

City Council**Motion without Notice**

MM29.14	ACTION			Ward: 10
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200 Queens Quay West - Encumbrance and Limiting Distance Agreements - by Deputy Mayor Ausma Malik, seconded by Councillor Gord Perks

** This Motion has been deemed urgent by the Chair.
* This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

Recommendations

Deputy Mayor Ausma Malik, seconded by Councillor Gord Perks, recommends that:

1. Despite Toronto Municipal Code Section 415- 26 (B), City Council authorize that the conveyance of parkland to the City pursuant to Section 42 of the Planning Act as contemplated in Site Specific Zoning By-law 1012-2022 may be encumbered by:

a. a maximum of 7 below grade concrete caissons distributed within the southern half of the future parkland, where such encumbrance is deemed acceptable by the General Manager, Parks and Recreation in consultation with the City Solicitor and such encumbrance is subject to compensation payable to the City at the time of conveyance, in an amount determined by the General Manager, Parks and Recreation and the Executive Director, Corporate Real Estate Management; and

b. limiting distances that restrict construction relating to two triangular sections having a combined area of approximately 8.1 square metres located at the southern boundary of the future parkland and commencing at a height of approximately 103.3 metres above ground corresponding to the lower level of the 9th storey of the adjacent building to the south, where such encumbrances are deemed acceptable by the General Manager, Parks and Recreation in consultation with the City Solicitor and such encumbrances are subject to compensation payable to the City at the time of conveyance, in an amount to be determined by the General Manager, Parks and Recreation, and the Executive Director, Corporate Real Estate Management, and which limiting distances are set out in a limiting distance agreement on terms that are satisfactory to the General Manager, Parks and Recreation and the City Solicitor.

Summary

At its meeting on July 19, 20, 21 and 22, 2022, City Council adopted Item TE34.35, in connection with a site-specific zoning amendment relating to redevelopment of lands at 200 Queens Quay.

The application was approved for a mixed-use development and included an on-site parkland dedication having a minimum area of 488 square metres as contemplated by Section 42 of the Planning Act. The proposed development was approved and site-specific By-law 1012-2022 was enacted by Council which secured the parkland conveyance as a matter in support of the development through Section 37 Agreement requirements. The By-law requires the conveyance within 30 months of the issuance of the first above-grade building permit for the development and includes permission for encumbrance by de-stressed tiebacks deemed acceptable to the General Manager, Parks and Recreation subject to compensation payable at the time of conveyance. Otherwise, the conveyance was to be free and clear of encumbrances to the satisfaction of the General Manager, Parks and Recreation.

Through detailed review of the related Site Plan Control application, it has come to staff's attention that there are existing concrete caissons located throughout the development site that supported the former parking structure, including 7 caissons distributed within the southern half of the future parkland to be conveyed to the City. The subject caissons range in diameter from approximately 0.7 metres to 1.4 metres. The owner has advised that it is not feasible to completely remove the caissons located within the future parkland but they will be cut down to a minimum of 2 metres below ground level.

It has also come to staff's attention that the development site is burdened by a registered Limiting Distance Agreement. In relation to the adjoining residential condominium located at 218 Queens Quay West, the Limiting Distance Agreement moves the limiting distance from the property line to accommodate certain unprotected openings within the meaning of the Ontario Building Code along the condominium's northern wall. The effect is to restrict construction along the southern boundary of the future parkland. The owner has advised that it is not feasible to fully release the Limiting Distance Agreement from title of the future parkland without a significant retrofit of the condominium to meet Building Code requirements. Consequently, the limiting distance that restricts construction over two triangular sections having a combined area of approximately 8.1 square metres along the southern boundary of the future parkland and commencing at a height of approximately 103.3 metres above ground corresponding to the height of the lower level of the 9th storey of 218 Queens Quay West will need to be preserved, either through an amendment to the existing Limiting Distance Agreement or by virtue of a new Limiting Distance Agreement.

Toronto Municipal Code Section 415-26B requires parkland conveyances to be free and clear of all liens and encumbrances. This Motion seeks authority from City Council to accept the future parkland with unforeseen encumbrances of below grade concrete caissons and above grade limiting distance requirements as set out above and deemed satisfactory to the General Manager, Parks and Recreation, subject to the property owner providing the City with compensation determined, to the satisfaction of the General Manager, Parks and Recreation and the Executive Director, Corporate Real Estate Management, in the usual course.

This motion is urgent as it relates to a development approval that is delivering 79 units of affordable housing and requires certainty on these agreements to proceed.

Background Information (City Council)

Member Motion MM29.14