

357-363 King Street West and 62 Peter Street - Zoning Amendment Application - Request for Direction Report

Date:	August 22, 2011
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	10 192451 STE 20 OZ

SUMMARY

This application proposes to amend the former City of Toronto Zoning By-law 438-86 to permit the development of a 40-storey mixed-use building 126.4 metres tall, excluding mechanicals, at 357-363 King Street West and 62 Peter Street. The proposed building would include 242 residential units and approximately 212 square metres of retail area is proposed at grade with access to both King Street West and Blue Jays Way. On-site parking is to be provided in a six (6) level underground parking garage.

The proposal represents over-development of the property contrary to the planning framework for King-Spadina. The site is too small to accommodate the proposed tower. The building creates negative impacts on abutting properties that affects their use and enjoyment and does not comply with the City's Design Criteria for the Review of Tall Buildings Proposals. Its approval would set a negative precedent for future development that undermines the vision for this area of the City.

The purpose of this report is to seek City Council's direction for the City Solicitor, together with Planning and appropriate City staff, to oppose the proposal at the OMB.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to oppose the applicant's appeal respecting the Zoning By-law Amendment application for 357-363 King Street West and 62 Peter Street (10 192451 STE 20 OZ), and attend any Ontario Municipal Board hearings in opposition to such appeal, and retain such experts as the City Solicitor may determine are needed in support of the position recommended in this report.
2. City Council authorize the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, to secure services, facilities or matters pursuant to Section 37 of the *Planning Act*, as may be required by the Chief Planner, should the proposal be approved in some form by the Ontario Municipal Board.
3. City Council authorize the City Solicitor and other City staff to take any necessary steps to implement the foregoing.

DECISION HISTORY

Planning History for King-Spadina

In 1996, Council of the former City of Toronto approved Part II Official Plan and Zoning By-law amendments for King-Spadina and King-Parliament (the Kings) that introduced a planning framework aimed to encourage rejuvenation of these historic districts that were instrumental in shaping the City. The Part II Plan for King-Spadina was included as a Secondary Plan in the new City of Toronto Official Plan adopted by Council in 2002. Along with the objectives and policies of the Official Plan, the Secondary Plan seeks to encourage investment in King-Spadina for a broad range of uses in a manner that reinforces its historic built form, pattern of streets, lanes and parks. These objectives were implemented through the Reinvestment Area (RA) zoning, urban design guidelines and a community improvement plan.

There has been significant investment through new construction and conversions of existing buildings in King-Spadina since the approval of the planning framework in 1996. Along with this investment, a number of issues have arisen related to land use, community services and facilities, quality of life, built form and the public realm.

In 2006 Council enacted amendments to the King-Spadina Secondary Plan and the Zoning By-law and adopted new urban design guidelines for the area. Also in 2006, Council adopted design criteria for the review of tall building proposals that implement the built form policies of the Official Plan and these apply throughout the City including King-Spadina. A study of the built form in the East Precinct of King-Spadina, within which the subject site is situated, that addressed area specific issues related to height, massing and built form context was considered by Council in 2009. A community

improvement plan has also been approved for King-Spadina. In addition the Entertainment District Business Improvement Association's Master Plan, that includes portions of King-Spadina, provides the BIA's recommended directions for King-Spadina.

Together these initiatives provide a framework for development in King-Spadina. They encompass the vision for King-Spadina as an area where growth is encouraged, while ensuring that its place as an historic district, essential to the development of the City, is maintained and reflected in its buildings and along its streets well into the future.

King Spadina Secondary Plan Review

In 2005, a review of the King-Spadina Secondary Plan was initiated by Council to evaluate specific matters related to entertainment uses in the area, community infrastructure, built form policies and the policies related to the public realm. In September 2006, City Council enacted amendments to the King-Spadina Secondary Plan and RA zoning to update the planning framework for the Plan area (Official Plan Amendment No. 2/ By-law 921-2006 and Zoning By-law Amendment 922-2006).

The amendments to the King-Spadina Secondary Plan (OPA 2) and Zoning By-law amendment 922-2006 are currently under appeal to the Ontario Municipal Board.

King Spadina East Precinct Built Form Study

In April 2008, Council directed staff to undertake a study of the built form in the East Precinct of the King-Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the East Precinct area. This study recognizes areas within the East Precinct, identified as Second Tier height areas, that can accommodate more height than currently permitted as-of-right. Achieving additional height is subject to meeting criteria for development as set out in the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City's Design Criteria for the Review of Tall Buildings Proposals, and subject to providing an appropriate contribution pursuant to Section 37 of the *Planning Act*. Any proposal seeking a Second Tier height beyond the current zoning permission of 30 metres plus 5 metres for a mechanical penthouse will be required to undergo a rezoning process. This framework was endorsed by City Council at its meeting of September 30, October 1, 2009. The subject site is within a Second Tier height area, specifically a 90 metre height as proposed by the study.

Pre-Application Discussion

A pre-application meeting was held with the applicant on February 26, 2010. At the meeting, staff indicated that the built form proposed was inappropriate for the site given its physical and planning policy context. Specific concerns were raised regarding the proposed blank western wall, the absence of stepbacks from the podium to the tower and separation distances between towers.

ISSUE BACKGROUND

Discussions with the Applicant

Staff met with the applicant on May 18, 2011 and discussed concerns regarding the proposed separation distances for the tower from the side property lines, the proposed blank wall on the western elevation of the building and the potential to export unacceptable facing distances to adjacent sites. Staff continued to discuss alternatives with the applicant which would be more consistent with the Secondary Plan policies.

Proposal

The applicant proposes the development of a 40-storey mixed-use building (126.4 metres, excluding mechanical) containing 242 residential units. The building will be composed of a six-storey base building with a floorplate of between 758 and 763 square metres to a height of approximately 19 metres. The proposed tower has variable stepbacks between the 7th and 40th floors with a floor plate of between 620 and 610 square metres. The mechanical elements of the building would add another 6 metres in height for an overall height of approximately 132 metres.

The proposal includes a blank wall on the west property line. The units in the proposed building are oriented either north-south or to the east. The only consistent step back proposed between the edge of the base building and the tower is a 3.9 metre step back at the south side of the building at the 7th floor.

The proposed gross floor area of the development is 24,089 square metres. The proposed residential gross floor area is 23,877 square metres and the non-residential gfa is 212 square metres, resulting a floor space index of 30.8. The proposed unit mix consists of 91 one-bedroom units, 72 one-bedroom plus den, 65 two-bedroom units, and 14 two-bedroom plus den units for a total of 242 units. The proposed development also provides the potential to create 25 three-bedroom units.

A total of 138 parking spaces are proposed in a six (6) level underground parking garage. The parking is proposed to be fully automated and provide for "driver-less parking" of vehicles with a garage equipped with mechanical devices which will automatically move vehicles underground and return them to the surface when required. A single elevator is proposed to be provided with queuing for four vehicles on-site. Vehicular access to parking and loading is proposed to the rear of the site from an existing public laneway off Blue Jays Way. A 0.714 metres road widening will be required as the laneway is of a sub-standard width. Two hundred and forty-two bicycle parking spaces are proposed.

Further details are provided in Attachment 5 - Site Plan, Attachments 6 and 7 - Elevations, and Attachment 11 - Application Data Sheet.

Site and Surrounding Area

The site is located at the southwest corner of King Street West and Blue Jays Way. The site has a frontage of approximately 21.4 metres on King Street West and approximately 36.6 metres on Blue Jays Way. The site has an area of approximately 782 square metres.

There is a public lane which runs along the south edge of the site that will be used for vehicular access for parking and loading.

The site is currently occupied by a contemporary one storey commercial building.

The site is surrounded by the following uses:

North: The northern edge of the site is defined by King Street West. On the north side of King Street West opposite the subject site on the west side of Peter Street is a one to two-storey commercial building occupied by a Shoppers Drug Mart, Mountain Equipment Coop and a coffee shop. On the northeast corner of Peter Street and King Street West is the 20-storey Hyatt Regency Hotel and Offices.

South: To the south of the subject site is a public laneway, opposite which is the site of a proposed 41-storey mixed-use building at 56 Blue Jays Way (the site-specific By-law amendment to permit the development has been approved).

West: To the west of the subject site are two-storey commercial buildings at 395, 367 and 369 King Street West. To the west of these buildings is a 34-storey mixed-use building at 371, 373-377 and 379 King Street West, (M5V) which is under construction.

East: The eastern edge of the site is defined by Blue Jays Way. On the east side of Blue Jays Way opposite the subject site are commercial parking lots and the six-storey Westinghouse Building. These properties are the location of the recently approved development at 355 King Street and 119 Blue Jays Way, which features two towers at 42 and 47 storeys.

Planning Act, Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets forth matters of Provincial interest which municipal Councils shall have regard to in making decisions under the *Act*. These include 2(h) the orderly development of safe and healthy communities; 2(l) the protection of the financial and economic well-being of the Province and its municipalities; and 2(p) the appropriate location of growth and development.

The Provincial Policy Statement 2005 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. Its objectives include: building strong communities; wise use and management of resources; and carefully managing land use to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns. Section 3(5) of the *Planning Act* requires City Council's planning decisions to be consistent with the PPS.

The *Planning Act*, PPS and the City's Official Plan are inter-connected. One of the stated purposes of the *Planning Act* in Section 1.1(f), is to recognize the decision-making

authority of municipal councils in planning. Section 4.5 of the PPS provides that the official plan is the most important vehicle for implementation of the PPS. In addition, the PPS provides that comprehensive, integrated and long term planning is best achieved through municipal official plans, that official plans are to identify provincial interests and set out appropriate land use designations and policies, and that official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas. The PPS provides minimum standards and states that it does not prevent planning authorities and decision makers from going beyond the minimum standards established in specific policies, unless doing so would conflict with any policy in the PPS. Planning authorities are to keep their Official Plans up to date with the PPS in order to protect Provincial interests.

The City's Official Plan is up to date, having been approved at the OMB in 2006, and, along with guiding development in the City, it implements the PPS in order to protect Provincial interests. The King-Spadina Secondary Plan is one of 27 secondary plans to the Official Plan. Furthermore, the King-Spadina Secondary Plan area was reviewed in its entirety in 2006, with amendments (By-laws 921-2006 (OPA 2), and accompanying Zoning By-law amendment 922-2006) adopted by Council. The amendments reinforced and strengthened the in-force planning framework. In addition, the East Precinct of King-Spadina, which contains the subject site, was studied in detail in 2008-2009. The recommendations of the King-Spadina East Precinct Built Form Study were approved by Council in September 2009. The planning framework recommended by the Built Form Study is discussed elsewhere in the report.

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. 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 Official Plan locates the subject site within the *Downtown*. Chapter Two – Shaping the City identifies that the downtown area offers opportunities for substantial employment and residential growth, but that this growth is not anticipated to be uniform. Rather, it is expected that the physical setting of many areas will remain unchanged and that design guidelines specific to districts of historic or distinct character will be implemented to ensure new development fits into the context of existing built form, streets, setbacks, heights and relationship to landmark buildings.

Chapter Three – Building a Successful City identifies that most of the City's future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Section 3.1.2 Built Form provides policies that are aimed at ensuring that new development fits within and supports its surrounding context. Policies 3.1.2.1 to 3.1.2.4 seek to ensure that development is located, organized and massed to fit harmoniously with existing and/or planned context; frames and

appropriately defines streets, parks and open spaces at good proportion; and limits impacts of servicing and vehicular access on the property and neighbouring properties. Meeting these objectives requires creating consistent setbacks from the street, massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and /or planned street proportion, creating appropriate transitions in scale to neighbouring existing and/or planned buildings, and limiting shadow and wind impacts on streets, open spaces and parks.

Section 3.1.3 contains specific policies on tall buildings and built form principles to be applied to the location and design of tall buildings. The background text in Section 3.1.3, which provides context for the policies, is clear in stating that tall buildings do not belong everywhere. Tall buildings are generally limited to areas in which they are permitted by a Secondary Plan, an area specific policy, a comprehensive zoning by-law, or site specific zoning. Tall buildings will only be permitted in other areas on the basis of appropriate planning justification consistent with the policies of the Official Plan.

Policy 3.1.3.1 indicates that where a tall building is appropriate, it should have a base at an appropriate scale for the street and that integrates with adjacent buildings, a middle with a floor plate size and shape with appropriate dimensions for the site, and a top that contributes to the skyline character. Policy 3.1.3.2 requires new tall development to address key urban design considerations, including:

- meeting the built form principles of the Official Plan;
- demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
- demonstrating how the proposed building and site design relate to the existing and/or planned context;
- taking into account the relationship of the site to topography and other tall buildings;
- providing high quality, comfortable and usable publicly accessible open space areas; and
- meeting other objectives of the Official Plan.

The site is designated as a *Regeneration Area*, the boundaries of which correspond with the boundaries of the King-Spadina Secondary Plan Area. The *Regeneration Area* designation permits a wide range of uses, including the proposed residential and commercial uses. Section 4.7.2 of the Official Plan provides development criteria in Regeneration Areas, which is to be guided by a Secondary Plan. The Secondary Plan will provide guidance through urban design guidelines related to each *Regeneration Area's* unique character, greening, community improvement and community services strategies, and a heritage strategy identifying important resources, conserving them and ensuring new buildings are compatible with adjacent heritage resources, and environmental and transportation strategies. See Attachment 9 - Official Plan Schedule.

King-Spadina Secondary Plan

The subject site is located within the King-Spadina Secondary Plan area. The King-Spadina Secondary Plan (Chapter 6.16 of the Official Plan) provides a framework for reinvestment and development, the fundamental intent of which is to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to the historic building stock and the pattern of streets, lanes and parks.

In particular the policies of Section 3.6 – General Built Form Principles specify that:

- buildings are to be located along the front property line to define edges along streets; lower levels are to provide public uses accessed from the street;
- encourage servicing and parking to be accessed from lanes rather than streets and minimize pedestrian/vehicular conflicts;
- site new buildings for adequate light, view and privacy; compatibility with the built form context;
- new buildings achieve a compatible relationship with their built form context through consideration of such matters of building height, massing, scale, setbacks, setbacks, roof line and profile and architectural character and expression;
- provide appropriate proportional relationships to streets and open spaces; and minimize wind and shadow impacts on streets and open spaces;
- provide coordinated streetscape and open space improvements; and

The Urban Structure Plan identifies a number of “Significant Streets”. King Street West is identified as a Significant Street. Its quality and character is intended to be enhanced through zoning, design guidelines and streetscape improvement programs.

King-Spadina Secondary Plan Review

OPA No. 2 (By-law 921-2006), which is under appeal to the Ontario Municipal Board, proposed amendments to the King-Spadina Secondary Plan that are intended to further clarify and reinforce the fundamental intent of the Secondary Plan.

New Policy 3.7 notes that additional height significantly in excess of existing zoning regulations may be considered for the north side of King Street between Spadina and John Streets. Notwithstanding that the subject site is not identified as an area where significant increases in height would be contemplated, the policy states that such development should comply with the City of Toronto Tall Building Guidelines (the Criteria for the Review of Tall Buildings Proposals). The policy also refers to the need to provide setbacks between the podium or base building and the tower of 3 to 9 metres from the street line and for such proposals to demonstrate that they do not export facing distance constraints onto adjacent sites and that they do not preclude other appropriate tall buildings in the area.

King-Spadina Urban Design Guidelines

The King-Spadina Urban Design Guidelines (2004) support the implementation of the King-Spadina Secondary Plan.

Section 2.5 contains the overall Guidelines. New development should reinforce the character and scale of the existing street wall, the base of the building should respond proportionally to the width of the street, and development should reinforce the existing streetscape and building rhythm at the street.

Tall buildings, where appropriate, must meet the policies of the Official Plan and Urban Design Guidelines, achieve adequate light, privacy and views, and maintain the potential for adjacent sites to develop in a similar manner. New development should reinforce a street wall height that reflects the character and scale of the area.

Section 4.1.2 Public Realm states that with regard to King Street West, development should protect for sunlight and sky views on the public realm.

Section 4.1.3 Built Form states that the eastern part of King-Spadina is adjacent to the downtown core and financial district where there are permissions for significantly greater height. It goes on to note that the vision for, and character of, King-Spadina is distinct from the adjacent financial district and downtown core.

Section 5 contains built form guidelines that expand on Section 4.0. Section 5.4.1 recognizes that heights transition down to the west. It also notes that heights that are beyond the permitted zoning and are anomalous with the heritage fabric of the area should not be used as precedents for development. Section 5.4.3 deals with angular planes and setbacks to minimize shadows and ensure adequate sunlight, and strengthen the existing streetwall scale to maintain a comfortable pedestrian experience. Section 5.4.4 addresses light, view and privacy requirements.

The Guidelines point out that accommodations in tall building tend to be small, so access to natural light and reasonable views will be particularly important. Protecting privacy is also important in a high density neighbourhood. Light, view and privacy are described as "quality of life" issues, which must be evaluated based on the existing and potential development.

With regard to separation distances (facing distances) between towers, the Guidelines refer to the standard of 25 metres between towers or a distance of 12.5 metres between the tower and the property line, as called for in the City's Design Criteria for the Review of Tall Buildings Proposals.

Design Criteria for the Review of Tall Building Proposals

The City's 'Design Criteria for the Review of Tall Building Proposals' provide guidelines for the design and evaluation of tall buildings in the City. Aimed to implement the built form policies of the City's Official Plan, they include measurable criteria and qualitative indicators to assist in the review of tall building proposals. Criteria and indicators are

related to four main areas; site context, site organization, building massing and the pedestrian realm.

In considering site context, in addition to requirements for master plans on larger sites, tall building proposals must address concerns related to transitions between taller buildings and lower scale features nearby. Measures such as height limits, setbacks, stepbacks and angular planes are used to achieve appropriate transitions in scale and the protection of sunlight and sky views.

Design criteria related to site organization address issues of building placement and orientation, location of building entrances, servicing and parking requirements, enhancement of adjacent streets and open spaces, and respect for heritage buildings.

New tall buildings are expected to enhance the public realm by providing active frontages, and high quality streetscape and landscape design elements. To reduce negative impacts of taller buildings elements, a minimum stepback of 5 metres for the tower from the street edge of the base building is required. Other considerations include weather protection, limiting shadowing impacts and uncomfortable wind condition on nearby streets, properties and open spaces, as well as minimizing additional shadowing on neighbouring parks to preserve their utility.

King-Spadina East Precinct Built Form Study

In April 2008, Council directed staff to undertake a study of the built form in the East Precinct of the King-Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the East Precinct area.

The findings of the King-Spadina East Precinct Built Form Study include the principle that heights decrease generally from east to west (University Avenue to Spadina Avenue), and from south to north (Front Street to Queen Street). Within this general height trend are areas of localized conditions.

The subject site is also located within an area where buildings with additional height beyond the “First Tier” or as-of-right heights as provided in By-law 483-86 are to be considered. Applications for buildings with “Second Tier” height permissions are to be considered in light of the policy objectives in the King-Spadina planning framework as well as the built form standards that apply to any tall building development in the City.

Achieving additional height is subject to meeting criteria for development as set out in the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City’s Design Criteria for the Review of Tall Building Proposals, and subject to providing an appropriate contribution pursuant to Section 37 of the *Planning Act*. The criteria include but are not limited to: preservation of sunlight on important pedestrian streets (including King Street West); conformity with the King-Spadina Built Form Guidelines; and achieving a 25 metre tower separation and a maximum 750 square metre floor plate to address light, view and privacy. This framework was endorsed by City Council at its meeting of September 30, October 1, 2009.

The subject site is within the King Street Corridor identified by the Built Form Study and falls within the "Widmer Street to Spadina Avenue" sub-area. The study acknowledges the "higher physical context" in the area but states that "...tall buildings in this area must be adequately spaced, with height set back from King Street as much as possible in order to preserve sunlight and sky views".

Tall Buildings Downtown Study

In October of 2010 the City released the findings of the Tall Building Downtown Study. The consultant's report, entitled "Tall Buildings, Inviting Change in Downtown Toronto" In recommending a set of customized performance standards for tall buildings downtown, the report draws upon pre-existing Toronto-wide design guidelines known as the Design Criteria for Review of Tall Buildings Proposals as well as an on-the-ground assessment of local conditions and the results of selective testing of chosen sites in Downtown Toronto. An assessment of experiences of comparable cities from around North America was also part of the study.

Notwithstanding that the King-Spadina area was excluded, the recommendations which come out of the consultant's Study represent a useful tool in evaluating tall buildings proposals. Public consultation on the study was undertaken in the Spring of 2011 and staff will present a report on the study, the consultation findings and options for implementing the finding of the study to City Council in the Fall of this year.

The report concludes that assuming a minimum tower dimension of 20 metres by 30 metres, the minimum size for a corner site for a tower is 33 metres by 43 metres.

The consequences of permitting towers on small sites which do not allow for appropriate setbacks and facing distances to other towers are described in the Study. The resulting negative impacts include: excessive shadowing; wind impacts; loss of privacy for residents; the loss of sky views for pedestrians and the limiting of development rights for proposed owners where adjacent sites are overdeveloped.

Toronto Entertainment District Master Plan

In 2008 the Entertainment District Business Improvement Association (BIA) initiated a Master Plan Study of the BIA that was completed in May 2009 intended to articulate the long-term vision for the BIA and provide guidance for change. Although the boundaries of the BIA are different than those of King-Spadina it does encompass the East Precinct and a portion of the Spadina Avenue Corridor and the Master Plan complements the planning framework for King-Spadina.

Similar to the Built Form Study, the Master Plan identifies areas of distinct character within the BIA, and three are within the East Precinct of King-Spadina. These include the 'Warehouse Precinct', the 'King Street Precinct' and the 'Front Street Precinct' and they are closely related to the character areas identified in the Built Form Study.

The subject site is in the 'King Street Precinct' which is described as, "Defined by the animated and active King Street West corridor comprised of contemporary and pockets of historically significant buildings". Areas considered appropriate for low, mid-rise and high-rise buildings are identified. The portion of King Street West which includes the subject site is considered to be a 'High-Rise Area', however, the Plan goes on to establish guidelines for new development. "The massing and design of tall buildings should be consistent with the City of Toronto's Design Criteria for Review of Tall Buildings Proposals (June 2006), and any other applicable tall building guidelines that may emerge subsequent to this Master Plan. Particular attention should be given to guidance for the base building, floor plate size, spatial separation, shadow, sky view and wind effects.

Zoning

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended (see Attachment 8 - Zoning Map, By-law No. 438-86). As part of the RA zoning controls, density standards were replaced by built form objectives expressed through height limits and setbacks.

The Zoning By-law permits a maximum building height of 30 metres for this site. An additional 5 metres is permitted for rooftop mechanical elements. A 3-metre stepback above 20 metres on all street frontages is also required.

Site Plan Control

The proposed development would be subject to site plan approval. An application for site plan approval was not submitted.

Reasons for Application

The applicant has submitted a Zoning By-law Amendment application to permit a building that exceeds the permitted maximum building height of 30 metres by approximately 102 metres, resulting in a proposed building height of 132 metres inclusive of the mechanical penthouse. In addition, the proposed building does not comply with other restrictions that are in effect on the lands.

Ontario Municipal Board Appeal

On June 2, 2011 the City Clerk's Office received notification that the applicant filed an appeal of the Zoning By-law Amendment application to the Ontario Municipal Board, citing Council's failure to make a decision on the application within the prescribed timelines of the *Planning Act*.

Community Consultation

A community consultation meeting was held on March 30, 2011. The proposal had been presented previously at community meetings hosted by the local Councillor.

Community members asked questions about the architectural treatment of the building and the proposed retention of heritage facades as well as the servicing and traffic on the rear laneway and wind conditions resulting from the developments of towers.

Comments and concerns included the following:

- Questions regarding the operation of the laneway and loading operations conflicting with other traffic.
- The operation of the automated below-grade parking system.
- Blank wall conditions adjacent the rear laneway and a partial blank wall condition adjacent Blue Jays Way.
- The absence of stepbacks for the tower from the base building and the absence of adequate facing distances if a tower were to be constructed immediately to the west of the site.
- The building was described as successful architecturally.

Proposed development at 369 and 367 King Street West

Immediately following the community consultation meeting discussed above, the local Councillor hosted one of an ongoing series of community meetings to present a development proposal to the community. The development proposal presented at that meeting was for a 25-storey building (a nine-storey podium and a 16-storey tower) at 369 and 367 King Street West. These properties are immediately to the east of the 34-storey tower at 375 King Street West (M5V) which is currently under construction. The proposal included setbacks of between 0 metres and 5.5 metres to the west lot line adjacent the 34-storey M5V development and 0 metres on the east lot line adjacent the property at 365 King Street West. The resulting development would feature a 16-storey blank wall facing east adjacent the existing four-storey building at 364 King Street West, which is immediately adjacent the subject site. A formal application has not been submitted for a proposed development at 367 and 369 King Street West.

If both the preliminary plan as described above and the proposal for the subject site were to be developed as proposed, the result would be a 40-storey blank wall facing west from the subject site, a 20 metre wide property at 365 King Street West (currently occupied by a very narrow four storey building) and a 16-storey blank wall facing east. The creation of two towers with no meaningful base buildings (little or not stepbacks from the edge of the base buildings to the towers) and two very tall blank walls within an area with a frontage of approximately 40 metres, in addition to the 34-storey building under construction at 379 King Street West, is not a form of development which can be supported based upon the planning framework for King-Spadina. See Attachment 5 - Site Plan.

Agency Circulation

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

COMMENTS

Planning Act, Provincial Policy Statement and Provincial Plans

Planning Act

The proposed development does not have adequate regard to matters of Provincial interest as required by Section 2 of the *Planning Act*.

In particular, 2(h) refers to the orderly development of safe and healthy communities; 2(l) refers to the protection of the financial and economic well-being of the Province and its municipalities; and Section 2(p) refers to the appropriate location of growth and development. Policies pertaining to these items of Provincial interest are contained within the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

The proposal is not consistent with the PPS.

The application proposes intensification within a built-up urban area near higher-order transportation, however, the proposal does not represent a positive or appropriate form of intensification. It does not respect the level of intensification set out in the Official Plan and Secondary Plan for the area. Policy 4.5 of the PPS states that the Official Plan is the most important vehicle for implementing the PPS. Comprehensive, integrated and long-term planning is best achieved through municipal official plans, which shall identify provincial interests and set out appropriate land use designations and policies.

Section 1.1 of the PPS contains policies related to managing and directing development. Policy 1.1.2 requires that sufficient land be made available for intensification and redevelopment. This has been done through the Official Plan, the King-Spadina Secondary Plan and the Zoning By-law, which identify areas where growth and intensification are appropriate and outline the appropriate levels for intensification.

Policy 1.1.3.2 b) of the PPS requires that land use patterns accommodate a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in PPS Policy 1.1.3.3. Policy 1.1.3.3 states that planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated (emphasis added), taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs. Intensification and redevelopment shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

Policy 1.1.3.4 refers to appropriate development standards to facilitate intensification redevelopment, and compact form; and Policy 1.1.3.5 requires that planning authorities establish and implement minimum targets for intensification and redevelopment within

built-up areas. These requirements are met through the built form and land use policies of the Official Plan, the King-Spadina Secondary Plan and the Zoning By-law.

Section 1.7 of the PPS contains policies related to long term economic prosperity. Policy 1.7.1 b) states that long term economic prosperity should be supported by, among other things, maintaining, and where possible, enhancing the vitality and viability of downtowns and mainstreets. The proposal could fundamentally alter the character of this mainstreet area, and could affect the qualities that make it a destination for residents and tourists to the City, particularly if it creates poor pedestrian conditions through its streetscape and wind impacts. Only a preliminary (desktop) wind study has been submitted by the applicant. Further, this scale and intensity of development may create an economic incentive to propose similar developments on other sites within the East Precinct of King-Spadina.

For the reasons outlined above, the proposed development is not consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe

The proposal does not conform with the Growth Plan for the Greater Golden Horseshoe.

The Growth Plan for the Greater Golden Horseshoe identifies the *Downtown* as an Urban Growth Area, to which intensification should be directed. Policy 2.2.3.6 requires Official Plans to provide a strategy and policies to achieve intensification targets identified in the Growth Plan. Policy 2.2.3.6 g) requires the Official Plan to identify the appropriate type and scale of development in intensification areas. Policy 2.2.3.7 f) requires intensification areas to be planned to achieve an appropriate transition of built form to adjacent areas.

While intensification in itself is consistent with the Growth Plan, the proposed development of this site does not conform with the Growth Plan. The proposed built form does not conform with the built form and other policies contained within the Official Plan or King-Spadina Secondary Plan, which identify that the scale of development must be compatible with the existing or planned context. There are opportunities throughout the King-Spadina area, the larger *Downtown and Central Waterfront* area, the four *Centres*, and the *Avenues*, for intensification to meet the growth targets of the Growth Plan. On this site, intensification to a height of 30 m (plus 5 m for mechanical elements) is permitted as-of-right. In the larger East Precinct area of King-Spadina, with the exception of significant heritage areas, significant intensification and redevelopment can be accommodated. It is not necessary or desirable to over-intensify individual development sites in order to accommodate growth projections.

Land Use

The proposed mix of residential and commercial uses is consistent with the land use provisions of the Official Plan, Secondary Plan and Zoning By-law.

Massing

The subject site, at approximately 21.5 metres wide, approximately 35.6 metres deep and has an area of 782 square metres. It is similar in size to a detached house lot in many communities and is only slightly larger than the maximum floor plate size as recommended in the Guidelines for the Review of Tall Buildings Proposals (743 square metres). This creates a challenge for achieving the proposed density of 30.8 times the lot area. The proposed design, a tall rectangular tower covering most of the site and with no consistent setback along the front, side and rear lot lines, (aside from a setback of 3.8 metres on the rear lot line at the 7th floor) represents an inappropriate response to the constraints of the site.

The distance between the applicants proposed tower at 357 King Street West and the 34 storey tower at 375 King Street West (M5V) is 23.19 metres. This distance almost meets the 25 metre standard for facing distances between towers as proposed in the City's Design Criteria for the Review of Tall Buildings Proposals. However, the standard for 25 metres between towers is intended to be met by ensuring that towers are located a minimum of 12.5 metres from a lot line where adjacent to a potential development site. There are three properties between the subject site and the approved M5V development, and a proposal for a 25-storey building on two of these sites within that 23.19 metre space has been presented to the community. If a proposal for a 40-storey tower on a very small site with virtually no setbacks or stepbacks and a blank wall is acceptable on this site, there is little doubt that it will encourage others to pursue similar development opportunities elsewhere.

As the Tall Buildings Downtown Study stated, there are several consequences to constructing buildings too close together, "...resulting wind conditions, distortion and sense of pedestrian scale, lack of access to sunlight and blockage of sky views creates an uncomfortable pedestrian environment"

In addition to the impacts on pedestrians, the 2006 King-Spadina Urban Design Guidelines noted that in a high density neighbourhood such as the East Precinct of King-Spadina, access to natural light and reasonable views will particularly important for quality of life. This is particularly true given the small size of many of the units proposed in King-Spadina.

The Tall Buildings Downtown Study also notes with regard to the relationship between lot size and tall buildings, "when buildings are constructed very close to the side property lines, the result is a 'first to the post' development scenario whereby the development of one site restricts or prohibits adjacent sites in a similar manner". If the proposed development were deemed to be acceptable, the facing distances could be reduced as a result of the development of smaller and smaller lots. Also, the proposed lack of setbacks impacts the as-of-right development potential of other sites on the block by exporting facing distance constraints to adjacent properties and compromising adjacent property rights. Approval of the inadequate setbacks could set a precedent whereby the development rights of adjacent landowners are compromised.

The King-Spadina Urban Design Guidelines, the City's Design Criteria for the Review of Tall Buildings Proposals and the Tall Buildings Downtown Study mentioned above contain provisions related to the importance of protecting privacy in a high density neighbourhood. Light, view and privacy are described as "quality of life" issues, which must be evaluated based on the existing and potential development.

This approach of over-developing one site at the expense of others on the block raises important area-wide and City-wide planning issues. If this proposal were approved and the approach replicated on similarly small sites, there could be significant impacts on the coherence of the City's urban structure and streetscapes, and on the pedestrian experience, particularly if tower forms on additional creates wind impacts. It compromises the redevelopment potential of adjacent landowners, and raises issues related to preventing unnecessary demolition of buildings in a low scale context to free up a site for one tall building. This approach has the potential to threaten the stability of areas whose built form attributes the planning policies seek to conserve.

Comments provided on behalf of the Entertainment District BIA in support of the BIA Entertainment District Master Plan also focused on several concerns, including: tower separation distances both to the west (given development potential on adjacent sites) and to the south to the approved development at 56 Blue Jays Way; the absence of a setback on Blue Jays Way to match the setbacks for development to the south; the absence of stepbacks from the base building to the podium; the proposed blank wall condition and the resulting impacts on privacy, light and shadows.

The comments from the BIA concluded that the proposed massing of the development represented an over-development of the site and that the site is inadequate in size to accommodate the proposed tower development.

Sun, Shadow, Wind

Shadow studies submitted by the applicant showed a slim shadow that moved quickly throughout the day. The shadow did not impact any public parks. The major potential shadow impact associated with the development is the precedent created by the approval of a tall building on a site which is too small to comfortably accommodate it.

A wind study is required by the City as part of a development application that seeks to develop a building higher than 6-storeys or 20 metres in height. The application included a pedestrian level wind study which makes assumptions regarding wind impacts without conducting any actually wind tunnel testing. The study noted that there is the potential for wind conditions at grade at the corner of King Street West and Blue Jays Way to be uncomfortable during the winter and that the "wind safety criteria will likely be exceeded".

As is outlined in the Design Criteria for Review of Tall Building Proposals (June 2006) there is the opportunity to reduce the impact of wind created by a tower building (referred to a "downwashing flow") by providing a larger step back between the face of the tower and the podium. The proposal provides virtually no stepbacks (aside from the 3.8 metre

setback back on the 7th floor at the rear of the site adjacent the public lane. Providing larger setbacks would help to address this issue. The small size of the site, however, makes it difficult if not impossible to create meaningful setbacks.

Staff have significant concerns with the potential wind impacts of this proposal as the height and massing of the building could create effects on King Street.

Traffic Impact, Access, Parking, Servicing

A total of 138 resident parking spaces are proposed in a six (6) level underground parking garage. No visitor parking is proposed to be provided. The parking is proposed to be fully automated and provide for "driver-less parking" of vehicles with a garage equipped with mechanical devices which will automatically move vehicles underground and return them to the surface when required. A single elevator is proposed to be provided with queuing for four vehicles on-site. Vehicular access to parking and loading is proposed to the rear of the site from an existing public laneway off Blue Jays Way. A 0.714 metres road widening will be required as the laneway is of a sub-standard width. Two hundred and forty-two bicycle parking spaces are proposed.

The Urban Transportation Considerations report provided with the submission concluded that the traffic associated with the development proposal could be accommodated by the area road system. Transportation Services staff are reviewing the submitted study.

Technical Services staff have requested a revised site servicing assessment to determine stormwater runoff, sanitary flow and water supply demand associated with the proposed development and to confirm that the existing municipal infrastructure is adequate to service the development.

Toronto Building staff have indicated that the parking requirements will vary based upon the number of three bedroom units which would be provided. The worst-case scenario for required parking would be if the maximum number of three bedroom units were built which results in a parking requirement of 179 spaces as per Zoning By-law No. 438-86. As the applicant is proposing to provide 138 resident parking spaces, the parking is deficient by 41 parking spaces. If fewer than the maximum number of three bedroom units are provided, the parking deficiency will be reduced.

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 0.42 to 0.78 hectares of local parkland per 1,000 people. The site is in the second 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 proposed 242 residential units on a total site area of 0.0782 hectares (782 sq. m). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would be 0.3226 hectares (3,226 sq. m.). However, a cap

of 10% is applied to the residential uses and hence the parkland dedication would be 0.00782 hectares (78.2m²). The non-residential use is less than 1000m² and is therefore exempt from the parkland dedication requirement.

The applicant proposed to satisfy the parkland dedication requirement through cash-in-lieu. This would have been appropriate as an on-site parkland dedication requirement of would not be of a useable size and the site would be encumbered with below grade parking. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit, should the development proceed in some form.

Toronto Green Standard

The application was submitted in June 2010 and is subject to the new mandatory Green Development Standard. The applicant has indicated that the building would comply with the mandatory Green Standards (Tier 1).

Section 37

Section 37 benefits were not discussed in the absence of an agreement on height and massing, beyond an indication that the City intended to use this tool should the aforementioned issues be resolved. It is recommended that staff be authorized to negotiate an appropriate package of Section 37 benefits, in consultation with the Ward Councillor, should this proposal be approved in some form by the Ontario Municipal Board. Staff would request that the Ontario Municipal Board withhold its order until Section 37 benefits has been agreed to and appropriately incorporated into a Zoning by-law amendment, and a Section 37 agreement has been entered into between the applicant and the City and registered to the City Solicitor's satisfaction, should the OMB approve the proposed development in some form.

Development Charges

It is estimated that the development charges for this project would have been approximately \$1,295,894 (assuming no three bedroom units are constructed). This is an estimate. The actual charge is typically assessed and collected upon issuance of a building permit.

CONCLUSION

The proposal represents an inappropriate development for reasons including:

- The proposal does not have adequate regard to certain matters of Provincial interest as outlined in the *Planning Act* for reasons discussed in this report;
- The proposal is not consistent with the PPS and does not conform with the Growth Plan for reasons discussed in this report;
- The proposal does not conform with nor maintain the intent of the Official Plan policies, including policies related to built form, or tall buildings, with respect to an appropriate relationship with its context;

- The proposal does not conform with nor maintain the intent of the King-Spadina Secondary Plan, including the objectives of ensuring new development is compatible with the built form context of the adjacent buildings, and ensuring that massing provides appropriate proportional relationships;
- The proposal could set a negative precedent that could encourage demolition or significant changes to properties within King-Spadina to achieve significant height increases and/or high densities that bear no resemblance to the in-force planning regime;
- The tower portion of the proposal does not provide appropriate separation from adjacent sites, as required by the City's Design Criteria for the Review of Tall Buildings Proposals. The approval of this proposal could compromise the application of the Design Criteria for the Review of Tall Buildings Proposals to other sites;
- The proposal provides insufficient or no setback from the side lot lines, which can compromise quality of life for future residents, and the development rights of adjacent landowners; and
- The lack of appropriate yard setbacks or stepbacks compromises Council-approved OPA 2 by exporting facing distance constraints onto adjacent sites;

There is no question that appropriate intensification and development are planning goals in King-Spadina. City Planning staff are prepared to consider development on the site but only in a manner that is respectful of the existing planning policy framework. The proposed massing overwhelm the streetscape and are detrimental to the character of this portion of King Street West. The proposal is inappropriate and unsupportable and does not represent good planning.

CONTACT

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SIGNATURE

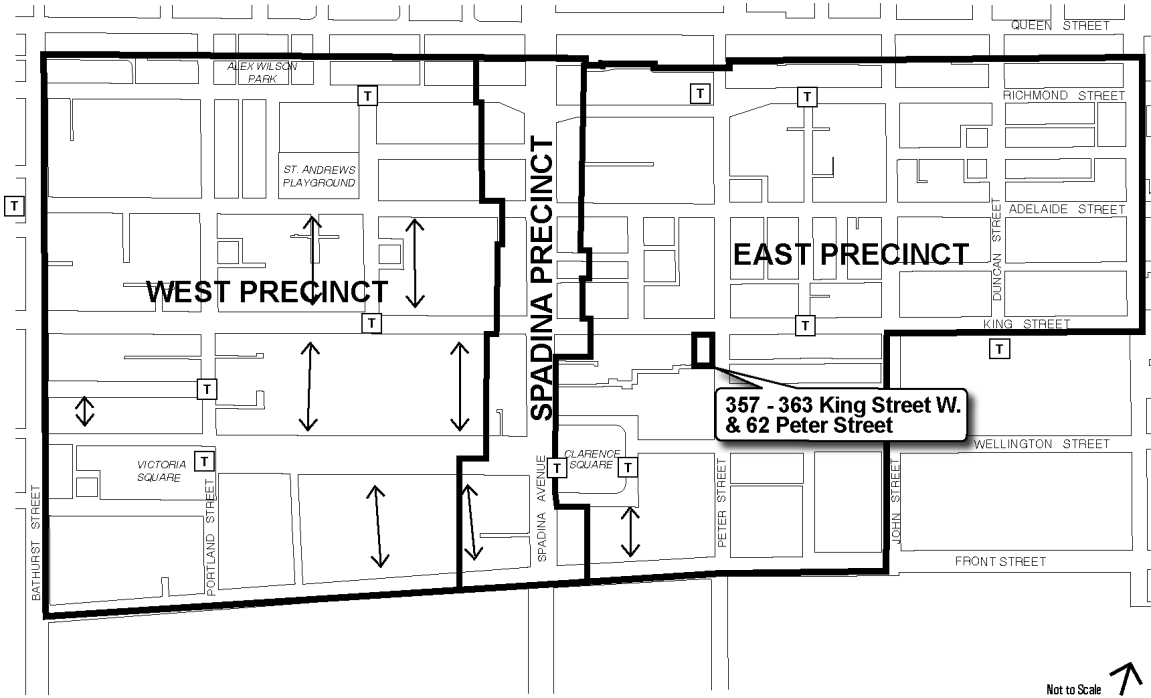
Gregg Lintern, Director, MCIP, RPP
Community Planning, Toronto and East York District

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ATTACHMENTS

- Attachment 1: King-Spadina Secondary Plan Review – Urban Structure Plan
- Attachment 2: King-Spadina Secondary Plan Review – Areas of Importance
- Attachment 3: King-Spadina East Precinct Character Areas
- Attachment 4: King-Spadina East Precinct Height Areas
- Attachment 5: Site Plan
- Attachment 6: North and East Elevations
- Attachment 7: South and West Elevations
- Attachment 8: Zoning
- Attachment 9: Official Plan
- Attachment 10: King-Spadina Secondary Plan
- Attachment 11: Application Data Sheet

Attachment 1: King-Spadina Secondary Plan Review – Urban Structure Plan



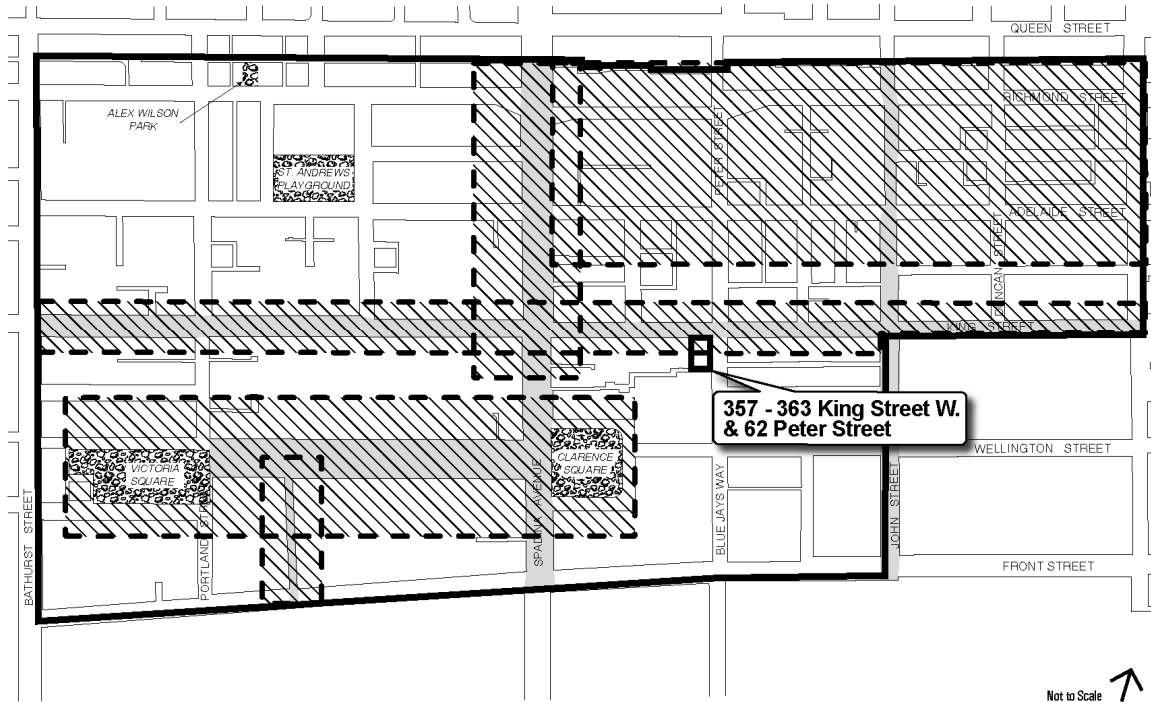
Official Plan Amendment No. 2 for King-Spadina Secondary Plan

MAP 16-1 Urban Structure Plan

- Secondary Plan Boundary
- View Terminus
- Potential Mid-block Connections





July 2006

Attachment 2: King-Spadina Secondary Plan Review – Areas of Importance



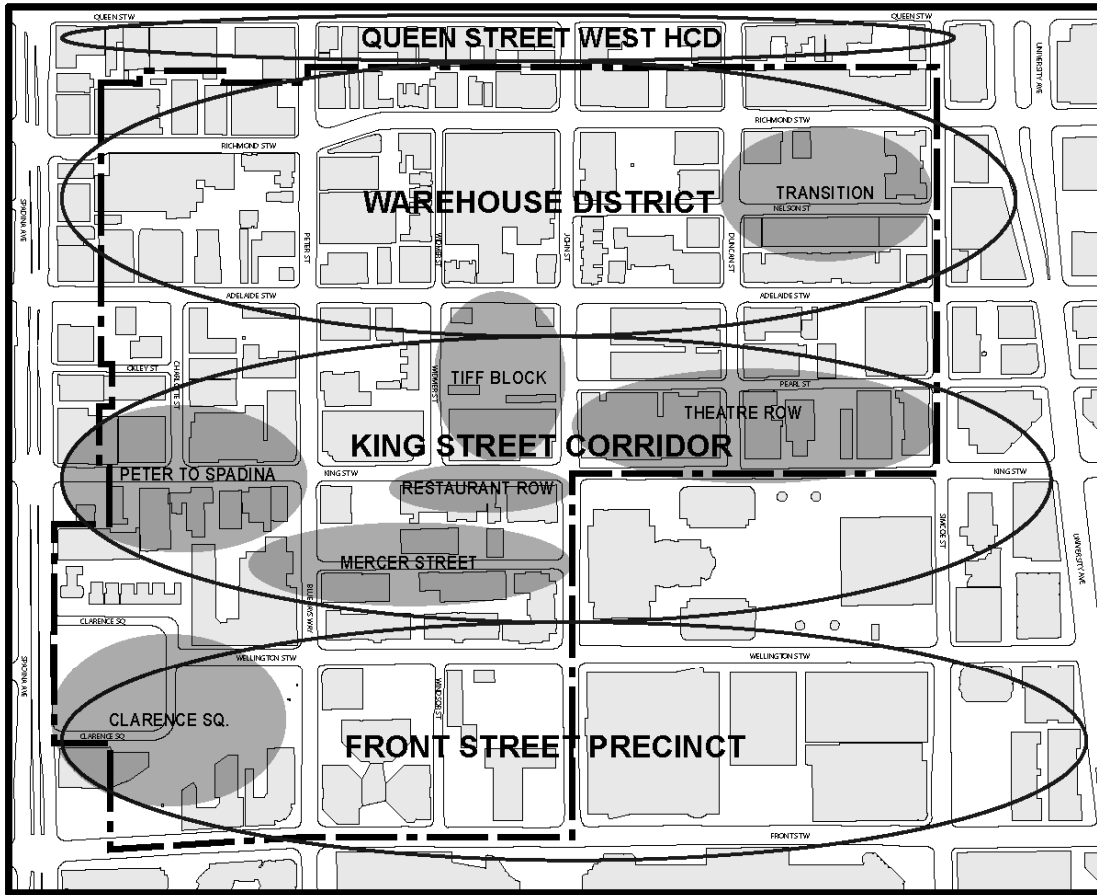
Official Plan Amendment No. 2 for King-Spadina Secondary Plan

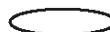


MAP 16-2 Areas of Importance

-  Secondary Plan Boundary
-  Special Character Street
-  Public Parks
-  Heritage Areas

July 2006


Attachment 3: King-Spadina East Precinct Character Areas



-  Character Areas
-  Sub-Character Areas
-  East Precinct Boundary

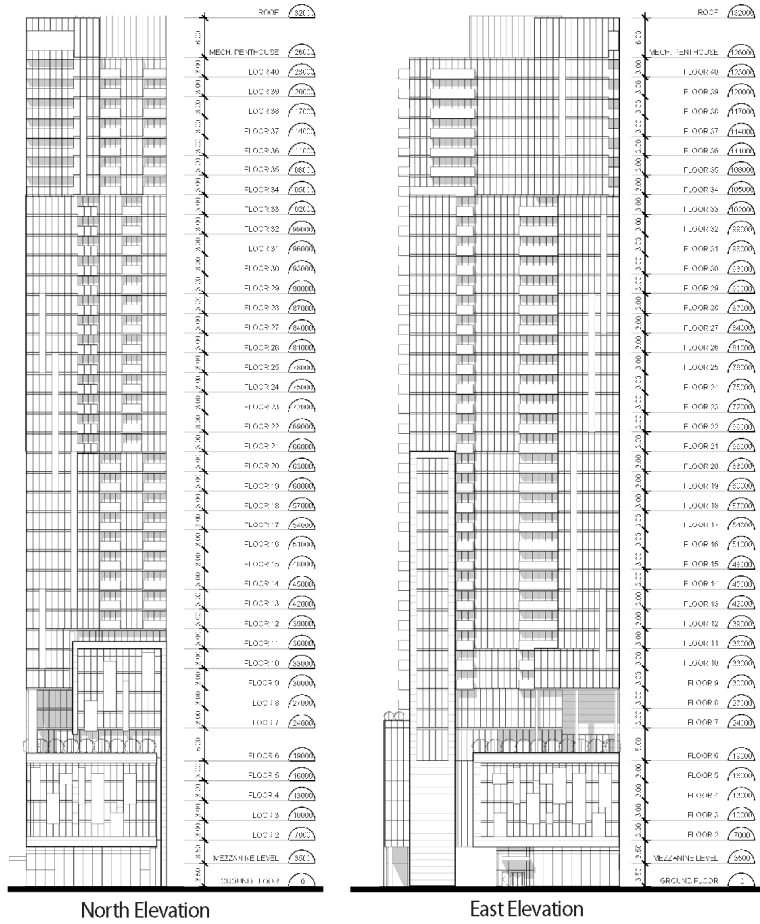
Character Areas

357 - 363 King Street West
62 Peter Street

Not to Scale 
08/05/11

File # 10_192451

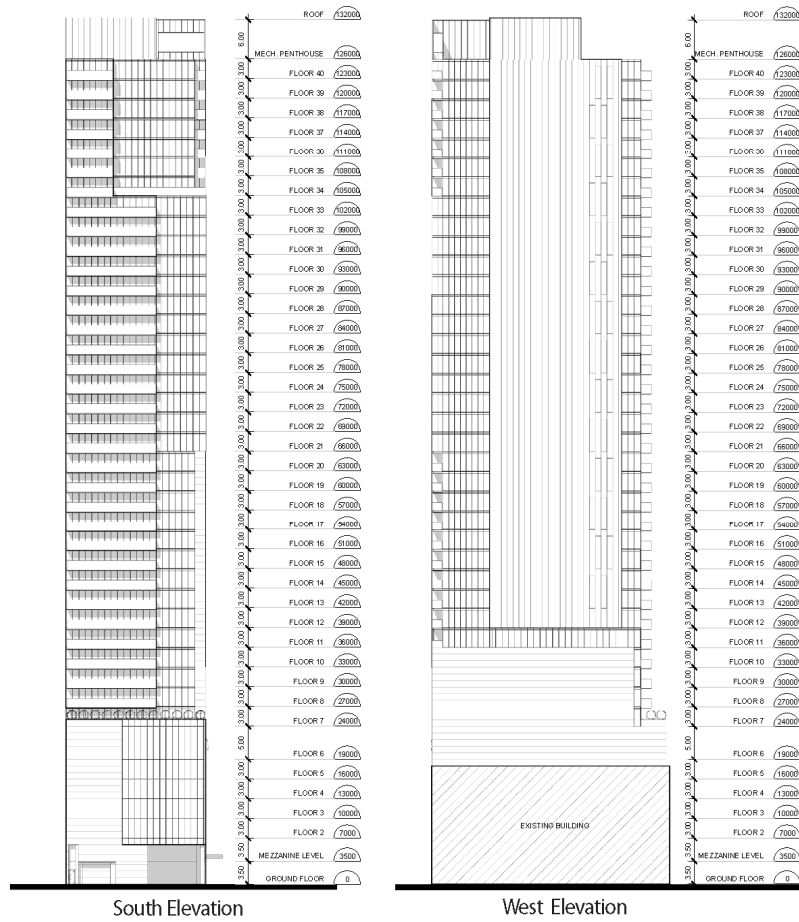
Attachment 6: North and East Elevations



Elevations sheet #1
 Applicant's Submitted Drawing
 Not to Scale
 10/27/2010

357-363 King St. West
 and 62 Peter Street
 File # 10_192451

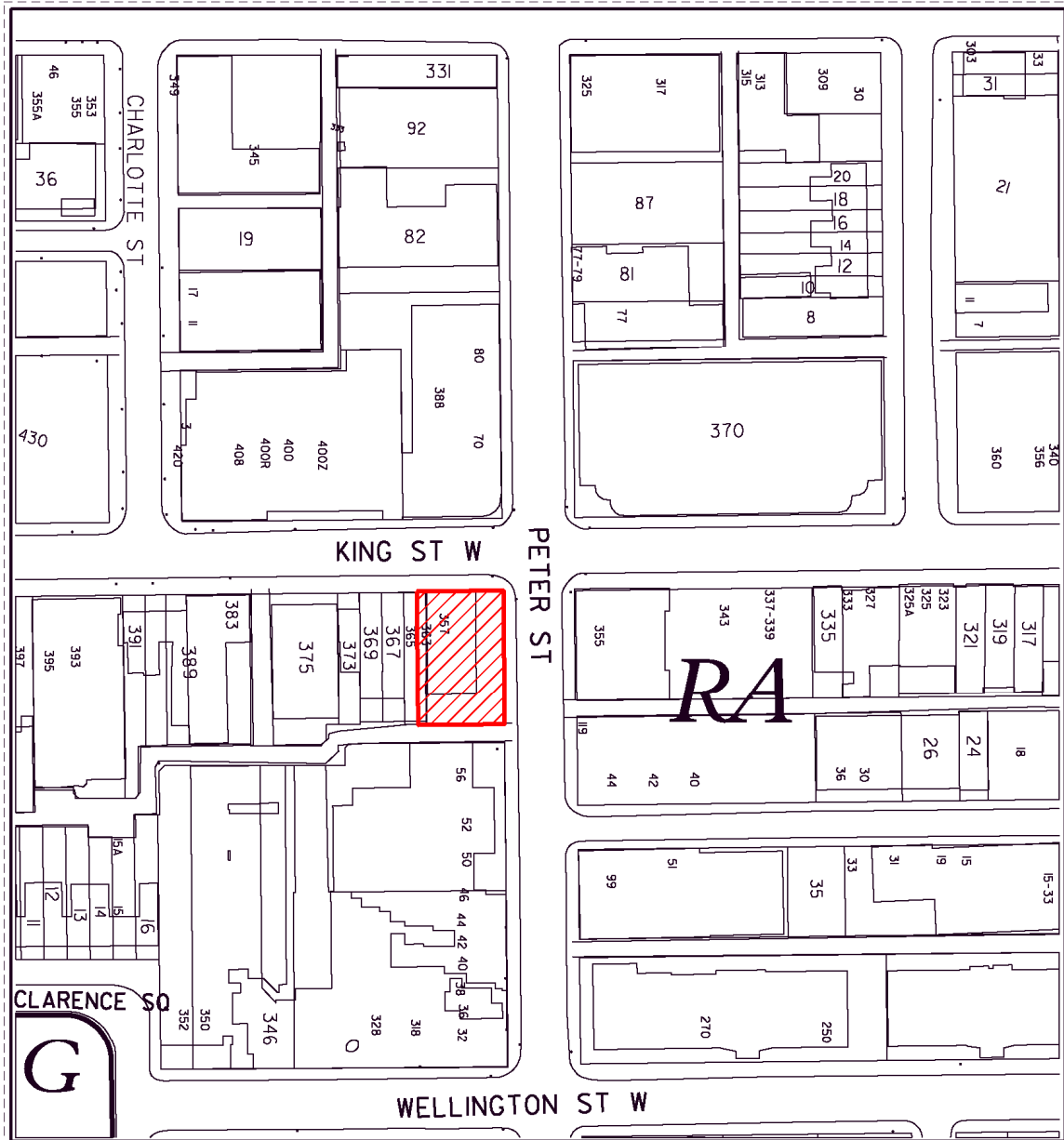
Attachment 7: South and West Elevations



Elevations sheet #2
 Applicant's Submitted Drawing
 NotToScale
 10/27/2010

357-363 King St. West
 and 62 Peter Street
 File # 10_192451

Attachment 8: Zoning (By-law No. 483-86)



TORONTO City Planning
Zoning

357-363 King St. West and 62 Peter St.

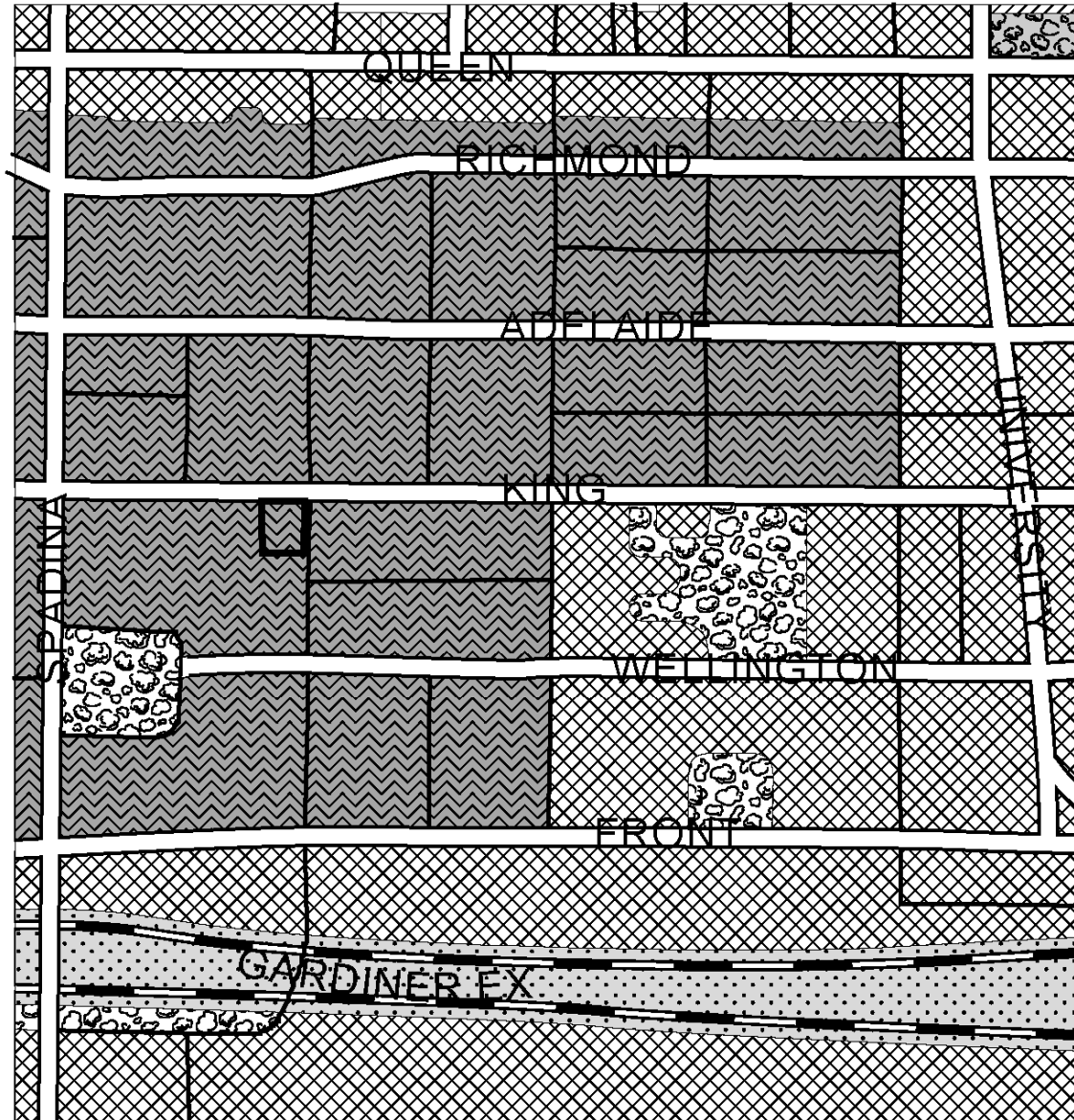
File # 10_192451

RA Reinvestment Area District
G Parks District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 10/27/2010

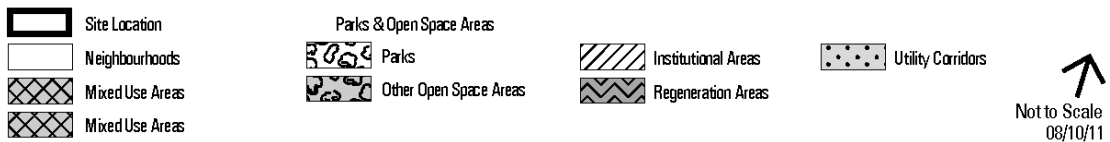
Attachment 9: Official Plan



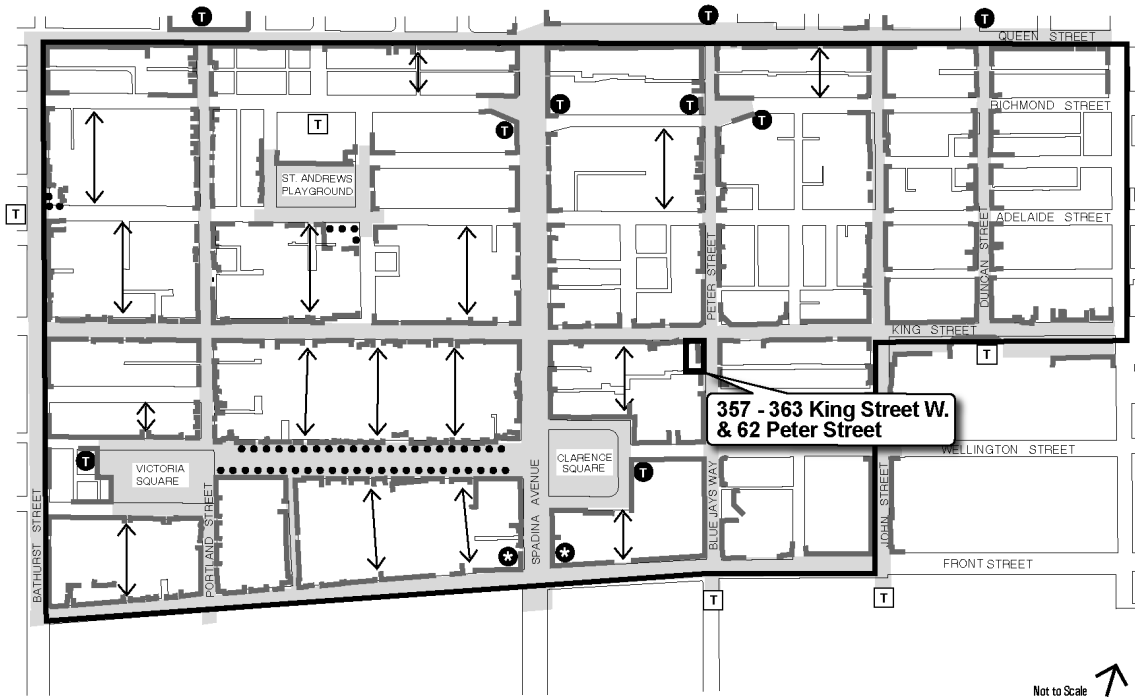
Toronto City Planning
Official Plan

**357 - 363 King Street West
 and 62 Peter Street**

File # 10 192451 0Z



Attachment 10: King-Spadina Secondary Plan



Not to Scale



King-Spadina Secondary Plan MAP 16-1 Urban Structure Plan

- Secondary Plan Boundary
- Potential Gateway
- Potential View Terminus
- Existing View Terminus
- Existing and Potential Building Edge
- Potential Mid-block Connections
- Significant Street & Open Space
- Landscape Edge

June 2006

Attachment 11: Application Data Sheet

Application Type	Rezoning	Application Number:	10 192451 STE 20 oz
Details	Rezoning, Standard	Application Date:	June 9, 2010
Municipal Address:	357 KING ST W		
Location Description:	PL D263 PT LT1-3 **GRID S2015		
Project Description:	Rezoning application to permit the redevelopment of the lands containing an existing auto repair shop for the purposes of a mixed use building complete with 212m2 of ground floor retail and 242 residential dwelling units above. Included in the proposal is 6 levels of below grade parking complete with 138 parking spaces.		

Applicant:	Agent:	Architect:	Owner:
McMillan Binch LLP Brookfield Place		Quadrangle Architects Limited	Riveroaks Investments Inc

Planning Controls

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	
Zoning:	RA	Historical Status:	
Height Limit (m):	30	Site Plan Control Area:	Y

Project Information

Site Area (sq. m):	782	Height: Storeys:	40
Frontage (m):	21.2	Metres:	126.4
Depth (m):	36.3		
Total Ground Floor Area (sq. m):	430		Total
Total Residential GFA (sq. m):	23877	Parking Spaces:	138
Total Non-Residential GFA (sq. m):	212	Loading Docks	1
Total GFA (sq. m):	24089		
Lot Coverage Ratio (%):	55		
Floor Space Index:	30.8		

Dwelling Units

Floor Area Breakdown (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	23877	0
Bachelor:	0	Retail GFA (sq. m):	212	0
1 Bedroom:	163	Office GFA (sq. m):	0	0
2 Bedroom:	79	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	242			

Contact:	Planner Name:	Dan Nicholson, Community Planner
	Telephone:	(416) 397-4077