

TORONTO STAFF REPORT

May 30, 2006

To: Toronto and East York Community Council

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

Subject: OMB Settlement Report
OPA & Rezoning Application 05 105693 STE 28 OZ
Applicant: Concert Properties Ltd.
Architect: Young + Wright Architects Inc.
70 The Esplanade, 6-16 Church Street, 51-61 Front Street East
Ward 28 - Toronto Centre-Rosedale

Purpose:

To seek direction from Council regarding Concert Properties' appeal to the Ontario Municipal Board of lack of decision by Council respecting requests for Official Plan and Zoning By-law Amendments for 70 The Esplanade, 6 -16 Church Street, and 51-61 Front Street East. This report recommends approval of a mixed-use, mid-rise building ranging in height from eight to 11 storeys.

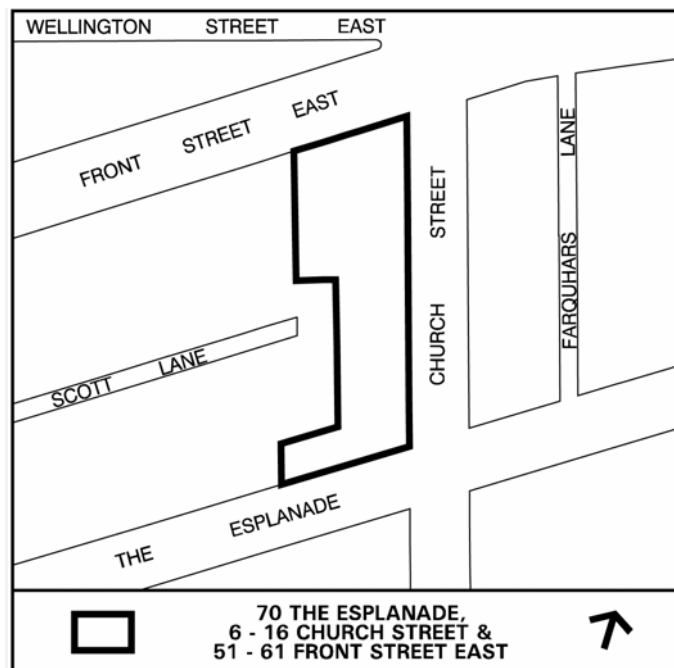
Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) Council direct the City Solicitor together with appropriate staff to attend the Ontario Municipal Board hearing of the appeals in these matters in support of settlement outlined in this report, including the draft Official Plan Amendment attached as Attachment 8, the draft Zoning By-law Amendment attached as Attachment 9, and public benefits pursuant to Section 37 of the



Planning Act described in the report and the draft Zoning By-law;

- (2) Council authorize the City Solicitor to make such technical and stylistic changes to the draft Official Plan Amendment and the draft Zoning By-law Amendment as may be required, and any other changes necessary to implement the intent of this report;
- (3) Council request the Ontario Municipal Board to withhold its Order enacting the draft Official Plan Amendment and Zoning By-law Amendment until:
 - (a) a Section 37 Agreement between the Owner and the City satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor has been executed and registered as a first charge against the lands to the satisfaction of the City Solicitor securing the matters set forth in this report and in the attached draft Zoning By-law Amendment;
 - (b) the Owner enters into Heritage Easement Agreements satisfactory to the City Solicitor and the Manager, Heritage Preservation Services or her designate under Section 37 of the Ontario Heritage Act with the City to provide for the permanent protection of each of the heritage buildings at 70 The Esplanade and 6 Church Street, and such agreements have been registered as a first charge against the lands to the satisfaction of the City Solicitor;
 - (e) the Owner has entered into a Site Plan Agreement with the City pursuant to Section 41 of the *Planning Act* for Phase 1 of the development satisfactory to the Chief Planner and Executive Director, City Planning Division and the City Solicitor and such agreement has been registered against the lands to the satisfaction of the City Solicitor;
- (4) Council states its intention to designate the property at 70 the Esplanade and at 6 Church Street under Part IV of the *Ontario Heritage Act*; and
- (5) Council require the Owner to:
 - (a) Provide space within the development for the construction of any transformer vaults, Hydro and Bell maintenance holes and sewer maintenance holes required in connection with the development;
 - (b) Pay all costs associated with the removal of the metered parking spaces on Church Street in conjunction with the proposal, including a one-time contribution to offset the lost revenue generated by the metered parking spaces, as may be deemed appropriate by the Toronto Parking Authority;
 - (c) Provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that upgrades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director of Technical Services; and

- (d) Retain an archaeologist, licensed by the Ministry of Culture under the provisions of the *Ontario Heritage Act* (R.S.O. 1990 as amended), to monitor the site during the demolition and excavation phases of construction, and mitigate through preservation and resource removal and documentation, adverse impacts to any significant archaeological resources found.

Background:

Proposal and Application History

In January 2004, Concert Properties submitted applications for Official Plan and Zoning By-law Amendments for redevelopment of the properties at 70 The Esplanade, 6-16 Church Street and 51-61 Front Street East. The original proposal submitted was for a 16-storey slab building with upper storeys set back from a five-storey podium. On June 21, 2005, the applicant revised the proposal to a 22-storey point tower located on roughly the southern portion of the site, sitting on an eight- and ten-storey base building. Both proposals received a generally negative reaction in community consultation and raised a number of concerns with City Planning staff. On October 31, 2005, the applicant further revised the proposal by reducing the height of the point tower to 16 storeys.

On November 4, 2005, Concert Properties appealed the applications to the Ontario Municipal Board on the basis that the City had failed to make a decision on the application within the required time periods.

The 16-storey proposal also resulted in serious concerns for City Planning staff. The site did not appropriately accommodate the height and massing proposed. The 16-storey tower, 50 metres in height, would not be compatible with the local area and did not provide an appropriate transition in built-form from the west and the south. The proposed massing and built form did not address the site's heritage resources in an appropriate manner and the proposal was not in keeping with the heritage character of the surrounding area. It was also not consistent with the St. Lawrence Neighbourhood Focused Area Urban Design Guidelines adopted by Council in July 2005.

In January 2006, Concert Properties proposed further consultation with local community stakeholders and City Planning staff in hopes of resolving issues related to the redevelopment of the site. A working group formed comprised of the applicant, City Planning staff, neighbouring property owners, representatives of the St. Lawrence Neighbourhood Association, representatives the St. Lawrence Business Improvement Association, and other local residents and stakeholders. The group met four times in January and February to discuss priorities for the site and to explore alternative forms of development. Concert Properties responded to the working group discussion by further reducing the density of the proposal and redeploing the density and massing on the site.

In April 2006, Concert Properties submitted the current proposal for a mid-rise building ranging in height from eight to 11 storeys, with 192 residential units to be constructed in two phases. The proposed gross floor area (GFA) of 21,232 square metres results in a density of 5.88 and

includes 2,426 square metres of non-residential GFA. The proposed height (not including mechanical penthouses) is approximately 34.5 metres (10 storeys) measured from Front Street East, 36 metres (11 storeys) measured from the average elevation of Church Street, and 29 metres (eight storeys) measured from The Esplanade. Upper storeys of the building would terrace back from all three street frontages. The proposal includes three levels of underground parking with 180 parking spaces. The proposal as recommended by the Toronto Preservation Board would retain the heritage building at 70 The Esplanade and retain the façade of the heritage building at 6 Church Street.

The table below compares the previous proposals with the current proposal.

	January 2005	June 2005	October 2005	April 2006 (current proposal)
GFA (m2)	26,077	24,879	21,664	21,233
Residential GFA (m2)	22,275	18,812	15,597	18,807
Non-residential GFA (m2)	3,802	6,067	6,067	2,426
Density	7.2	6.9	6.0	5.9
Height (metres, not including mechanical)	52	68	50	36
Height (storeys)	16	22	16	11
Units	264	202	177	192
Parking	242	190	164	180

The applicant proposes two phases of construction for the development. The first phase comprises approximately the northern two-thirds of the site. The second phase comprises the southern third of the site and contains the heritage buildings at 70 the Esplanade and 6 Church Street.

Site and Surrounding Area

The site is an irregularly shaped parcel of land which extends along Church Street the full length of the block between Front Street East and The Esplanade. The site has frontage on Church Street, Front Street East and The Esplanade. The grade of the site declines approximately three metres from north to south. The property is approximately 111 metres long and its width varies from approximately 38 metres, to 25 metres, to 47 metres, as it wraps around an adjacent property at 56-58 The Esplanade.

The site comprises eight properties with a total site area of 3608 square metres and existing non-residential gross floor area of approximately 9450 square metres. The properties are occupied by a variety of non-residential uses including restaurants, retail, office and communications and arts. Two of the properties are listed on the City's Inventory of Heritage Properties: Council listed 70 The Esplanade in December 2004 and 6 Church Street in April 2005. Heritage Preservation Services staff has recommended in a report dated May 8, 2006 to the Toronto Preservation Board that City Council state its intention to designate both properties under Part IV of the *Ontario Heritage Act*.

The site is located in the St. Lawrence neighbourhood. The immediate context of the site is the following:

North: The north side of the property faces Front Street East. Berczy Park and the five-storey historic Gooderham Building (commonly known as the Flatiron building) are located across the street. North of the park on the north side of Wellington Street East are commercial and mixed use buildings ranging in height from two to 21 storeys.

South: The south side of the site faces The Esplanade. A commercial parking lot, a nine-storey hotel, and a 13-storey apartment building sit on the south side of The Esplanade.

East: The site faces Church Street to the east. Across Church Street are commercial and mixed use buildings ranging in height from one storey to eight storeys.

West: West of the site are commercial buildings ranging in height from one to five storeys, both on The Esplanade and on Front Street East.

The area contains a rich and significant collection of heritage buildings, including a number of listed and designated heritage buildings in the immediate context, found on the east side of Church Street, the south side of Front Street East, and the north side of Wellington Street. The Gooderham Flatiron Building is one of Toronto's best known heritage buildings.

Planning Act

Section 1.1 of the Planning Act identifies the purposes of the Act including providing for a land use planning system led by provincial policy, integrating matters of provincial interest in provincial and municipal planning decision and recognizing the decision-making authority and accountability of municipal councils in planning.

Section 2 of the Act identifies matters of provincial interest to which a municipality shall have regarding carrying out its responsibilities under the Act. Amongst other matters this includes the conservation of features of significant cultural, historical or archaeological interest, the minimization of waste, the protection of the financial and economic well being of the Province and its municipalities and the appropriate location of growth and development.

Provincial Policy Statement

The 1997 Provincial Policy Statement applies to this application. The application was filed prior to the coming into force of the new Provincial Policy Statement in March 2005. Planning decisions must have regard to the Provincial Policy Statement. The 1997 PPS recognizes that its policies will be complemented by locally-generated policies regarding matters of local interest.

The 1997 PPS provides a number of policies relevant to this application, including that significant heritage resources will be conserved; development densities which efficiently use land, resources, infrastructure and support the use of public transit; providing opportunities for

redevelopment, intensification and revitalization in areas that have sufficient existing or planned infrastructure; and maintaining the well-being of downtowns.

Metropolitan Toronto Official Plan

The Official Plan of the former Municipality of Metropolitan Toronto designates the site as part of the Central Area, the pre-eminent centre designated in Metroplan.

Former City of Toronto Official Plan

The former City of Toronto Official Plan is the other applicable in-force Official Plan relevant to this application. The Plan designates the site as a Medium Density Mixed Commercial-Residential Area. This designation promotes primarily residential uses. New development in these areas should be designed for compatibility with existing buildings and public open spaces, but should be of a mid-rise form with heights generally in the range of six to 10 storeys. Retail and other non-residential uses may be located at grade and, where appropriate, on the lower floors of buildings. The designation permits a maximum total gross floor area of 4.0 times the area of the lot.

New Toronto Official Plan

At its meeting of November 26-28, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new Plan, in part, with modifications. The Minister's decision has been appealed in its entirety. The Ontario Municipal Board hearing on the new Plan commenced on June 13, 2005 and will continue on June 5, 2006. The majority of the new Plan has been approved by the Board and is anticipated to come into force in the coming weeks.

Once the new Plan comes into force and effect, it will designate the property Mixed Use Area, which permits a range of residential, commercial and institutional uses. The Plan contains development criteria that direct the form and quality of new development in these areas.

The proposal does not require a modification to the new Official Plan.

Zoning

The Zoning By-law designates the site CR T4.0 C3.0 R4.0. The designation permits a mix of residential and commercial uses to a maximum overall density of 4.0 times the lot area (14,432 square metres). Of the permitted floor area, non-residential GFA may comprise up to 3.0 times the lot area (10,824 square metres) and residential GFA may comprise up to 4.0 times the lot area (14,432 square metres).

The Zoning By-law sets a height limit of 23 metres. Angular planes of 44 degrees measured 20 metres high from the property line on Front Street East and measured 16 metres high from the property line on Church Street also regulate the massing of buildings.

Site Plan Control

An application for Site Plan Approval is required, but has not been submitted.

Other Applicable Policies

The property is located within the boundaries of the St. Lawrence Business Improvement Area and the St. Lawrence Neighbourhood Community Improvement Project Area.

At its meeting of July 19-21 and July 26, 2005, City Council adopted the Urban Design Guidelines for the St. Lawrence Neighbourhood Focused Area, (the area bounded roughly by Yonge Street, King Street East, George Street, and the rail corridor). The goal of the Urban Design Guidelines is to improve the quality of the environment in the St. Lawrence Neighbourhood Focused Area, and ensure that elements, which contribute to the special character of the diverse parts of the area, are retained and enhanced. The main planning and urban design objectives for achieving this goal include the enhancement of areas of special character, enhancement of historic buildings and how they are viewed, and improvements to and expansion of public realm areas such as parks, plazas and sidewalks.

Council adopted the guidelines as recommended by the Director, Urban Design, subject to:

“ensuring that any development within the St. Lawrence Neighbourhood Focused Area protected by the guidelines should be respectful and mindful of the current height and density sensitivities, as the area contains one of the richest concentrations of historic buildings of national significance and, as the site of Toronto’s Old Town, is a precious civic treasure and therefore it is important that the unique historical and special character be protected and respected.”

The site is also located within the St. Lawrence Community Improvement Project Area. Council designated the Community Improvement Project Area in 2000, pursuant to Section 28 of the Planning Act, through By-law 643-2000. A working group of area residents and stakeholders has been working with City staff to prepare a Community Improvement Plan for consideration by City Council.

In September 2005, Council identified the area surrounding the site as the St. Lawrence Heritage Conservation District Study Area. Staff expect that a study will commence in the near future.

Ontario Heritage Act

The Ontario Heritage Act (OHA) enables municipalities to designate properties of cultural value or interest. No owner of property designated under the OHA may alter the property in a way that is likely to affect its heritage attributes without the approval of City Council. As noted above, Heritage Preservation staff are recommending that Council state its intention to designate the properties at 70 The Esplanade and 6 Church Street.

Reasons for the Application

An amendment to the former City of Toronto Official Plan is required because the proposed density of the development is 5.9 times the area of the lot, whereas the Official Plan permits 4.0 times the area of the lot.

The development requires a Zoning By-law amendment because the proposed density exceeds the limit of 4.0 times the area of the lot. The proposal also exceeds the 23-metre height limit. The height of the proposed development is approximately 36 metres (excluding mechanical penthouse) measured from the average grade of Church Street. The building also penetrates the angular plan required along Church Street.

Community Consultation

The March 2005 Preliminary Report summarized the discussion at a March 16, 2005 community meeting respecting the original application which was hosted by the Ward Councillor. On July 6, 2005, City Planning staff held a community consultation meeting to obtain community input on the revised 22-storey application as submitted in June 2005. The meeting was attended by approximately 120 persons. While some support was voiced for the proposal, a large number of those present expressed strong concerns. The following issues were raised:

- a) the proposed density with respect to the resulting built-form;
- b) the height and massing of the building, particularly with respect to the physical character of the area and its heritage structures;
- c) the suitability of the architectural style and proposed materials, especially with respect to its compatibility with heritage buildings in the area;
- d) the protection and conservation of heritage buildings;
- e) lack of adherence to the St. Lawrence Neighbourhood Focused Area Urban Design Guidelines;
- f) the amount of commercial space proposed and the types of commercial activities;
- g) traffic and the resulting air pollution generated by the proposal; and
- i) respect of the proposal for neighbourhood context and character.

In January 2006, the applicant and City Planning staff entered into a working group process with representatives of the St. Lawrence Neighbourhood Association, the St. Lawrence Business Improvement Association, neighbouring property owners, and other local stakeholders. The group met four times, resulting in a number of revisions as described above.

The applicant presented the most recent form of the proposal at an open house hosted by the City Planning Division on May 16, 2006. Approximately 25 people attended. While some concerns remained with respect to the architectural fit with the neighbourhood and its heritage character, the scale of the proposal, and its impact on neighbouring properties, most in attendance generally viewed the current proposal as strong improvement over earlier iterations.

Comments:

Land Use

The St. Lawrence neighbourhood is a vibrant, historic and active area of Toronto with a significant mix of residential and commercial uses. The mix of uses contributes to activity in the neighbourhood both during and after business hours.

The site currently contributes to the vibrancy of the neighbourhood in part by accommodating close to 9,500 square metres of non-residential uses. Under the proposal, substantial residential gross floor area will be constructed on the site, while commercial floor area would be reduced to approximately 2,400 square metres.

The non-residential space proposed is appropriately located to animate the adjacent streets, and some office space will be maintained above grade. The proposed mix of uses is consistent with the land use policies of the former City of Toronto Official Plan for Medium Density Commercial-Residential Areas and with the new Official Plan's policies for Mixed Use Areas. Staff find the mix of uses acceptable in the context of the complete proposed settlement.

Heritage

Section 2(d) of the Planning Act provides that the conservation of heritage resources are a matter of provincial interest. Policy 2.5.1 of the 1997 Provincial Policy Statement directs that significant built heritage resources and cultural heritage landscapes will be conserved. Section 3.3.3 of Metroplan encourages the conservation of heritage resources in any development proposal and states that where appropriate, heritage conservation will be a factor in consideration of development proposals. Section 5 of the former City of Toronto Official Plan includes policies to encourage the preservation and conservation of those sites, buildings and structures which have been evaluated and identified as being of architectural and/or historical importance. Section 3.1.5 of the new Official Plan includes policies to conserve heritage resources on properties listed on the City's Inventory of Heritage Property and states, "Development adjacent to these heritage properties will respect the scale, character and form of the heritage buildings and landscapes." The St. Lawrence neighbourhood is currently under consideration as a Heritage Conservation District pursuant to the Ontario Heritage Act.

The site contains two significant heritage buildings. The four-storey buildings at 70 The Esplanade and at 6 Church Street were part of the Greey's Toronto Mill Furnishings Works factory complex. Council has listed both properties on the City's Inventory of Heritage Properties. To protect these buildings, Heritage Preservation Services staff have recommended in a report dated May 8, 2006 that Council state its intention to designate both properties under

Part IV of the Ontario Heritage Act. The Toronto Preservation Board adopted recommendations at its meeting held on May 18, 2006. Staff anticipate that Community Council and City Council will consider the heritage designation at the same time as this Settlement report. If Council designates the properties, alterations to the buildings which would be likely to affect their heritage attributes would require the City's approval under Section 33 of the Ontario Heritage Act.

The revised development proposal submitted by the applicant proposed to retain only the street facades of the building at 70 The Esplanade with a return the depth of one bay. Heritage Preservation Services staff do not feel that sufficient evidence has been presented for the need to remove all but the facades of the structure at 70 The Esplanade and are recommending that the whole of the structure be retained in place as part of the development. However, if sufficient technical information and engineering study are provided to the Manager, Heritage Preservation Services or her designate, which in her opinion substantiate the need for retaining only the street facades of 70 The Esplanade, then, following consultation with the community, Heritage Preservation Services may report back to the Toronto Preservation Board and Council recommending approval on these alterations to the heritage structure at 70 The Esplanade.

The applicant's conservation strategy for 6 Church Street proposes to rebuild the street façade and the north and south elevation returns (to a depth of one bay). Heritage Preservation Services staff are recommending that the façade at 6 Church Street be retained in situ unless evidence can be provided to the satisfaction of the Manager, Heritage Preservation Services or her designate, that a stable foundation cannot be constructed under the façade, that Phase 2 construction access requires the dismantling of the façade, and/or that the masonry cannot be restored allowing the façade to remain intact.

In addition to the two heritage properties on the site, there are significant heritage resources in the area immediately surrounding the subject development site. The St. Lawrence Heritage Conservation District Study Area contains over thirty properties that are recognized on the City of Toronto Inventory of Heritage Properties for their cultural significance. The Study Area is part of "Old Town Toronto", which has one of the largest concentrations of 19th century buildings in Ontario.

The proposed settlement is respectful of the site's heritage and respectful of the heritage character of the area. Retention of heritage buildings on site will preserve and contribute to the area's heritage context. The mid-rise, street-related built form of the development is compatible with the area's heritage structures. The proposed setbacks match the heights of adjacent heritage buildings, contribute to three-dimensionality of the heritage buildings to be preserved on the site, and reduce the visual impact of the upper storeys on the area's heritage character.

Heritage Preservation Services staff have recommended that prior to Site Plan Approval the owner provide final plans for the exterior design and detailing of the Front Street façade of the proposed development to the satisfaction of the Manager, Heritage Preservation Services. A detailed Conservation Plan will be required prior to site plan approval for the second phase. The Section 37 Agreement will secure review of architectural design and exterior materials to the satisfaction of the Chief Planner. These measures will provide further ability to ensure that the

final architectural design of the development is compatible and consistent with the area's heritage resources.

Density

As discussed below, the proposed density is massed in a built-form that is appropriate for the site, defines adjacent public streets, and meets the intent of the St. Lawrence Neighbourhood Focused Area Urban Design Guidelines. The neighbourhood is located downtown in close proximity to services and transit. While not all sites in the downtown are appropriate for intensification, this site is well-located for intensification that can be accommodated within a form of development compatible with the scale of development and the heritage character of the area. The proposed Zoning By-law limit of 225 units will limit future unexpected increases in unit count and intensity of use on the site, while providing the applicant with some flexibility in terms of unit count. City Planning staff will review the Site Plan Application respecting an acceptable mix of units sizes and bedroom counts.

Policy 5.10 of the former City of Toronto Official Plan makes provision for increase in permitted density where a designated building or portion thereof is retained in the new development. Policy 3.1.5.8 of the new Official Plan contains similar provisions. The policies make no provision for density increases where the façade of a designated building is retained, but no floor area is retained.

As noted above, the proposal would retain only the façade of 6 Church Street. Heritage Preservation Services staff have recommended that all of the heritage building at 70 The Esplanade be preserved and incorporated into the new development. However, the applicant has acknowledged that they are undertaking engineering investigations and they expect that the results may justify retaining only the street-facing facades of the building at 70 The Esplanade subject to the process recommended by the Manager of Heritage Preservation Services in her May 8, 2006 report.

While staff have considered the heritage policies of the both the former City of Toronto Official Plan and the new Official Plan, they have not applied the density bonus provisions in this case, due to the applicant's stated intent to investigate the removal of all but the street-facing facades of 70 The Esplanade. Staff nonetheless believe that the proposed density of 5.9 is supportable for the reasons outlined above.

Any future proposal to alter 70 The Esplanade in a way that retains only its street-facing facades will require appropriate evaluation by Heritage Preservation Services and approval by City Council in accordance with the Ontario Heritage Act, as outlined earlier in this report.

Height and Massing

The height and massing of the proposal have been significant issues in the review of this development application and the associated community consultation. The site is subject to a 23-metre height limit and angular planes. Development on the site should define adjacent streets, contribute positively to the pedestrian realm, reinforce the physical character of the

neighbourhood, complete the transition from higher and denser built-form in the areas to the west, be compatible with the area's heritage resources, and meet the St. Lawrence Neighbourhood Focused Area Urban Design Guidelines. Staff have not supported a tower form of development on the site because it would be contrary to planning objectives for the area and would contradict the identification of the area as a height-sensitive area in the Urban Design Guidelines.

Generally, the current proposal is for a mid-rise building ranging in height from eight storeys to 11 storeys, and providing a continuous streetwall on all three street frontages, and stepping back from the street at upper storeys. Staff agree that this built form is supportable.

Phase 1 of the development is proposed for the northern portion of the site on the corner of Front Street East and Church Street. From Front Street East, the proposed development is slightly less than 35 metres tall, excluding a 5 metre mechanical penthouse, and will appear as a ten storey building. From the average grade along Church Street, the building, Phase 1 of the development will be approximately 36 metres tall, excluding the mechanical penthouse, and will appear as an eleven-storey building. The building steps back from Front Street East approximately 6 metres at a height of approximately 15 metres (the fifth storey), in line with the heights of the row of heritage buildings immediately to the west along Front Street East. Further stepbacks are provided at upper storeys to meet the angular plane requirement. Shallower stepbacks are provided from Church Street. The Phase 1 mechanical penthouse will not exceed 5 metres in height and will be set back approximately 10 metres from the edge of the building facing Front Street East and 4 metres from the edge of the building facing Church Street.

Phase 2 of the development is proposed for the southern portion of the site on the corner of Church Street and the Esplanade. The heritage buildings at 70 The Esplanade and 6 Church Street are within Phase 2. The building will be approximately 29 metres tall, excluding the 5 metre mechanical penthouse, and will appear as an eight-storey building. The building will step back approximately 2.6 metres from the edge of the existing heritage buildings at 70 The Esplanade at (the fifth storey) and 2.8 metres from the edge of the 6 Church Street heritage building (the sixth storey). Further stepbacks are proposed for the upper storeys. The Phase 2 mechanical penthouse will be set back approximately 4 metres from the edge of the building facing The Esplanade and three metres from the edge of the building facing Church Street.

Staff have examined the proposed height within the context of existing and approved buildings in the immediate surrounding area. Buildings are predominantly low- and mid-rise, up to about 26 metres in height. Taller buildings are generally located on the western edge of the neighbourhood in the High Density Mixed Commercial Residential (HDMCR) areas where they provide transition from the Financial District to lower scale areas. In addition, on the southern edge of the neighbourhood, buildings of approximately 40 metres in height abut the north side of the rail corridor.

There are important policies in the former City of Toronto Official Plan and the new Official Plan which address the issue of transition between areas of differing development intensity. Built form in this area needs to be carefully planned and designed in order to achieve rapid and appropriate transition between the Financial District and the low and mid-rise character of St.

Lawrence and Toronto's "Old Town". Recently approved development at 40 The Esplanade on the corner of Scott Street and The Esplanade and on the same block as the subject site was planned to establish a transition from west to east to areas of lower scale and development intensity. The 40 The Esplanade development currently under construction consists of a western tower 101.3 metres tall and an eastern tower 47.5 metres tall. The significant difference in height between these two parts of the development signals the degree and direction of transition to be achieved on the block. The site at 70 The Esplanade, 6-16 Church Street, and 51-61 Front Street East is firmly within a lower scale area. The proposed height and massing of the development together will reinforce the area's physical character and complete the transition from nearby areas of higher development intensity.

The heights of the proposed development provide for relatively high floor-to-ceiling heights, resulting in a building that is somewhat taller than a typical 11-storey building. Staff believe the floor to ceiling heights are reasonable given the need to integrate the structure into the preserved heritage buildings, and due to structural requirements that typically result from a large number of stepbacks. The draft Zoning By-law limits the height both in terms of metres and the number of storeys.

The proposal complies with the 44 degree angular plane which the Zoning By-law requires along Front Street East.

The proposal does not meet the 44 degree angular plane which the Zoning By-law requires along Church Street. This angular plane is difficult to achieve on much of the site above the fifth storey due to the narrow dimensions of the property. The intent of the angular plane is to maintain the streetwall scale of the predominant existing buildings and to allow natural light to penetrate onto the sidewalk. Staff believe that the applicant has successfully met the intent of the angular plane by providing the described stepbacks at the fifth storey and above. Shadow impacts of the proposal are discussed later in this report.

There is no angular plane requirement along The Esplanade. The stepbacks from The Esplanade have been designed so that the new structure above the heritage building will not be visible to a pedestrian standing on the sidewalk on the north side of The Esplanade adjacent to the site.

The proposed development also achieves the objectives of the St. Lawrence Neighbourhood Focused Area Urban Design Guidelines. Under the Guidelines, buildings in the Church Street and The Esplanade Corridors should be consistently scaled and have a high level of architectural detail. The precinct around Berczy Park calls for a low scale of buildings along Front Street East, which is prescribed by the angular plane requirement noted above. In the case of the current proposal, the siting of the street wall buildings, reinforced by the proposed stepbacks and angular planes, completes the urban block and helps frame the historic Gooderham (Flatiron) building. The reduced height of the proposal at about 36 metres (11 storeys) is consistent with the intent of the Guidelines in maintaining the scale and heritage character of the area.

The draft Zoning By-law allows for projects beyond the prescribed building envelope for structures such as eaves, cornices, parapets and balconies. Staff will examine proposed

projections through the Site Plan review to ensure that such projections do not depart from the intent of the drawings submitted as part of this rezoning application.

Staff believe that the proposed heights are supportable. A mid-rise, streetwall building is compatible with the built-form of the area. The proposed setbacks reinforce a pedestrian scale that is consistent with the heights of many of the area's heritage buildings and the existing streetscape.

Neighbouring Properties

The proposed height and massing will create a new relationship between the site and two adjacent properties to the west: 56-58 The Esplanade and 49 Front Street East.

Nos. 56-58 The Esplanade is an irregularly shaped property occupied by a non-residential building built in the late 1800s ranging in height from two to five storeys that covers nearly the entire lot.

At lower levels, the proposed building at 70 The Esplanade and 6-16 Church and its service areas abut the property line. Above the second storey, proposed setbacks from 56-58 The Esplanade range from zero metres to 5.5 metres.

The owner of 56 The Esplanade has expressed concerns regarding facing conditions between the proposed development and her building. She has generally requested 5.5 metre setbacks from property lines facing her property above the height of existing buildings, and/or where existing windows face the property line. She has also requested animation of building facades facing her property

The City's Zoning By-law requires 5.5 metre setbacks for residential windows from a property line. The By-law does not establish a similar standard for non-residential windows. Therefore, staff do not recommend requiring the applicant to provide 5.5 requested setbacks in areas where no residential windows are proposed. The proposed drawings show a light well more than one metre deep along windows at the rear of the property. Staff recommend a setback from fifth floor windows in 56 The Esplanade. Site Plan review will provide an opportunity to consider materials and design treatment to add interest to any blank facades, although opportunities for residential windows facing 56-58 The Esplanade may be limited in certain areas due to separation distances. While the applicant's drawings show residential windows facing the portion of the property line along the 4.2 metre setback, at this time staff do not recommend relieving the proposed development from Zoning By-law requirements to provide a 5.5 metre setback for principal residential windows from the lot line, given the neighbouring property owner's concerns respecting facing conditions.

No. 49 Front Street East is a significant heritage building on a deep and narrow lot currently occupied by non-residential uses. The proposed development abuts 49 Front Street East to a depth of approximately 17 metres from the street. Beyond the 17 metre depth, a setback of approximately 8.2 metres is provided. The setback provides the applicant with the ability to place residential windows facing the 49 Front East property line which meet the Zoning By-

law's 5.5 metre standard for setback of residential windows from a property line. The setback also provides an opportunity for a small private courtyard at grade.

No. 49 Front Street East is a designated heritage building and its owner has voiced strong concern regarding the impact of the proposal's massing on his building, particularly with respect to views from the upper floors. This neighbouring owner has submitted planning applications for Site Plan Approval and minor variances for a residential addition to 49 Front Street East. Many of the proposed dwelling units in 49 Front Street East would have main windows and balconies with a zero metre setback facing the property line of 51 Front Street East. The 49 Front Street East proposal would rely on the courtyard as part of Phase 1 of the subject development to provide separation between the facing windows of the proposed buildings on the two properties. Planning staff have expressed concern respecting the lack of window setbacks in the 49 Front Street East proposal and have stated that an appropriate easement or limiting distance agreement between the two property owners would be necessary to guarantee adequate window separation for the proposed units in 49 Front Street East. No such agreement is in place. The owner of 49 Front Street East has appealed both his minor variances and his Site Plan Application to the Ontario Municipal Board.

The owner of 49 Front East has stated that he is not satisfied with the proposed development discussed by this report, as he believes it undermines the viability of his property and it does not secure a suitable relationship to his own property that either protects his existing condition or secures the feasibility of his development proposal. Staff do not believe that the proposal at 70 The Esplanade site negatively impacts the heritage features of 49 Front Street East and do not otherwise believe there is undue impact on the property.

Shadow Impact

The applicant has submitted a sun/shadow study to illustrate the shadow impacts of the development on March 21 and September 21.

The St. Lawrence Neighbourhood Focused Area Urban Design Guidelines identify shadow sensitive areas, including Berczy Park. The Guidelines underscore the importance of the Front Street East angular plane zoning requirement to achieve acceptable shadow impacts.

The proposed development complies with the Front Street angular plan. The proposed development will result in approximately 50 square metres of additional shadow over the as-of-right built form on the eastern end of the Park at 9:18 am on March 21 and 10:18 am on September 21. The shadows will move off the park within one hour. Staff believe the shadow impact on the park will be minor due to its small extent, the early hours of the impact, and its short duration.

Under the new Official Plan, development in Mixed Use Areas should maintain sunlight on adjacent streets and the area's Urban Design Guidelines underscore the importance of allowing natural light to penetrate onto the sidewalk. The former City of Toronto Official Plan identifies a five-hour sunlight standard (around solar noon) for Church Street between March 21 and September 21. The new Official Plan does not include this standard. The proposed development

will protect for more than four hours of sunlight around solar noon, with impacts very similar to the as-of-right built-form. It does not meet the five-hour sunlight standard by less than one hour.

Generally, the shadow impact is minor and acceptable in this case within the overall context of the settlement which achieves conservation of heritage buildings and masses the development in a way that is respectful of the area's heritage character.

Common Outdoor Space

The Zoning By-law sets minimum requirements for common outdoor space for non-residential and mixed use developments in the Central Core. The purpose of this portion of the zoning by-law is to provide employees of office development outdoor space as an amenity. Most major office development in the Downtown has provided common outdoor space. The Zoning By-law would require 109 square metres of common outdoor space for the proposal.

The development proposal includes no common outdoor space. The internal courtyard proposed on the eastern side of the site does not qualify as common outdoor space because it is enclosed by the development and because it may not be publicly accessible.

On balance, staff find that the lack of outdoor space is acceptable, given the relatively small amount of proposed non-residential gross floor area, the presence of Berczy Park across the street from the proposed development, and plans in the neighbourhood to construct an extension of Crombie Park on the lands bounded by The Esplanade, Lower Jarvis Street, Wilton Street, and Market Street. Furthermore, provision of unenclosed common outdoor space on the site would result in a disruption of the streetwall, which is considered an important urban design feature of the proposal and serves to define adjacent streets.

While staff believe that relief from common outdoor space requirements is supportable, there is community interest in achieving an interior public courtyard in the development. The original development proposal included such a courtyard, which was removed in the April 2006 submission as a result of changes to the massing and deployment of density on the site.

Traffic, Transportation, and Parking

A Traffic Impact Study submitted by the applicant concluded that the traffic volumes associated with the project can be accommodated on the adjacent arterial streets with no detrimental traffic impacts, and without the need for road improvements. Transportation Services staff have reviewed the study and have found that the traffic impacts associated with the proposal are acceptable. At the community consultation meetings, a number of area residents expressed concern about the traffic congestion in the area and the potential contribution of traffic generated by the development to congestion and air pollution and expressed support for reduced parking standards as a tool to discourage automobile usage.

Transportation Services staff have recommended a parking ratio for the project higher than that required for the Central Area under the City's Zoning By-law. The ratio they have

recommended is consistent with the ratio which they generally recommend based on past study of residential condominium developments in the Central Area.

The neighbourhood of the proposal is exceptionally well-served by municipal and regional transit. The site is within a few blocks of half a dozen bus and streetcar routes, Union Station and the King subway station, and the GO Bus Station. Given the transit access and Council's recent position, partially upheld by the OMB, relating to minimum and maximum parking ratios for the development at 40 The Esplanade, Planning staff recommend relying on the Zoning By-law's minimum parking requirements for the Central Area, and that the site-specific by-law include a maximum parking ratio consistent with the condominium standard recommended by Transportation Services as a minimum. That standard is:

- 0.3 spaces per bachelor unit;
- 0.7 spaces per 1-bedroom unit;
- 1.0 spaces per 2-bedroom unit;
- 1.2 spaces per 3-bedroom unit; and
- 0.06 visitor parking spaces per unit

The most recent drawings submitted by the applicant show typical parking spaces with shorter dimensions than required by the Zoning By-law. Staff do not support the reduced dimension at this time. The applicant has agreed and has advised that the proposed underground garage can accommodate parking space dimensions that comply with standard Zoning By-law requirements.

Building Sustainability

Community representatives in the area have a strong interest in promoting development that is environmentally sustainable. The applicant has also expressed an interest in sustainability measures for the new development and has agreed to make reasonable commercial efforts to obtain LEED (Leadership in Energy and Environmental Design) certification. LEED certification requires special design and construction techniques to meet sustainability criteria. The applicant's commitment will be secured through the Section 37 Agreement (discussed below), although it does not form part of the package of community benefits in exchange for an increase in height or density.

Site Plan Approval

As discussed above, Policy 5.10 of the former City of Toronto provides for increases of density where a designated heritage building is preserved on the development lot. Under the policy, one condition of such an increase is that no such by-laws be passed unless detailed plans as required under Section 41 of the Planning Act for the new development, incorporating the heritage property, are approved concurrently.

The new Official Plan contains a similar policy. Policy 3.1.5.8 states that additional gross floor area may be permitted in excess of what is permitted in the Zoning By-law for lands designated Mixed Use Areas for a lot containing a conserved heritage building and new development

provided that the by-laws are enacted at the same time as the approval of the site plan for the entire development.

An important intent of these policies is to ensure effective use of site plan review so that new development provides an appropriate context for the conserved heritage structures.

In this case, the heritage structures to be preserved are part of the second phase of development. The applicant is concerned that completing site plan prior to the enactment of bills is not practical, since it would require Site Plan Approval potentially several years in advance of the second phase.

Staff have taken a number of steps to secure heritage preservation on the site and development that appropriately complements the heritage structures on the site and nearby. These include:

- the requirement to enter into a Heritage Easement Agreement prior to the enactment of the amending by-laws;
- the requirement to submit a detailed Conservation Plan for the heritage structures prior to Site Plan Approval of Phase 2 to the satisfaction of the Manager of Heritage Preservation Services; and
- the requirement in the proposed Section 37 Agreement and amending By-laws to secure architectural features and materials for each phase of the development.

Accordingly, staff are satisfied to recommend that Council accept as part of this settlement that a site plan for Phase 2 will not be required prior to the enactment of the Zoning By-law Amendment. However, there is not a rationale to delay the Site Plan review of Phase 1, and staff recommend that a Phase 1 Site Plan be submitted and approved prior to the issuance of an OMB Order respecting the enactment of a site-specific Official Plan and Zoning By-law amendments.

Phasing

The first phase will contain the site's Type G loading space, visitor parking, and visitor bicycle parking, as well as a disproportionately large share of the site's parking spaces. Use and access of any shared facilities may be secured through Site Plan Approval or through Draft Plan of Condominium Approval. Because the large majority of parking spaces are to be located on the Phase 1 lands, the developer should ensure that adequate parking is reserved for the second phase. Any application by the owner for Draft Plan of Condominium Approval or for severance should require appropriate conditions in this regard.

As noted below, staff are not recommending at this time that Site Plan Approval for Phase 2 be required prior to enactment of a site-specific Zoning By-law for the site. However, should a technical review of the Phase 1 site plan identify issues that can only be resolved through Site Plan review of Phase 2, staff may require submission and approval of a Phase 2 site plan concurrent with Phase 1.

Section 37

A package of community benefits contributes to the planning merits of the proposal and implements Official Plan objectives related to well-managed and balanced growth. The applicant has agreed to provide the following benefits in exchange for increases in height and density pursuant to Section 37 of the Planning Act:

- (a) a minimum of ninety square metres of ground floor non-residential space under a lease term of at least 5 years at nominal cost for use as a seniors facility;
- (b) a shoreline commemoration feature in the public realm to the satisfaction of the Chief Planner, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team, at a minimum value of one percent of the gross construction costs of the project;
- (c) public access through the vehicular courtyard on the Phase 1 lands to protect for future public pedestrian access to Scott Lane from Church Street should the lane be extended to the property;
- (d) review and approval of architectural design and exterior materials of the proposed development, including review and approval of the exterior design and detailing of the Front Street facade of the proposed development.

The Section 37 Agreement will also secure other matters, including streetscaping on adjacent rights-of-way, an irrigation system for street trees in the public right-of-way, and reasonable commercial efforts to obtain LEED certification.

Conclusions:

The application for Official Plan and Zoning By-law Amendments at 70 The Esplanade, 6-16 Church Street, and 51-61 Front Street East has been appealed to the Ontario Municipal Board. The development proposal has undergone a number of revisions to achieve a proposal that is supportable by City Planning staff. It is recommended that Council accept the settlement as described in this report, for development of a mixed use mid-rise building on the site, with a series of stepbacks at upper storeys and community benefits in exchange for an increase in height and density, pursuant to Section 37 of the Planning Act.

Contact

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Fax: (416) 392-1330
Email:kknoeck@toronto.ca

Gary Wright
Director, Community Planning, Toronto and East York District

T:14649049003 – tm

List of Attachments:

- Attachment 1: Application Data Sheet
- Attachment 2: Site Plan – Ground Floor
- Attachment 3: Site Plan – Level 2 (Ground Floor at Front Street East)
- Attachment 4: East Elevation
- Attachment 5: North and South Elevations
- Attachment 6: Official Plan
- Attachment 7: Zoning
- Attachment 8: Draft Official Plan Amendment
- Attachment 9: Draft Zoning By-law Amendment

Attachment 1: Application Data Sheet

Application Type Official Plan Amendment & Application Number: 05 105693 STE 28 OZ
 Details Rezoning OPA & Rezoning, Standard Application Date: January 31, 2005

Municipal Address: 70 THE ESPLANADE, TORONTO ON
 Location Description: PL 5A PT WATER LT31 **GRID S2812
 Project Description: Propose 11 storey mixed-use apartment condo with non-residential at grade facing front street. Please note multiple addresses.

Applicant: **Agent:** **Architect:** **Owner:**
 CONCERT PROPERTIES GREEY REALTY
 LTD. BRIAN HOLDINGS LIMITED
 MACCAULEY

PLANNING CONTROLS

Official Plan Designation: Medium Density Mixed Site Specific Provision:
 Commercial-Residential Area
 Zoning: CR T4.0 C3.0 R4.0 Historical Status:
 Height Limit (m): 23 Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	3608	Height:	Storeys:	11
Frontage (m):	110.85		Metres:	41.2
Depth (m):	40.01			
Total Ground Floor Area (sq. m):	1338.85			Total
Total Residential GFA (sq. m):	18807		Parking Spaces:	180
Total Non-Residential GFA (sq. m):	2425.52		Loading Docks	2
Total GFA (sq. m):	21232.52			
Lot Coverage Ratio (%):	37.1			
Floor Space Index:	5.88			

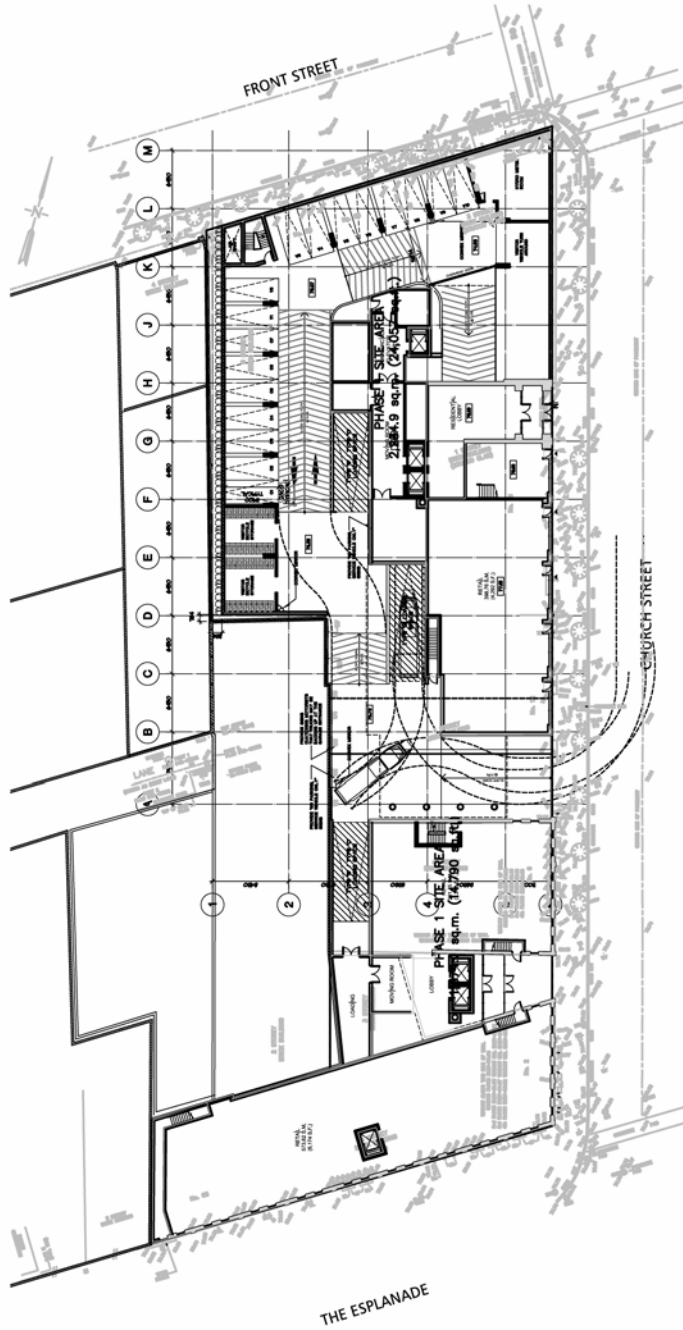
DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	18807	0
Bachelor:	0	Retail GFA (sq. m):	1202.46	0
1 Bedroom:	89	Office GFA (sq. m):	1223.06	0
2 Bedroom:	103	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	192			

CONTACT: **PLANNER NAME:** **Kyle Knoeck, Planner - East Section**
 TELEPHONE: **(416) 392-7215**

Attachment 2: Site Plan



Ground Floor Plan

Applicant's Submitted Drawing

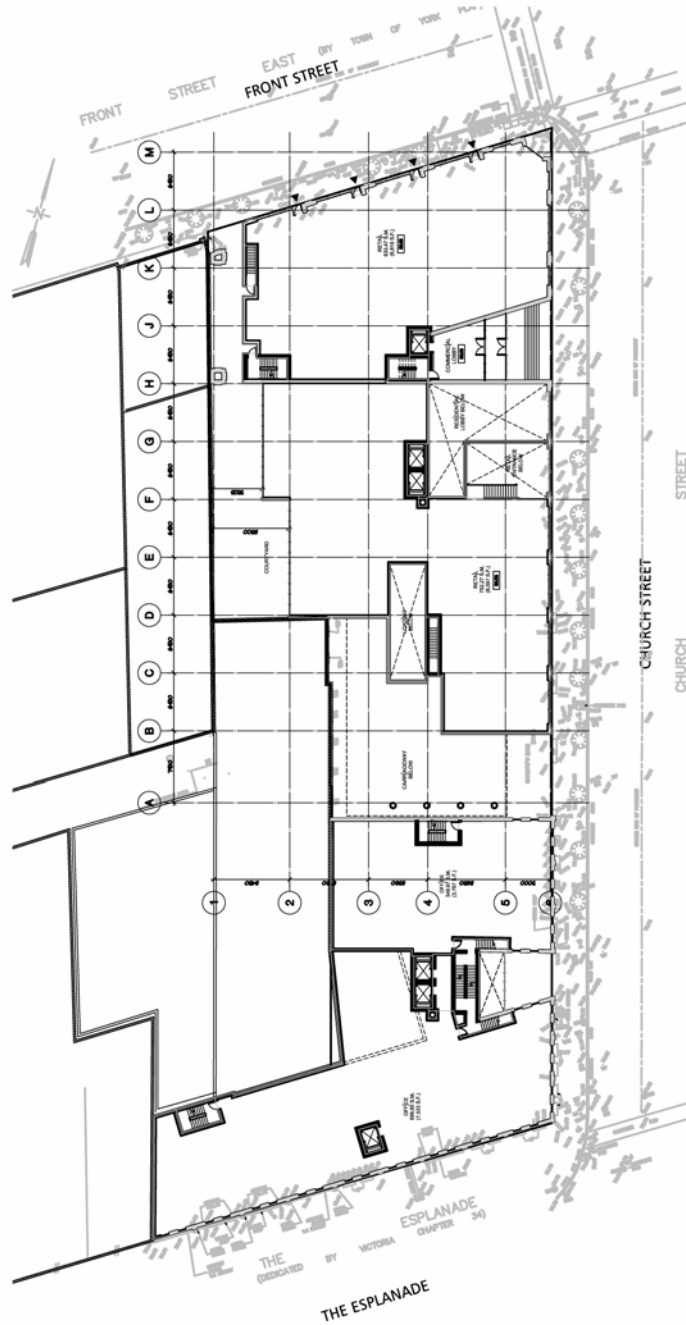
Not to Scale
05/17/06



70 The Esplanade, 6 - 18 Church Street &
53 - 61 Front Street East

File # 05_105693

Attachment 3: Site Plan - Level 2 (Ground Floor at Front Street East)



Second Floor Plan

Applicant's Submitted Drawing

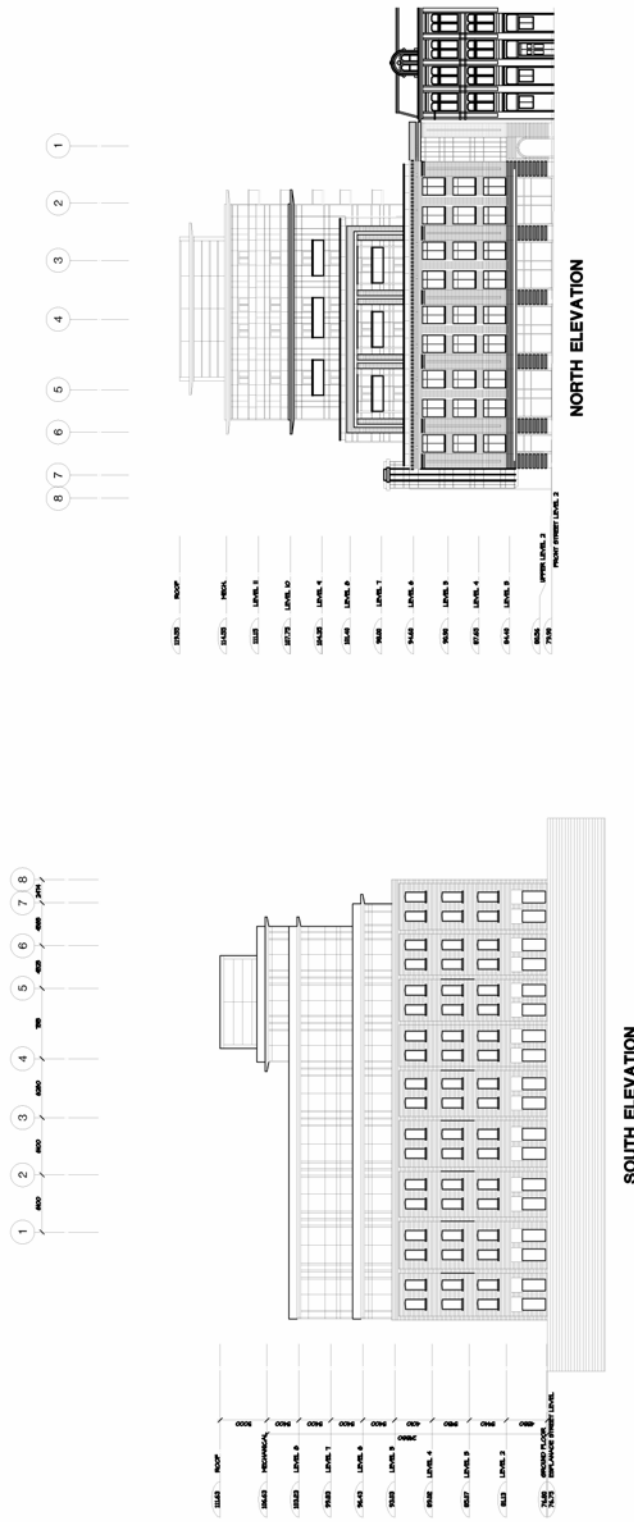
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70 The Esplanade, 6 - 18 Church Street &
53 - 61 Front Street East

File # 05_105693

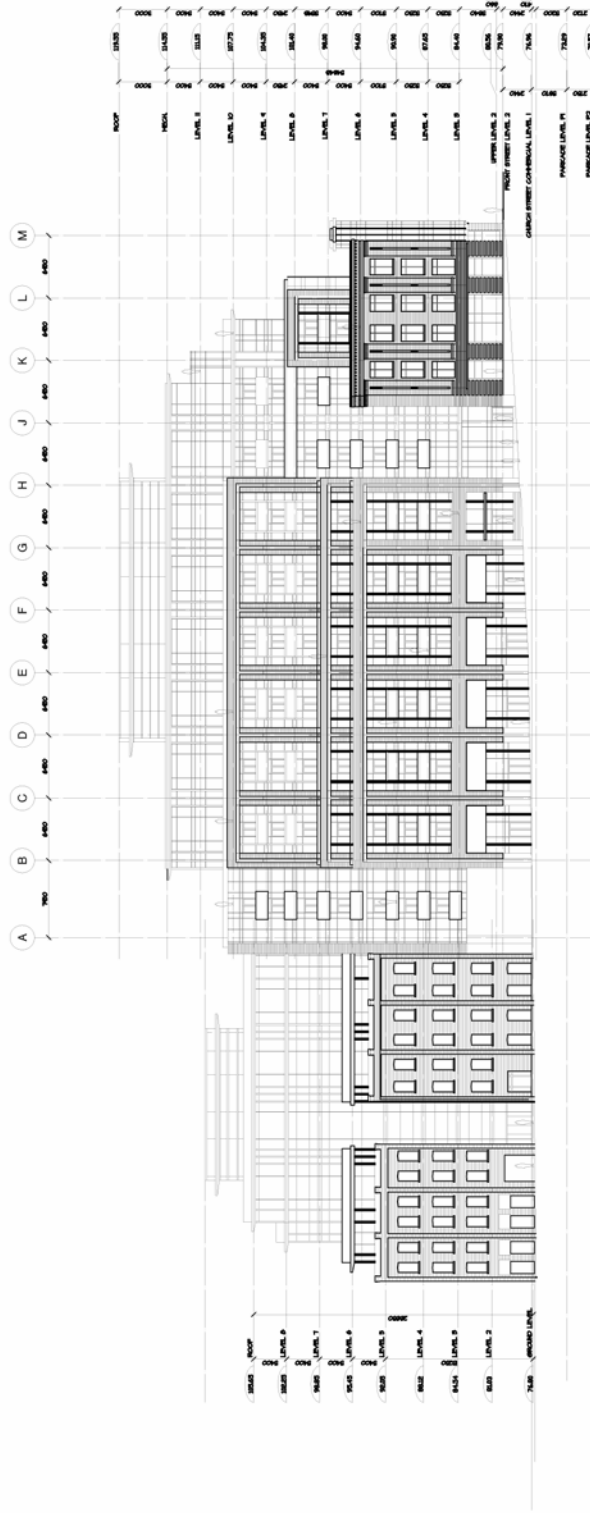
Attachment 4: Elevation 1



Elevations
Applicant's Submitted Drawing
Not to Scale
05/17/06

70 The Esplanade, 6 - 18 Church Street & 53 - 61 Front Street East
File # 05_105693

Attachment 5: Elevation 2



East Elevation

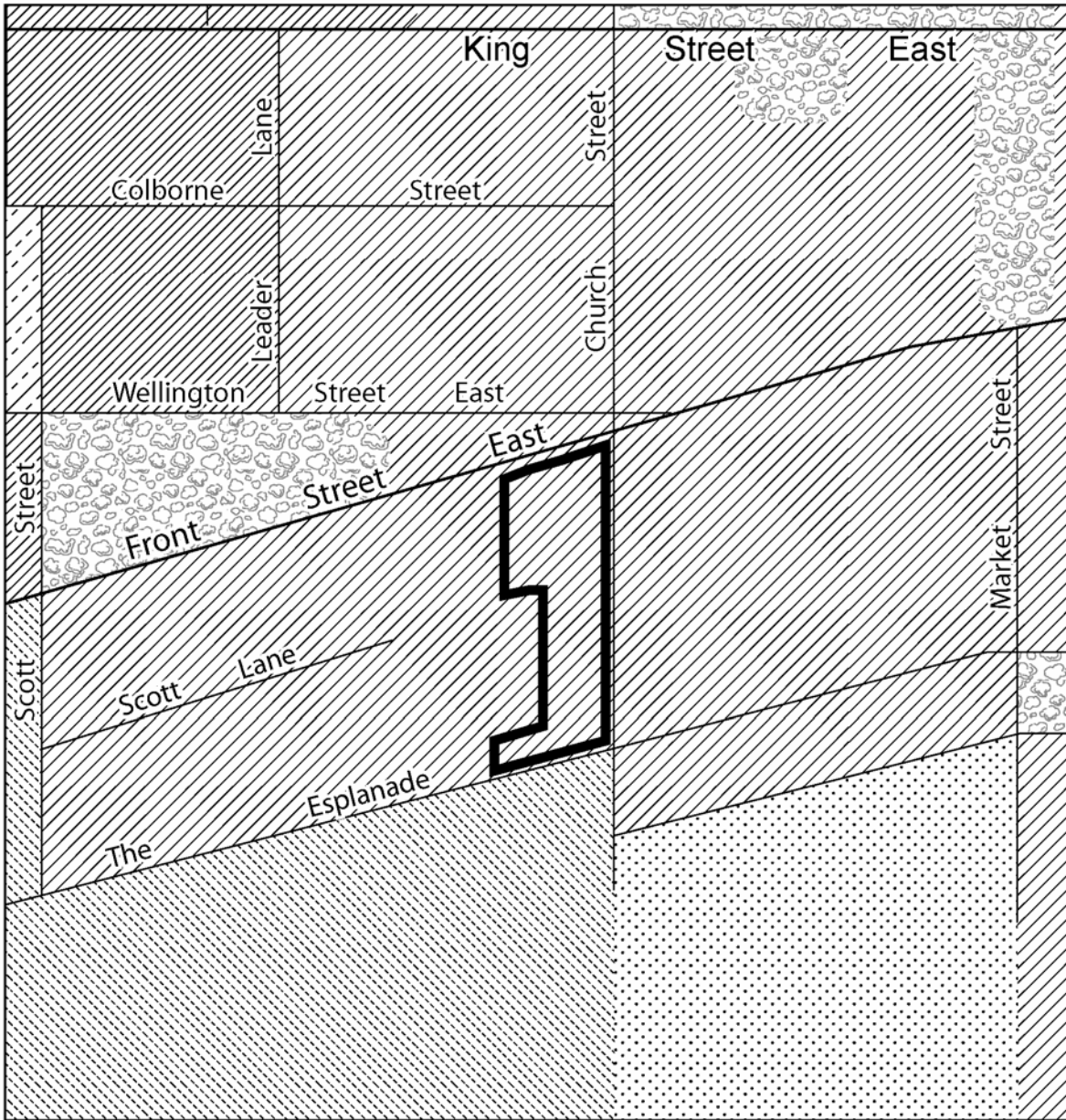
Elevations
70 The Esplanade, 6 - 18 Church Street & 53 - 61 Front Street East

Applicant's Submitted Drawing

Not to Scale
05/17/06

File # 05_105693



Attachment 6: Official Plan (Map)



 **TORONTO** City Planning
Division
Official Plan

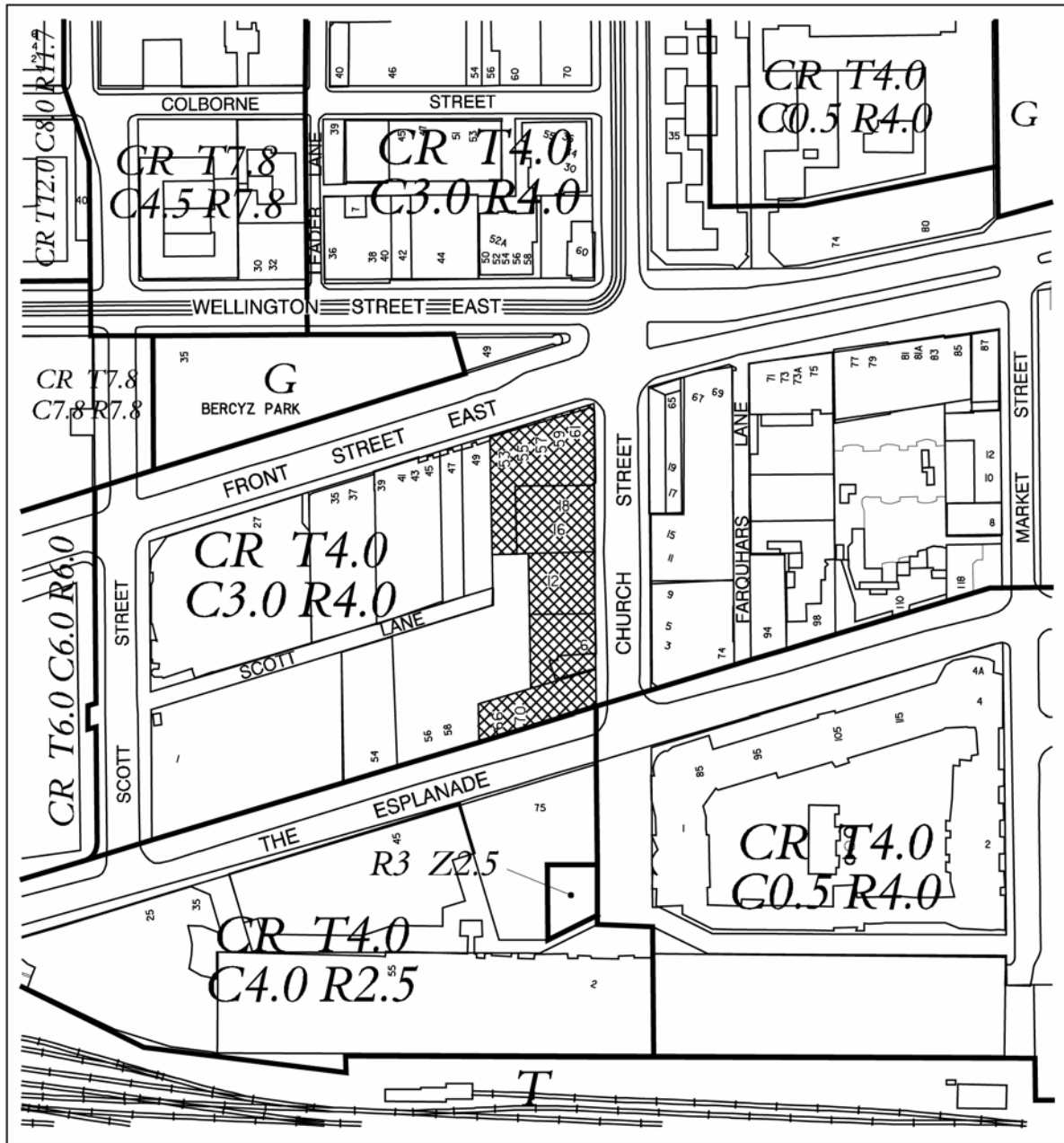
70 The Esplanade, 6 - 18 Church Street &
53 - 61 Front Street East

File # 05_105693

- | | |
|---|---|
|  Site |  High Density Mixed Commercial - Residential Areas 'B' |
|  Medium Density Residence Areas |  Financial District |
|  Medium Density Mixed Commercial - Residential Areas |  Open Space |
|  High Density Mixed Commercial - Residential Areas 'A' | |


Not to Scale
11/28/05

Attachment 7: Zoning (Map)



TORONTO City Planning Division
Zoning

70 The Esplanade, 6 - 18 Church St & 53 - 61 Front St East

File # 05_105693

- G Parks District
- R3 Residential District
- CR Mixed-Use District
- T Industrial District



Not to Scale
 Zoning By-law 438-86 as amended
 Extracted 11/28/05 - TA

**Attachment 8
Draft Official Plan Amendment**

Authority: Toronto and East York Community Council Report Number ____, Clause No. ____,
adopted as amended, by City of Toronto Council on *date*
Enacted by Council: *date*

CITY OF TORONTO

BY-LAW No. _____

**To adopt Amendment No. 369 of the Official Plan
of the City of Toronto respecting the lands known municipally as 70 The Esplanade, 6-16
Church Street, and 51-61 Front Street East**

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

1. The text and maps attached hereto as Schedule 'A' are hereby adopted as amendments to the Official Plan of the City of Toronto.
2. This is Official Plan Amendment No. 369.

ENACTED AND PASSED this __ day of __, A.D. 2004.

New Deputy Mayor,
Deputy Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

City of Toronto By-law No. ____

SCHEDULE “A”

1. Section 18 of the Official Plan for the former City of Toronto is hereby amended by adding the following Section 18.685 and the attached Map 18.685;

“18.685 Lands municipally known in the year 2004 as 70 The Esplanade, 6-16 Church Street, and 51-63 Front Street East

See Map 18.685 at the end of this Section.

(1) Notwithstanding any of the provisions of this Plan, Council may pass by-laws applicable to the lands delineated by heavy lines on Map 18.685 to permit the erection and use of a mixed use building having a maximum aggregate *residential gross floor area* and *non-residential gross floor area* of 21,275 square metres;

(2) Council may not pass any by-law designating the lands for uses described in Section 1 hereof, unless in return for the residential densities and height permissions thereby granted, the owner of the lands is required by such by-law to have first entered into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“*Planning Act*”), to secure the facilities, services and matters set out in Section 3 hereof, and to ensure that such agreement is in a form satisfactory to the City and is appropriately registered on title to the lands;

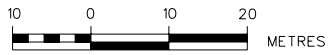
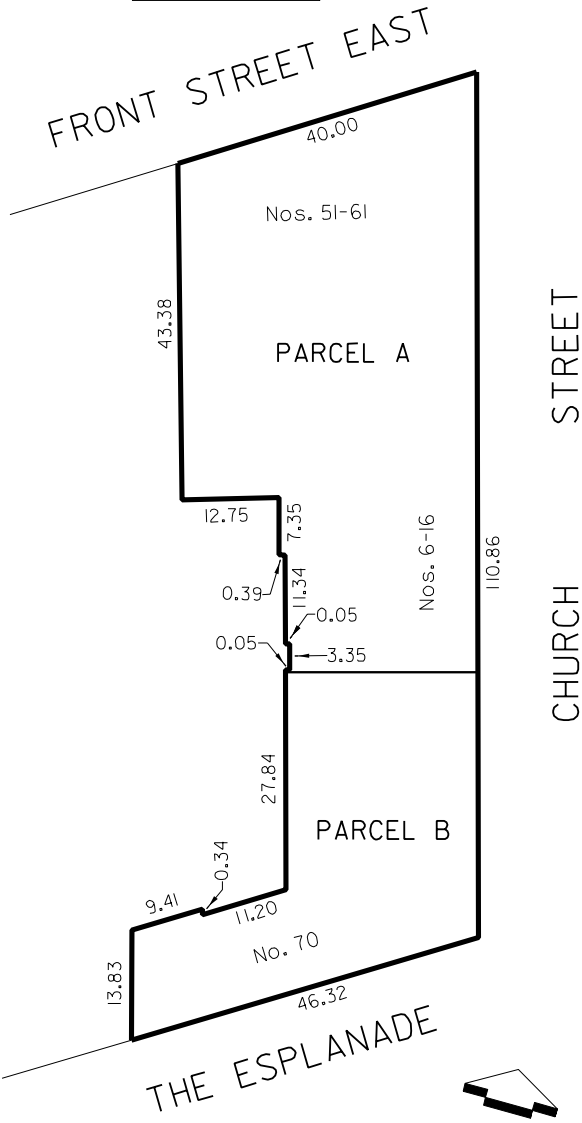
(3) In return for the residential densities and height permissions granted by a by-law designating the lands for residential and other uses, including any by-law described in Section 1 hereof, the owner shall enter into an agreement with the City pursuant to Section 37 of the *Planning Act*, to secure the following facilities, services and matters:

- (a) within the property known as 6 Church Street in 2006, provides a lease for a minimum of 90 square metres of ground floor non-residential space for a term of 5 years commencing on the date of the issuance of the first building permit on Parcel A for a senior citizen’s facility, at a nominal cost to the City;
- (b) provides a shoreline commemoration feature in the public realm to the satisfaction of the Chief Planner, at a value of not less than one percent of the gross construction costs of the development, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team;
- (c) provides for the maintenance of reasonable public pedestrian access through the vehicular courtyard on Parcel A between 7 a.m. and 11 p.m. daily in the event that Scott Lane is extended to Parcel A;
- (d) provides reasonable streetscape improvements, including tree installations on the public right-of-way adjacent to the lot;

- (e) provides an irrigation system for all street trees in the public right-of-way adjacent to the lot, with automatic timers, such irrigation system to be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the City's General Manager of Parks, Forestry and Recreation prior to the first occupancy of the development, provides a Letter of Credit to secure such work to the City's satisfaction prior to the issuance of the first foundation building permit, and maintains the entire system in continuing good order and operation provided that the City provides all easements necessary for the construction, maintenance and operation of such irrigation system the public right-of-way at no cost;
- (f) provides exterior design and materials for the development, including final plans for the exterior design and detailing of the Front Street façade, to be secured in an agreement pursuant to Section 41 of the *Planning Act* having due regard to the context, including the heritage character of the neighbourhood; and
- (g) uses reasonable commercial efforts to obtain LEED Certification of the Building and provides to the City documentation respecting certification for the development and the marketing materials that will include information on LEED certification.

MAP 18.685

DRAFT



SURVEY AND MAPPING SERVICES
MAY 2006 DRAWN: VG
DP06/18685.DGN
FILE: C12-243
MAP No. 510-321

**Attachment 9
Draft Zoning By-law Amendment**

Authority: Ontario Municipal Board Decision/Order No. _____

CITY OF TORONTO

BY-LAW NO. XXX-2006

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 70 The Esplanade, 6 – 16 Church Street, and 51- 61 Front Street East.

WHEREAS the Ontario Municipal Board, by way of an Order issued on the ____ day of _____, 2006, determined to amend the former City of Toronto Zoning By-law No. 438-86 with respect to lands known municipally, in the year 2005, as 70 The Esplanade, 6 – 16 Church Street, and 51- 61 Front Street East;

WHEREAS authority is given to the Ontario Municipal Board under Section 34 of the Planning Act, R.S.O. 1990, c. P.13, as amended;

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law;

AND WHEREAS subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters;

AND WHEREAS the owner of the lands known at the date of enactment of this By-law as 70 The Esplanade, 6 – 16 Church Street, and 51- 61 Front Street East (the “Lands”) has elected to provide the facilities, services or matters as are set out in this By-law;

AND WHEREAS the increase in height and density of development permitted under this By-law beyond that otherwise permitted on the Lands by By-law 438-86, as amended, is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the owner of the Lands and the City of Toronto;

THEREFORE the Ontario Municipal Board orders as follows:

1. None of the provisions of Section 2 with respect to the definition of “*grade*” and Sections 4(2)(a), 8(3) Part I 1, 8(3) Part I 3 (a), 8(3) Part III 1 (a), Part XI 2, 12(2)259 and 12(2) 260 of Zoning By-law No. 438-86, 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 and use of one or more *mixed-use buildings* on the lands shown on Plan 1 attached to and forming part of this By-law, provided that:

- (1) the *lot* on which the proposed buildings are to be located comprises not less than the lands outlined by heavy lines on Plan 1, attached to and forming part of this By-law;
- (2) no portion of any building or structure is located otherwise than wholly within the areas delineated by heavy lines as shown on Plans 2a and 2b, attached to and forming part of this By-law;
- (3) Section (2) hereof does not apply to the type of structure listed in the column entitled “STRUCTURE” in the following chart, provided that the restrictions set out opposite the structure in the columns entitled “MAXIMUM PERMITTED PROJECTION” are complied with:

STRUCTURE	MAXIMUM PERMITTED PROJECTION
parapets	maximum 1.0 metre projection, provided the height of such “STRUCTURE” is not greater than 1.0 metre above the height limits established in Section 1(e) of this By-law
eaves, cornices, ornamental or architectural elements, balustrades, mullions, window sills, bay windows	maximum 1.0 metre projection, provided the height of the “STRUCTURE” is no higher than that portion of the building to which it is attached
fences, safety railings and guardrails	no restriction on the extent of the projection provided the height of such “STRUCTURE” does not exceed 3.0 metres
canopies	maximum 3.0 metre projection, provided the height of the canopy is no higher than that portion of the building to which it is attached
ramps, wheelchair ramps and/or stairs (and associated structures) servicing an underground <i>parking garage</i>	no restriction, provided the height of such “STRUCTURES” does not exceed 2.0 metres above finished ground level
balconies	maximum 2.0 metre projection, provided the balcony is no higher than that portion of the building to which it is attached
stairs, stair enclosures, landings and associated railings	no restriction, provided the height of such “STRUCTURE” does not exceed 3.0 metres

STRUCTURE	MAXIMUM PERMITTED PROJECTION
existing building encroachments over the <i>lot</i> line on existing buildings known municipally as 70 The Esplanade and 6 Church Street	no restriction on existing projections
public art features, light standards and landscape features	no restriction in intent of projection or height of “STRUCTURE”

- (4) 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 *height* in metres specified by the numbers following the symbol H on Plans 2a and 2b attached to and forming part of this By-law, except for the following:
- (a) the structural projections identified in Section (3), including structural projections permitted outside of the heavy lines on the attached Map 2, subject to the limitations contained therein; and,
 - (b) the *height* of those portions of the building identified as Area A on Plan 2b shall not exceed the *height* of such portions of the existing buildings as they existed on the *lot* in 2005;
 - (c) the *height* in storeys of the building on *Parcel A* does not exceed eleven storeys
 - (d) the *height* in storeys of the building on *Parcel B* does not exceed eight storeys
- (5) the combined *residential gross floor area* and *non-residential gross floor area* of the building erected on the *lot* shall not exceed 21,275 square metres, of which the residential gross floor area shall not exceed 18,860 square metres, and of which
- (a) the combined *residential gross floor area* and *non-residential gross floor area* of any building or portion thereof on Parcel A does not exceed 14,575 square metres; and
 - (b) the combined *residential gross floor area* and *non-residential gross floor area* of any building or portion thereof on Parcel B does not exceed 6,700 square metres;
- (6) not less than 2,400 square metres of *non-residential gross floor area* shall be provided and maintained on the lot;

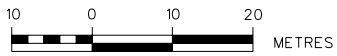
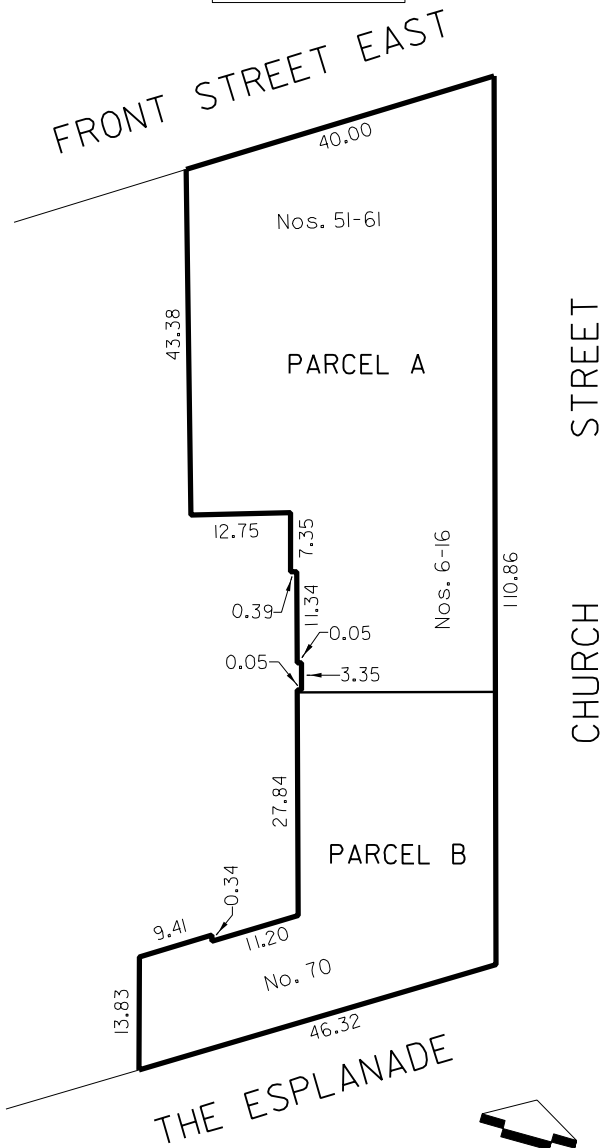
- (7) the maximum aggregate number of *dwelling units* erected and maintained on the *lot* shall not exceed 225 *dwelling units*;
- (8) *residential amenity space* shall be provided pursuant to Section 4(12) of Zoning By-law No. 438-86, as amended, except that indoor *residential amenity space* may be provided in a multi-purpose room or rooms, whether or not such rooms are contiguous;
- (9) the maximum number of *parking spaces* provided and maintained on the *lot* does not exceed the aggregate of the following:
 - (i) for the residents of the building:
 - A. 0.30 spaces for each *bachelor dwelling unit*;
 - B. 0.70 spaces for each one *bedroom dwelling unit*;
 - C. 1.00 space for each two *bedroom dwelling unit*;
 - D. 1.20 spaces for each three or more *bedroom dwelling unit*;
 - (ii) for the visitors to the building and the non-residential uses in the building:
 - A. 0.06 spaces for each *dwelling unit*;
 - B. 1 *parking space* for each 135 square metres of *net floor area*, or fraction equal to or greater than one-half thereof, contained therein for any portion of the building used and maintained for office uses;
- (10) *bicycle parking spaces - occupant* shall not be combined with storage lockers for residential units;
- (11) *bicycle parking spaces – occupant* required for each of Parcel A and Parcel B are provided on the respective Parcel;
- (12) the owner of the *lot* at its expense and in accordance with and subject to the agreement referred to in paragraph (15) herein:
 - (a) within the property known as 6 Church Street in 2006, provides a lease for a minimum of 90 square metres of ground floor non-residential space for a term of 5 years commencing on the date of the issuance of the first building permit on Parcel A for a senior citizen’s facility, at a nominal cost to the City;
 - (b) provides a shoreline commemoration feature in the public realm to the satisfaction of the Chief Planner, at a value of not less than one percent of the gross construction costs of the development, with detailed design to be reviewed in conjunction with Site Plan Approval and an artist to be included on the design team;

- (c) provides for the maintenance of reasonable public pedestrian access through the vehicular courtyard on Parcel A between 7 a.m. and 11 p.m. daily in the event that Scott Lane is extended to Parcel A;
 - (d) provides reasonable streetscape improvements, including tree installation on the public right-of-way adjacent to the lot;
 - (e) provides an irrigation system for all street trees in the public right-of-way adjacent to the lot, with automatic timers, such irrigation system to be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the City's General Manager of Parks, Forestry and Recreation prior to the first occupancy of the development, provides a Letter of Credit to secure such work to the City's satisfaction prior to the issuance of the first foundation building permit, and maintains the entire system in continuing good order and operation provided that the City provides all easements necessary for the construction, maintenance and operation of such irrigation system the public right-of-way at no cost;
 - (f) provides exterior design and materials for the development, including final plans for the exterior design and detailing of the Front Street façade, to be secured in an agreement pursuant to Section 41 of the *Planning Act* having due regard to the context, including the heritage character of the neighbourhood; and
 - (g) uses reasonable commercial efforts to obtain LEED Certification of the Building and provides to the City documentation respecting certification for the development and the marketing materials that will include information on LEED certification.
- (13) the owner of the *lot* enters into an agreement with the City pursuant to Section 37 of the *Planning Act* to secure all the facilities, services and matters required in paragraph (12) herein and those matters deemed appropriate for the orderly development of the Lands, and registers such agreement against title to the Lands as a first charge, all to the satisfaction of the City Solicitor prior to this Zoning By-law coming into full force and effect.
- (14) the provisions of the By-law shall continue to apply to the lands shown on Plan 1 attached hereto notwithstanding their division into one or more parcels.
2. For the purposes of this By-law:
- (i) “*foundation building permit*” means the first building permit that permits the erection of any below ground concrete structure;
 - (ii) “*grade*” means 79.90 metres Canadian Geodetic Datum for Parcel A and 76.80 metres Canadian Geodetic Datum for Parcel B;
 - (iii) “*height*” means the height above *grade* as shown on Plans 2 and 3;

- (iv) *“Parcel A”* and *“Parcel B”* means Parcel A and Parcel B, respectively, as shown on the attached Plan 1; and,
- (v) each word or expression that is italicized in the By-law herein shall have the same meaning as each such word or expression as defined in By-law No. 438-86, as amended, unless otherwise defined herein.

PLAN I

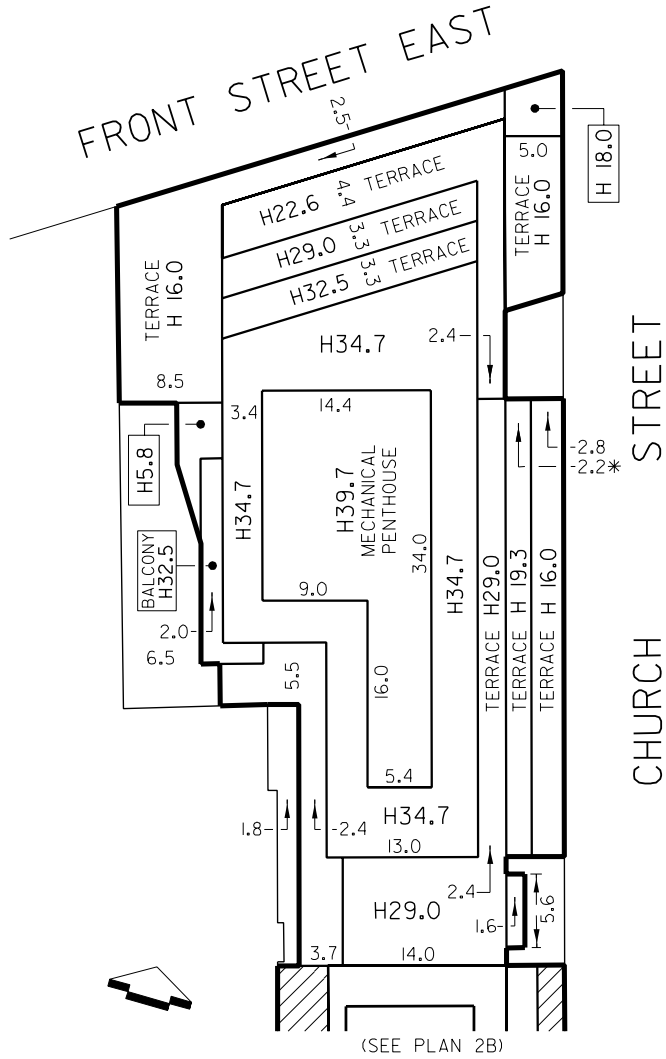
DRAFT



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FILE: C12-Z43
MAP No. 51G-321
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PLAN 2A
(PARCEL A)

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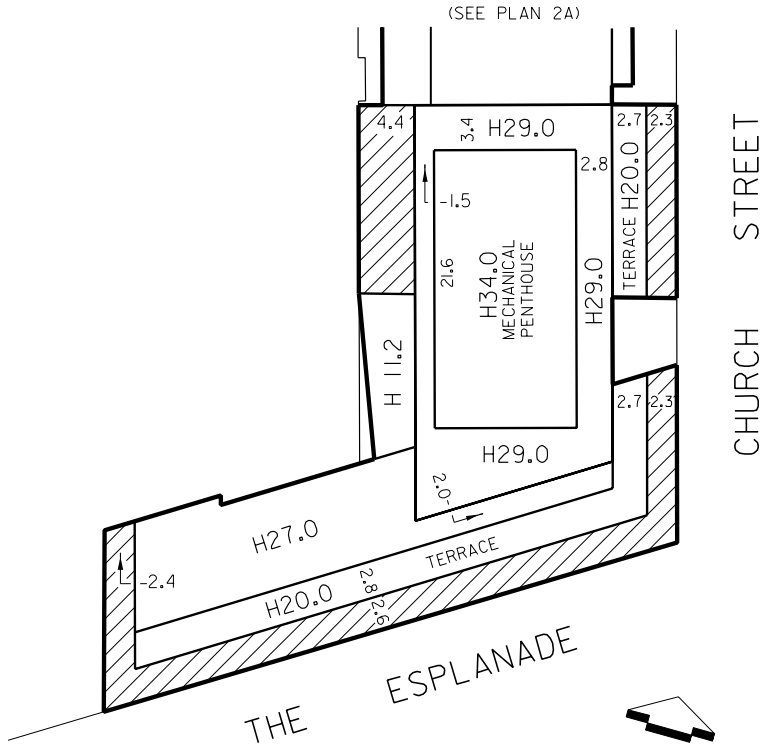


* 2.0m TO FACE OF BRICK PIERS
H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



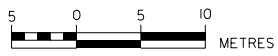
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MAY 2006
BL06/70ESPLA2A.DGN
FILE: C12-243
MAP No. 51G-321
DRAWN: VG

PLAN 2B
(PARCEL B)



 AREA A

H: DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE



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