

## STAFF REPORT ACTION REQUIRED

## 117 Peter Street and 287 Richmond Street West – Rezoning Application – Refusal Report

Date:	August 11, 2010			
То:	Toronto and East York Community Council			
From:	Director, Community Planning, Toronto and East York District			
Wards:	Ward 20 – Trinity-Spadina			
Reference Number:	09 154905 STE 20 OZ			

### SUMMARY

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

An application has been made by McCarthy Tetrault LLP for the site at the southeast corner of Richmond and Peter Streets. The site currently contains two existing buildings: a three storey warehouse commercial building at 117 Peter Street and a two-to-three-storey wedge-shaped commercial building at 287 Richmond St W.

This application proposes a 36-storey mixed use building containing retail and office uses in a 4 storey podium occupying the majority of the site and a 32-storey residential tower above. The proposed development would contain 446 residential units and seeks an overall height of 124 metres including mechanical elements. Parking for vehicles and bicycles is proposed to be provided in five belowgrade levels.

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



#### RECOMMENDATIONS

#### The City Planning Division recommends that:

- 1. City Council refuse the Zoning By-law Amendment application for 117 Peter Street and 287 Richmond Street West for the reasons set out in this report including:
  - a. the proposal represents over-development of the property,
  - b. the proposal is out of scale with the existing and planned built form context,
  - c. the proposal would create negative impacts on the public realm and adjacent and nearby properties affecting their use and enjoyment,
  - d. the proposal would set a negative precedent for future development undermining the vision for this area of the City,
  - e. the proposal is inconsistent with the King-Spadina Urban Design Guidelines and Criteria for the Review of Tall Buildings Proposals,
  - f. the proposal is inconsistent with the Provincial Policy Statement, and
  - g. the proposal does not conform to the Growth Plan for the Greater Golden Horseshoe.
- 2. City Council authorize the City Solicitor and City staff to appear before the Ontario Municipal Board in support of City Council's decision to refuse the application, in the event that the application is appealed to the Ontario Municipal Board.
- 3. City Council authorize City Planning in consultation with the Ward Councillor, to secure services, facilities and matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner, should the proposal be approved in some form by the Ontario Municipal Board.

#### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

#### **Planning History for King-Spadina**

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

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

To address these issues Council has re-examined the planning framework for King-Spadina. In 2006 Council enacted amendments to the King-Spadina Secondary Plan (OPA 2) and the Zoning By-law (By-law 922-2006) and adopted new urban design guidelines for the area. In 2006, Council adopted design criteria for the review of tall building proposals that implement the built form policies of the Official Plan and these apply throughout the City including King-Spadina. A study of the built form in the east precinct of King-Spadina, within which the subject site is situated, that addressed area specific issues related to height, massing and built form context was considered by Council in 2009. A community improvement plan has also been approved for King-Spadina. Among other things, it includes a strategy for public realm improvements. Some of these improvement projects are being realized through initiatives such as the John Street revitalization plan, and a number of proposed publicly accessible privately owned plazas. In addition the Entertainment District Business Improvement Association's Master Plan that includes portions of King-Spadina has influenced the planning framework for this area.

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

#### King Spadina Secondary Plan Review

In 2005, the King-Spadina Secondary Plan review was initiated by Council to evaluate development issues in King-Spadina related to entertainment uses, community facilities, public realm and built form. In September 2006 Council enacted amendments to the Secondary Plan and Zoning By-law for the area. The amendments were appealed to the Ontario Municipal Board (OMB) and many of these appeals have since been withdrawn or resolved. A further prehearing on the outstanding appeals has not yet been scheduled by the OMB.

The official plan amendment introduced new policies to reinforce the major objectives of the planning framework for King-Spadina that encourages reinvestment for a range of uses in a manner that protects and enhances its historic built form. It introduced a new urban structure for King-Spadina removing the historic Queen Street West area, and identifying three distinct areas: the East and West Precincts; and the Spadina Avenue Corridor shown on Attachment 1. It provides that development will complement and reinforce the distinctive qualities of these precincts and corridor. Heritage areas are

identified in the East and West Precincts and Spadina Avenue Corridor, along with policies to reinforce the historic built form character of these areas. Further, these heritage areas are to be considered for district designation under the Ontario Heritage Act.

To address public realm and built form issues arising from development proposals for tall buildings in the East Precinct, Section 3.7 was added that identifies the specific areas in King-Spadina where proposals for building heights significantly in excess of the existing zoning permissions can be considered. These areas are limited to areas on the north side of King Street West, the south side of Wellington Street West and south of Wellington Street West all between Spadina Avenue and John Street. Further the plan provides that development proposals within these areas will be evaluated, among other things, on their ability to meet the City's tall building design criteria.

Policies were added to promote community improvements and to strengthen the heritage character of the area. Commercial parking below grade is also provided for, recognizing King-Spadina's place within the entertainment district of the City, where commercial parking may be needed to support new development.

The site is situated within the East Precinct of King-Spadina in a Heritage area. The proposal for a 124 metre tall building is significantly in excess of the 35 metre height limit permitted in the Zoning By-law. The site is not situated in an area where zoning amendments for development proposals that seek height increases significantly in excess of zoning permissions are to be considered.

#### King-Spadina Urban Design Guidelines

Along with the official plan and zoning by-law amendments, in September 2006 Council adopted revised Urban Design Guidelines for King-Spadina. These guidelines seek to reinforce the physical character and identity of King-Spadina. Using the historic fabric as the backdrop, the guidelines provide direction on how to assess development proposals to ensure that new buildings and public realm improvements preserve and reinforce the area's unique heritage character.

The guidelines address the importance of streets to the character of King-Spadina and their contribution to the public realm. Special character streets are identified due to the significance from a historic and cultural perspective and John Street is a special street and Cultural Corridor. The guidelines place importance on the protection of sun access to the public realm and ensuring that there is adequate sunlight on both sides of the street at street level particularly east of Spadina Avenue where tall buildings have been approved.

The built form guidelines provide direction on how to evaluate development proposals that meet the as-of-right permissions in the Zoning By-law, and those where significant increases in height are proposed beyond the as-of-right permissions. Development proposals that are within as-of-right permissions are assessed at three levels: the 'Pedestrian Scale', including weather protection, parking and loading, pedestrian links and crime prevention though environmental design; the 'Street Wall Scale', recommending a 1:1 street proportion for the street wall and consistent setbacks; and a 'Design and Architectural Quality Scale' to ensure that building design and materials are of high quality, and are compatible with and complement the existing heritage fabric.

Additional 'Urban Scale' guidelines are included that provide further direction on how to evaluate development proposals that seek increases in building height above as-of-right permissions, particularly in locations identified in the King-Spadina Secondary Plan as having the potential for building heights substantially in excess of current permissions. Along with ensuring that new development respects the prevailing pattern of height transition in this area, these guidelines note that buildings in the East Precinct that have heights beyond the permitted zoning and are anomalous with the heritage fabric of the area should not be used as precedents for development. Further, the City's tall building criteria are to be used to evaluate any tall building elements above the as-of-right permissions for King-Spadina.

The 'Urban Scale' guidelines seek to address potential adverse impacts of building height, particularly tall buildings, on adjacent and nearby properties, the public realm and on the quality of life of existing and future residents in King-Spadina. They provide direction on matters related to shadow impacts, angular planes, setbacks and light, view and privacy all relevant for applications that propose additional height.

The guidelines propose angular planes along with height limitations and stepbacks as measures to minimize shadow impacts, ensure adequate sunlight, and strengthen the existing street wall scale to maintain a comfortable pedestrian experience. To ensure that long term quality of life is maintained issues of light, view and privacy are addressed. Access to natural light, the protection of privacy and reasonable views are important factors that affect living conditions. Consequently, buildings should be positioned and located in such a way that limits their impacts on the public realm and adjacent buildings.

In order to ensure that people have access to natural light, adequate sky views and that privacy in their homes is protected, the guidelines propose a minimum facing distance of 25 metre between tall building elements. This facing distance can be achieved on compact sites by requiring a minimum setback of 12.5 metres from property lines for tall buildings elements. To address light, view and privacy issues for residents living in podiums, adherence to minimum side and rear yard setbacks guarantees minimum facing distances, addressing quality of life issues for these residents as well.

Within this framework, development proposals are evaluated not only on their ability to achieve optimum proximity, light, view and privacy conditions, but are also assessed in relation to the impacts on other properties in the same block, with similar potential. The ability of these nearby properties, within their existing and/or planned context, to achieve optimum proximity, light, view and privacy conditions is equally important. To ensure that adjacent and nearby properties are not negatively impacted, facing distances and setbacks should be addressed within the development site and not exported to adjacent and nearby properties.

The proposal does not adhere to the 'Street Scale' and 'Urban Scale' criteria included in the guidelines. The guidelines for King-Spadina recommend a 1:1 relationship of the podium to the width of the street. This 1:1 relationship is also reflected in the zoning by-that provides for a minimum building setback of 3 metres above a height of 20 metres. The podium of the building at 21.0 metres approaches the recommended 'Street Wall' scale for King-Spadina as Richmond Street has a right-of-way width of 20 metres. The proposal does not meet the 'Urban Scale' criteria with respect to the setback of the podium (minimum 7.5 metres) from side and rear yards, or the tall building element (setbacks of 12.5 metres to property lines) required to ensure adequate light, view and privacy for the development and to protect for these conditions on other properties in the same block.

#### Design Criteria for the Review of Tall Building Proposals

The City's 'Design Criteria for the Review of Tall Building Proposals' provide guidelines for the design and evaluation of tall buildings in the City. Aimed to implement the built form policies of the City's Official Plan, they include measurable criteria and qualitative indicators to assist in the review of tall building proposals. Criteria and indicators are related to four main areas; site context, site organization, building massing and the pedestrian realm.

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

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

Building massing is a critical consideration in assessing tall buildings. The scale of the base component of a tall building should have good street proportion to maintain access to sunlight and sky views along the street, should integrate with adjacent buildings and minimize the impacts of parking and servicing uses. To break down the mass of the building smaller floor plates and building articulation is recommended. The criteria include a minimum spacing of 25 metres between the shafts of tall building elements. On compact sites where a tall building is proposed the shaft of the tall building must be located a minimum of 12.5 metres away from the property line.

New tall buildings are expected to enhance the public realm by providing active frontages, and high quality streetscape and landscape design elements. To reduce negative impacts of taller buildings elements, a minimum stepback of 5 metres for the taller building parts from the street edge of the base building is required. Other considerations include weather protection, limiting shadowing impacts and uncomfortable wind condition on nearby streets, properties and open spaces, as well as minimizing additional shadowing on neighbouring parks to preserve their utility. The proposal does not meet the minimum separation criteria for compact sites needed to ensure adequate light, view and privacy for the proposal, and to protect for these conditions on adjacent properties. The shaft of the building is proposed to be situated 7.4 metres from the east property lines and as little as 8.9 metres from the southern property limit, while the tall building criteria requires a minimum setback of 12.5 metres from these property lines. As well, the proposal does not meet the meet the minimum stepback of 5 metres for the tall building elements from the street edge of the base building as required.

#### King-Spadina East Precinct Built Form Study

A further study of the East Precinct of King-Spadina was initiated by Council in April 2008 due to the number of development applications in this area of King-Spadina proposing heights above those permitted by the Zoning By-law. This study was intended to evaluate the character of the East Precinct and provide more specific direction on where and how additional development can be accommodated while protecting the features that make this area distinctive and successful.

The study identified five character areas in the East Precinct, as shown on Attachment 2, and established an approach to considering development within each area in a manner that protects, reinforces and enhances its heritage character.

Among other things, it established 'First' and 'Second Tier' height zones within the character areas. In the 'First Tier' zones, height is limited to the as-of-right permissions in the Zoning By-law. Heights that are greater than the as-of-right permission can be considered in the 'Second Tier' height zones subject to a number of considerations, among these; respect for heritage in the immediate context, including podium scale, materiality, proportion and architectural rhythm, preservation of sunlight on parks and important pedestrian streets, conformity with the King-Spadina design guidelines and achieving a 25 metre tower separation and maximum 750 square metre floor plate to address light, view and privacy. Appropriate Section 37 contributions for increased height would also be required. This framework for considering development applications within the East Precinct was considered by City Council at its meeting of September 30, October 1, 2009 and has been applied to the review of development applications subsequent to Council consideration.

The site is in the 'Warehouse District' character area and in a 'First Tier' height zone that has a height limit of 30 metres plus 5 metres for mechanicals subject to angular plane requirements (Attachment 3). The 'Warehouse District' generally includes the Richmond Street and Adelaide Street corridors and is characterized with mid-rise brick and beam buildings, many of historic significance. The mid-rise built form character of the 'Warehouse District' is one of the most distinctive features of the King-Spadina area. The preservation and enhancement of this character is an important goal of the King-Spadina planning framework. The limits on height within this zone are intended to protect and reinforce the historic built form character of the Warehouse District, while providing for new development. It also provides a transition area from the 'Second Tier' height zones to the south and east to the low-rise area in the Heritage Conservation District along Queen Street West to the north, further strengthening the historic built form character of this area of the Warehouse District.

#### **Toronto Entertainment District Master Plan**

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

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

The subject site is in the 'Warehouse Precinct', "defined by a concentration of mid-rise brick and beam structures many of which have historic and architectural significance". "Richmond Street and Adelaide Street are the main streets and primary focus for the precinct", that "contains a broad mix of uses, including office, commercial, restaurants, bars and nightclubs, pockets of Victorian house forms and book-ended with high density residential uses". "The area currently serves as a transition in scale and character between the large scale developments and the Financial District to the south and east, and the low-rise adjacent Queen Street West Heritage Conservation District and neighbourhoods to the north".

The objectives of the Warehouse Precinct seek to protect, reinforce and leverage the warehouse look and feel of the precinct to create a unique heritage destination and attraction while continuing to intensify the mix and variety of uses but with sensitivity to the precinct's heritage character and function as a transition between areas of varying scale and intensity. They also seek to enhance streetscapes and promote active uses atgrade to create a vibrant and inviting street life and create new public spaces to enhance the areas appeal and liveability.

The Master Plan contains a public realm framework for enhancements and improvements, a built form framework addressing issues such as heritage, scale, transitions, height and massing, and an implementation strategy for action.

Areas considered appropriate for low, mid and high-rise buildings are identified. The Warehouse Precinct is considered a mid-rise area where built form should reinforce the character of the precinct and where point towers are inappropriate as they detract from the area character and threaten the retention of heritage buildings.

### **ISSUE BACKGROUND**

### Proposal

The application was originally filed for a 29-storey mixed use building with a height of 98.6 metres. The proposal included 297 residential units and 171 hotel suites, with a restaurant at grade. The project would have had an overall gross floor area of approximately 29,525 m<sup>2</sup>. The proposed density is 13.69 times the area of the lot. Parking for 201 vehicles and bicycle parking was proposed to be provided in four (4) levels of underground parking.

Since the original submission, and through the circulation and consultation process, the applicant revised the proposal from the original submission. In late June 2010, the application was revised to a 36-storey, mixed use building containing retail and office uses within a four storey podium, with 446 units within the tower above. The hotel component of the proposal has been eliminated. In addition, the application no longer proposes to provide three bedroom units as part of the revised application.

The proposal has a revised gross floor area of 29,019  $\text{m}^2$  and an overall building height of 124 metres to the top of mechanical penthouse (117.0 metres plus 7.0 metres for mechanical penthouse). Five (5) levels of underground parking are proposed to accommodate 219 vehicular parking spaces. See Attachments 4, 5 and 6.

The revised proposal creates a publicly accessible open space at grade along Richmond Street that mirrors the plaza across the street and is sheltered by a 4 storey high "tabletop" with the residential tower above. The proposal also incorporates the façade of the existing warehouse building at 117 Peter Street which contributes to the character of the streetscape. The tower floorplate has been reduced from approximately 950 square metres to 857 square metres with a corresponding increase in separation of the tower from the property lines.

#### Site and Surrounding Area

The subject site is located at the southeast corner of Richmond and Peter Streets, and is irregular in shape. The overall site area is approximately 2,120 square metres. The site has a frontage of approximately 31 meters along Peter Street and approximately 57 meters along Richmond Street. The site currently contains a 3-storey office building at 117 Peter Street, and a 2-storey commercial building at 281 Richmond Street.

Development in the vicinity is as follows:

North: Immediately north of the site is a 2-storey building that is being renovated to be the future offices of the Assessment and Referral Centre. To the west of the Referral Centre is a 3-storey office building, and a 2-storey building which is used as an entertainment facility. A 16-storey office (72.47 m) building at the northwest corner of Peter and Adelaide Streets was recently approved by the Ontario Municipal Board.

- East: Immediately east of the site is a parking lot and driveway entrance for the underground parking garage for the office building at 111 Peter Street. Adjacent to the driveway are four, 3-storey rowhouses that are occupied by office and restaurant uses.
- South: Immediately south of the site is a 9-storey office building at 111 Peter Street. Further south along Peter Street there is a 16-storey hotel located at 92 Peter Street.
- West: To the west of the site is a 1-storey building which is currently vacant. South of the vacant building are five 3-storey rowhouses which are currently used as restaurants.

#### **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.

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

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

#### **Official Plan**

The site is located in the *Downtown* and in the King-Spadina Secondary Plan Area. The site is designated *Regeneration Area* in the Official Plan.

#### Policies for Downtown

As an area where growth is anticipated and encouraged, the Official Plan provides for new development in the *Downtown* that; builds on the strength of the area as an employment centre, provides for a range of housing opportunities and supports and enhances the speciality retail and entertainment districts. The Official Plan directs growth to the *Downtown* in order to achieve multiple City objectives. Among other things, it promotes the efficient use of municipal services and infrastructure, concentrates jobs and people in areas well served by transit, promotes mixed use development to increase opportunities for living close to work and to encourage walking and cycling, improves air quality and reduces greenhouse gas emissions by reducing reliance on the private automobile all in keeping with the vision for a more liveable Greater Toronto Area. The plan recognizes that the economic success of the downtown goes hand-in-hand with accessibility and that the large increase in downtown activity and development over the past decades has not been accompanied by any significant increase in road capacity but rather has been supported by improvements to transit and by new housing that has put more people within walking distance of their places of work and other activities. Lower parking requirements in the downtown support this approach. Policies that favour this approach are included in the Official Plan, among them, Section 2.2.1.8 which provides that priority will be given to improving transit access to the *Downtown* while the expansion of automobile commuter and all-day parking will be discouraged.

This reurbanization strategy recognizes that the level of growth will not be uniform across the *Downtown* given its diversity. The policies of Section 2.2.6 for the *Downtown* provide that design guidelines specific to districts of historic and distinct character will be developed to ensure new development respects the context of such districts in terms of its fit with existing streets, setbacks, heights and relationship to landmark buildings.

The Official Plan recognizes that most of the City's future development will be infill and as such will need to fit in, respect and improve the character of the surrounding area. As a result, the built form policies of Section 3.1.2.2 seek to ensure that new development is located, organized and massed to fit harmoniously with the existing and/or planned context and will limit its impacts on neighbouring streets, parks, open spaces and properties. Among other things this harmony is achieved by; massing new buildings to frame adjacent streets in a way that respects the existing and/or planned street proportion; creating appropriate transitions in scale to neighbouring or existing planned buildings, providing for adequate light and privacy and adequately limiting any resulting shadowing of, and uncomfortable wind conditions, on neighbouring streets and properties.

Due to the larger civic responsibility and obligations associated with tall buildings, the built form policies of Section 3.1 provide additional direction on where they should be located and how they are designed. The plan states that although tall buildings are desirable in the right places they don't belong everywhere and are only one form of intensification.

Section 3.1.3.2 requires that tall buildings proposals address key design considerations including:

- meeting the built form principles of the Official Plan;
- demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
- demonstrating how the proposed building and site design relate to the existing and planned context;
- providing high quality, comfortable and usable publicly accessible open spaces; and
- meeting the other goals and objectives of the Official Plan.

#### Policies for Regeneration Areas

A broad mix of commercial residential light industrial, parks and open space, institutional, live/work and utility uses are permitted within *Regeneration Areas* to promote reinvestment and revitalization.

The policies of Section 4.7.2 for *Regeneration Areas* require that the framework for new development in these areas be set out in a Secondary Plan. Section 5.2.1.1 provides that secondary plans are intended to apply to defined areas and adapt and implement the objectives, policies, land use designations, and overall planning approach of the Official Plan to fit the local context. Section 5.2.1.3 of the Official Plan provides that Secondary Plans will promote a desired type and form of physical development for the area, and plan for an appropriate transition in scale and activity between neighbouring districts.

Section 4.7.2 gives direction on the intent of Secondary Plans for *Regeneration Areas* and provides that they will guide the revitalization of the area through matters such as:

- urban design guidelines related to the unique character of the area;
- strategies to promote greening and community improvements;
- a heritage strategy identifying important heritage resources, conserving them and ensuring new buildings are compatible with adjacent heritage resources;
- transportation policies that encourage transit, walking and cycling in preference to private automobile use; and
- environmental policies to ensure that lands are cleaned to an appropriate level for new development.

#### **King-Spadina Secondary Plan**

The site is situated in the King-Spadina Secondary Plan Area. The King-Spadina Secondary Plan provides a framework for reinvestment and development, intended to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to its historic building stock and pattern of streets, lanes and parks.

The urban structure built form principles in Section 3 of the King-Spadina Secondary Plan provide that new buildings will be sited and massed to provide adequate light, sky view and privacy for neighbouring properties and achieve a compatible relationship with their built form context through consideration of matters such as building height, massing, scale, setbacks, roof line and profile and architectural character and expression.

In the context of King-Spadina these principles require special consideration when reviewing development proposals to ensure that new development reinforces and enhances the historic built form that makes this area of the City so distinct. Section 4.3 provides that new buildings should achieve a compatible relationship with heritage buildings in their context through consideration of such matters, but not limited to, building height, massing, scale, setbacks, stepbacks, roof line and profile and heritage character and expression.

The Secondary Plan also includes policies that promote community improvement and measures to strengthen the pedestrian environment, and policies to minimize automobile use and promote transit use. Section 6.2(b) provides for minimum and maximum parking standards. Section 6.3 of the Secondary Plan also states that the policies with respect to parking are intended to assist in implementing the Plan's; major objectives, urban structure and built form, heritage and community improvement policies. To do this, the policies prohibit the expansion of surface parking lots and promote the removal of existing surface parking. The policies of Section 6 provide that new or replacement parking for any development other than re-use or conversions of existing buildings, should be provided below grade.

#### Zoning

The site is zoned Reinvestment Area (RA) in Zoning By-law 438-86 (Attachment 7). A wide range of residential, retail, commercial, institutional, recreational and industrial uses are permitted on the site.

On this site, a maximum building height of 30 metres is permitted with an additional 5 metres permitted for rooftop mechanical elements. Buildings are permitted to extend to the front lot line and to the side lot lines to a depth of 25 metres from a street. Beyond a depth of 25 metres buildings must be setback a minimum of 7.5 metres from a side lot line. A minimum 7.5 metre setback from the rear lot line is also required. A minimum setback of 3 metres is required along street frontages for the portion of a building higher than 20 metres.

Amending By-law 922-2006 introduced requirements for window separation between dwelling units (other than kitchen and bathroom windows). It requires a minimum separation of 15 metres for dwelling units on the same lot and a minimum separation of 7.5 metres to a wall or to a lot line that is not a street line or does not abut a public park.

The Zoning By-law parking standards for King-Spadina are those applied to the downtown generally, which requires less parking than many other areas of the City acknowledging the high level of transit service in this area. For residential parking, the Zoning By-law establishes the required parking based on the size of the apartment unit: smaller units require less parking than larger units. Bachelor, 1 and 2 bedroom apartments require less than one parking space per unit, and apartments over 3 bedrooms require more than one parking space per unit. Live-work units are considered to be residential units for the purposes of determining parking requirements. For commercial parking minimum and maximum standards apply. Above grade parking is permitted within the RA zone provided that the parking is accessory to the uses on the lot and subject to setbacks from the street. Visitor and bicycle parking are also required by the By-law.

### Site Plan Control

The proposed development is subject to site plan control. A site plan control application had not been submitted at the time of writing of this report.

### **Reasons for Application**

The proposed building exceeds the maximum height of 35 metres (including mechanicals) permitted in the zoning by-law by approximately 89 metres for a total height of 124 metres. Other areas of non-compliance with the Zoning By-law have been identified as follows:

- a maximum height of 5 metres is permitted for rooftop mechanicals and the mechanical penthouse is 7.0 metres high
- a minimum 3 metre stepback of the building from the street line above a height of 20 metres is required
- minimum side yard setbacks of 7.5 metres are required for the portion of the building located beyond 25 metres from the street line and the building is setback 0.4 metres from the east side lot line and 0.0 metres from the south property line
- a minimum rear yard setback of 7.5 metres is required from the rear lot line and the building extends to the rear lot line
- no window of a dwelling unit (other than a window of a kitchen or bathroom) is permitted closer than 7.5 metres to a lot line that is not a street line

### **Community Consultation**

A community consultation meeting was held on Tuesday January 19, 2010. Approximately 30 members of the public attended. The following comments and issues were raised:

- the nature of a proposed setback and colonnade to provide open space at street level and concerns that it would be a dark and enclosed space;
- the impact of the proposal on traffic and implications if Richmond Street becomes a two way street;
- questions about the size of the tower floor plate; and
- comments about the design and materials used.

### Agency Circulation

The applicant revised their plans at the end of June, and Staff circulated the latest reiteration of plans for review on July 16, 2010. The resubmission was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

### COMMENTS

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

The Provincial Policy Statement (PPS) contains policies related to managing and directing development. It requires that sufficient land be made available for intensification and redevelopment, that planning authorities identify and promote opportunities for intensification and redevelopment where this can be accommodated, taking into account, among other things, the existing building stock and areas, and that

they establish and implement minimum targets for intensification and redevelopment within built-up areas.

Within this framework, the PPS recognizes that the official plan is the most important vehicle for implementing PPS requirements and that comprehensive, integrated and long term planning is best achieved through municipal official plans. In order to do this, the PPS requires that official plans be kept up to date with the PPS and that they contain clear, reasonable and attainable policies to protect provincial interest and direct development to suitable areas. The PPS also recognizes that planning authorities may have standards to achieve the PPS that exceed the minimum requirements of the Province. The PPS states that the policies contained within it represent minimum standards and do not prevent planning authorities and decision makers from going beyond the minimum standards unless doing so would result in a conflict with any policy of the PPS.

The City's Official Plan that includes the King-Spadina Secondary Plan meets the requirements of the PPS. It is up-to-date having been approved at the Ontario Municipal Board in 2006. The premise of the policy framework for King-Spadina is to promote investment and redevelopment while taking into account the existing building stock and areas consistent with the direction of the PPS. For King-Spadina this includes a building stock of historic warehouse and row houses, in an area characterized with mid-rise buildings. Along with guiding development in the City, the official plan that includes the King-Spadina Secondary Plan contains clear, reasonable and attainable policies that protect provincial interest and direct development to suitable areas within this framework.

The Growth Plan for the Greater Golden Horseshoe identifies the *Downtown* as an Urban Growth Area, to which intensification should be directed. It requires that Official Plans provide a strategy and policies to achieve intensification and to identify the appropriate type and scale of development in intensification areas. Further, the Growth Plan requires that these areas be planned to achieve an appropriate transition of built form to adjacent areas.

The City's planning framework for King-Spadina is a strategy for intensification in this area of the *Downtown*. This strategy includes the policies, directions, guidelines and regulations of the; Official Plan, King-Spadina Secondary Plan, King-Spadina Urban Design Guidelines, East Precinct Built Form Study, Criteria for the Review of Tall Building Proposals, King-Spadina Community Improvement Plan and the Zoning By-law that provide for significant levels of intensification in King-Spadina. This framework identifies the desired type and scale of development within intensification areas and how to achieve an appropriate transition of built form to adjacent areas, consistent and in conformity with the requirements of the Growth Plan.

The subject property is situated within an area of King-Spadina which provides for a substantial level of intensification as-of-right, consistent with both the PPS and the Growth Plan. However, this is not an area of King Spadina where tall buildings or the scale of intensification proposed, is anticipated or appropriate. This area is intended to

promote intensification through development that respects and reinforces the existing and planned mid-rise historic built form context of the Warehouse District of King-Spadina. It is also an area of transition from other areas of the *Downtown* including areas of King-Spadina identified for higher levels of intensification south and east of the site, to areas of lower scale development to the west and north.

Although the standards established by the City's planning framework may exceed those required by the PPS, the policies, guidelines and regulations that direct growth in this area of the City are reasonable and attainable. There is significant development potential on the site within the existing planning framework. The proposal is not consistent with the PPS and does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe.

#### Conformity with the Planning Framework for King-Spadina

The application has been assessed in the context of the planning framework for King-Spadina, the input received from the public, and the comments received from City Divisions. This includes the amendments to the King-Spadina Secondary Plan and zoning by-law that were adopted by Council in 2006 and as well as the East Precinct Built Form study considered by Council in 2009 that has provided direction for the review of applications in King-Spadina.

The site is situated on the southeast corner of Richmond and Peter Streets in an area of King-Spadina that has been identified as the "Warehouse District" due to the number of low to mid-rise historic office and manufacturing buildings, along with pockets of lower scale residential building that are found here. The Heritage Built Form map for King Spadina, attached as Attachment 8, identifies this site as a property contributing to the heritage character of the area. The project incorporates the façade of the contributing building at 117 Peter Street however the scale of the street and area are compromised by a tower set only 1.5 m back from the heritage façade with balcony projections to the property line. Approval of this application as proposed may set a precedent for future development in this area.

As a site in the *Downtown* and a *Regeneration Area*, it is in an appropriate location for development that promotes growth. New development however, must conform to the City's growth management strategy along with the objectives and policies that support it. The growth strategy for this area of the City is framed by the King Spadina Secondary Plan that sets out the desired type and form of physical development for the area aimed to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to its historic building stock and pattern of street, lanes and parks.

The Secondary Plan is supported by a community improvement plan as well as urban design guidelines to ensure that new buildings and public realm improvements preserve and reinforce the area's unique heritage character. To implement the policies of the Official Plan and Secondary Plan the Reinvestment Area zone for this area provides for levels of intensification that are consistent with the desired type and form of development. In this area of King-Spadina the zoning provides for mid-rise

development. On this site, there is opportunity for significant intensification within the as-of-right-permissions for mid-rise development in keeping with the planning framework for King-Spadina.

The proposal is not consistent with this planning framework and would set a negative precedent for future development in King-Spadina. The application proposes a tall building that is out of scale with its existing and planned context, and creates an inappropriate transition to neighbouring and existing planned buildings contrary to the planning framework.

Introducing a tall building on the subject site does not respect the transition established in this area from the taller buildings to the south and east to the lower height areas to the north and west and would undermine the urban structure in this area of the City. There are a number of properties within the Warehouse District that exhibit similar characteristics to the subject site. The proposal if approved would set a precedent for similar tall building proposal on sites unable to accommodate them, throughout the Warehouse District destabilizing this area and threatening its heritage character. This was also noted by the BIA in their master plan study that considered appropriate locations for high-rise buildings. The 'Warehouse Precinct' was considered a mid-rise area where built form should reinforce the character of the precinct and where point towers were considered inappropriate as they detract from the area's character and threaten the retention of heritage buildings.

The proposal introduces a tall building on a site that due to its location and size cannot accommodate a tall building and mitigate its impacts on the public realm and surrounding properties. Tall building separation distances needed to achieve appropriate light view and privacy cannot be accommodated on the site and would impact the ability of these appropriate conditions to be achieved on adjacent underdeveloped sites.

The proposal is also inconsistent with the directions provided by the East Precinct Built Form study. The site is in the 'First Tier' height zone which is the lower scale area of the Warehouse District where height is limited to the as-of-right permission in the zoning bylaw of 35 metres. The limit on height within this zone is intended to protect and reinforce the desired physical form of development which is the mid-rise historic built form character of the Warehouse District, while providing for new development. It also provides a transition area from the 'Second Tier' height zones to the south and east to the low-rise area in the Heritage Conservation District along Queen Street West to the north, further strengthening the historic built form character of this area of the Warehouse District.

#### Land Use and Transportation

One of the main principles of the Official Plan is that there is a relationship between land use and transportation. The proposed residential, retail and office uses are consistent with the Official Plan policies for the area that provide for a wide range of uses. The primary use proposed in the development is residential, consisting of 446 dwelling units

that comprise 26,404 square metres. The proposed retail and office space is about 2,615 square metres and represents about 9% of the gross floor area of the building.

Vehicular access for both parking and loading will be provided by a two-way drive at the southern limit of the site, accessed from Peter Street. Parking is proposed to be provided in five levels of underground parking. A total of 219 parking spaces will be provided to serve the development. Of the 219 spaces, 184 will be for the exclusive use of residents, with the remaining 35 spaces to be used for the visitor and non-residential component.

### Height & Massing

The proposed building height of 124 metres exceeds the permitted height of 30 metres plus 5 metres for mechanical elements by 89 metres. The site is situated in the area of King–Spadina characterized by the number of historically significant offices and manufacturing buildings ranging in height from 2 to 12 metres, and pockets of lower scale historic residential buildings, that have given it the distinction as the 'Warehouse District' Richmond Street is one the main streets within this area and has a width of 20 metres. The planning framework for King-Spadina places primary importance on its heritage character and promotes mid-rise buildings in this area to preserve and reinforce its unique heritage character.

The proposal has not properly considered building massing and height in relation to its existing and planned context as required by the Official Plan and King-Spadina Secondary Plan, and supported by the King-Spadina Urban Design Guidelines and the Tall Building Criteria.

#### Base Building - Height and Massing

The proposed base building height of 21.0 metres extends the full width of the lot along Richmond and Peter Streets and does not achieve the minimum 7.5 metre side yard and rear yard setback requirements of the zoning by-law. Although these requirements are not met, the 4 storey podium and reduced setbacks are acceptable in this context and consistent with other approvals in King Spadina.

The proposed stepback above the podium is only 1.5 metres from Richmond Street and 1.5 metres from Peter Street. In addition a continuous line of balconies on both Peter and Richmond extends into the full 1.5 metre stepback. The proposal does not address the Urban Design Guidelines for King-Spadina for stepbacks of 3 to 9 metres for taller building or the tall buildings guidelines requirement for a minimum stepback of 5 metres. In the King Spadina Area the stepback is critical to strengthen the existing street wall and overall heritage character or historic scale of the neighbourhood. It also helps to maintain a comfortable pedestrian environment both visually and physically.

#### Tall Building Element – Height & Separation Criteria

The site is not situated within the area of the East Precinct identified in Section 3.7 of the King Spadina Secondary Plan where proposals for building heights significantly in excess of the existing zoning regulations may be considered. In areas where tall building proposals may be considered however, they are evaluated on their ability to meet the

criteria set out in the City's tall building guidelines and among other things, must demonstrate that the proposal does not export facing dimension constraints to adjacent sites.

Given the potential adverse impacts of tall buildings on adjacent and nearby properties, the public realm and on the quality of life of future and existing residents, the tall building elements of the proposal were also evaluated with respect to the additional requirements of the Tall Building Criteria, the Secondary Plan and the King-Spadina Urban Design Guidelines.

In order to ensure that people have access to natural light, adequate sky views and that their privacy in their homes is protected, space between tall buildings is needed and setbacks that exceed the By-law minimums that apply to lower scale buildings are often needed. The tall building criteria include a minimum separation of 25 metres between shafts of tall buildings. This facing distance can be achieved, by requiring a minimum setback of 12.5 metres from property lines for tall buildings elements. The proposal provides an angled setback of 5.3 to 7.4 metres from the east property line and a setback ranging from 8.9 to 15.3 metres along the south property line for the tall building elements.

A private lane is located to the east of the site that serves the office building to the south and separates this site from the building to the east. Although this is currently a service access the subject site has no rights over or control over any future development on the lane which could place new development immediately adjacent to this proposal and in close proximity to the proposed tower.

Development proposals must be evaluated not only on their ability to achieve optimum proximity, light, view and privacy conditions, but are also assessed in relation to the impacts on other properties in the same block, with similar potential. The ability of these nearby properties, within their existing and/or planned context, to achieve optimum proximity, light, view and privacy conditions is equally important. To ensure that adjacent and nearby properties are not negatively affected, facing distances and setbacks should be addressed within the development site and not exported to adjacent and nearby properties. In this case, the reduced setback would export the facing distances and setbacks requirements to adjacent properties.

# Sun, Shadow, Wind

Sun and Shadow

A shadow study was submitted and indicates that the building will create shadow impacts on several streets (Richmond, Peter, Spadina and Queen), proposed open space and a number of historic buildings. These impacts are isolated to the proposed building and would not occur under as-of right conditions although there is some overlap of shadows on the approved but not yet built development at 318 Richmond Street West. The results of the shadow study indicate that the proposed building height creates excessive shadow impacts on the surrounding area.

#### Spring and Fall Shadow Impacts

In the morning, during the spring and fall, the long shadow cast by the proposed building will extend to the northeast corner of Spadina Avenue and Queen Street West over the north sidewalk on Queen Street West and the area proposed for a parkette in front of the future Assessment and Referral Centre at 129 Peter Street.

The shadow would impact the north sidewalk of Queen Street West throughout the lunch hour and the proposed parkette in front of the future Assessment and Referral Centre for a considerably longer period. The late afternoon sees the shadow extend to the intersection of John Street and Richmond Street.

#### Summer Shadow Impacts

Shadow impacts are reduced during the summer. In the morning, the proposed building would cast shadow on the intersection of Peter and Richmond Streets and the area proposed for a parkette at 129 Peter Street. From mid-afternoon to early evening, the shadow extends along Richmond Street and extends beyond Widmer Street.

The built form policies of the Official plan seek to ensure that new development is massed to fit harmoniously into its surrounding by, among other things, limiting shadowing of neighbouring streets, open spaces and properties. Within King-Spadina, the impact of development on streets, open spaces and historic buildings is particularly important due to the limited amount of open space within the area, and the importance of the built form heritage to its success. The King Spadina Secondary Plan seeks to preserve and enhance this heritage character, and pattern of streets, lanes and parks.

The extent of the shadow impacts from the proposal, especially during the spring/fall months, are excessive and extend well into the warehouse district of King-Spadina, and onto Queen Street West Heritage Conservation District. The proposed shadows may negatively impact historic buildings. Further, the shadows from the proposed building will impact new open space planned for the northeast corner of Peter Street and Richmond Street contrary to the built form objectives of the Official Plan and Secondary Plan.

#### Wind

A wind study was submitted to assess pedestrian level wind conditions at grade, identify areas where the new development may have adverse effects for pedestrian comfort and where recommendations for mitigation may be required. The study concluded that wind conditions on and around the site are predicted to be comfortable and suitable for walking and standing year round. The proposed development will realign winds that will change the wind flow patterns at pedestrian level; however, the study concludes that the comfort conditions will remain similar to those that currently exist.

The development proposes the following wind mitigation measures: podium; parapet walls, overhangs, balconies, stepping building facades, and landscaping. The wind study concludes that comfort conditions expected at the proposed site are considered acceptable in an urban context.

### Parking

The proposal includes 219 parking spaces for both the residential and non-residential uses in an underground parking garage of 5 levels. Of the 219 parking spaces, 35 visitor/non-resident spaces are proposed.

The Zoning By-law requirements for parking in this area are based on Official Plan growth management objectives that seek to reduce auto dependency, improve air quality and discourage commuter and all-day parking in *Downtown* and Secondary Plan objectives that seek to minimize automobile use and encourage only essential parking.

The Zoning By-law requires that 269 parking spaces be provided as part of this development application. The City's Technical Services Division had not signed off on the parking deficiency at the time of writing of this report.

### **Open Space/Parkland**

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.42 to 0.78 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provisions of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposes 446 residential units on a site 0.2120 hectares (2120 square metres). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would be 0.396 hectares (3960 m2). However, a cap of 10% applies and hence the parkland dedication for the residential component of the development would be 0.0212 hectares (212m2).

The non-residential component of the development would be subject to a 2% parkland dedication requirement under Chapter 165 of the former City of Toronto Municipal Code (which remains in full force and effect) to implement Section 42 of the Planning Act RSO 1990, cP.13.

The applicant proposes to satisfy the parkland dedication requirement through cash-inlieu. This is appropriate, as an on-site parkland dedication requirement of 0.0212 hectares (212 m2) would not be of a useable size and the site would be encumbered with below grade parking. The actual amount of the cash-in-lieu is determined at the time of issuance of a building permit.

### **Toronto Green Standard**

The zoning amendment application was submitted in December 2009 and is not subject to the new mandatory Green Development Standard. An extensive green roof system is proposed on the roof of the mechanical penthouse, and low reflective materials are proposed for the outdoor terraces. Should the zoning amendment application be approved a site plan application will be required prior to development and would be reviewed for compliance with the City's new Green Development Standard.

### Section 37

Section 37 benefits have not been discussed with the applicant. In the event, that the application is approved, it is recommended that staff, in consultation with the Ward Councillor, be authorized to negotiate with the applicant on appropriate Section 37 contributions.

### **Development Charges**

It is estimated that the development charges for this project will be \$2,633,161.75. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

### CONTACT

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### SIGNATURE

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

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### ATTACHMENTS

Attachment 1: King Spadina Precinct Key Map Attachment 2: King-Spadina East Precinct Study - Character Areas Attachment 3: King-Spadina East Precinct Study - Height Areas Attachment 4: Site Plan Attachment 5: Elevations (1) Attachment 6: Elevations (2) Attachment 7: Zoning Attachment 8: King-Spadina Heritage Built Form Attachment 9: Application Data Sheet



#### Attachment 1: King Spadina Precinct Key Map



#### Attachment 2: King-Spadina East Precinct Study - Character Areas

Character Areas

Sub - Character Areas

East Precinct Boundary



Attachment 3: King-Spadina East Precinct Study - Height Areas

Existing Heights in Metro Hall

Existing/Approved Heights in Financial District

Properties Contributing to Heritage Character

East Precinct Boundary

Attachment 4: Site Plan





**Attachment 5: Elevations (1)** 

File # 09-154905 0Z **117 Peter Street** East Elevation 88 North Elevation Applicant's Submitted Drawing Not to Scale 97070 Elevations

Attachment 6: Elevations (2)

**Attachment 7: Zoning** 





Attachment 8: King-Spadina Heritage Built Form

Designated Heritage Properties

Listed Heritage Properties

Properties Contributing to Heritage Character V///////

Heritage Conservation Districts (HCD)

Existing Buildings

East Precinct Boundary

Staff report for action – Final Report – 117 Peter St

#### **Attachment 9: Application Data Sheet APPLICATION DATA SHEET** Application Type 09 154905 STE 20 OZ Rezoning Application Number: Details Rezoning, Standard Application Date: August 7, 2009 117 PETER ST and 287 RICHMOND STREET WEST Municipal Address: PL TOWN OF YORK PT LT19 \*\*GRID S2013 Location Description: Project Description: Original Rezoning application for a proposed Mixed use hotel / Condominium - 29 stories in height - 4 levels below grade parking - 201 parking spaces - 297 units. Revised application date stamped July 7, 2010 increases tower height to 36 stories – 446 units, 219 parking spaces in 5 levels of below grade, with retail and office use in the podium; the hotel use has been eliminated. **Applicant:** Agent: Architect: **Owner:** MCCARTHY TETRAULT **MCCARTHY** WALLMAN ARCHITECTS **RICHMOND-PETER INC.** LLP TETRAULT LLP PLANNING CONTROLS Official Plan Designation: **Regeneration Areas** Site Specific Provision: Zoning: RA Historical Status: Height Limit (m): 30 Site Plan Control Area: Y **PROJECT INFORMATION** 2120.13 Height: Storeys: 36 Site Area (sq. m): Frontage (m): 57 Metres: 117 Depth (m): 0 Total Ground Floor Area (sq. m): 1201 Total Total Residential GFA (sq. m): 26404 Parking Spaces: 219 Total Non-Residential GFA (sq. m): 2615 Loading Docks 1 29019 Total GFA (sq. m): Lot Coverage Ratio (%): 56.6 Floor Space Index: 13.69 **DWELLING UNITS** FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	<b>Below Grade</b>
Rooms:	0	Residential GFA (sq. m):	26404	0
Bachelor:	63	Retail GFA (sq. m):	345	0
1 Bedroom:	287	Office GFA (sq. m):	2270	0
2 Bedroom:	96	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	446			
CONTACT:	PLANNER NAME:	Lynda H. Macdonald, Planning Manager		
	<b>TELEPHONE:</b>	(416) 392-7618		