

TORONTO STAFF REPORT

July 4, 2000

To: Toronto Community Council

From: Commissioner of Urban Development Services

Subject: Final Report: 1252-1260 Bay Street and 61-63 Yorkville Avenue - Application 199025 for Official Plan and Zoning By-law amendments to permit an 18 storey, mixed use building.
(Midtown)

Purpose:

To provide final recommendations respecting an application for Official Plan and Zoning By-law amendments, which have been appealed to the Ontario Municipal Board, for the erection of an 18 storey mixed use building for 1252-1260 Bay Street and 61-63 Yorkville Avenue.

Financial Implications and Impact Statement :

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

Recommendations :

It is recommended that:

- (1) City Council instruct the City Solicitor and the Commissioner of Urban Development Services to attend the Ontario Municipal Board hearing commencing September 5, 2000, to oppose the appeals and the application in its current form before the Ontario Municipal Board respecting 1252-1260 Bay Street and 61-63 Yorkville Avenue based on the issues raised in this report, including design issues summarized in Appendix A of this report, and any other matters which may arise during the Ontario Municipal Board hearing.
- (2) Should the applicant agree to revise the application substantially in accordance with the directions contained in this report, including entering into an agreement to provide a package of public benefits in exchange for the increased height and density pursuant to Section 37 of the Planning Act and in accordance with Section 16.21 of the Official Plan of the Toronto Community (former City of Toronto), City Council instruct the City Solicitor and the Commissioner of Urban Development Services to attend the Ontario Municipal Board hearing commencing September 5, 2000, to settle the appeals before the

Ontario Municipal Board respecting 1252-1260 Bay Street and 61-63 Yorkville Avenue, in accordance with the following terms:

- (a) that the City Solicitor be requested to submit to the Board a draft by-law to give effect to an amendment to the Official Plan respecting the Toronto Community (the former City of Toronto) for lands known in the year 2000 as 1252-1260 Bay Street and 61-63 Yorkville Avenue, substantially as set out below:

1252-1260 Bay Street and 61-63 Yorkville Avenue

See Map 18_ at the end of this Section

Notwithstanding any of the provisions of this Plan, Council may pass by-laws applicable to the lands shown on Map_, to permit an increase in the density and height of development otherwise permitted, for the erection and use of a mixed use building containing residential and retail uses, including below-grade parking, provided that,

- (i) the maximum gross floor area does not exceed 18,400 square metres;
- (ii) the maximum residential gross floor area does not exceed 17,800 square metres;
- (iii) the maximum non-residential gross floor area does not exceed 800 square metres; and
- (iv) the height of the building does not exceed 61 metres;

subject to the owner agreeing to provide a package of public benefits to the City of Toronto in accordance with Section 37 of the Planning Act and Section 16.21 of the Official Plan of the Toronto Community (the former City of Toronto);

- (b) that the City Solicitor, in consultation with the Commissioner of Urban Development Services and the applicant, be requested to submit to the Board a draft by-law to amend the Zoning By-law (483-86, as amended) respecting the Toronto Community (the former City of Toronto) for lands known in the year 2000 as 1252-1260 Bay Street and 61-63 Yorkville Avenue, substantially as set out below:
- (i) exempt the lands shown on the Key Map attached to this report from the following Sections of By-law 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:

4(2)(a)	Height Limits: Buildings and Structures;
4(12)	Residential Amenity Space;
8(3) Part I1	Mixed Use Districts – Density – Total
8(3) Part I3	Mixed Use Districts – Density & Floor Area – Residential
8(3) Part XI 2(ii)	Mixed Use Districts – Restrictions on Use
12(2) 259	Priority Retail Streets
12(2) 260 (ii)	Angular Building Plane for sun light

- (ii) permit, on the lands shown on the Key Map attached to this report, a mixed use building, containing residential and retail uses and below-grade parking, provided that:
- (a) the lot on which the proposed building is to be located comprises those lands delineated by heavy lines on Plan 1 attached to and forming part of this By-law;
 - (b) no portion of any building located above grade is located otherwise than wholly within the areas delineated by heavy lines and within the height limitation shown on Plan 2 attached to and forming part of this By-law with the exception of cornices, canopies, ornamental elements, parapets and railings which may extend beyond the building envelope shown on Plan 2. This provision is not intended to prevent the erection or use of other structural elements permitted by Section 4(2) Height Limits (a) (i) and (ii) of the Zoning By-law which may extend vertically beyond such building envelope;
 - (c) the maximum total gross floor area of the building does not exceed 18,400 square metres, of which:
 - (i) the residential gross floor area does not exceed 17,800 square metres;
 - (ii) the non-residential gross floor area does not exceed 800 square metres;
 - (d) there are not more than 171 dwelling units within the building;
 - (e) at least 110 parking spaces and 1 Type G loading space are provided on the lands shown on Plan 1 attached to and forming part of this By-law and at least 34 parking spaces are provided off-site, within 300 metres of the site;
 - (f) at least 129 bicycle parking spaces, 103 allocated for use by residents of the development and 26 allocated for use by visitors to

the development are provided on the lands shown on Plan 1 attached to and forming part of this By-law;

- (g) 342 square metres of indoor residential amenity space is provided and 163 square metres of outdoor residential amenity space, accessible from the indoor residential amenity space, is provided;
- (h) 31.5 square metres of common outdoor space is provided; and
- (i) the grade level retail use is not less than 7.0 metres in depth measured from the main wall of the building and a width of at least 60 percent of the street frontage of the building on Bay Street and at least 40 percent of the street frontage of the building on Yorkville Avenue;

subject to the owner agreeing to provide a package of public benefits to the City of Toronto in accordance with Section 37 of the Planning Act and Section 16.21 of the Official Plan of the Toronto Community (the former City of Toronto);

- (c) that the City Solicitor request that the Board require, as a condition of approval, that the owner enter into an undertaking under Section 41 of the Planning Act;
 - (d) that the City Solicitor request that the Board require, as a condition of approval, that the owner enter into an agreement with the City of Toronto under Section 37 of the Planning Act which would provide a package of public benefits in accordance with Section 16.21 of the Official Plan of the Toronto Community (the former City of Toronto).
- (3) The Commissioner of Urban Development Services be instructed to provide a supplementary report to either Toronto Community Council or Toronto City Council, as advisable, on the progress of negotiations regarding this application.

Background:

1. Applicant

The application and revised plans were submitted by Goodman and Carr (Patrick J. Devine), 200 King Street West, Suite 2300, Toronto, Ontario M5H 3W5 on behalf of Arthur Caplan and Juka Realty Limited and Minto BYG Inc.

2. Site

The site consists of two lots municipally known as 1252 to 1260 Bay Street and 61 to 63 Yorkville Avenue which, together, total approximately 1856.7 square metres, and are

located at the south-west corner of Bay Street and Yorkville Avenue. The easterly property, 1252 to 1260 Bay Street, is currently developed as a seven storey building with a variety of commercial uses. The westerly property, 61 to 63 Yorkville Avenue, is currently developed as a two storey house-form building with retail uses.

3. Surrounding Area

The site is one block north of the intersection of Bay Street and Cumberland Street where a development has been approved with a height of 27 stories (Cumberland Terrace).

In the area immediately surrounding this site at the intersection of Bay Street and Yorkville Avenue, there is a mix of commercial and residential uses at varying densities and heights. To the north of the site, across Yorkville Avenue, are a four storey mixed use building for which permission has been granted to add two more storeys and a 3 1/2 storey building fronting on Bay Street, containing commercial uses including retail and restaurant uses. To the east, across Bay Street, are two commercial buildings, nine and ten storeys in height, containing office, retail and restaurant uses. To the south, and abutting the subject site, is a construction site for which permissions have been granted to build an 18 storey residential building with ground floor retail uses. To the west, across Genoa Street, are three commercial structures which, starting at the south, are two and three storeys, and then at Yorkville Avenue, four storeys in height.

4. Proposal

The applicant, in revised plans submitted December 24, 1999, which are summarized in the Application Data Sheet, proposes to replace the existing structures by an eighteen storey (60.45 metre), mixed-use development containing ground floor retail uses and 171 residential dwelling units. The building will have a total gross floor area of 18,381.33 m² (or 9.9 times the area of the site), of which retail uses are 700 m² (or 0.38 times coverage) and residential uses are 17,681.3 m² (or 9.52 times coverage).

The applicant's revised proposal is shown in Figures 1 through 4, attached. Although this revision more closely complies with the angular plane requirements of the Zoning By-law for stepping back the building above 34 metres than the original application, portions of the building continue to project into this step back area.

Parking will be provided for 110 vehicles (10 for visitors and 100 for residents) in a three level underground garage accessed from Genoa Street. Genoa Street, near the intersection of Yorkville Avenue, is currently limited to one way vehicle movements because of the existing narrow width. The applicant is proposing to widen Genoa Street to 6 metres permitting two-way vehicle movements. The development will provide 129 spaces for bicycle parking, of which 26 are for visitors and 103 are for residents.

Amenity space for residents is proposed on the third floor where indoor and outdoor amenity spaces are adjacent and amount to 342 m² and 163 m² respectively.

On the Bay Street elevation, the proposed building will be constructed to the property line, with substantial step backs above the second and seventeenth storeys and a lesser step back above the twelfth storey (Figure 1). The ground floor retail units, which will be two storeys in height, will be accessed directly from the Bay Street sidewalk. This elevation, through the combination of building materials, vertical articulation and two domed roofs on the mechanical penthouse, will have the appearance of two buildings, similar in scale to the building to the south currently under construction (1250 Bay Street).

At the ground floor level of the Yorkville frontage, the proposed building will be built to the property line for the first 14 metres west of Bay Street; then be set back slightly for an entrance to the residences and then, for the remainder of the frontage, recessed to permit an on-site vehicle turning and drop off area (Figure 2). This recessed area will be two storeys in height, above which the building will be constructed to the property line. There are various step backs above the fourth storey on the Yorkville frontage, with large step backs occurring above the sixth and twelfth storeys (Figure 1).

5. Current Status

The applicant has appealed the application for Official Plan and Zoning By-law amendments to permit the proposed development to the Ontario Municipal Board under subsection 22(7) of the Planning Act. This section of the Act permits appeals to the Board if a council fails to adopt the requested amendment within 90 days after filing the application. A prehearing conference has been scheduled at the Board for July 24, 2000, while the Board hearing is scheduled for September 5, 2000.

6. Applicable Planning Controls

(a) Official Plan

The designation in the Official Plan for the former City of Toronto of the parcel at 1252 to 1260 Bay Street is "High Density Mixed Commercial-Residential A", while the parcel at 61 to 63 Yorkville Avenue is designated "Low Density Mixed Commercial-Residential". Both designations permit a range of commercial and residential uses to a maximum density of 6 times in the High Density zone and 3 times in the Low Density zone.

Section 16.21 of the Official Plan, enacted pursuant to Section 37 of the Planning Act, provides for Council to enter into legal agreements to secure public benefits in exchange for the increased height and/or density. Such increases in height and/or density are to be within the context of good planning and consistent with the objectives of the Official Plan regarding built form and physical environment. The public benefits package may include, but is not limited to, "the realization of the objectives of this (Official) Plan respecting *social housing*, non-profit community, cultural and institutional facilities, heritage preservation and *parks*." In addition, City Council, on May 11, 1999, authorized staff to immediately

pursue, on a city-wide basis, contributions toward the provision of affordable housing pursuant to Section 37, of the Planning Act for increases in height and/or density. This is consistent with the existing Official Plan policies regarding Section 37.

The parcel at 61 to 63 Yorkville Avenue is in the Village of Yorkville Area of Special Identity designated in the Part II Plan (North Midtown) of the former City of Toronto. In this Area "Council shall employ its available powers of regulation and review in order to encourage developments which are compatible with the existing form and uses in this area, and to encourage, where possible, the retention of existing clusters of house-form buildings". (Section 6.2)

(b) Zoning By-law

The former City of Toronto Zoning By-law, 438-86, as amended, zones the parcel at 1252 to 1260 Bay Street, CR T6.0 C4.5 R6.0, and the parcel at 61 to 63 Yorkville Avenue, CR T3.0 C2.5 R3.0. These zones permit a mix of commercial and residential uses to a total density of 6 times on the former and 3 times on the latter, subject to density limits on commercial uses (4.5 times on the Bay Street parcel and 2.5 times on the Yorkville Avenue parcel) and residential uses (6 times on the Bay Street parcel and 3 times on the Yorkville Avenue parcel).

The maximum permitted height in the Zoning By-law is 46 metres on the 1252 to 1260 Bay Street parcel and 18 metres on the 61 to 63 Yorkville Avenue parcel.

The Bay Street frontage of this site is subject to sunlight standards which require that any building above 34 metres in height must be set back within an angular plane of 60 degrees from the Bay Street lot line.

(c) Site Plan Control

This site is subject to Site Plan Approval. An application, No. 399101, has been submitted for approval. This application has not been appealed to the Ontario Municipal Board and will be processed through the usual City approval process.

(d) Urban Design Guidelines

The site is subject to the general and area specific Design Guidelines for North Midtown, which have been adopted by City Council.

7. Reasons for the Application

An Official Plan amendment is required to permit the proposed building, which, at 9.9 times the lot area, exceeds the Official Plan maximums of 6 times in the High Density area and 3 times in the Low Density area. A building with a maximum gross floor area of

8,860 m² would be permitted based on the Official Plan density maximums. The proposed building, at 18,381 m², is approximately 2.1 times the permitted density.

A Zoning By-law amendment is required because the proposed development exceeds permitted maximum density and height limits, projects into the Bay Street angular building plane and provides less than the required outdoor amenity space. The proposed total density of 9.9 times exceeds the permitted maximum total density of 6 times on the Bay Street parcel and 3 times on the Yorkville Avenue parcel. The proposed residential density of 9.52 times exceeds the permitted maximum residential density of 6 on the Bay Street parcel and 3 times on the Yorkville Avenue parcel. The proposed height of the building, at 60.45 metres, exceeds the permitted height limit on the Bay Street parcel by 14.45 metres and on the Yorkville Avenue parcel by 42.45 metres. The building, on the Bay Street elevation, projects slightly into the 60 degree angular plane above the fifteenth storey (46 metres). The Zoning By-law requires 342 m² of outdoor amenity space (2 m² for each residential unit); only 163 m² of outdoor amenity space is provided.

Comments:

8. Public Review

The community public meeting, authorized by Toronto Community Council at its meeting on February 15, 2000, was held at Jessie Ketchum Public School on March 27, 2000. Approximately 35 people attended. At this meeting, there was general support for the proposal based on: removal of the Bay Street lay-by; at grade retail; widening of Genoa Street for two way traffic; removal of loading from Bay Street to Genoa Street; potential public benefits under Section 37 of the Planning Act and the building quality. Concerns were limited to design details and included the south elevation relative to the building under construction to the south, the paving and lighting of Genoa Street and potential pedestrian impacts of vehicles crossing the Yorkville Avenue sidewalk to access Genoa Street. There was also interest in the wind study, which was not yet available for the public meeting.

The only letter received was from the Bloor-Yorkville Business Improvement Association that requested that the public benefits package to be secured under Section 37 include a contribution to the Bloor Street Transformation project.

9. Planning Considerations

(a) Density, height and massing

At 9.9 times coverage and 60.45 metres in height, the proposal exceeds current planning limits.

On the Bay Street parcel, the Official Plan anticipates high density mixed use development. This proposal is consistent with that intent. Although the Official Plan anticipates low density mixed use development on the Yorkville parcel, combining the

two parcels creates a development with the principal elevation on Bay Street, consistent with the intent of the high density designation. Genoa Street provides a distinct boundary between this proposed high density site and the low density area to the east. In addition, this proposal is similar to the recently approved development to the south (1250 Bay Street). This abutting site has an approved density of 9.3 times the lot area.

Similarly, while the proposed height exceeds the Zoning By-law limits, that limit, on the Bay Street parcel, anticipates a moderately high building. The proposed height at the top of the mechanical penthouse, at 64.4 metres, is similar to the building to the south, which is 57 metres.

On the Bay Street elevation, the building has been stepped back above 34 metres, in part to meet the 60 degree angular set back plane. Despite this stepping back, portions of the building above the fifteenth floor continue to project into the plane as shown in Figure 4. This Figure illustrates the impact of the two "tower" elements on the Bay Street facade. The area of tinted and spandrel glass between the tower elements, illustrated in Figure 3, is set back further so that the projection into the angular plane is smaller than the tower elements. This angular plane is intended to provide a minimum of three hours of sunlight on one sidewalk during the period March 21 to September 21. I have reviewed the shadow impact study and am satisfied that, while there is some impact from the proposed building, the shadow impact of the projections into the angular plane is not significant.

The building has been massed to provide a two storey podium with a prominent Bay Street frontage, continuing the podium created by the building to the south. Above the podium on Bay Street, the massing creates the appearance of two buildings, similar in scale to the building to the south (see Figure 3). This has also been achieved through a combination of building materials, vertical articulation and the two domed roofs on the mechanical penthouse. On this frontage, significant step backs occur above the second, twelfth and seventeenth floors as shown in Figure 1. On the Yorkville Avenue elevation, there are setbacks above the sixth, fifteenth and seventeenth floors, acknowledging the lower building heights north of Yorkville Avenue.

I consider the density, height and massing of the proposal to be appropriate for this site.

(b) Shadow impacts

The applicant conducted a shadow impact study identifying shadows cast by the proposed building at various times of the day on the 21st of March, June, September and December. I have reviewed this study. While the proposal creates some shadow impacts, as described in 9 (a) above, I consider these to be acceptable.

(c) Wind impacts

A Pedestrian Wind Study, dated March 28, 2000, was prepared by RWDI who concluded that, for the pedestrian at grade for both the summer and winter seasons, any winds

impacts are acceptable. This has been achieved, in part, through the use of building step backs.

I have reviewed this study and concur with the conclusions. Some mitigation measures must be undertaken on the podium and various terrace levels of the proposed building. The applicant should detail the mitigation measures on revised plans to meet the required comfort level criteria used for sitting.

(d) Streetscape

The proposed development has frontage on Bay Street and Yorkville Avenue, both of which have considerable pedestrian activity.

For the first floor on the Bay Street frontage, the proposal consists of glazed storefronts with inset doors abutting the sidewalk and shallow canopies projecting over the sidewalk. The existing lay-by on Bay Street is to be removed and the sidewalk widened to a consistent width and include trees near the curb. The lay-by was originally created to provide a loading area for the ground floor stores in the existing building. This lay-by is no longer required because the proposed building will have loading facilities, accessed from Genoa Street, on site. The landscape plan omits street tree plantings from Bay Street, although the ground floor plan includes trees on Bay Street. The applicant must detail street trees on Bay Street on revised plans in accordance with City requirements. With the street trees, the retail frontages and the removal of the lay-by, I am satisfied that an animated, pedestrian friendly streetscape will be created on Bay Street.

For the first floor on the Yorkville Avenue frontage, the applicant is proposing a glazed store front abutting the sidewalk closest to Bay Street, west of which is a pedestrian entrance with a recessed door and vestibule for the residences and, at the west end of the site, a “common outdoor space” behind piers. These piers continue an architectural element of the frontage west to a widened (to six metres) Genoa Street. The sidewalk on Yorkville Avenue will include trees and will be constructed to City standards. A widened Genoa Street at Yorkville Avenue will be level with the Yorkville sidewalk except for a narrow curb cut. The proposed use of precast on the first four floors and brick above, together with stepbacks on the Yorkville Avenue frontage, continues the four-storey building height west of Genoa Street on the north side of Yorkville Avenue. I am satisfied that this proposal will create an animated and pedestrian friendly streetscape on Yorkville Avenue.

Genoa Street will serve primarily a vehicular function not only for this development, but also 1250 Bay Street and buildings fronting onto Bellair Street. Generally, pedestrian use of the street will be limited to the area abutting Yorkville Avenue. The proposed Genoa Street elevation, which consists of a vehicle entrance, a loading bay and an access ramp to the underground garage, is appropriate to the intended function of Genoa Street. The proposed decorative treatment of the north end of Genoa Street will provide aesthetic interest to pedestrians in the area. For safety reasons, Genoa Street should have appropriate lighting, which should be shown on revised plans. Subject to this revision

and the surface treatment revision set out in Section 9 (g) below, I am satisfied with the proposed streetscape for Genoa Street.

(e) Relationship to 1250 Bay Street

On the south elevation, the applicant is proposing a blank wall at the property line. The abutting property owner has expressed concern about this elevation. The applicant has suggested improvements to this elevation. The applicant should submit revised plans that identify enhancements in the architectural treatment of the south elevation.

(f) Access, parking and loading

Access to the site will be provided by a widened Genoa Street. Staff have reviewed the proposed access arrangements and are generally satisfied, although egress from the ramp to the underground garage to Genoa Street could be difficult. Revised plans are required showing convex mirrors, to improve visibility for drivers at this location, along with a stop sign at the intersection of the access ramp and the public lane.

Staff have reviewed the Traffic Impact Study prepared for the applicant by Read, Voorhees and Associates Limited, dated October 1999. The report concludes that the proposed development will result in minor changes to the operations of the intersections at Yorkville Avenue and Bay Street and Avenue Road. Staff are satisfied with the analysis and conclusions of the Traffic Impact Study. No revisions to the plans are required as a result of staff review of this Study, although staff note that on occasion, the Genoa Street access to Yorkville Avenue will be obstructed by eastbound vehicles queuing at the Bay Street intersection.

Metered parking spaces currently exist in the Bay Street lay-by, which is to be removed. The applicant will be required to pay all costs associated with the removal of the parking meters and sidewalk restoration.

Staff have evaluated the proposed provision of 110 parking spaces in this development and concluded that this amount is inadequate. Staff considered that, based in part on the surveyed demand of condominium dwelling units, 144 parking spaces should be provided, of which 134 spaces would be for residents and 10 spaces for the shared use of residential visitors and the retail components. The applicant has indicated that the construction of a fourth level of underground parking would be cost prohibitive based on hydrogeological recommendations in a report prepared by Peto MacCallum Ltd., Consulting Engineers, dated December 1999. In this regard, I would have no objection to the provision of 34 parking spaces off-site, within 300 metres of the site, so that the total number of parking spaces provided by this development will be 144.

Staff have evaluated the loading requirements of this application and are satisfied with the provision of one Type G loading space. However, revisions to the plans are required so that bins will not be located within the designated Type G loading space. Refuse vehicles using the Type G loading space will be required to make several manoeuvres to

access and egress the loading space. In this regard, the plans should be revised by extending the loading space approximately 2 metres easterly to make the back up manoeuvre easier.

(g) Genoa Street

As discussed above, the applicant is proposing to widen Genoa Street to 6 metres to accommodate the two way movement of vehicles. I am satisfied that this width is sufficient to achieve two-way vehicle movement.

The land that the applicant is proposing to convey to the City for the purposes of widening Genoa Street will be encumbered by a portion of the underground garage for this development. This is acceptable provided that the owner enters into an agreement which, among other matters, would indemnify the City from any actions related to the construction of an underground garage below a public highway, require the maintenance of the structure by the owner and indemnify the City from damages or loss to the underground garage from any maintenance or reconstruction of the street.

The applicant has proposed a lane surface treatment for Genoa Street that includes a decorative treatment for the first 24 metres from Yorkville Avenue and a concrete treatment with decorative scoring of the surface thereafter. The applicant may utilize a decorative treatment of concrete unit pavers of acceptable colours and configuration for the first 24 metres; however the City lane must be distinguished as a City lane separate from the private on site treatments proposed. The City lane can not be part of the circular treatment proposed for the private entrance. The remainder of the lane is to be constructed as per Std. 206 as indicated; however there is to be no banding of the concrete surface. The plans must be revised accordingly.

(h) Section 37 of the Planning Act

Since the proposed building would result in a height and density in excess of that permitted by both the Official Plan and Zoning By-law of the former City of Toronto, the application was reviewed in accordance with Section 16.21 of the Official Plan, which establishes Council's intent to use its powers under Section 37 of the Planning Act. Section 37 permits municipalities to pass zoning by-laws to authorize increases in height and/or density beyond what is otherwise permitted in return for the provision of such facilities, services and matters (public benefits) as are set out in the by-law authorizing the increase. The Act provides that Section 37 powers can be used only where there are official plan provisions in effect relating to the authorization of increases in height and density of development. The public benefits may be secured in an agreement that may be registered on title. This application should include the provision of public benefits in exchange for the increased height and density.

In this regard, staff initiated discussions with the applicant on the proposed Section 37 contribution requesting that the package of public benefits include the Capital Revolving Fund for Affordable Housing, the Bloor Street Transformation Project sponsored by the

local Business Improvement Association, area heritage projects and a contribution to the acquisition of a proposed local park.

Subsequent to this meeting, the applicant expressed strong objection to any Section 37 contribution citing the required payment of development charges and improvements being proposed for Genoa Street.

Section 37 powers are fundamentally different from the power granted to municipalities to collect development charges. While development charges are essentially a development tax which must be paid whether an increase in density and/or height has been granted or not, Section 37 allows the municipality and the developer to share in the value added to the site through the granting by the municipality of increased density and/or height. Public benefits and increased height and/or density are exchanged. For this reason, Section 37 is not a tax, levy or exaction mechanism. Section 37 is not limited by legislation to addressing the direct impacts of a development on its immediate surroundings, and therefore the public benefits received in return for increased density or height may assist the City in achieving broad, citywide planning objectives as well as local planning objectives.

The improvements to Genoa Street are required for the proper functioning of this development and would be required even if the proposed project were permitted as-of-right. Infrastructure improvements that would be required for the project in the absence of a density increase should not be considered to be facilities, services or matters to be exchanged for increased height and/or density, and thus should not form part of the Section 37 public benefits package.

Further negotiations occurred, albeit unsuccessfully. The applicant refuses to provide a Section 37 package of public benefits.

For your information, it is my understanding that the City of Toronto Planning and Transportation Committee will be considering Section 37 policies at its meeting to be held on July 10.

Conclusions:

The applicant has proposed an 18 storey mixed use building on the south-west corner of Bay Street and Yorkville Avenue that is substantially in excess of the planning permissions respecting height and density. While many design issues have been resolved, the applicant has refused to provide a package of public benefits under Section 37 of the Planning Act and Section 16.21 of the Official Plan. The applicant has appealed the proposed Official Plan and Zoning By-law amendments to the Ontario Municipal Board. Should the applicant not address the outstanding design issues and provide a package of public benefits under Section 37 as set out in my report, I recommend that City Council authorize staff to appear at the Board to oppose the application. Although I consider the proposed increases in height and density to be good planning and consistent with the Official Plan objectives regarding built form and the physical

environment, I do not consider the proposal to be consistent with other objectives of the Official Plan based on the refusal of the applicant to provide a Section 37 public benefits package in exchange for the increase in permitted height and density requested in the application.

Should the applicant agree to provide a package of public benefits under Section 37 of the Planning Act, it is my opinion that the proposed application, subject to the revisions set out in this report, meets all of the objectives of the Official Plan. I recommend that City Council authorize staff to appear at the Ontario Municipal Board to settle the appeals subject to the provision of such a public benefits package and making the necessary revisions to the plans.

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Beate Bowron
Director, Community Planning, South District

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List of Attachments:

Application Data Sheet
Appendix A Outstanding Design Issues
Appendix B Comments from Civic Officials
Key Map
Figure 1 Site Plan
Figure 2 Ground Floor Plan
Figure 3 East Elevation
Figure 4 North Elevation

APPLICATION DATA SHEET

Site Plan Approval: Y Application Number: **199025** 399101
Rezoning: Y Application Date: September 27, 1999
O. P. A.: Y Date of Revision: December 24, 1999

Confirmed Municipal Address: 1252 Bay Street and 61 Yorkville Avenue.

Nearest Intersection: South-west corner of Bay St. and Yorkville Ave.

Project Description: To construct an 18 storey mixed use building containing 171 dwelling units and retail at grade level with 3 levels of underground parking facility.

Applicant: Goodman & Carr - c/o Patrick Devine 200 King Street West, #2300 595-2404	Agent: Goodman & Carr - c/o Patrick Devine 200 King Street West, #2300 595-2404	Architect: Page + Steele Architects 95 St. Clair Ave. W. 924-9966
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PLANNING CONTROLS (For verification refer to Chief Building Official)

Official Plan Designation:	Site Specific Provision:	No
Zoning District: CR T6.0 C4.5 R6.0, CR T3.0 C2.5 R3.0	Historical Status:	No
Height Limit (m): 46.0; 18.0	Site Plan Control:	Yes

PROJECT INFORMATION

Site Area: 1856.7 m ²	Height:	Storeys: 18
Frontage: 55.3 m		Metres: 60.45
Depth: 34.07 m		
Ground Floor:	Parking Spaces:	Indoor Outdoor 104
Residential GFA: 17681.3 m ²	Loading Docks: 1 G	
Non-Residential GFA: 700.0 m ²	(number, type)	
Total GFA: 18381.3 m ²		

DWELLING UNITS

Tenure: Condo

1 Bedroom:	125
2 Bedroom:	46
Total Units:	171

FLOOR AREA BREAKDOWN

Land Use	Above Grade	Below Grade
Residential	17681.3 m ²	
Retail	700.0 m ²	

PROPOSED DENSITY

Residential Density: 9.52 Non-Residential Density: 0.38 Total Density: 9.90

COMMENTS

Status: Site Plan Approval Application received.

Data valid: December 24, 1999 Section: CP South District Phone: 392-7333

Appendix A

OUTSTANDING DESIGN ISSUES
1252-1260 Bay Street & 61-63 Yorkville Avenue

1. **Wind Impacts** - Some mitigation measures must be undertaken on the podium and various terrace levels of the proposed building. The applicant should detail the mitigation measures on revised plans to meet the required comfort level criteria used for sitting.
2. **Streetscape** - The applicant must detail street trees on Bay Street on revised plans in accordance with City requirements.

- For safety reasons, Genoa Street should have appropriate lighting, which should be shown on revised plans.
3. **South Elevation**- The applicant should submit revised plans that identify enhancements in the architectural treatment of the south elevation.
4. **Access** - Revised plans are required showing convex mirrors, to improve visibility for drivers at this location, along with a stop sign at the intersection of the access ramp and the public lane.
5. **Loading** - Revisions to the plans are required so that bins will not be located within the designated Type G loading space and to provide proper turning radii for trucks to access and egress the loading space.
6. **Genoa Street** - The plans must be revised to specify a paving treatment for Genoa Street as set out in Section 9 (g) of this report.

Appendix B
Comments from Civic Officials

1. Urban Development Services, Buildings, dated June 22, 2000

Our comments concerning this proposal are as follows:

Description: Construct 18 storey mixed-use building with mechanical penthouse and three levels of parking below grade (171 dwelling units)

Zoning Designation: CR T6.0 C4.5 T6.0 / CR T3.0 C2.5 R3.0 Map: 50J 313

Applicable By-law(s): 438-86, as amended

Plans prepared by: BYG - Development Plans dated: December 24, 1999

Residential GFA: 17681.3m²

Non-Residential GFA: 700m²

Zoning Review

The list below indicates where the proposal does not comply with the City's Zoning By-law 438-86, as amended, unless otherwise referenced.

1. The proposed building height of 64.4 metres exceeds the maximum 18.0 metres and 46.0 metres height that is prescribed in each district. (Section 4(2)(a))
2. The by-law requires 342 square metres of outdoor residential amenity space. 163 square metres of outdoor residential amenity space is proposed. (Section 4(12))
3. The by-law requires that the combined non-residential gross floor area and residential gross floor area be not more than 8859.6 square metres (aggregate in both zoning districts). The proposed building has an aggregate of 18381.3 square metres of combined non-residential gross floor area and residential gross floor area. (Section 8(3) PART 1)
4. 44% of the frontage of the lot abutting a priority retail street (Yorkville Avenue), is proposed for street-related retail uses in lieu of the required 60%. (Section 12(2)259(ii))
5. The proposed building exceeds the height and penetrates the prescribed 60 degree angular plan. (Section 12(2)260(i) and (ii))
6. The by-law requires that the residential gross floor area be not more than 8859.6 square metres (aggregate r.g.f.a. in both zoning districts). The proposed aggregate residential gross floor area of the building is 17681.3 square metres. (Section 8(3) PART I 3(a))

N/B

The proposed encroachments on public property on the north and west sides will require the approval of the Works and Emergency Services.

The applicant must confirm that the average floor area of the dwelling units is at least 50 square metres.

Access to commercial space is regulated by section 8(3) PART XI 2 (i)(ii) and (iii), the proposal must be designed in compliance with same.

Other Applicable Legislation and Required Approvals

1. The proposal requires Site Plan approval under Section 41 of the Planning Act.
2. The proposal requires conveyance of land for parks purposes, or payment in lieu thereof pursuant to Section 42 of the Planning Act.
3. The proposal DOES NOT require the approval of Heritage Toronto under the Ontario Heritage Act.
4. The issuance of any permit by the Chief Building Official will be conditional upon the proposal's full compliance with all relevant provisions of the Ontario Building Code.

2. Economic Development, Culture & Tourism, dated March 24, 2000.

This will acknowledge the revised plans pertaining to the above noted development application which were circulated to Forestry Services on January 14, 2000. I have reviewed the circulated plans and advise that:

- There are three (3) City owned trees involved with this project which are situated on the City road allowance adjacent to the subject site. These trees must be protected at all times in accordance with the Specifications for Construction Near Trees contained the Tree Details Section of the City of Toronto Streetscape Manual.
- I received a request from C. Sherriff-Scott of Minto BYG Inc., owner of the subject property, that the City consider the removal of one (1) tree situated on private property.
- Under the provisions of Section 331-14.A.(3) of Municipal Code Chapter 331, the Commissioner of Economic Development, Culture & Tourism is authorized to issue a permit for the removal of the subject tree situated on private property once site plan approval for the development has been obtained. Please advise Gary Le Blanc of my staff at 392-0494 once the Undertaking/Statement of Approval in connection with this development has been issued.

- I advise that Site Plan Drawing No. 2 prepared by Page + Steele, date stamped as received by Urban Development Services on December 24, 1999 and Landscaped Plan Drawing No. SP-1 prepared by Ferris + Quinn Associates Inc., date stamped as received on January 7, 2000, both plans on file with the Commissioner of Urban Development Services are acceptable provided that the above noted conditions are fulfilled.

3. Works and Emergency Services, dated June 23, 2000.

This is in reference to the application by Goodman and Carr, on behalf of Minto BYG Inc., for the project on the above-noted site located at the southwest corner of Bay Street and Yorkville Avenue. The proposal is to construct a mixed-use building containing 171 residential condominium units and 700 m² of retail space.

Comments:

Parking and Access

The proposed provision of 110 parking spaces in a 3-level underground parking garage is less than the estimated total parking demand generated by this project for 150 spaces, based in part on the surveyed demand of condominium dwelling units, including 134 spaces for the exclusive use of the residents, 10 spaces for residential visitors and 6 spaces for the retail component. As far as can be ascertained, the Zoning By-law requirement is for 107 spaces, including 97 spaces for the residents and 10 residential visitor spaces. Given that the estimated parking demand for the retail component is minimal, and further, that the Zoning By-law does not require parking for the retail component, I am prepared to accept the provision of shared parking for the retail component and residential visitors. This results in a demand for 144 parking spaces, consisting of 134 residential spaces and 10 spaces for the shared use by residential visitors and the retail component. The parking supply should be increased to satisfy the estimated parking demand.

The dimensions and general layout of the parking spaces and the driveway aisles of the parking garage are generally satisfactory. A physical separation within the underground parking garage has been provided. The separation will secure parking spaces for the exclusive use of the residents of the project and is acceptable.

Access to the underground parking garage is proposed via a ramp from the north-south public lane (Genoa Street) abutting the west property line at the most southerly limit of the site. Given the location of the proposed ramp in proximity to the ramp serving the building to the south, there is the potential for vehicular conflicts between vehicles using these ramps. In order to improve the sight lines at this location, convex mirrors should be installed to improve visibility for drivers along with a stop sign at the intersection of the access ramp with the public lane.

The slope of the ramp is indicated on the plans as having a slope of 5% within the first 6 m of the existing property line and not exceeding 15% along the remaining portion, which is satisfactory.

With respect to the proposed access via the public lane, the owner should be advised that the City's current winter maintenance policies give low priority to public lanes. Furthermore, public lanes are salted only, and not ploughed. As a result, the future residents may experience difficulty in accessing and egressing the parking garage immediately after heavy snowfalls.

Geotechnical Investigation

A Supplemental Geotechnical Investigation and Preliminary Hydrogeological Assessment prepared by Peto MacCallum Ltd., Consulting Engineers, dated December 1999, has been submitted by the applicant.. The applicant has indicated that the hydrogeological recommendations note that construction of a fourth level of underground parking is cost prohibitive and the report was submitted for consideration when reviewing parking requirements. In this regard, I would have no objection to the provision of 34 parking spaces off-site, within 300 m of the site.

Traffic Impact

The owner has submitted a Traffic Impact Study (TIS) in support of this proposal prepared by Read, Voorhees and Associates Limited, dated October 1999. The site access will be via the public lane (Genoa Street), which connects to Yorkville Avenue at an unsignalized "T" intersection. Yorkville Avenue is signalized at Bay Street and operates as a two-way road between Bellair Street and Bay Street and one-way westbound between Bellair Street and Avenue Road.

The consultant has estimated the proposed residential condominium will exhibit trip generation rates of 0.22 (two-way) in the both the a.m. and p.m. peak hours with the predominant direction of flow being outbound in the a.m. peak hour and inbound in the p.m. peak hour. Given the proximity to the Bloor Street subway line and the Bay Street bus service, these rates are reasonable and, therefore, acceptable. Based on these trip rates the consultant has estimated that the site will generate approximately 36 two-way trips in the a.m. peak hour (8 inbound and 28 outbound) and 37 two-way trips in the p.m. peak hour (25 inbound and 12 outbound). These rates are based on the original submission for 165 residential units. Subsequent to the preparation of the Traffic Study the number of residential units was increased to 171. The traffic generated by the additional 6 units is negligible and the conclusions of the report are still valid. No vehicular trips have been assigned to the ground floor retail component of the site. The consultant indicates that the clientele for the retail component will be predominantly pedestrian related.

The traffic distribution has been assigned based on major regional employment areas and is split 50/50 between the west (Yorkville Avenue/Avenue Road intersection) and the east (Bay Street/Yorkville Avenue intersection). Both intersections currently operate under SCOOT control, which permits adjustments to actual traffic conditions by changing the green time assigned to the north-south and east-west directions as required, up to a predetermined maximum. The consultant's analysis is based on the typical signal timing scenarios for both intersections. Based on this analysis, the report concludes that the proposed development will result in minor changes to the intersection operations as illustrated in the following table.

Intersection	Existing		Total Future	
	AM	PM	AM	PM
Bay St & Yorkville Ave	0.38	0.58	0.41	0.67
Avenue Rd & Yorkville Ave	0.52	0.56	0.55	0.59

The unsignalized intersection of Genoa Street and Yorkville Avenue is expected to operate at a good level of service following the widening of the lane to 6.0 metres to accommodate two-way traffic associated with this development and the approved development at Premises No. 1250 Bay Street. It is noted that on occasion, the Genoa Street access to Yorkville Avenue will be obstructed by eastbound vehicles queuing at the Bay Street intersection. The widened Genoa Street will be located approximately 35 metres from the Bay Street/Yorkville Avenue intersection, at the westerly limit of this site.

The analysis does not take into account the vehicular traffic associated with the existing 7,000m² office building. Although parking facilities for the office building do not currently exist on the site, vehicular trips associated with the existing site would be counted in the existing traffic conditions on the surrounding street network. Therefore, the increase in traffic associated with the proposal is conservatively high and the conclusions of the traffic study are acceptable.

Three parallel parking stalls are currently located along the Bay Street frontage of the applicant's site. As part of this development, the applicant is proposing to remove the metered parking lay-by and increase the width of the sidewalk accordingly. The removal of these spaces is not required as the result of this proposal, since access to the loading and underground garage area is via Genoa Street. In addition, the entrance to the condominium is off Yorkville Avenue, at the north-west corner of the building. It appears the removal of the metered parking is proposed as part of urban design requirements to increase the sidewalk width and is not based on traffic operations associated with the proposed development. If the parking spaces are to be removed the applicant will be required to pay all costs associated with the removal of the parking meters and sidewalk restoration as outlined further in the recommendations below.

Loading

The estimated loading demand generated by this project, based on the shared use of loading facilities between the residential and commercial components, is for one Type G loading space. The Zoning By-law requirement, as far as can be ascertained, is for one Type B and one Type G loading spaces. The plans show that bins will be located within the designated Type G loading space, which is unacceptable. Furthermore, refuse vehicles using the Type G loading space will be required to make several manoeuvres to access and egress the loading space. In this regard, the loading space should be extended approximately 2 m easterly to make the back up manoeuvre easier.

Lane Widening

The site abuts a substandard north-south public lane of varying width which, in accordance with the City standard for lanes serving commercial properties, should ultimately be widened to 6.0 m. To achieve this widening, strips of land abutting the east limit of the lane along the full extent of the site, as detailed in the recommendation section of this memorandum, should be conveyed to the City. The plans should show the lands to be conveyed to the City.

Lane Treatment

The applicant has proposed a lane surface treatment for Genoa Street which includes a decorative treatment for the first 24 m from Yorkville Avenue and a concrete treatment with decorative scoring of the surface thereafter. The applicant may utilize a decorative treatment of concrete unit pavers of acceptable colours and configuration for the first 24 m; however the City lane must be distinguished as a City lane separate from the private on site treatments proposed. The City lane can not be part of the circular treatment proposed for the private entrance. The remainder of the lane is to be constructed as per Std. 206 as indicated; however there is to be no banding of the concrete surface. These details must be revised.

Refuse Collection

The City will serve the residential and commercial components of this project with the bulk lift method of refuse and recyclable materials collection in accordance with the Municipal Code Chapter 309, Solid Waste, provided that all recyclable materials generated by the project are set out for collection on the days and at the times scheduled by the City for the collection of recyclables. This will require the provision of a Type G loading space and the storage and handling facilities identified in Recommendation Nos. 1(e) to 1(j), below. The City will not provide separate curbside collection for the commercial component and the shared use of the refuse collection facilities by the residential and commercial components must be maintained.

It is the policy of City Council to levy a service charge on all new developments, payment of which is a condition for receiving City containerized garbage and recycling collection. The levy is currently \$34.50 per month, including taxes, multiplied by the number of garbage containers on site. The levy includes the provision and maintenance of City garbage and recycling containers. Should the owner choose to provide private garbage containers, the levy will still be charged and the containers must meet City specifications and be maintained privately at the expense of the building owner. Further information regarding the above can be obtained by contacting the Solid Waste Management Services Division at 392-1040.

Work Within the Road Allowance

The proposal includes the installation of decorative paving and the installation of new sidewalks and tree pits within the abutting road allowances, including the public lane (Genoa Street). Approval for any work to be carried out within the street allowances must be received from this Department. For further information, the applicant should contact the Right-of-Way Management Section, District 1, Construction Activities at 392-7877. As well, any existing curb

cuts, which are not to be further utilized, should be restored to the City of Toronto standards, at no cost to the City.

Proposed Encroachments

The proposal appears to include canopy encroachments within the Yorkville Avenue right-of-way and the public lane (Genoa Street), as widened. If the canopies are constructed of glass or metal, they will be subject to the review and approval of the Commissioner of Urban Development Services. If the canopies are constructed of canvas, it will be necessary for the owner to submit a separate application to this Department for approval.

Recommendations:

1. That the owner be required, as a condition of approval of the plans and drawings for the project, to:
 - (a) Provide and maintain a minimum of 144 parking spaces on the site to serve the project, including at least 134 spaces for the exclusive use of the residents of the project and a minimum of 10 spaces for the shared use of the residential visitors and the retail component of the project, of which 34 resident spaces may be leased off-site, within 300m of the site;
 - (b) Provide and maintain a physical separation between the residents' and the residential visitors'/retail portions of the underground parking garage to secure the availability of the residents' parking;
 - (c) Construct the access ramp to the underground parking garage with a slope not exceeding 5% within 6 m of the property line and not exceeding 15% along the remaining portions;
 - (d) Provide and maintain convex mirrors and a stop sign at the intersection of the access ramp and the public lane in order control vehicular traffic and improve visibility for drivers exiting the site;
 - (e) Provide and maintain 1 Type G loading space with a generally level surface, on site;
 - (f) Construct all driveways and passageways providing access to and egress from the Type G loading space with a generally level surface, a minimum width of 3.5 m (4 m where enclosed), a minimum vertical clearance of 4.3 m and minimum inside and outside turning radii of 9 m and 16 m;
 - (g) Construct the Type G loading space and all driveways and passageways providing access thereto to the requirements of the Ontario Building Code, including allowance for City of Toronto bulk lift and rear bin vehicle loading with impact factors where they are to be built as supported structures;

- (h) Provide and maintain a garbage room and a recyclable materials storage room with minimum sizes of 30 m² and 20 m² respectively, to serve the residential and non-residential components and install and maintain a stationary compactor in the garbage room;
- (i) Provide and maintain a service corridor at least 2.5 m wide between the garbage and recyclable storage rooms and the Type G loading space, and access to each storage room with double or overhead doors having a minimum width of 2.2 m;
- (j) Provide and maintain a concrete base pad adjacent to the front of the Type G loading space, with a slope not exceeding 2% and a configuration to permit 6 containers to be stored and manoeuvred on collection day;
- (k) Convey to the City, at nominal cost, prior to the issuance of a building permit, a strip of land 2.56 m wide commencing at the Yorkville Avenue street line and uniformly reducing to 2.43 m at a distance 24 m from the Yorkville Avenue street line, measured along the east limit of the public lane, and thereafter a wedge shaped strip of land 2.43 m wide and uniformly reducing to 0 m wide at a point 7 m southerly, and thereafter another wedge shaped strip of land 0.05 m wide and uniformly increasing to 0.38 m to the south property line, such lands to be free and clear of all encumbrances, save and except for utility poles, and subject to below grade rights in favour of the Grantor to a depth not less than 0.5 m below finished grade for the purpose of constructing an underground structure, on such terms and conditions as to support and otherwise as are satisfactory to the Commissioner of Works and Emergency Services and the City Solicitor, and subject to a right-of-way for access purposes in favour of the Grantor until such time as said lands have been laid out and dedicated for public highway purposes;
- (l) Execute an agreement, binding on successors on title, to:
 - (i) Indemnify the City from and against all actions, suits, claims, or demands and from all loss, costs, damages, charges, and expenses that may result from the construction of the garage beneath the public highway;
 - (ii) Maintain the structure in good and proper repair and a condition satisfactory to the Commissioner of Works and Emergency Services;
 - (iii) Indemnify the City from and against any loss or damage to the waterproofing and structure resulting from the maintenance and reconstruction of the street or lane pavement, unless such loss or damage is caused by negligence of the City;
 - (iv) Include additional conditions as the City Solicitor and the Commissioner of Works and Emergency Services may deem necessary in the interests of the Corporation;

- (m) Submit to the Commissioner of Works and Emergency Services:
 - (i) a Reference Plan of Survey, in metric units and referenced to the Ontario Co-ordinate system, delineating thereon by separate PARTS the lands required for widening of the lane, the remainder of the site and any rights-of-way appurtenant thereto;
 - (ii) final approved drawings with sufficient vertical and horizontal dimensions of the exterior walls for the purpose of preparing site specific exemption by-laws;

and such plans should be submitted at least 3 weeks prior to the introduction of bills in Council;

- (n) Apply for revised municipal numbering to the Commissioner of Works and Emergency Services prior to filing an application for a building permit;
 - (o) Pay to the City a one time cash contribution for the cost of removing the parking meters in connection with the sidewalk widening, if deemed necessary by Urban Development Services, plus any additional costs to offset lost revenue of these metres which may be deemed appropriate by the Toronto Parking Authority;
 - (p) Eliminate the existing Bay Street lay-by in accordance with Recommendation No. 1(o) above, and restore the street allowance to City of Toronto standards, at no cost to the City;
 - (q) Revise the details for the surface treatment of the public lane at Genoa Street;
 - (r) Submit revised drawings with respect to Recommendation Nos. 1(a), 1(d), 1(e), 1(i), 1(j), 1(k) and 1(q) above, for the review and approval off the Commissioner of Works and Emergency Services;
2. That the owner be advised:
- (a) Of the need to receive the approval of the Commissioner of Works and Emergency Services for any work to be carried out within the street allowance;
 - (b) Of the need to obtain building location and streetscape permits, as well as potentially other permits such as hoarding, piling/shoring etc. from this Department prior to construction;
 - (c) Of the need to submit an application to the Commissioner of Works and Emergency Services for approval of the proposed canopy encroachments within the abutting road allowance and enter into an Encroachment Agreement in respect of the approved encroachments;

- (d) That the public lane used to access and egress the parking and loading spaces are given lower priority for snow clearance;
3. That the lands conveyed to the City under Recommendation No. 1(k) above, be laid out and thereafter dedicated by the City, for public highway purposes.