

**45 Charles Street East - Rezoning Application – Final Report**

<b>Date:</b>	September 16, 2008
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Acting Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 27 – Toronto Centre-Rosedale
<b>Reference Number:</b>	06 198326 STE 27 OZ

**SUMMARY**

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This is an application to amend the Zoning By-law 438-86, as amended, to permit a 33-story residential building at 45 Charles Street East. The existing eight-storey office building would be demolished.

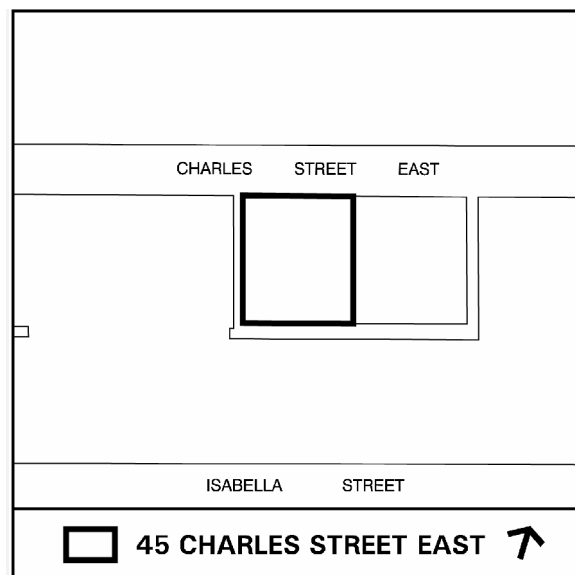
The proposed gross floor area of the building is 24,122 square metres resulting in a density of 12.1 times the area of the lot. The development would include 325 dwelling units and is proposed to be approximately 107 metres in height to the top of the mechanical penthouse.

This report reviews and recommends approval of the application to amend the Zoning By-law.

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. City Council amend Zoning By-law 438-86, as amended for the former



City of Toronto substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 6.

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.
3. Before introducing the necessary Bills to City Council for enactment, require the owner to enter into an Agreement pursuant to Section 37 of the *Planning Act* to secure the following public benefits:
  - i. prior to the issuance of the first above grade permit, pay to the City the sum of \$1,500,000 towards the construction of an indoor swimming pool at the Wellesley Community Centre, located at 495 Sherbourne Street, or construction of other community recreation facilities in the vicinity of the *lot*;
  - ii. require that the cash amounts identified in i. shall be indexed in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
  - iii. provide and maintain an irrigation system at the owner's expense for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the General Manager, Technical Services;
  - iv. provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that up-grades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director of Technical Services;
  - v. convey a 0.95 metre wide strip of land abutting the east limit of the substandard public lane abutting the site on the west;
  - vi. convey a triangular corner splay at the northeast corner of the intersection of the east-west and north-south public lanes;
  - vii. incorporate in the construction of the building, and maintain, design and exterior materials satisfactory to the Chief Planner and Executive Director; and
  - viii. build in conformity with the Green Development Standard Checklist submitted by the applicant and date stamped as received on July 25, 2008 (originally submitted June 2007), to the satisfaction of the Chief Planner and Executive Director.
4. authorize City officials to take all necessary steps, including the execution of agreements and documents, to give effect to the above-noted recommendations.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **ISSUE BACKGROUND**

### **Proposal**

The application proposes a 33-storey residential condominium building. The building is comprised of:

- a) base: a five-storey podium, to a height of approximately 17 metres
- b) middle: Floors 6-30 with a floorplate of approximately 760 square metres with corners oriented to 45 degrees and rising to a height of approximately 88 metres
- c) top: Floors 31-33 with each floor set back at a different corner and a mechanical penthouse integrated into the overall design concept, to a height of 107 metres (including the mechanical penthouse).

The entrance to the building is proposed at the northwest corner to the building and indoor and outdoor amenity spaces are provided on the first and second floors. The proposal includes 213 parking spaces on four underground levels. The on-site pick-up/drop-off activity is accessed from the public lane abutting the west property line. This laneway is also used to access the loading area and parking garage located at the south side of the site. Attachments 1 and 2 show the proposed site plan and building elevations.

Overall, the proposal has a residential gross floor area of 24,122 square metres resulting in a density of 12.1 times the lot area. Attachment 5: Application Data Sheet contains further information on the proposal.

### **Site and Surrounding Area**

The site is located on the south side of Charles Street East between Yonge Street and Church Street. An eight-storey, 27-metre high office building currently occupies the site. A public lane runs along the site's west and south boundaries. The existing and planned context within the area encompasses low scale, mid-rise and high-rise built form.

Within the immediate context, the following uses surround the site:

North: across Charles Street East, is a mix of uses including a 26-storey residential condominium development under construction, a nine-storey building owned by the YMCA, a post office building and low-rise apartment buildings towards Church Street;

South: across the public lane, are low-rise apartment buildings and a 25-storey apartment building towards Church Street, all fronting Isabella Street;

East: abutting the site, is a nine-storey apartment building and further east, are a three-storey apartment building and a 25-storey apartment building at Church Street;

West: across the public lane, is a mixed commercial-residential project that is under construction on a through-block site. The project includes a seven-storey office building for The

Children's Aid Society of Toronto fronting Isabella Street and a 46-storey residential condominium building fronting Charles Street East (The Casa, 33 Charles Street East).

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

The Planning Act (the Act) and the Provincial Policy Statement (PPS) provide policy direction on matters of provincial interest related to land use planning and development. The Act and the PPS set the policy foundation for regulating the development and use of land. The key objectives relevant to this site include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to have regard to the matters of provincial interest in Section 2 of the Act and to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

The Greenbelt Plan identifies the Greenbelt of the Greater Golden Horseshoe as an area where urbanization should not occur in order to provide permanent protection to the agricultural land base and the ecological functions and features occurring in this landscape. In particular, it restricts development and land use in the Rouge River Watershed and the Rouge Park area in Toronto.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

## **Official Plan**

The site is located within the "Downtown and Central Waterfront" area identified on the Urban Structure map of the Toronto Official Plan.

The site is designated "Mixed Use Area" on Map 18 - Land Use Plan in the Toronto Official Plan. This designation permits a range of residential, commercial and institutional uses. The Plan includes criteria that direct the form and quality of development in this land use designation. Attachment 4 provides an excerpt of Map 18 - Land Use Plan for the site and immediate area.

Other important policies relevant to this application include those in the "Downtown", "Public Realm", "Built Form" and "Built Form – Tall Buildings" sections of the Plan. To assist with the implementation of these policies, the City has prepared guidelines, Design Criteria for Review of Tall Building Proposals. The guidelines provide key urban design criteria that should be considered in the evaluation of tall building applications. The City will review the proposed development for compliance with the guidelines.

The Toronto Official Plan is available on the City's website at:  
[www.toronto.ca/planning/official\\_plan/introduction.htm](http://www.toronto.ca/planning/official_plan/introduction.htm)

The City's Design Criteria for Review of Tall Building Proposals is also available on the City's website at: [www.toronto.ca/planning/urbdesign/index.htm](http://www.toronto.ca/planning/urbdesign/index.htm)

## **Zoning**

The site is zoned CR T2.0 C1.0 R2.0 which permits a mix of residential and commercial uses to a maximum density of 2.0 times the area of the lot, and a height limit of 30 metres. Attachment 3 provides an excerpt of the zoning map for the site and immediate area.

## **Site Plan Control**

Site Plan Approval is required and an application has been filed.

## **Reasons for Application**

The applicant seeks to amend Zoning By-law 438-86, as amended to permit a residential building. Reasons for requiring an amendment to the Zoning By-law include the following:

- i. the proposed overall density of 12.1 times the area of the lot exceeds the permitted total density of 2 times the area of the lot;
- ii. the proposed height of 107 metres to the top of the mechanical penthouse exceeds the permitted height limit of 30 metres; and,
- iii. the proposal requires relief from a number of other Zoning By-law standards, as discussed in this report and set out in the draft Zoning By-law attached in this report.

## **Community Consultation**

A community consultation meeting was held on April 18, 2007 at the 519 Church Street Community Centre. Approximately five people were in attendance. No major issues were raised. Community Planning have received telephone calls and written comments from members of the public. The Comment section addresses some of the issues raised. In addition, the property owners to the east contacted Community Planning staff to discuss the impact that the proposed development would have on the apartment building on their property.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

## **COMMENTS**

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

The proposal is consistent with Section 2 of the Planning Act and the PPS.

## **Land Use**

The proposed use of this site as a residential building is a permitted use in the Zoning By-law.

## **Density, Height, Massing**

The density of the proposed development is 12.1 times the area of the lot. This is significantly higher than the 2.0 times coverage currently permitted on the site. The subject site is suitable for intensification, due to its location in the downtown area and its proximity to the Yonge and Bloor intersection, and consequently two major transit lines. Other sites in the immediate vicinity have also recently undergone redevelopment and intensification, including the 46-storey tower currently under construction on the adjacent property to the west.

This proposal consists of a building with a five-storey podium and a total of 33-storeys in tower form. While the proposed height is significantly higher than that which is currently permitted under the Zoning By-law, it is in keeping with the recent development approvals that have been granted in the surrounding area. The proposed building is slightly shorter than its neighbour to the west, which is 46-storeys. Across Charles Street East to the north, there is an approved 32-storey residential building. The building steps up at the upper floors, Floors 31-33, with the corners oriented to different points.

The proposal is in line with certain criteria outlined in the Design Criteria for the Review of Tall Building Proposals. The proposed development has an approximate floorplate of 760 square metres, which is slightly higher than the tall buildings guidelines of keeping residential floorplates to less than 743 square metres. City staff worked with the applicant to ensure adequate separation distance between the proposed development and its neighbouring developments. In particular the 46-storey tower to the west which is located approximately 24 metres from the proposed development; generally in keeping with the recommended 25 metre separation distance in the guidelines. The general design of the tower, including the five-storey podium, is also in keeping with the guidelines.

In keeping with the requirements for amenity space in the Zoning By-law 438-86 as amended, the location and suitability of the proposed amenity space will be further detailed in the Site Plan Approval process.

## **Sun, Shadow, Wind**

The applicant has submitted shadow studies to illustrate the shadows created by the proposed building March 21<sup>st</sup>, June 21<sup>st</sup> and September 21<sup>st</sup> between the hours of 9:18 a.m. and 6:18 p.m. The proposed development casts an increased shadow as compared to its as-of-right permissions, including shadows cast on the new residential development on the north side of Charles Street East. The shadow impacts of the development are acceptable.

The applicant commissioned a study of the wind conditions created by this proposal in which the consultant advised that further mitigation of wind impacts could be achieved by implementing certain design features such as a canopy along the Charles Street East frontage of the podium.

City staff will include this feature as part of the design component of the Site Plan Approval process to further mitigate wind impacts.

### **Traffic Impact, Access, Parking**

In the Preliminary Report, it was identified that there was a need to assess the vehicular access to and movement on and through the site needed to be assessed. The initial proposal involved creating a new service lane parallel to the eastern property line, which exited onto Charles Street East. Charles Street East runs one-way in a westerly direction. The proposed development is a revised concept of this earlier version, which eliminates the proposed service lane and reconfigures the loading area to make use of the existing lanes that are adjacent to the property.

The pick-up/drop-off activity is located on the western edge of the site using the existing lane from Charles Street East. City staff identified that this lane was a substandard public lane having a width of 5.10 metres. In accordance with the City standard for commercial/residential lanes, the lane should be widened to 6.0 metres. In order to provide for the widening along the lane, City staff requested that a 0.95 metre strip of land abutting the east limit of the public lane should be conveyed to the City. Furthermore a triangular corner splay at the northeast corner of the intersection of the east-west and north-south public lanes must also be conveyed to the City. The applicant revised the plans to reflect these conveyances.

This laneway is also used to access the ramp into the underground parking garage which has four levels. A total of 213 parking stalls are provided of which 3 are for disabled use; 19 of these spaces are for visitor parking and the remainder are for the residents of the building. This provision of parking is one stall short of meeting the Zoning By-law requirement for visitor parking. City Staff had requested that the applicant meet the Condominium Standard, a higher threshold than the Zoning By-law, with respect to their parking; alternatively the applicant could provide a parking study to show that the stalls provided would adequately accommodate the demand from the development. The Condominium Standard would have required approximately 280 parking stalls be provided; again with 19 of those spaces for visitor use. The applicant submitted a Parking Study completed by LEA Engineering Ltd, which indicated that the parking provided was adequate, and City Staff have reviewed and accepted this Study.

Upon reviewing the initial proposal, Transportation Services requested that the bicycle parking provision be improved. This is appropriate given the future bike lanes in the vicinity on Wellesley Street, Davenport Road/Church Street and Bloor Street East. There are 10 visitor bicycle parking spots provided outdoors at-grade. The applicant has not provided an at-grade bicycle room, and the remainder of the bicycle parking is incorporated in the underground parking garage on levels P1-P4. City Staff requested that the bicycle parking spaces on P1 be of a different sort than those provided on the other levels. The bicycle parking room on P1 will accommodate 74 wall-mounted (vertical) bicycle lockups and 15 horizontal bicycle lockups. In a separate space on the P1 level, 4 full-height bicycle lockers will be provided. On levels P2-P4, 45 bicycle stalls/lockers are provided. Each of the levels P1-P4 includes 24 visitor bicycle parking stalls.

Transportation Services advised that the Traffic Impact Statement was generally acceptable, and the Toronto Transit Commission indicated that they did not have concerns with this application.

## **Servicing**

The applicant has satisfied Technical Services that the existing City infrastructure has adequate capacity to support the development proposal. Additional requirements will be secured in the Site Plan Agreement, including a site servicing plan, grading plan, and stormwater management report for review and acceptance by the Executive Director of Technical Services.

## **Open Space/Parkland**

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.00 to 0.42 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposes 325 residential units on a site of 0.209 hectares (2,097.9 square metres). At the alternative rate of 0.4 hectares per 300 units specified in the By-law 1420-2007, the parkland dedication would be 0.43 hectares (4,333 square metres). However, a cap of 10% applies and hence the parkland dedication would be 0.0209 hectares (209 square metres).

The applicant proposes to satisfy this parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement 0.0209 hectares (209 square metres) would not be of a useable size and the entire site is to be encumbered by an underground garage.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

## **Toronto Green Development Standard**

The Green Development Standard contains performance targets and guidelines that relate to site and building design to promote better environmental sustainability of development in Toronto.

The Green Development Standards Checklist submitted by the applicant indicates that the proposed development is intended to meet or exceed 35 performance targets related to air, energy, water, solid waste, and ecology. Some of the targets to be met include the following:

- Green roof designed to meet the City's performance criteria with at least 75% coverage of the roof. The rest of the available roof space must be covered with light coloured roofing materials;
- 75% of indoor low-emitting materials;
- 40% improvement over the model National Energy Code for Buildings;
- Native trees, shrubs and groundcover planted on 75% of the site area (excluding the building footprint); and
- 70% of developer-supplied appliances will be Energy Star compliant.

## **Section 37**

The community benefits recommended to be secured in the Section 37 agreement are as follows:



1. prior to the issuance of the first above grade permit, pay to the City the sum of \$1,500,000 towards the construction of an indoor swimming pool at the Wellesley Community Centre, located at 495 Sherbourne Street, or construction of other community recreation facilities in the vicinity of the *lot*;

The following matters are also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

2. require that the cash amounts identified in 1. shall be indexed in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
3. provide and maintain an irrigation system at the owner's expense for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the General Manager, Technical Services;
4. provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that up-grades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director of Technical Services;
5. convey a 0.95 metre wide strip of land abutting the east limit of the substandard public lane abutting the site on the west;
6. convey a triangular corner splay at the northeast corner of the intersection of the east-west and north-south public lanes;
7. incorporate in the construction of the building, and maintain, design and exterior materials satisfactory to the Chief Planner and Executive Director; and
8. build in conformity with the Green Development Standard Checklist submitted by the applicant and date stamped as received on July 25, 2008 (originally submitted June 2007), to the satisfaction of the Chief Planner and Executive Director.

## **Development Charges**

It is estimated that the development charges for this project will be \$1,648,632. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

## **CONCLUSION**

City Planning is supportive of the Zoning By-law amendment to intensify this site as proposed given the site's location in the Downtown, in an area well serviced by the municipal infrastructure including public transit.

## **CONTACT**

Jocelyn Deeks, Planner  
Tel. No. 416-392-0459

Fax No. 416 392-1330  
E-mail: jdeeks@toronto.ca

## **SIGNATURE**

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Raymond David, Acting Director  
Community Planning, Toronto and East York District

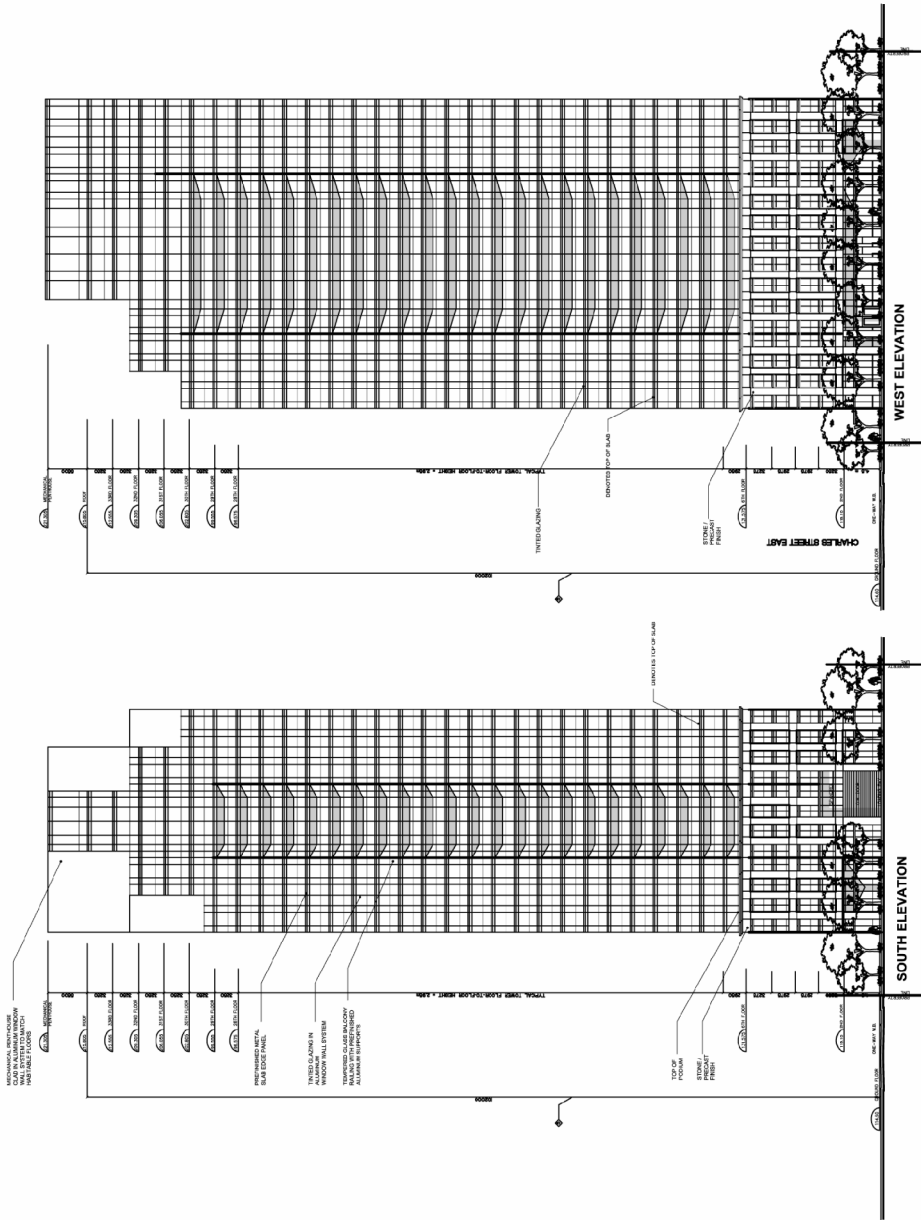
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## **ATTACHMENTS**

- Attachment 1: Site Plan
- Attachment 2: Elevations
- Attachment 3: Zoning
- Attachment 4: Official Plan
- Attachment 5: Application Data Sheet
- Attachment 6: Draft Zoning By-law Amendment







# Elevations

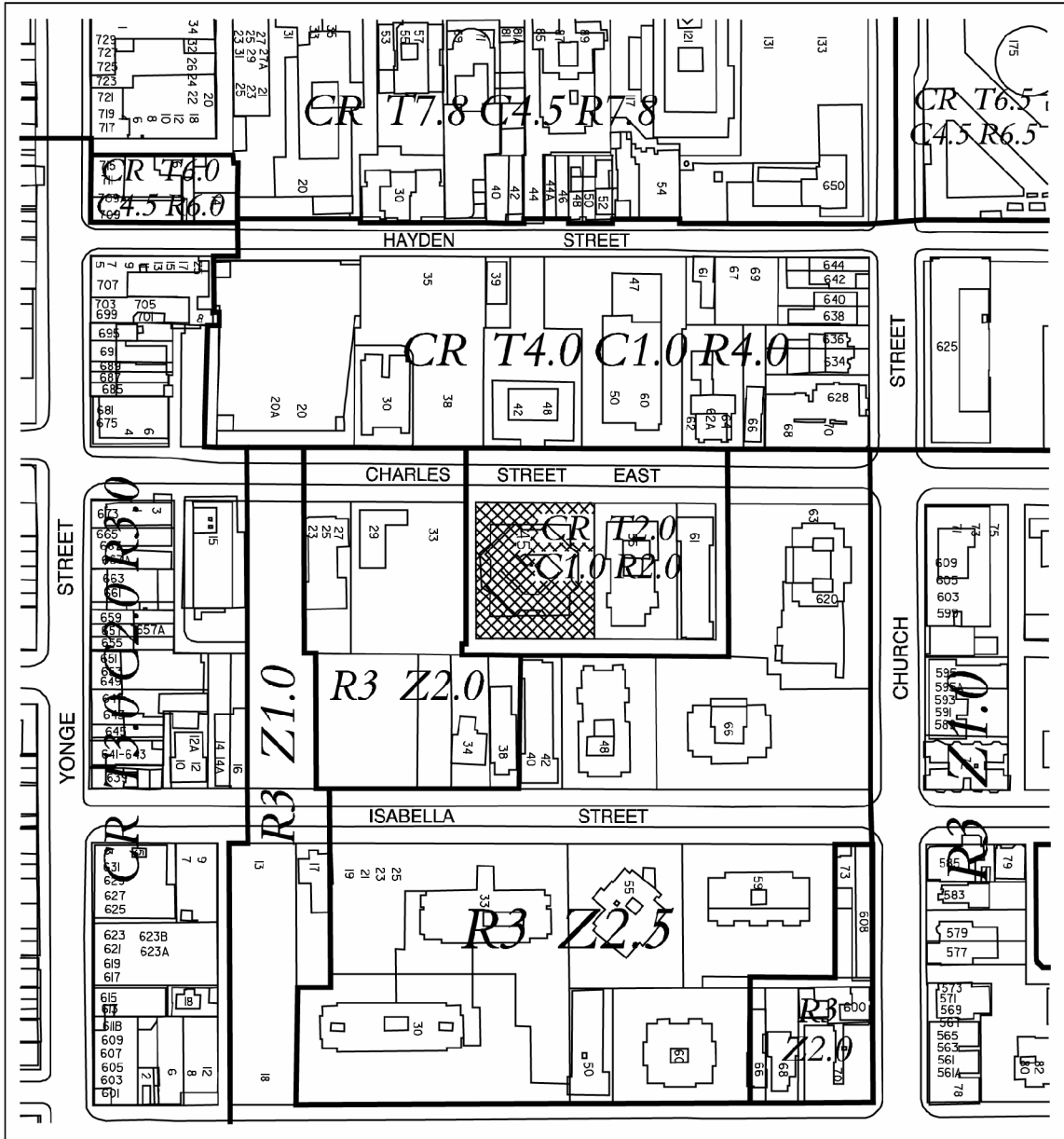
Applicant's Submitted Drawing

Not to Scale  
09/05/08

# 45 Charles Street East

File # 06\_199326

Attachment 3: Zoning



45 Charles Street East

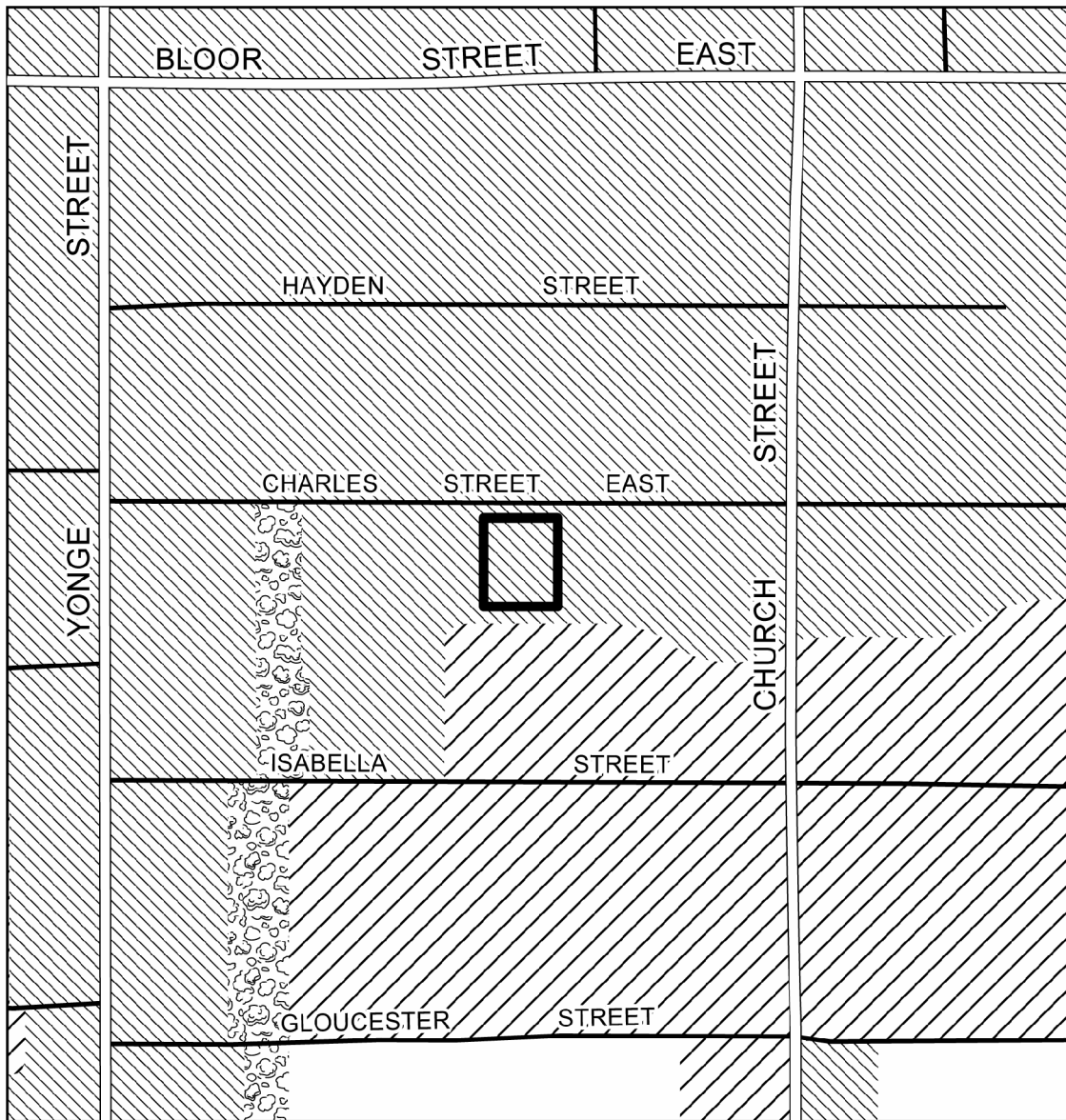
File # 06\_198326

- R3 Residential District
- CR Mixed-Use District



Not to Scale  
 Zoning By-law 438-86 as amended  
 Extracted 01/09/07 - TA

Attachment 4: Official Plan



**Toronto** City Planning Division  
**Official Plan**

45 Charles Street East

File # 06\_198326

-  Site Location
-  Neighbourhoods
-  Apartment Neighbourhoods
-  Mixed Use Areas
-  Parks

  
 Not to Scale  
 01/09/07

## Attachment 5: Application Data Sheet

Application Type	Rezoning	Application Number:	06 198326 STE 27 OZ
Details	Rezoning, Standard	Application Date:	December 15, 2006

Municipal Address: 45 CHARLES ST EAST  
 Location Description: South side of Charles Street East between Yonge Street and Church Street  
 Project Description: A 33-storey building with 325 units

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
FRASER MILNER CASGRAIN LLP 100 KING ST W, 39 <sup>TH</sup> FLOOR, TORONTO, ONTARIO M5X 1B2			SIGNATURE PROPERTY MGM'T 1097 NORTH SERVICE ROAD EAST, SUITE 200, OAKVILLE, ONTARIO L6H 1A6

### PLANNING CONTROLS

Official Plan Designation:	MIXED USE AREAS	Site Specific Provision:	
Zoning:	CR T2.0 C1.0 R2.0	Historical Status:	N
Height Limit (m):	30	Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	2097.9	Height:	Storeys:	33
Frontage (m):	42.04		Metres:	107
Depth (m):	49.83			
Total Ground Floor Area (sq. m):	613.8			<b>Total</b>
Total Residential GFA (sq. m):	24122.1		Parking Spaces:	213
Total Non-Residential GFA (sq. m):	0		Loading Docks	1
Total GFA (sq. m):	24122.1			
Lot Coverage Ratio (%):	29			
Floor Space Index:	12.1			

### DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	31
1 Bedroom:	145
2 Bedroom:	149
3 + Bedroom:	0
Total Units:	325

### FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	24122.1	0	0
Retail GFA (sq. m):	0	0	0
Office GFA (sq. m):	0	0	0
Industrial GFA (sq. m):	0	0	0
Institutional/Other GFA (sq. m):	0	0	0

**CONTACT:**      **PLANNER NAME:**      **Jocelyn Deeks, Planner, jdeeks@toronto.ca**  
**TELEPHONE:**      **416-392-0459**



## Attachment 6: Draft Zoning By-law Amendment

### CITY OF TORONTO BY-LAW No. \_\_\_\_ - 2008

#### To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 45 Charles Street East.

WHEREAS authority is given to Council of the City of Toronto 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*; and

WHEREAS pursuant to Section 37 of the *Planning Act*, the Council of the Municipality may, in a by-law passed under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond that otherwise permitted by By-law No. 438-86, as amended, in return for the provision of such facilities, services and matters as are set out in the By-law; and

WHEREAS the *owner* of the lands hereinafter referred to has elected to provide the facilities, services and matters as hereinafter set forth; and

WHEREAS the increase in the density and height permitted hereunder, beyond those otherwise permitted on the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the *owner* of such lands and the City of Toronto; and

WHEREAS Council has required the *owner* of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law;

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

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the following facilities, services and matters set out in Appendix 1 hereof, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Section 3(h) of this By-law.
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot*

pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix 1 hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.

3. None of the provisions of Sections 4(2)(a), 4(5)(b), 4(13)(a), 4(13)(c) and 8(3) PART I 3(a) of Zoning By-law No. 438-86, as amended, being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection or use of a *residential building* on the lands municipally known as 45 Charles Street East (hereinafter referred to as the *lot*), provided that:
- (a) the *lot* comprises the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law;
  - (b) no portion of any building or structure erected and used above *grade* is located otherwise than wholly within the heavy lines on Map 2 attached hereto except a canopy provided for the purposes of wind protection;
  - (c) the *height* of any building or structure or portion thereof, including those elements referred to in Section 4(2)(a)(i) and (ii) of Zoning By-law No 438-86, as amended, does not exceed the *heights* in metres shown on Map 2 attached to and forming part of this by-law;
  - (d) the *residential gross floor area* erected or used shall not exceed 24, 200 square metres;
  - (e) *residential amenity space* is provided on the lot as follows:
    - (i) a minimum of 2 square metres of *residential amenity space* for each *dwelling unit* shall be provided in a multi-purpose room or rooms in the building, at least one of which is located at *grade* level, contains a kitchen and a washroom and is not less than 284 square metres in area; and
    - (ii) a minimum of 2 square metres of *residential amenity space* for each *dwelling unit* shall be provided outdoors on the *lot*, of which at least 40 square metres shall be provided in a location adjoining or directly accessible from the indoor *residential amenity space* required in clause (i) to be located at *grade* level;
  - (f) a minimum of 213 *parking spaces* shall be provided and maintained below *grade* on the *lot* for the residents of and visitors to the building in accordance with the following:

- (i) not less than 194 *parking spaces* for residents; and,
  - (ii) not less than 19 *parking spaces* for visitors, which spaces shall be signed exclusively for the use of visitors to the building;
- (g) a minimum of 200 *bicycle parking spaces* shall be provided and maintained on the *lot* for the residents of and visitors to the building in accordance with the following:
- (i) for residents, not less than 160 *bicycle parking spaces - occupant*, of which at least 89 shall be in a secure bicycle room at the P1 or the second level above grade level and not to be combined with a storage locker facility;
  - (ii) for visitors, not less than 40 *bicycle parking spaces - visitor* of which at least 10 shall be provided at *grade*, and the remainder shall be provided at the P1 level; and
- (h) the *owner* of the *lot* enters into an agreement with the City, pursuant to Section 37(3) of the *Planning Act*, to secure the facilities, services and matters referred to in Section 1 of this By-law and that such an agreement be registered on title to the *lot*.
3. None of the provisions of By-law No. 438-86 shall apply to prevent a *temporary sales office* on the *lot*.
4. For the purposes of this By-law,
- (a) *temporary sales office* means a building, structure, facility or trailer on the *lot* used for the purpose of the sale of the first *dwelling units* to be erected on the *lot*;
  - (b) *grade* means 114.6 metres Canadian Geodetic Datum;
  - (c) *height* means the height above *grade* as shown on Map 2; and
  - (d) each word or expression that is italicized in the By-law herein shall have the same meaning as each word or expression as defined in By-law No. 438-86, as amended unless the contrary is expressed in this By-law.
5. Issuance of a building permit for the proposed development shall be dependant upon satisfaction of the provisions in this By-law and in the Section 37 Agreement relating to

building permit issuance, including the provision of monetary payments and the provision of financial securities.

ENACTED AND PASSED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

DAVID R. MILLER,  
Mayor

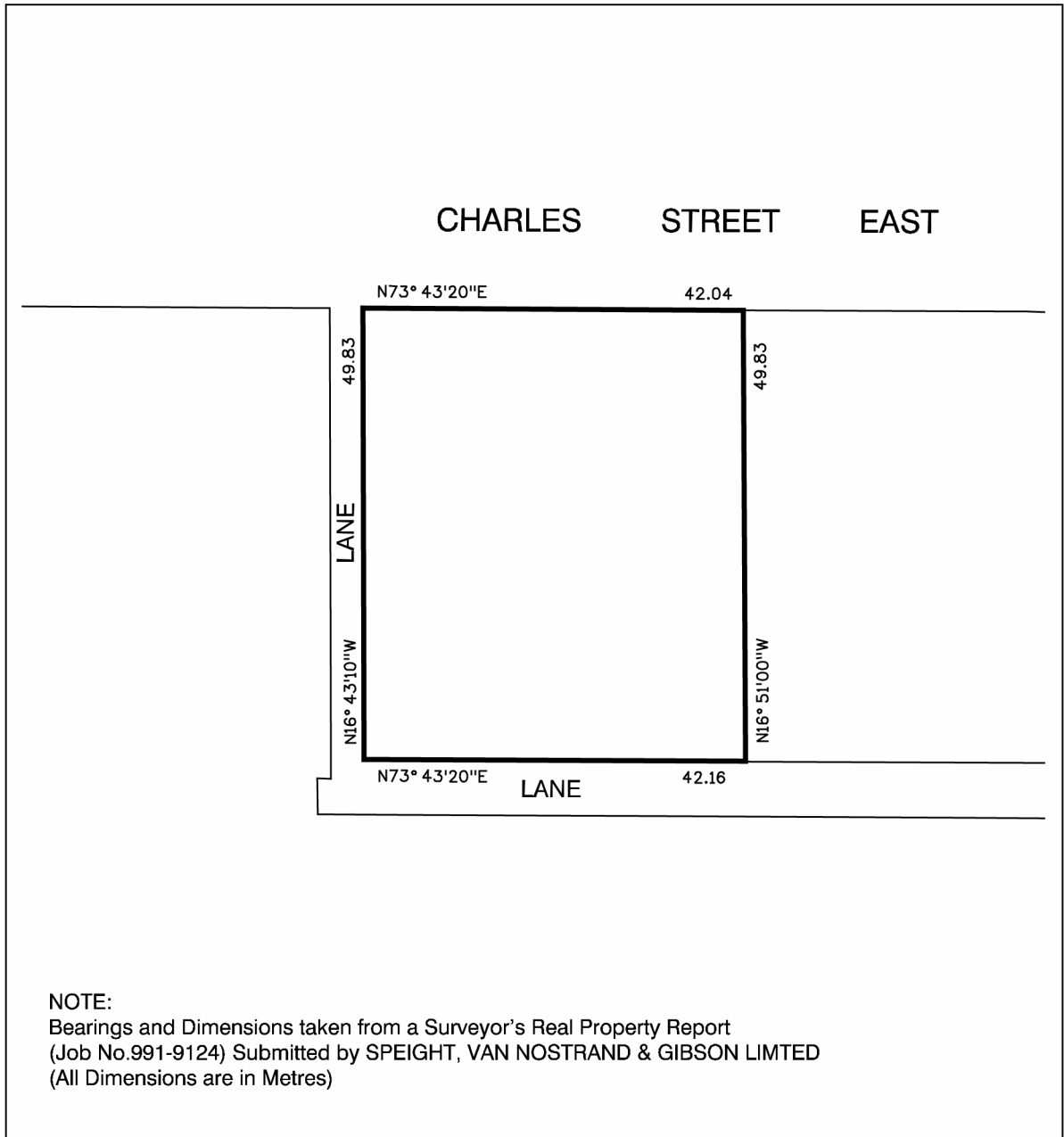
ULLI S. WATKISS  
City Clerk

APPENDIX 1  
Section 37 Provisions

The facilities, services and matters set out herein are the facilities, services and matters required to be provided by the *owner* of the *lot* to the *City* in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the *City* with conditions providing for indexed escalation of all financial contributions, no credit for development charges, indemnity, insurance, GST, termination and unwinding, and registration and priority of agreement:

1. prior to the issuance of the first above grade permit, pay to the City the sum of \$1,500,000 towards the construction of an indoor swimming pool at the Wellesley Community Centre, located at 495 Sherbourne Street, or construction of other community recreation facilities in the vicinity of the *lot*;
2. require that the cash amounts identified in 1. shall be indexed in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of submission of the funds by the owner to the City;
3. provide and maintain an irrigation system at the owner's expense for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the General Manager, Technical Services;
4. provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that up-grades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director of Technical Services;
5. convey a 0.95 metre wide strip of land abutting the east limit of the substandard public lane abutting the site on the west;
6. convey a triangular corner splay at the northeast corner of the intersection of the east-west and north-south public lanes;
7. incorporate in the construction of the building, and maintain, design and exterior materials satisfactory to the Chief Planner and Executive Director; and
8. build in conformity with the Green Development Standard Checklist submitted by the applicant and date stamped as received on July 25, 2008 (originally submitted June 2007), to the satisfaction of the Chief Planner and Executive Director.

MAP 1



MAP 2

