

## **City-Initiated Zoning By-law Amendments to Implement Ontario Line – Final Report**

**Date:** May 16, 2022

**To:** Planning and Housing Committee

**From:** Chief Planner and Executive Director, City Planning

Executive Director, Transit Expansion Office

**Wards:** Toronto Centre (Ward 13), Spadina-Fort York (Ward 10), Toronto-Danforth (Ward 14), and Don Valley West (Ward 15)

### **SUMMARY**

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This report proposes city-initiated zoning by-law amendments to facilitate the delivery of the Ontario Line (OL) project. The purpose of these amendments is to provide relief from certain zoning by-law provisions related to transportation uses for lands to be acquired by Metrolinx to accommodate OL project elements.

The zoning by-law amendments affect lands which will accommodate Transit Structures such as emergency exit buildings, emergency service buildings, traction power substations, operations and maintenance storage facilities, ventilation shaft buildings, transit station entrance buildings and temporary facilities required for construction. The amendments also include lands that will support the development of the East Harbour Transit Hub.

The amendments would apply to transportation uses only and are consistent with Official Plan and zoning policies, and none of the proposed amendments reduce zoning permissions on abutting lands, nor will the amendments impact other uses permitted on properties affected by the amendments.

### **RECOMMENDATIONS**

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The Chief Planner and Executive Director, City Planning and the Executive Director, Transit Expansion Office recommend that:

1. City Council amend the City of Toronto Zoning By-law 569-2013 and the former City of Toronto Zoning By-law 438-86 substantially in accordance with the draft Zoning By-law Amendments in Attachments 1 & 2, for the lands at:

- 1, 2, 4, and 6 Thorncliffe Park Drive;
- 36 Overlea Boulevard;

- 40 Beth Neilson Drive and unaddressed lands south of 50 Beth Neilson Drive;
- a portion of 150 Sherbourne Street;
- 205 Queen Street West;
- a portion of 130 Queen Street West;
- a portion of 1 Queen Street East;
- 1A, 1B, 1C, 1, 5, 9, 11, 35 Sunlight Park Road and 341, 353, 361 Eastern Avenue;
- 100 and 150 Manitoba Drive;
- 1a Atlantic Avenue and 1 Jefferson Avenue;
- unaddressed lands south of Pirandello Street, between Dufferin & Strachan;
- 10R Ordnance Street;
- unaddressed lands comprising a portion of the GO Rail Don Yard storage facility;
- unaddressed lands within the Union Station Rail Corridor west of Cherry Street;
- 12R Strachan Ave; and
- unaddressed lands east of the rail corridor and south of Eastern Avenue; and

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

## **FINANCIAL IMPACT**

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There are no financial implications to this report.

## **DECISION HISTORY**

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On June 21, 2021, City Council adopted *EX25.5 - Update on Metrolinx Transit Expansion Projects – Second Quarter 2021* which provided a status update on Metrolinx-led transit expansion projects currently underway in Toronto, with a focus on the Subway Program (i.e., Ontario Line, Scarborough Subway Extension, Yonge North Subway Extension, and Eglinton Crosstown West Extension), SmartTrack Stations Program, and Durham-Scarborough Bus Rapid Transit. This report covered Ontario Line milestones from Q4 2020 to Q2 2021.

## **COMMENTS**

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Planning for major transit expansion projects follows a provincially prescribed design and consultation process beginning with the Environmental Assessment process, termed a Transit Project Assessment Process (TPAP). The TPAP is typically undertaken well in advance of the filing of formal planning applications. City staff actively participate in, and in some cases lead, TPAPs. The appropriate location, arrangement and design of buildings for major transit expansion projects is examined in considerable detail and is publicly reviewed and documented through the TPAP in advance of the issuance of tender documents for construction of the project.

The design process for major transit projects has regard for the applicable zoning, but generally does not include a detailed zoning review. As a result, while it is well understood through the TPAP where transit buildings will be located, arranged on the

land, and designed when a project is approved, areas of non-compliance with existing zoning may only be identified later in the project delivery stage.

Zoning compliance is addressed through the detailed design stage of a transit project, at the time of Site Plan approval and building permit applications stage. However, at this late stage in the process achieving zoning compliance may introduce significant risk, delay and cost to the delivery of the project. To reduce these risks zoning compliance is to be secured prior to the project being issued to market.

The OL project is comprised of four contracts: early works, south civil (including tunnel and stations), north civil (stations and tunnels), and rolling stock, systems, operations and maintenance (RSSOM) contracts. Early works began in late 2021 on the pre-construction investigations and the relocation of utilities and infrastructure and the RSSOM and south civils contract, which are currently in the RFP stage are expected to close in late 2022.

Also included in the attached draft amendments are provisions to enable the construction of the East Harbour Transit Hub (EHTH). This EHTH is an interchange station that will incorporate an Ontario Line station, UP Express as well as a SmartTrack station built on the existing Metrolinx Lakeshore East GO rail system corridor. The future EHTH Station will also connect with a future extension of the Broadview streetcar service by the TTC.

Toronto Building Division has previously identified zoning compliance issues with the use of temporary construction offices and trailers due to the length of time that these trailers will be required to be on a site. This issue arises frequently on major transit projects due to the extended construction periods of these projects. The requirements for temporary uses are not set out in the zoning by-law, rather, they reside in *Section 39 of the Planning Act*. Municipalities are able to pass by-laws which permit temporary uses, however, it cannot exceed a period of 3 years, as per Section 39(2) of the Act. This often affects major infrastructure projects that involve multi-year construction periods. Certain locations such as East Harbour will remain under construction for an extended period of time to facilitate the construction of the Transit Infrastructure, provisions are made for construction offices and trailers only for the purpose of constructing transportation uses. Construction trailers to facilitate any other type of construction, including other uses, would require additional use permissions, as it would be out of scope with what was intended in the current amendment.

A new provision was added to Zoning By-law 569-2013 and former City of Toronto Zoning By-law 438-86 for the sites that will be used for construction staging and are expected to contain temporary construction offices and trailers. These provisions apply to construction trailers only for the purpose of constructing transportation uses and would only be on-site for the duration of the transportation project. The new provision would apply to properties required for the Ontario Line at East Harbour and Thorncliffe Park.

## **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 province-wide policy direction on land use planning and development matters. The PPS's overall goals are 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 and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

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 4.6 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 to 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 to 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) (the "Growth Plan (2020)") came into effect on May 16, 2019, with Amendment 1 to the Growth Plan coming into effect on August 28, 2020. 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 that comprehensively applies the policies and schedules of the Growth Plan (2020), including the establishment of minimum density targets for and the delineation of strategic growth areas, the conversion of provincially significant employment zones, and others.

- 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:
- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on-site;
- Minimizing the negative impacts of climate change by undertaking storm water management planning that assesses the impacts of extreme weather events and incorporates green infrastructure;
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas; and
- Conserving and promoting cultural heritage resources to support the social, economic, and cultural well-being of all communities.

The Growth Plan (2020) builds upon the policy foundation provided by the PPS (2020) 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. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform to the Growth Plan.

### **Toronto Official Plan**

The proposed amendments have been reviewed against the policies of the City of Toronto Official Plan as follows:

Section 2.2 Structuring Growth in the City: Integrating Land Use and Transportation outlines policies intended to align development with the City's transportation system, including making investments in transit. The following policies are pertinent to the proposed amendments:

#### **Policy 2.2.1**

This Plan will create a better urban environment, a competitive local economy and a more socially cohesive and equitable city through the integration and coordination of transportation planning and land use planning by:

b) developing and expanding components of the City's transit and other transportation infrastructure to support the growth objectives of this Plan.

#### **Policy 2.2.3**

The City's transportation network will be maintained and developed to support growth management objectives of this Plan by:

b) acquiring lands beyond the right-of-way widths shown on Map 3 and Schedule 1 to accommodate necessary features such as embankments, grade separations, additional pavement or sidewalk widths at intersections, transit facilities or to provide for necessary improvements in safety, universal accessibility or visibility in certain locations; and

j) implementing transit services in exclusive rights-of-way in the corridors identified on Map 4 as priorities are established, funding becomes available and the Environmental Assessment review processes are completed.

#### **Policy 2.2.4**

Require new development on lands adjacent to existing or planned transportation corridors and facilities to be compatible with, and supportive of, the long-term purposes of the corridors and facilities and be designed to avoid, mitigate or minimize negative impacts on and from the transportation corridors and facilities.

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

### Proposed Zoning Changes

Project elements comprising the OL and their locations are itemized in the table below. The Zoning By-laws that regulate each element are likewise outlined in the table.

Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Operations, Maintenance and Storage Facility	1, 2, 4, and 6 Thorncliffe Park Drive; 36 Overlea Blvd.	Industrial, Retail, Foodservice and a Place of Worship	Yes	No
Operations, Maintenance and Storage Facility	40 Beth Neilson Drive and unaddressed lands south of 50 Beth Neilson Drive	Self-storage facility and open space	Yes	No
Moss Park Station	A portion of 150 Sherbourne Street	Public Park	Yes	No
Osgoode Station (Secondary Entrance)	205 Queen Street West	Bank	Yes	No
Exhibition Station	1a Atlantic and 1 Jefferson Ave.	Vacant	No	Former City of Toronto By-law 438-86
Osgoode Station (Primary Entrance)	A portion of 130 Queen Street West	A portion of Osgoode Hall front lawn and adjacent lands in the University Avenue ROW	Yes	No

Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Ventilation Shafts	A portion of 1 Queen Street East	Private Open Space (patio)	Yes	No
East Harbour Transit Hub Station	1A, 1B, 1C, 1, 5, 9, 11, 35 Sunlight Park Road and 341, 353, 361 Eastern Avenue	Vacant	No	Former City of Toronto By-law 438-86
Exhibition Station Emergency Service Building	Unaddressed lands south of Pirandello Street, between Dufferin & Strachan	Vacant	No	Former City of Toronto By-law 438-86
Exhibition Station Portal	100 and 150 Manitoba Drive	Vacant	No	Former City of Toronto By-law 438-86
Emergency Exit Building	Unaddressed portion north of the CN/GO rail corridor and Gardiner Expressway (10R Ordnance Street)	Vacant	No	Former City of Toronto By-law 438-86
Don Yard Emergency Service Building	Unaddressed lands comprising a portion of the GO Rail Don Yard storage facility	Vacant	No	Former City of Toronto By-law 438-86



Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Cherry Street Emergency Service Building	Unaddressed lands within the Union Station Rail Corridor west of Cherry St.	Vacant	No	Former City of Toronto By-law 438-86
Fort York Traction Power Substation	Unaddressed lands within the area bounded by the CN/GO railway corridor, Strachan Ave, and Gardiner Expressway (12R Strachan Ave)	Vacant	No	Former City of Toronto By-law 438-86
East Harbour Transit Hub Station	Unaddressed lands east of the rail corridor and south of Eastern Avenue	Vacant	Yes	No

Public transit uses, identified under the defined term "Transportation Uses" in the City-wide Zoning By-law 569-2013, are permitted in all zones on condition that they comply with the standards for a building or structure in that zone. Transportation uses, and public transit in general, are typically not permitted in the former City of Toronto Zoning By-laws.

The development of the future East Harbour Transit Hub necessitates zoning amendments to enable the transit project to proceed. The Ontario Line station portion of the East Harbour Transit Hub is regulated through the former City of Toronto Zoning By-law 438-86 and the lands are zoned Industrial (I3 D5 and I2 D5). The zoning restricts transportation uses. A building permit for the transit hub cannot be issued until the zoning is amended. While it is true that under the Building Transit Faster Act Metrolinx may choose to proceed with station construction without the benefit of a City issued building permit, this also introduces new risks to the project. Metrolinx and the City generally agree that transit projects benefit from the City building permit process, which requires that the project comply with the applicable zoning.

## **Provincial Policy Statement and Provincial Plans**

The proposal has been reviewed and evaluated against the Provincial Policy Statement (PPS) (2020) and the Growth Plan (2020). Staff have determined that the proposal is consistent with the overall policies of the PPS and conforms to the Growth Plan (2020). Some specific policies include:

Policy 3.2.1.1 requires that "infrastructure planning, land use planning and infrastructure investment will be coordinated to implement this Plan." Policy 3.2.2.1 mirrors 3.2.1.1 with respect to transportation, stating that "transportation system planning, land use planning, and transportation investment will be coordinated to implement this Plan." Zoning implements land use planning which, in this case, is land use planning related to the delivery of a major transit infrastructure investment. The proposed amendments, therefore, form part of the coordination as outlined in the policies because they function to remedy known zoning compliance issues arising from land acquired to facilitate the Ontario Line project.

Policy 3.2.2.2 requires "the transportation system within the GGH [to] be planned and managed to: f) provide for the safety of system users". The proposed zoning by-law amendments support the provision of emergency exit buildings required to support the Ontario Line project, as well as electrical substations to ensure reliable power supply for the subway vehicles. These are key elements of the project, and their location is driven in large part by safety standards.

### **Official Plan**

The proposed Zoning By-law amendments comply with the intent and policies of the Official Plan. They facilitate implementation of a major transit expansion project in accordance with Policy 2.2.1 b). As contemplated by Policy 2.2.3 b), the affected land is located beyond the right-of-way and will house transit facilities to support the Ontario Line, which will be located within the right-of-way.

Policy 2.2.3 j) refers to Map 4 of the Official Plan, which identifies higher order transit corridors. On February 26, 2020 Council adopted Official Plan Amendment 456, as amended, as part of the City's Municipal Comprehensive Review. An update to Map 4 was included in the OPA that identifies the Ontario Line alignment. The proposed Zoning By-law amendments are consistent with the amended Map 4.

While Policy 2.2.4 deals mostly with how new private development responds to the transportation system, it also requires mitigation and minimization of negative impacts from transportation facilities to private development. The amendments proposed in this report minimize the amount of land required for the Ontario Line project and mitigate zoning compliance issues for all affected properties.

### **Land Use**

The proposed zoning by-law amendments amend the City-wide Zoning By-law 569-2013, and the former City of Toronto Zoning By-law 438-86. The proposed amendments to By-law 569-2013, outlined in Attachment 1, provide limited site and area-specific exemptions for transportation uses in the areas of building setbacks, gross floor area, floor space index, lot coverage, minimum lot area, and minimum lot frontage.

The proposed amendments to the former City of Toronto Zoning By-law 438-86, outlined in Attachment 2 are more general and apply an exception for public transit uses at various unaddressed properties along the OL alignment. All applicable zoning by-law standards for uses other than transportation uses will remain unaffected.

The proposed Zoning By-law amendments have been reviewed against the Official Plan policies described in the Policy Considerations Section of the report, as well as, the policies of the Toronto Official Plan as a whole. The locations and land requirements of project elements including the proposed emergency exit buildings, emergency service buildings, traction power substations, maintenance storage facilities, vent shafts, subway stations and temporary construction facilities are consistent with the OL project as approved through the Ontario Line EA.

Final configuration of land parcels required to be acquired by Metrolinx for the OL project is dependent in part on requirements of applicable zoning by-laws. By amending certain provisions of the applicable zoning by-law functions to minimize the amount of land required to accommodate these project elements, while at the same time minimizing the impact of the project on affected properties, the draft amendments function to mitigate some of the impacts of the OL project.

Nevertheless, the conveyance of land from private property to the OL project may result in non-compliance of those properties with the zoning provisions that apply to those lands. The conveyance of land reduces the lot area of the property from which the land is acquired. This may create issues as the conveyed lands may have been used, for example, to satisfy a minimum parking requirement. As well, the maximum permitted gross floor area or lot coverage may be affected by the reduction of the lot area, thereby reducing the development potential of the site. Finally, the conveyance of land may reduce the lot frontage, lot area, or building setbacks so that the affected property no longer complies with the requirements of the by-law.

To remedy these issues, Zoning By-law 569-2013 contains provisions in regulation 2.1.1(4) that address and resolve zoning compliance when land is conveyed to a public authority. These provisions apply to all land that is regulated through the by-law, but similar provisions are not included in the former City of Toronto Zoning By-laws. The proposed amendments apply these provisions to the affected properties by way of a site specific exception in the by-laws where the lands are regulated under former City of Toronto By-law 438-86.

### **Community Consultation**

A virtual community consultation meeting was held on April 5, 2022 to present information about the project and to seek public input. A project webpage is available and can be accessed by visiting - <https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/transit-enabling-zoning-by-law-amendments/>. The Zoning By-law Amendments contained in this report were included in the material presented at the community consultation meeting. Notice of the meeting was advertised on the [City Planning Consultations webpage - https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/](https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/) and meeting notices were mailed out to affected property owners.

No concerns and no questions were raised by the approximately 15 attendees.

The proposed Zoning By-law amendments also reflect feedback that was received through extensive internal City consultation.

### **Conclusion**

The amendments have been reviewed against the policies of the PPS (2020), the Growth Plan (2020), and the Official Plan. Staff are of the opinion that the recommended Zoning By-law Amendments are consistent with the PPS (2020), and conform to and do not conflict with the Growth Plan (2020). Furthermore, the zoning amendments are in keeping with the intent of the Official Plan, particularly as it relates to focusing urban growth into a pattern of compact centres and mobility hubs connected by a high order public transit system.

The recommendations in this report will enable the construction of the OL project in a manner that is consistent with Official Plan policies, particularly 2.1.1 a) and 2.2. The proposed amendments achieve zoning compliance for the OL project, while minimizing the amount of land to be acquired, and mitigating the impacts to affected properties. Staff recommend that Council support approval of these zoning by-law amendments.

### **CONTACT**

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### **SIGNATURE**

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### **ATTACHMENTS**

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Attachment 1: Draft Amendments to City of Toronto Zoning By-law 569-2013  
Attachment 2: Draft Amendments to former City of Toronto Zoning By-law 438-86