks. This application establishes the primary street network, including two new public north-south streets, two new public east-west streets, five development blocks, and two park blocks that collectively provide approximately 0.35 hectares of waterfront promenade parkland. These lands are subject to the implementing by-laws resulting from the settlement for Zoning Bylaw No. 1174-2010 discussed above.

On November 27, 2017, the owner of 324 Cherry Street and 429 Lake Shore Boulevard East appealed their subdivision application to the LPAT on the grounds that the approval authority has failed to make a decision on the application within the prescribed timelines of the Planning Act. At the time of the appeal, the City Planning Division took the position that the Draft Plan of Subdivision Application No. 16 271924 STE 28 SB was a premature application as it did not adequately reflect and incorporate a range of City-building projects that are within or directly adjacent to the site.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE33.16#>

Three prehearing conferences were scheduled, and a virtual LPAT mediation process between the City and the applicant took place over three sessions in the summer of 2021. The mediations were successful with both parties agreeing to proceed to a settlement hearing on Draft Plan of Subdivision Application No. 16 271924 STE 28 SB in early fall 2021. A small number of unresolved issues were removed from the original appeal for further discussion between the parties and are subject to future Ontario Land Tribunal ("OLT", formerly LPAT) hearing dates as necessary.

On October 8, 2019, a Site Plan Control application (File No. 19 233721 STE 10 SA) was submitted by the applicant for an 11 storey office building for the first phase of development. This application is being reviewed concurrently and in coordination with the draft plan of subdivision application. A minor variance application (File No. A0638/21 TEY) has also been submitted to the Committee of Adjustment and is under review.

PROPOSAL

This City-initiated Zoning By-law Amendment application is a technical amendment adjusting the maps in Zoning-By-law 1174-2010. The reason for the amendment is to account for evolution in design details for major capital projects and road alignments which have shifted since the 2016 settlements to 1174-2010.

A draft plan of subdivision application (File No. 16 271924 STE 28 SB) proposes to subdivide the 5.76 hectare site into seven blocks. This application establishes the primary street network, including two new public north-south streets, two new public east-west streets, five development blocks, and two park blocks that collectively provide approximately 0.35 hectares of waterfront promenade parkland. Proposed Zoning By-law Amendments set out in this report conform to survey data established by the draft plan of subdivision.

Site and Surrounding Area

The site is located within the Keating Channel Precinct, a human-made industrial land area created through fill in the late 1880s. It is east of Toronto's downtown between the Lower Don and Parliament Slip, north of the Keating Channel and south and west of Lake Shore Boulevard.

The site at 324 Cherry Street and 429 Lake Shore Boulevard East is bounded by Lake Shore Boulevard and the Martin Goodman Trail to the north, Cherry Street to the east, Keating Channel to the south and 351-369 Lake Shore Boulevard to the west. It has a total area of approximately 57,600 square metres or 5.76 hectares and is generally flat. The north and east frontages of the site are lined by several non-native trees and shrubs.

Most of the site is vacant and used as storage and surface parking for cars, trucks and larger vehicles. Adjacent to Keating Channel, there is an area used for boat storage. The site had previously been used as a National Iron Works complex which was demolished in the 1980s.

Reasons for Technical Amendment

The maps set out in Zoning By-law 1174-2010 include block dimensions, right of way widths, tower zones, permitted plaza areas and other specific dimensions. Shifts in

road alignments through the detailed design process and refinements through the draft plan of subdivision review (File No. 16 271924 STE 28 SB) resulted in refinements to dimensions, so the zoning maps need technical updates. The changes in road alignments are technical in nature and remain compliant with the intent of Lower Don Lands Environmental Assessment and the Central Waterfront Secondary Plan.

BACKGROUND

Agency Circulation Outcomes

The proposed technical amendment has been circulated to all appropriate agencies and City Divisions.

Community Consultation

Community Consultation Meetings were held for the original rezoning application on July 12 and July 22, 2010. Comments at the meetings were generally favourable and related to matters other than the streets and blocks network.

These consultations pre-date the OMB settlement process that confirmed the current in force Zoning By-law 1174-2010. The proposed changes are a conformity exercise with detailed design of infrastructure and are minor and technical in nature. As such, past Community Consultation Meetings captured substantive public input to guide this technical amendment.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

The Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure;

- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by directing development away from natural or human-made hazards.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the [Planning Act](#) and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) came into effect on August 28, 2020. This was an amendment to the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan (2020), establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the Planning Act.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by directing development away from natural or human-made hazards.

The Growth Plan (2020), builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020), take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. In accordance with Section 3 of the Planning Act all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

Official Plan

The former City of Toronto Official Plan is in force on the subject site and designates the site East Bayfront on Map 1. Further, the site is located within the East Bayfront District on Map 9 of the former City of Toronto Official Plan.

In addition, the site is located within the Lower Don Lands Special Policy Area, as shown on Map 3 of the former City of Toronto Official Plan, and is subject to flood risk. Development on lands designated Special Policy Area (SPA) within Keating Channel may not be permitted until flood remedial works are completed to flood protect the lands and enable comprehensive renewal. The lands must be flood protected to at least the level of a 1:350 flood, subject to review and approval by the Toronto and Region Conservation Authority (TRCA).

The Central Waterfront Secondary Plan (CWSP), which was adopted by City Council in 2003 as an amendment to the former City of Toronto Official Plan, represents Council policy to guide revitalization in the Central Waterfront. The CWSP is in force for 324 Cherry Street and 429 Lake Shore Boulevard East. The CWSP is premised on four key principles:

- Removing barriers and making connections;
- Building a network of spectacular waterfront parks and public spaces;
- Promoting a clean and green environment; and
- Creating dynamic and diverse new communities.

The CWSP Official Plan Modification, which was part of the Local Planning Appeal Tribunal Minutes of Settlement for the subject site, included Policy P54 and Maps H1 and H2 (see Attachment 3), which are specific to Keating Channel – West Precinct.

The Toronto Official Plan, 2006 is not in force for the Central Waterfront, inclusive of the Keating Channel Precinct - West. It does, however, reflect Council's current land use direction for the Central Waterfront. Under the Toronto Official Plan, the subject property is within the Downtown and Central Waterfront on Map 2 – Urban Structure and is designated Regeneration Areas on Map 18 – Land Use Plan. The subject property is also partially covered under Special Policy Area 7 – Lower Don: Don River, on Map 11. Policies 3.4.5 and 3.4.11 b) within Chapter 3 of the Official Plan address development criteria within this floodplain Special Policy Area.

Keating Channel Precinct Plan

The Keating Channel Precinct Plan, for the lands to the west of, and including, Cherry Street, was endorsed by City Council in 2010. The Keating Channel Precinct Plan provides detailed planning direction to guide the development of this former industrial area into a new sustainable, walkable and connected mixed-use residential community with great parks and open spaces along with a distinct water's edge promenade.

In accordance with the Central Waterfront Secondary Plan, all future development applications in Keating Channel-West will be required to address the vision, guiding principles and strategies, and guidelines for Keating Channel established through the Precinct Plan.

Zoning

The harmonized city-wide Zoning By-law does not apply to this site. The former City of Toronto Zoning By-law 438-86 and Keating Channel – West Zoning By-Law No. 1174-2010 are in force, and zones the subject site Commercial Residential (CR(h)) and Parks and Open Space(G(h)).

Site Plan Control and Draft Plan of Subdivision

A Site Plan Control application (File No. 19 233721 STE 10 SA) has been submitted for an 11 storey office building for the first phase of development. A Draft Plan of Subdivision application (File No. 16 271924 STE 28 SB.) was also submitted and is currently being finalized through an Ontario Land Tribunal mediation process. The Chief Planner has delegated authority for Plans of Subdivision under By-law 229-2000 as amended. Both applications are being reviewed concurrently and in coordination with each other.

COMMENTS

Staff from City divisions and agencies have worked closely with the 429 Lake Shore Boulevard East and 324 Cherry Street landowner's consulting team on the technical changes to bring Zoning By-law 1174-2010 into compliance. Maps A, B and 1 through 6 are proposed to be amended.

Changes include revised dimensions and alignments for Queen's Quay East and New Cherry Street. The right-of-way for Trinity Street was also expanded through the draft plan of subdivision review process. Road alignment revisions require corresponding minor changes in block dimensions, tower zones, build-to lines and ground floor animation areas.

Shifts in the dimensions of development blocks north of Queens Quay East have also resulted in minor changes to the permitted plaza area in Map 4. A reduction of 65 square meters for the permitted plaza area is proposed. The plaza will have frontage on the 38 metre wide future Queens Quay East, which will create a large and contiguous public realm amenity. Given the cumulative public realm enhancements at this location, the small change in the plaza area is considered by staff to be minor. This change is the only change that requires changes to the text in the by-law for permitted plaza areas set out in Attachment 1.

Changes were verified by the landowner's surveyor against the associated draft plan of subdivision survey, which is accepted by City Staff.

Conclusion

The proposed technical amendments bring Zoning By-law 1174-2010 into compliance with the outcomes of detailed design process for comprehensive infrastructure planning in the precinct. The changes are technical in nature and will enable the orderly development of the site.

A draft of the amending zoning by-law is included in Attachment 1.

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SIGNATURE

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ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Draft Zoning By-law Amendment

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Attached as separate document