

**162 Cumberland St.
Rezoning Application - Preliminary Report
and Directions Report for 150 Bloor Street West**

Date:	June 2, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	10 110581 STE 27 OZ and 09 117053 STE 27 OZ

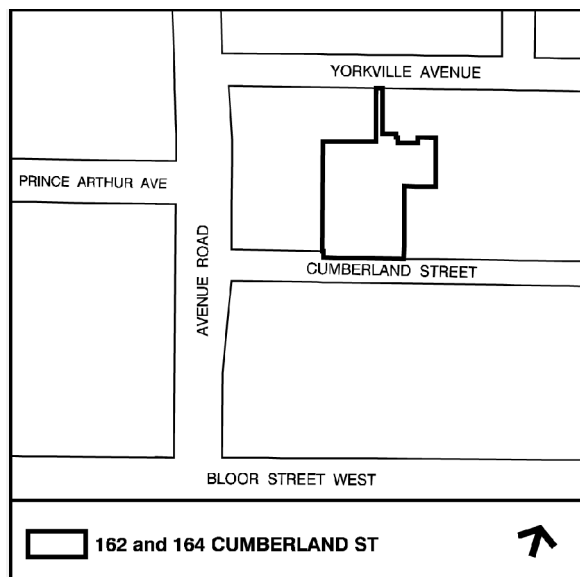
SUMMARY

This application was made on January 27, 2010 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This application proposes to: permit a public garage, eliminate “exclusive use” restrictions for the commercial and residential unit owners, specify 2 *Type C* loading spaces for the exclusive use of the non-residential component; and specify 1 at grade loading space primarily for the residential component of the building at 162-164 Cumberland St.

This report provides preliminary information on the above-noted application and seeks Community Council’s directions on further processing of the application and on the community consultation process.

The report also seeks to obtain Council’s Direction on Zoning By-law 1171-2009 which is currently before the Ontario Municipal Board. It was the subject of a rezoning application for 150 Bloor St. / 175 Cumberland St. and 162-164 Cumberland St and is dealt with in Recommendations 4 and 5 of this report.



RECOMMENDATIONS

The City Planning Division recommends that:

1. Toronto and East York Community Council determine that the community consultation meeting to be held on Monday, June 21, 2010 satisfies the requirement for such meetings as normally held after the Preliminary Planning Report has been heard on a Community Council agenda. Notice was given to landowners and residents within 120 metres of the site.
2. Notice for the public meeting under the Planning Act be given according to the regulations under the Planning Act.
3. City Council instruct the City Solicitor to inform the Ontario Municipal Board that as the statutory time limit for Council to consider a zoning application as set out in the Planning Act has not yet expired, and the public and community consultation required by Section 5.5.1 (c) of the Official Plan has not yet occurred, prior to the writing of this report, it is not recommended that Council address the zoning application submitted by 162 Cumberland St. at this time. However, this report and these recommendations are necessary for Council to provide instructions to the City Solicitor with regard to the City's position for the upcoming Ontario Municipal Board hearing.
4. City Council instruct the City Solicitor to inform the Ontario Municipal Board that the City has considered the new information put forward by 162 Cumberland Holdings Inc. and has chosen to change its position on the parking and loading space requirements set out in the Zoning By-law 1171-2009, as outlined in the chart which forms part of Recommendation 5, which is subject to preconditions.
5. City Council instruct the City Solicitor to inform the Ontario Municipal Board that Council supports the following amendments to site specific By-law No. 1171-2009, provided that these amendments do not prejudice the request of the other parties and participants to the hearing. Furthermore, that any Bill to implement these amendments not be introduced to Council until such time as the Ontario Municipal Board has issued a Decision on Case No. PL100054:
 - a. Permit up to 96 parking spaces in the Building B parking garage to be operated as a "*parking garage*" to be available for owners and occupants of Building A and B and also for users who are not occupants or customers of Building B.
 - b. Revisions to Site Specific By-law, provided the necessary preconditions have been met, to the satisfaction of the General Manager of Transportation Services, in consultation with the Chief Planner and the City Solicitor:

Revisions To Site Specific By-Law	Preconditions To Be Satisfied
<p>Additional “surplus” parking in 162 Cumberland Street Building (Building B) to be operated as commercial parking (over and above) the 96 parking spaces referenced in Recommendation No. 6.a (i) above.</p>	<p>Determination of final “surplus” number to be determined after OMB decision has been issued on OMB Case No. PL100054;</p> <p>Agreement with 150 Bloor in the event that the non-residential obligation is to be included in “Commercial garage”;</p> <p>In the event that the non-residential obligation for 150 Bloor will not be “exclusive use”, exclude at least 48 parking spaces from the “Commercial garage” parking spaces available for public use;</p> <p>Agreement with 175 Cumberland in the event that residential obligation to be included in “Commercial garage”;</p> <p>In the event that no agreement is reached with 175 Cumberland St. regarding the proposed allocation of 8 parking spaces in Building B, at least 28 parking spaces must be provided within the physically-separated residential component of the 162 Cumberland parking garage, for the exclusive use of residents of 164 and 175 Cumberland St.</p>
<p>That the number of “exclusive use” resident parking spaces within the Building B parking garage be reduced from “28” spaces to “20” spaces.</p>	<p>Agreement with 175 Cumberland St. that residential obligation for 8 parking spaces may be included in “Commercial garage” portion of the underground garage.</p>
<p>Allow exclusive use of the 2 underground loading spaces for the commercial component of Building B (162 Cumberland St.)</p>	<p>Receipt of satisfactory shared loading agreement between 21 Avenue Rd. and MTCC 616 (164 Cumberland St.); and</p> <p>If applicable, receipt of shared loading arrangement between 162 and 164 Cumberland St., for the construction period of Premises No. 21 Avenue Road.</p>

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Ontario Municipal Board Hearing

On November 30, December 1, 2, 4 and 7, 2009, City Council passed zoning by-law 1171-2009. The By-law's purpose was to allocate the number and location of existing parking spaces within each parking garage for the various residential and commercial uses at 150 Bloor Street West, 175 Cumberland Street and 162-164 Cumberland Street.

The staff report dealing with this application can be found here:

<http://www.toronto.ca/legdocs/mmis/2009/te/bgrd/backgroundfile-25129.pdf>

The By-law was subsequently appealed to the Ontario Municipal Board (OMB) by Bloor/Avenue Road Investment Inc., and 162 Cumberland Holdings Inc. On January 27, 2010, 162 Cumberland Holdings Inc., filed a separate zoning application, which is the subject of this report. They included a planning rationale report and parking study with their application, as per normal City requirements. As an appellant at the OMB to zoning by-law 1171-2009, they indicated that they will ask the Board to impose a planning option that was not before Council (to allow paid public parking), when Council made its decision on the by-law. In addition, they are requesting that the by-law be amended to allow the loading spaces in the underground garage to be for the exclusive use of the non-residential component of the building (i.e. 162 Cumberland Street). Council did not have their planning rationale report and parking study when Council made its decision on the application for 150 Bloor Street West, 175 Cumberland Street, and 162-164 Cumberland Street.

Section 24.4 and Section 24.5 of the Planning Act state that the OMB can notify a municipal Council that the Council is being given an opportunity to reconsider its decision in light of new information and material and to make a written recommendation to the Board. On March 26, 2010, the Ontario Municipal Board rendered a procedural pre-hearing disposition on the appeal of zoning by-law 1171-2009. It directed that Council be given the opportunity to consider the new material available and to reconsider its decision.

The Board also noted that 162 Cumberland Holdings Inc. is asking the Board to permit public parking at 162 Cumberland as part of the appeal of 150 Bloor Street West, 175 Cumberland Street, and 162-164 Cumberland Street notwithstanding that 162 Cumberland Holdings Inc.'s has filed an application for public parking which is the subject of this report. The Board stated that it, "...is both prudent and appropriate to require the City to consider the proposed by-law application"... (for 162 Cumberland)... "prior to the Board embarking on an inquiry which it is asked to implement a planning option that was never considered by Council."

Review of New Material

Staff from the Transportation Services Division have reviewed the additional information supplied by 162 Cumberland Holdings Inc., with respect to how it might affect the application filed for 150 Bloor Street West, 175 Cumberland Street, and 162-164 Cumberland Street.

With respect to the allocation of parking spaces between the various properties and land uses, Transportation Services staff are of the opinion that the additional information does not affect the advice previously given by staff to Council.

However, the applicant would like to continue operating a “*parking garage*” type operation, consistent with the current provisions of the City’s General Zoning By-law. These provisions permit the public use of parking garages which are accessory to a non-residential building (or a non-residential portion of a building), in a variety of districts including, this CR district. The original Site Specific Zoning By-law 492-80 does not permit an accessory paid public parking garage and specifically requires that all parking spaces be for the exclusive use of the building tenants and occupants comprising Premises Nos. 150 Bloor Street West, 162, 164 and 175 Cumberland Street.

City staff recommended in the Final Report conclusion for 150 Bloor St. and 175 Cumberland and 162-164 Cumberland Street “that the owners of 162 Cumberland St. parking garage will, in the future, have to apply to legalize their commercial parking lot operation after the other matters have been resolved.”

The submitted studies also propose a change to the loading provisions in Zoning By-law 1171-2009 affecting 162 Cumberland Street. The proponents are suggesting that the residential requirement be for 1 loading space, which will have to be occasionally shared with the commercial uses and that the other 2 loading spaces would be exclusively for the commercial users. The acceptance of these changes are subject to preconditions found in the chart in Recommendation 5 of this report.

Pre-Application Consultation

A pre-application consultation discussion was held with the applicant to discuss complete application submission requirements.

Community Consultation

A Community Council neighbourhood consultation meeting is scheduled to be held on June 21, 2010.

ISSUE BACKGROUND

Proposal

On January 27, 2010, 162 Cumberland Holdings Inc., applied for a Zoning By-law Amendment to By-law 492-80 to allow them to operate a paid public parking garage, including residential and commercial parking spaces for 162-164 Cumberland St. owners

and occupants. It also requests changes to the loading requirements for 162 and 164 Cumberland Street. This would result in two loading spaces being allocated for the exclusive use of non-residential uses located in 162 Cumberland St. and 1 loading space to be shared, but primarily for the residential units. In addition, the applicant proposes to provide 20 non-exclusive residential parking spaces for 164 Cumberland and 8 non-exclusive parking spaces for the residential condominium units at 175 Cumberland St. as well as 87 parking spaces for the commercial parking and visitor parking for 150 Bloor Street and 162 Cumberland Street. Further, that the applicants are requesting paid public parking be allowed in the 162 Cumberland Street underground parking garage.

Site and Surrounding Area

North: Hazelton hotel, north side of Yorkville Avenue, 9 storeys

South: 150 Bloor Street, 175 Cumberland St. 26 storey mixed-use building

East: Three commercial house form buildings and a parking garage

West: Four Seasons Hotel

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

There are no particular policies in the Provincial Policy Statement that provide specific direction on the issue of parking or loading.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe. There are no particular policies in the Growth Plan that provide specific direction on how parking or loading spaces should be allocated.

Official Plan

The Toronto Official Plan applies to any new application on the subject site. This review of Official Plan policy is focused on the relevant policies to the rezoning request, as this proposal does not seek to introduce any new or expanded development.

Under the Official Plan, the site is within the Downtown and Central Waterfront Area as outlined in the Urban Form Schedule (Map 2) of the City of Toronto Official Plan. The policies of Section 2.2.1 of the Official Plan promote the evolution of the Downtown as a healthy and attractive place to live and work. Development should build on the strength

of the Downtown as the premier employment centre in the GTA, and should provide a full range of housing for Downtown workers, reducing the need for inbound commuting (2.2.1a) and (2.2.1b).

The subject site is designated *Mixed Use Areas* on the Official Plan Use Map.

The application will be considered with respect to a number of policies that apply to Mixed Use Areas that include providing an adequate supply of parking for residents and visitors. (Policy 4.5.2 i) Another policy that will apply is (Policy 2.4.5 a) that states that, “Better use will be made of off-street by encouraging the shared use of parking and developing parking standards for mixed-use developments which reflect the potential for shared parking among uses that have different peaking characteristics.”

Zoning

The site is subject to Site Specific By-law 492-80 which applies to both the Renaissance Plaza (150 Bloor St. W. and 175 Cumberland St.) and Renaissance Court (162 and 164 Cumberland St.) which was approved by City Council at its meeting of March 3, 1980. By-law 492-80 requires a total of 272 parking spaces between the two buildings’ parking garages without specifying residential or commercial parking space location.

Site Specific By-law 492-80 was amended by Site Specific By-law 1171-2009 by City Council at its meeting of November 30, Dec.1, 2, 4 and 7, 2009 and was subsequently appealed to the Ontario Municipal Board. By-law 1171-2009 has a more complex breakdown of parking and loading spaces between the two buildings and City staff from various service groups will be re-examining it in light of the new information submitted with this rezoning application.

Site Plan Control

Site Plan Approval is not required for this application.

Reasons for the Application

An amendment to the Site Specific Zoning By-law 492-80 is necessary because the proposed parking arrangement is not in keeping with that in-force Site Specific By-law, as it proposes a paid public parking operation, for a significant portion of the three level underground parking garage. It also proposes a reduction in the required loading facilities for the commercial and residential uses located in 162 and 164 Cumberland St. Further there is a request for an amendment to the City’s recent Site Specific By-law 1171-2009, which is under appeal at the OMB, by removing the requirement that the residential parking spaces be reserved for the “exclusive use” of residents.

COMMENTS

Application Submission

A Planning Rationale Report and a Parking Study were submitted with the application.

City staff have circulated the plans and studies and are reviewing the application for completeness.

Issues to be Resolved

The proposal raises some planning issues, including but not limited to:

Determination of amount of Surplus Parking Spaces available for 162 Cumberland

Since the owners of 150 Bloor Street West were not a party to the original rezoning request that is the subject of Site Specific By-law 1171-2009 and under appeal at the OMB, the City has had to rely on information provided by the traffic consultant for 175 Cumberland St. However, the owners of 150 Bloor Street have not confirmed their acceptance of the data submitted in that report, nor will they provide City staff with access to the parking garage to confirm the parking and loading space dimensions to confirm how many legal spaces are located in the underground.

As a result, staff are unable to determine the “precise” number of parking spaces on the two sites which are “surplus” to the minimum parking requirements of the two sites, which could potentially be used as a commercial parking garage without prejudicing the ability of the two sites to satisfy their minimum parking requirements. However, staff recommend that 96 parking spaces be considered surplus based on the 82 surplus spaces in zoning by-law 1171-2009 in addition to the 14 spaces required by the non-residential users of 162 Cumberland Street. This is subject to a number of preconditions stated in a chart forming part of Recommendation 5 of this report.

The Number of “Exclusive Use” Resident Parking Spaces to be Provided

The applicant has requested that the 8 residential parking spaces for 175 Cumberland Street be considered for inclusion in the “commercial garage”. This will require discussions with the residential owners at 175 Cumberland Street to determine their interest in having reserved parking spaces located in the 162 Cumberland Street parking garage.

The applicant is also requesting that a minimum of 20 parking spaces for 164 Cumberland Street be included in the “commercial garage” and that these spaces be made available for the use of dwelling units, consistent with the provisions of the existing parking agreement registered on title as Instrument No. AT 2206739.

For information, the existing registered agreement requires that the owner make up to 32 parking spaces available for residents of 164 Cumberland Street on an assured, but non-exclusive basis. By-law 1171-2009 required, among other things, that at least 20 of the 32 parking spaces be provided on an “exclusive” not “assured” basis (e.g. in a physically separate portion of the parking garage). The applicant’s suggested revisions would appear to detract from the existing parking entitlement as contemplated by By-law No. 1171-2009.

Transportation Services staff continue to recommend that 20 of the required parking spaces for Premises No. 164 Cumberland Street be provided in a physically-separated portion of the garage, for the exclusive use of residents, but would have no objection to the applicant providing the remaining 12 resident spaces in the commercial garage, in accordance with the existing registered parking agreement.

Allowance of the 2 Underground Loading Spaces for Commercial “Exclusive Use”

The owners of 162 Cumberland Holdings Inc. are requesting that 2 underground loading spaces be reserved for their commercial tenants “exclusive use”. This is something that City staff is considering but only after receipt of a satisfactory shared loading agreement between 21 Avenue Road and MTC 616 (164 Cumberland St.) as well, if necessary, an agreement between the owners of 162 Cumberland Holdings and MTC 616 (164 Cumberland Street) for the period during the construction of 21 Avenue Road.

Additional issues may be identified through the review of the application, agency comments and the community consultation process.

CONTACTS

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SIGNATURE

Raymond David, Director

Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: 162-164 Cumberland St. Parking Spaces – Level 1

Attachment 2: 162-164 Cumberland St. Parking Spaces – Level 2

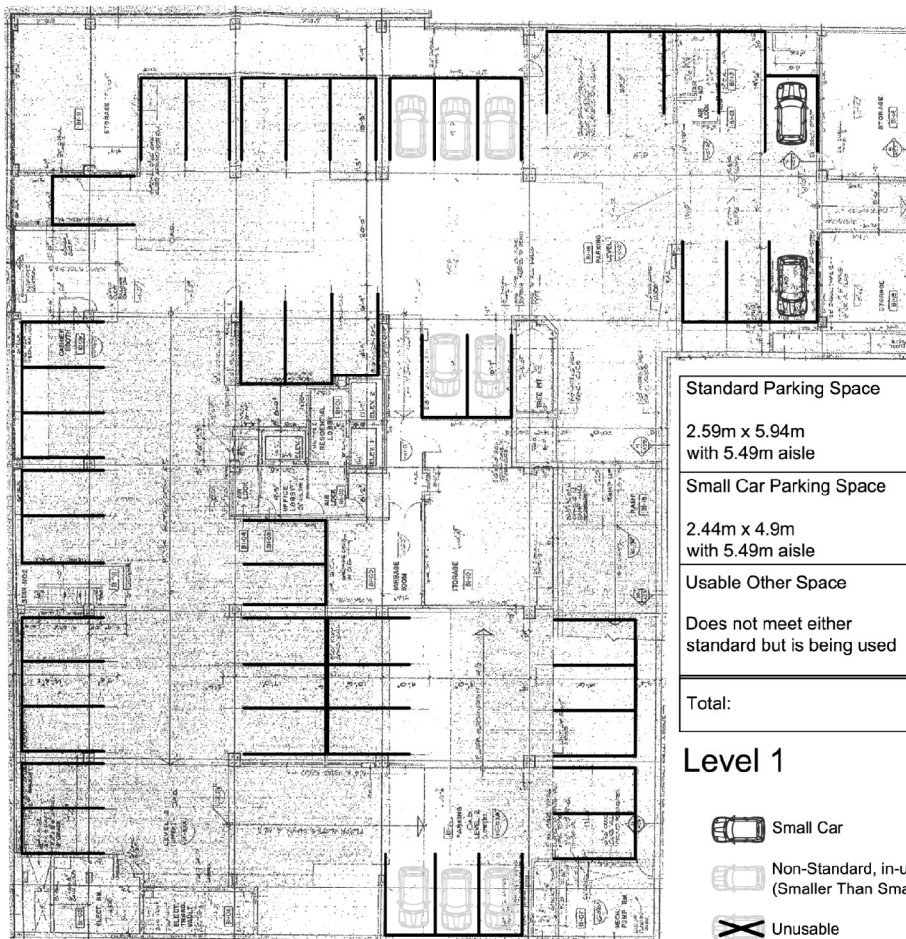
Attachment 3: 162-164 Cumberland St. Parking Spaces – Level 3

Attachment 4: Zoning

Attachment 5: Application Data Sheet




Attachment 1: Parking Spaces – Level 1

Available Parking Summary 162-164 Cumberland Street West				
Size	Level 1	Level 2	Level 3	Total
Standard Parking Space	38	51	51	140
Small Car Parking Space	2	2	1	5
Usable Other Parking Space	8	8	11	27
Total Per Level	48	61	63	<u>172</u>



Standard Parking Space	38
2.59m x 5.94m with 5.49m aisle	
Small Car Parking Space	2
2.44m x 4.9m with 5.49m aisle	
Usable Other Space	8
Does not meet either standard but is being used	
Total:	48

Level 1

-  Small Car
-  Non-Standard, in-use Space (Smaller Than Small Car)
-  Unusable

Parking Spaces - Level 1

162 & 164 Cumberland Street

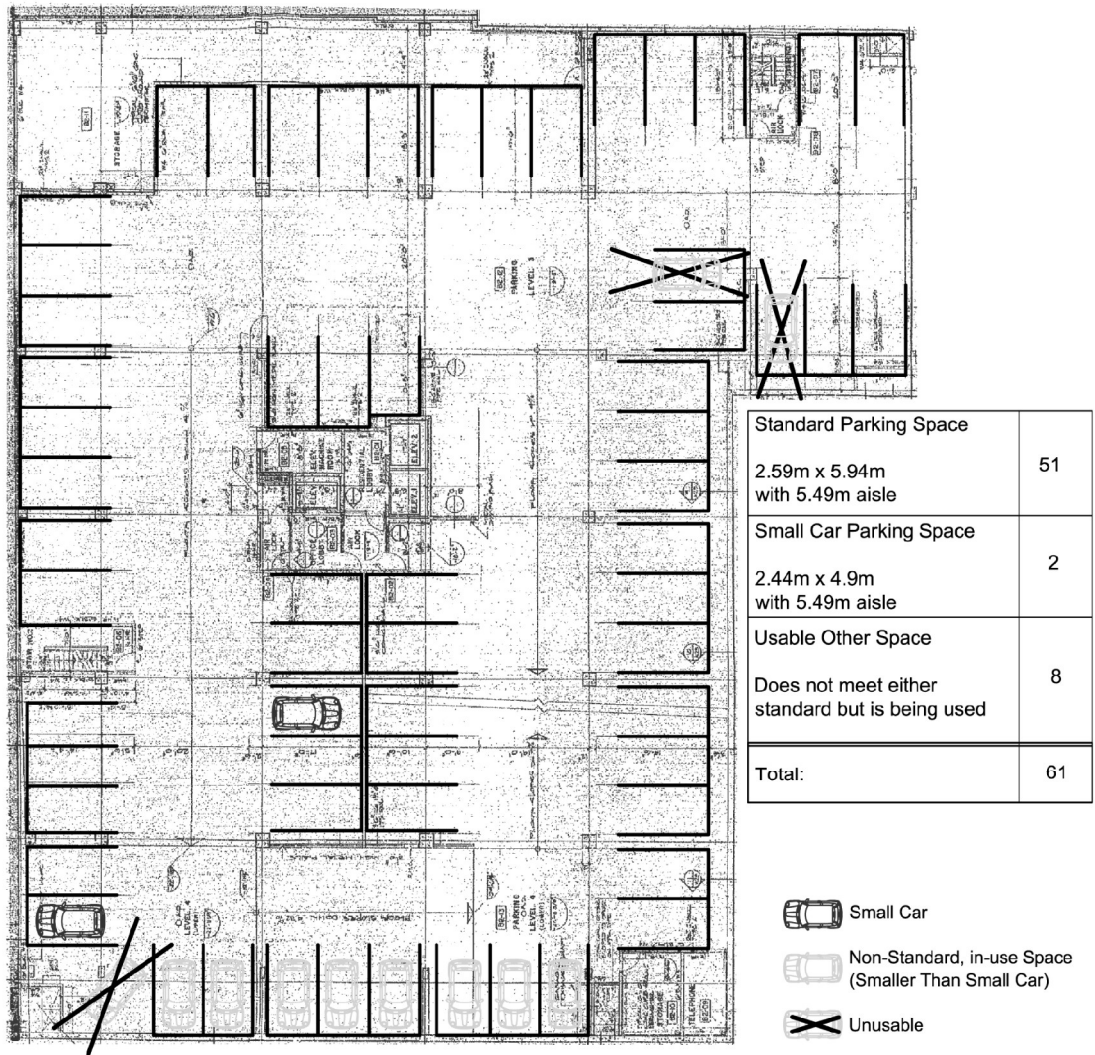
Applicant's Submitted Drawing

Not to Scale 

10/09/2009

File # 10_110581

Attachment 2: Parking Spaces – Level 2



Parking Spaces - Level 2

162 & 164 Cumberland Street

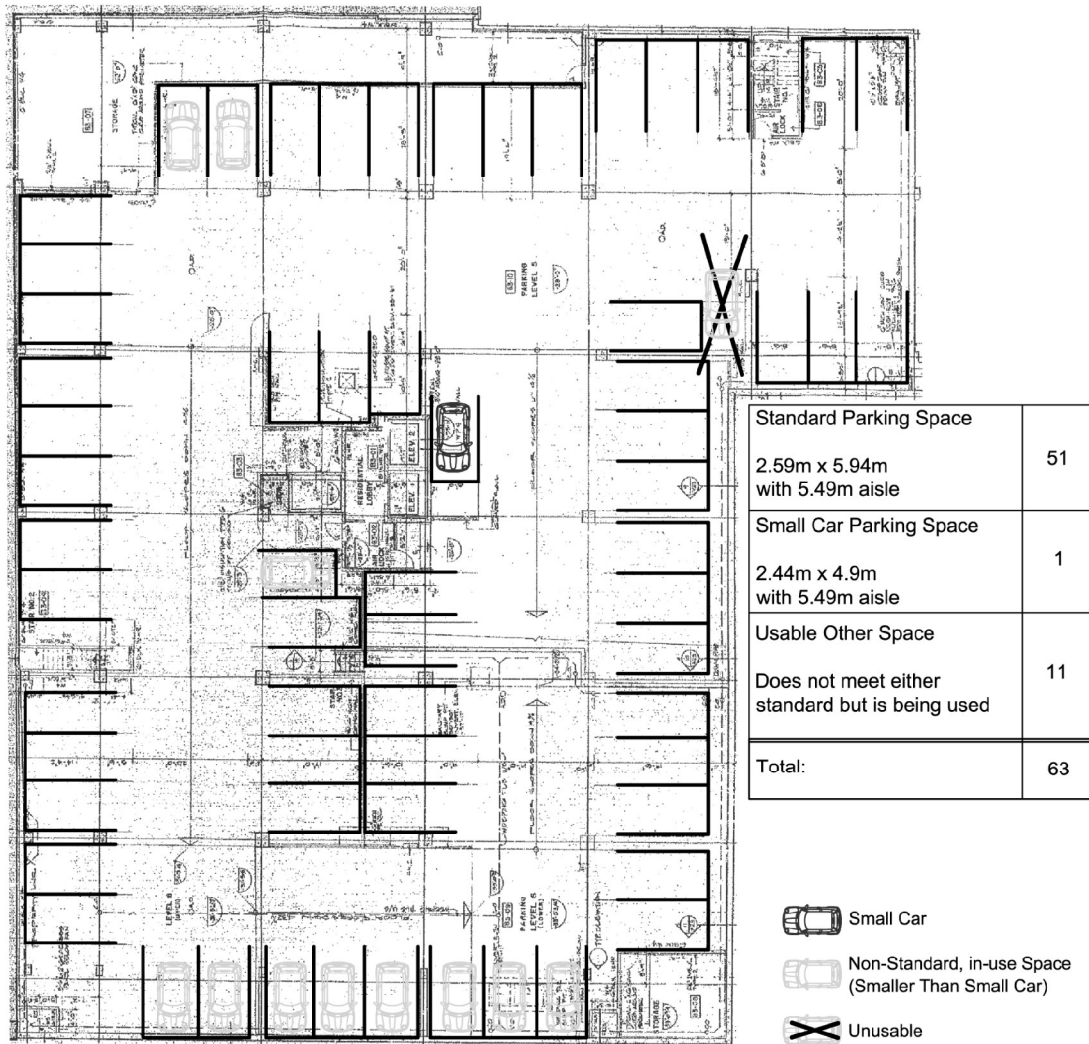
Applicant's Submitted Drawing

Not to Scale

10/09/2009

File # 10_110581

Attachment 3: Parking Spaces – Level 3



Parking Spaces - Level 3

162 & 164 Cumberland Street

Applicant's Submitted Drawing

Not to Scale 

10/09/2009

File # 10_110581

Attachment 5: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	10 110581 STE 27 OZ
Details	Rezoning, Standard	Application Date:	January 27, 2010
Municipal Address:	162 Cumberland St.		
Location Description:	PL 118E LTS D+E PT LTS A TO C PL 289 PT LT1 RP 63R2045 PTS 1 TO 11 & PTS 16 TO 20 **GRID S2703		
Project Description:	Rezoning application to permit a “parking garage” as well as amend residential and loading space parking requirements from By-law 492-80		

Applicant:	Agent:	Architect:	Owner:
Ron Kanter			162 Cumberland Holdings Inc.

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	492-80
Zoning:	CR T6.0 C4.5 R6.0	Historical Status:	
Height Limit (m):	18.0	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	2492	Height:	Storeys:	7	
Frontage (m):	37		Metres:	23	
Depth (m):					
Total Ground Floor Area (sq. m):	1811.8				Total
Total Residential GFA (sq. m):	5363		Parking Spaces:	172	
Total Non-Residential GFA (sq. m):	4809		Loading Docks	3	
Total GFA (sq. m):	15,756.3				
Lot Coverage Ratio (%):					
Floor Space Index:					

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	Below Grade
Rooms:		Residential GFA (sq. m):	5363	0
Bachelor:		Retail GFA (sq. m):	1353	0
1 Bedroom:	16	Office GFA (sq. m):	3456	0
2 Bedroom:	16	Industrial GFA (sq. m):	0	0
3 + Bedroom:		Institutional/Other GFA (sq. m):	0	5582
		(Parking)		
Total Units:	32			

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