

TORONTO STAFF REPORT

October 31, 2005

To: Toronto and East York Community Council

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

Subject: Refusal and Directions Report
Official Plan Amendment and Rezoning Application 04 157269 STE 28 OZ
Applicant: Patrick Devine, Goodman & Carr LLP
Architect: Turner Fleischer Architects Inc.
56-66 Temperance Street and 73 Richmond Street West (Sapphire Tower)
Ward 28, Toronto Centre-Rosedale

Purpose:

This report reviews and recommends refusal of an application to amend the Official Plan and the Zoning By-law for a 90-storey building containing 1144 hotel-condominium units and ancillary uses at 56-66 Temperance Street and 73 Richmond Street West.

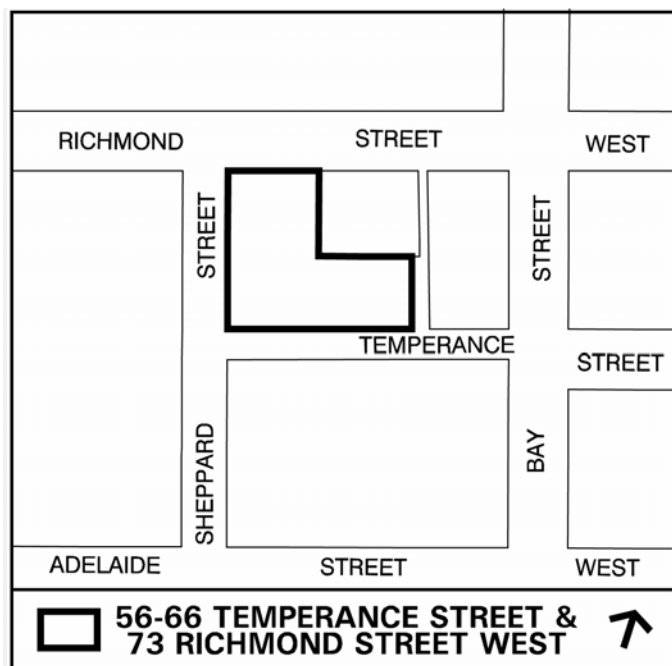
Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that City Council:

- (1) refuse the application to amend the Official Plan of the former City of Toronto and Zoning By-law 438-86, as amended, of the former City of Toronto, in its current form; and
- (2) authorize the Chief Planner and Executive Director, City Planning Division, and any other appropriate staff to oppose any appeal of Council's refusal of the application to the Ontario Municipal Board.



Background:

The application encompasses three separate properties: 56 Temperance Street, 66 Temperance Street, and 73 Richmond Street West. The properties at 66 Temperance Street and 73 Richmond Street West are subject to Site Specific Zoning By-law 149-2002, which was adopted to permit a two-phase development. The first phase involved the restoration and conversion of the Graphic Arts Building at 73 Richmond Street West, located immediately to the north (Parcel A in By-law 149-2002), for live/work space with commercial uses at grade. The By-law also approved the securing of a Heritage Easement Agreement and a Section 37 Agreement for the Graphic Arts Building, which were subsequently executed and registered. The second phase involved the construction of a 55-storey residential building at the rear of the Graphic Arts Building, at 66 Temperance Street (Parcel B). Site Plan Approval was issued for the first phase, but not for the second, because the applicant withdrew the application.

The Site Specific Zoning By-law permits a height of 158 metres and a total gross floor area of 38,620 square metres on the lot at 66 Temperance Street (Parcel B). Subsequent to approval of the Site Specific Zoning By-law, in December 2002, the Committee of Adjustment approved variances permitting a height of 165.25 metres and a total gross floor area of 41,580 square metres on Parcel B, an increase of 7.25 metres and 2,960 square metres, respectively.

There is no Site Specific Zoning By-law for the site at 56 Temperance Street.

Proposal

The application was originally submitted as a Zoning By-law Amendment for a hotel-condominium building in July, 2004. At that time, it applied only to the lot at 66 Temperance Street (Parcel B), and consisted of an 81-storey cylindrical tower and an adjoining 62-storey tower attached at the centre. A 17-storey podium formed the base of the tower and extended to the lot lines. The 81-storey building was topped by a spherical architectural feature extending almost the breadth of the building that doubled as a mass damper to mitigate building sway. This extended to a height of 285.2 metres and supported a spire that extended higher to a height of 319.2 metres. Floors 3 to 11 were proposed for parking. The remainder of the building was for residential hotel-condominium use, consisting of 1,132 units, plus amenity space. The total gross floor area of the building was 63,200 square metres, for a total density of 56 times the area of the lot on Parcel B. A Preliminary Report on the initial application was considered by Community Council on November 16, 2004.

The proposal was subsequently revised to include the property at 56 Temperance Street. The revised application, for both Official Plan and Zoning By-law Amendments, was submitted in May, 2005 and consists of a 90-storey cylindrical tower and an adjoining 53-storey rectangular tower that together will cover the entirety of the lots at 56 and 66 Temperance Street. The frontages would be 62.6 metres on Temperance Street and 24.6 metres on Sheppard Street. The proposal does not include any changes to the building massing of the Graphic Arts Building at 73 Richmond Street West. Like the original proposal, the 90-storey building is topped by a spherical architectural feature that doubles as a mass damper to mitigate building sway. This

extends to a height of 314 metres, above which rises a spire that further extends to a height of 342 metres. There are no step-backs until the 48th storey, at which point it steps back on the north side in a series of terraces to the top at the 53rd storey. Attachments 2, 3 and 4 show the proposal's site plan and elevations. The third floor to the 13th floor are proposed for parking. A total gross floor area of 90,391 square metres is proposed with a total of 1,144 units, including bachelors, one-bedroom and two-bedroom units, and four-bedroom penthouse units. Please refer to the Application Data Sheet in Attachment 1 for additional information on the proposal.

Site Description

The application encompasses three separate sites: 56 Temperance Street, 66 Temperance Street and 73 Richmond Street West, all of which are located in proximity to and northeast of the intersection of Sheppard Street and Temperance Street. The lot at 56 Temperance Street is located mid-block on the north side of Temperance Street between Bay Street and Sheppard Street. It is 447 square metres in size and is occupied by a nine-storey office building, constructed in 1984, which would be demolished to make way for the proposed development. The lot at 66 Temperance Street is located at the northeast corner of the intersection of Temperance and Sheppard Streets and has had a long-term use as a surface parking lot with a capacity of approximately 60 cars. It is 2,425 square metres in size. The building at 73 Richmond Street West is the six-storey 'Graphic Arts' building, constructed in 1913, which is designated under the Ontario Heritage Act due to its architectural-contextual value, and contains commercial and residential uses. This lot is 884 square metres in size. The following uses surround the site:

North: across Richmond Street West is the 10-storey wing (the Richmond Tower) of the Sheraton Centre, a hotel with retail uses at grade which rises 43 storeys on the western portion of its site (the Queen Tower) at the intersection of Queen Street West and York Street;

South: across Temperance Street is a 14-storey commercial building, housing Bell Canada offices and equipment;

East: abutting the site at 56 Temperance Street is a 10-storey commercial building; abutting the site at 73 Richmond Street West is a two-storey building with a commercial use (restaurant) at grade; and

West: across Sheppard Street is an eight-storey parking structure. Abutting this to the north is an 11-storey commercial building. This is the site of the Richmond – Adelaide Centre. City Council has approved plans for a 40-storey office tower on the northeast corner of Adelaide Street West and Temperance Street which will form part of the centre.

The Temperance and Sheppard Streets area is predominantly built up with high-rise commercial buildings. Many of the buildings that front on Bay and Richmond Streets have retail uses at grade.

Former City of Toronto Official Plan

The site is designated as Financial District in the former City of Toronto Official Plan. This designation permits non-residential uses such as offices and retail, and residential uses, alone or in combination, to a maximum density of 12 times the lot area. Limits of 8.0 and 11.7 times the lot area are placed on non-residential and residential uses respectively.

New Toronto Official Plan

At its meeting of November 26-28, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new Plan, in part, with modifications. The Minister's decision has been appealed in its entirety. The Official Plan is now before the Ontario Municipal Board and the hearing is in progress.

Once the Plan comes into full force and effect, it will designate the property as Mixed Use Area within the Financial District and the Downtown and Central Waterfront urban structure area. The lands adjacent to the subject site are also designated Mixed Use Areas. The Plan contains development criteria that direct the form and quality of development in this area.

Zoning

The underlying as-of-right zoning is CR, or commercial-residential, with a total density of 12 times the lot area. The commercial density limit is 8.0 times the lot area and the residential density limit is 11.7 times the lot area. The underlying height permission is 137 metres.

The site is subject to Site Specific Zoning By-law 149-2002, which permits a height of 158 metres, and a total gross floor area of 38,620 square metres on Parcel B. The By-law also secured Heritage Easement and Section 37 Agreements on the adjacent Graphic Arts Building (Parcel A). Subsequent to the By-law being passed, in December 2002, the Committee of Adjustment approved variances permitting a height of 165.25 metres and a total gross floor area of 41,580 square metres for Parcel B.

Site Plan Control

To date, a Site Plan Approval application has not been filed.

Reasons for the Application

Official Plan and Zoning By-law Amendments have been applied for because the proposed density of 39 times the area of the site (including the lot at 73 Richmond Street West, for which no development is proposed) exceeds the density of 12 times the area of the lot permitted by the Official Plan and Zoning By-law and the density of 34.3 times the area of the lot permitted by Site Specific Zoning By-law 149-2002 on Parcel B. In addition, the total height of 287 metres (excluding the rooftop architectural feature and spire) significantly exceeds the underlying Zoning By-law permissions of 137 metres, and the permissions established by Site Specific Zoning By-law 149-2002 of 158 metres on Parcel B.

Community Consultation

A community consultation meeting was held on October 18, 2005. It was attended by approximately 30 members of the public. There was one question raised with respect to traffic impacts.

Agency Circulation

The application was circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the application. Of note, the Executive Director, Technical Services Division, has requested, in his comments dated October 28, 2005 that, should this application proceed, additional studies and revised plans be submitted for review and acceptance.

Comments:

Reasons for Refusal

Staff recognize that the application has been revised since it was initially submitted, to respond to outlined issues, but continue to have serious concerns and believe that the changes are not sufficient for a supportable proposal. The proposal fails to address basic planning and urban design concerns originally discussed in the Preliminary Report and raised at several meetings with the applicant including shadowing, massing, height and location.

Shadow

The applicant has submitted shadow studies to illustrate the shadows that would be created at different times of the year and at different times of the day. The current proposal, at 287 metres in height (excluding the rooftop architectural feature and spire), will cast shadows on Nathan Phillips Square.

Nathan Phillips Square is currently the subject of an international design competition to celebrate the 40th anniversary of the Square and City Hall. The purpose of this initiative is to upgrade and improve the Square. A Terms of Reference for the competition is currently being drafted.

The shadows cast by the proposed development are most prevalent in the late winter, early spring, late summer and early fall. On March 21, for example, the proposed development will cast shadows on Nathan Phillips Square beginning at approximately 10:00 a.m. The shadow will leave the square at approximately 12:15 p.m, resulting in a shadow duration of greater than two hours. During this time the shadow extends northward across the entire square, reaching the front door of City Hall. A month later, on April 21, the shadows from the proposed tower extend to the north side of the reflecting pool.

Nathan Phillips Square is the City's pre-eminent public square, and is of great importance to the civic life of the City. Increased shadowing during the shoulder seasons will have a detrimental

impact on the use and enjoyment of the square. Such uses include outdoor concerts, outdoor seating and lunch time cafes.

City policies pertaining to shadowing are found in Section 3.27 (Sunlight on Parks and Important Pedestrian Streets) of the in-force Official Plan, and in Section 3.1.3 (Built Form) of the new Official Plan. Section 3.27 of the in-force Official Plan includes a policy stating that: “Council shall seek to ensure that new development does not detract from sunlight availability on parks and important pedestrian streets in the City. In facilitating this policy, Council may use its powers to regulate the height, siting and massing of new development. In particular, for those streets and parks subject to sunlight standards shown on Map 5, Council shall use its powers to regulate the height, siting and massing of new development to seek to achieve sunlight standards based on the use of the park and its built form context on any park shown on Map 5.” Osgoode Gardens, Osgoode Mall and Nathan Phillips Square are shown on Map 5 as parks and publicly accessible open spaces subject to these sunlight standards.

Section 3.1.3 (Built Form) of the new Official Plan includes a policy that tall buildings must minimize the negative impact of shadows on adjacent public spaces including streets, parks and open spaces.

Given the importance of Nathan Phillips Square as a public amenity, staff are very concerned about the shadow impacts of the proposal.

Several of the nearby buildings, including First Canadian Place and the Sheraton Centre, exceed the current height regimes. They were built on an as-of-right basis because Zoning By-laws regulated only density in parts of the downtown core prior to City Council passing the Central Area By-law in 1976. Both these buildings were constructed prior to 1976, with the densities below that permitted under the Zoning By-law at the time.

Building Massing

The proposed development is located at the northeast corner of Sheppard and Temperance Streets. Both streets are considered minor streets which are narrow in their width. The proposed development rises, uninterrupted, from the property line on all four sides to a height of 48 floors or 158 meters. There are a series of step-backs from the 48th to the 53rd storey on the north side of the building. The tower floor plate is approximately 1,480 square meters for this portion of the building. The building floor plate up to this height is essentially the area of the lot. There are no set-backs or step-backs to offer any relationship to the surrounding buildings and context. The east-west dimension of the floor plate at these levels is 62.4 metres long, which will also contribute to the width of the shadow on Nathan Phillips Square. Staff believe that the massing includes an unacceptably large floorplate to the 48th floor and lacks the articulation provided by set-backs and step-backs.

The tower portion of the building above the 53rd floor is circular, with the exception of the southwest corner which is squared off and continues straight up from the property line. The southwest corner of the building extends from the ground to the 87th floor (278.15 metres)

without set-backs or step-backs from the property line. The floor plates for this upper portion are approximately 680 square metres.

Height

Staff are not in support of the proposed height of 90 storeys (287 metres) at this location. The height of 165.25 metres permitted by Site-Specific By-law 149-2002 and subsequently increased by the Committee of Adjustment, is the supportable height at this location. The approved height on the site at 66 Temperance Street was supported by staff, in part, because the building's shadows were projected to fall within the area already shadowed by the downtown office towers and would not result in new shadow impacts on Nathan Phillips Square. Additional height beyond what has been approved on the site is not supportable, given the nature and extent of the shadow impacts on Nathan Phillips Square and City Hall.

The base building should provide definition and support at an appropriate scale for adjacent streets, parks and open spaces, integrate with adjacent buildings, and minimize the impact of parking and servicing uses. This proposal does not adequately address this in that the massing does not have any articulation which would relate to the surrounding context or create a pedestrian friendly environment along the streetscape. The proposed massing, particularly at the lower portion of the tower, is not an appropriate scale to the adjacent minor streets, and the impact of parking and servicing uses will be considerable given the narrow nature of the streets.

Building Location

The site of the proposal is an interior block bounded by two minor streets with no main street context. There is no street relationship to the adjacent buildings, and the grade relationship is compromised by the significant frontage required for vehicle access and loading functions. In addition, it is not clear how the proposed development will relate to the adjacent historically designated Graphic Arts Building. Staff believe that this location is not suitable for a development of this scale.

Parking

Floors 3 to 13 are dedicated to above-grade parking, and additionally, the first and second floor are dedicated to access and loading functions, for a total of 13 above-grade levels and one below-grade level proposed to be utilized for vehicle access, parking and loading.

Above grade parking is generally discouraged due to its negative visual impact on the streetscape. Uses which provide greater animation are encouraged. In this case, the magnitude of the number of parking levels on this constrained intersection would result in an austere relationship close to grade. No parking is proposed on any of the four below-grade levels; much of this space is proposed to be dedicated to banquet facilities and meeting rooms. It would be desirable to bring those banquet facilities above grade, where they would provide animation onto the streetscape. The large number of above-grade floors dedicated to parking is an indication of overdevelopment of the site, with the high parking count being a function of the number of residential units.

Vehicular Access and Traffic Impacts

Vehicular access for the tower is proposed from an inbound only driveway on Sheppard Street and a two-way driveway on Temperance Street. Internally, vehicular accesses will join to a ramp on the east side of the building, which will carry vehicles to the third level lobby area where most of the operational vehicular activities will occur. Truck access is proposed to be provided via a separate driveway on Temperance Street. Two type B loading spaces are provided at the ground level, and trucks will access the loading area from the easterly driveway in a forward direction. They will exit via the Temperance Street vehicle driveway in a forward direction. A retractable door will be provided to separate the loading area and the vehicular access. Staff believe that the grade relationship is compromised by loading and parking functions, as proposed, in that they will result in conflicts between pedestrians and vehicles and will not create an attractive and animated streetscape.

Conclusions:

Given the concerns indicated above and that this proposed development conflicts with Official Plan policies with respect to shadowing, Planning staff cannot support the proposal.

Contact:

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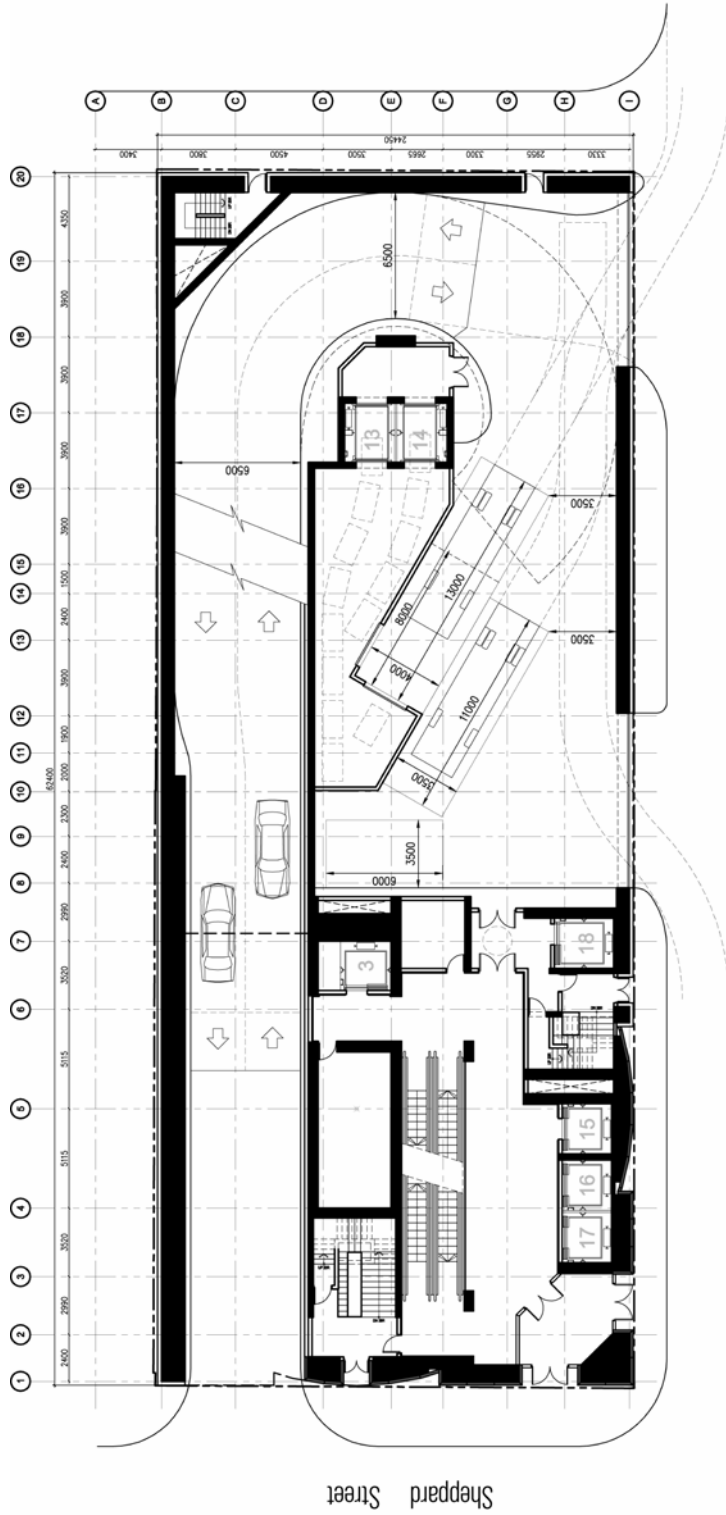
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Gary Wright
Director, Community Planning, Toronto and East York District

List of Attachments:

- Attachment 1: Application Data Sheet
- Attachment 2: Site Plan
- Attachment 3: South and North Elevations
- Attachment 4: East and West Elevations
- Attachment 5: Zoning (Map)
- Attachment 6: Official Plan (Map)

Attachment 2: Site Plan



56-66 Temperance Street and
73 Richmond Street West

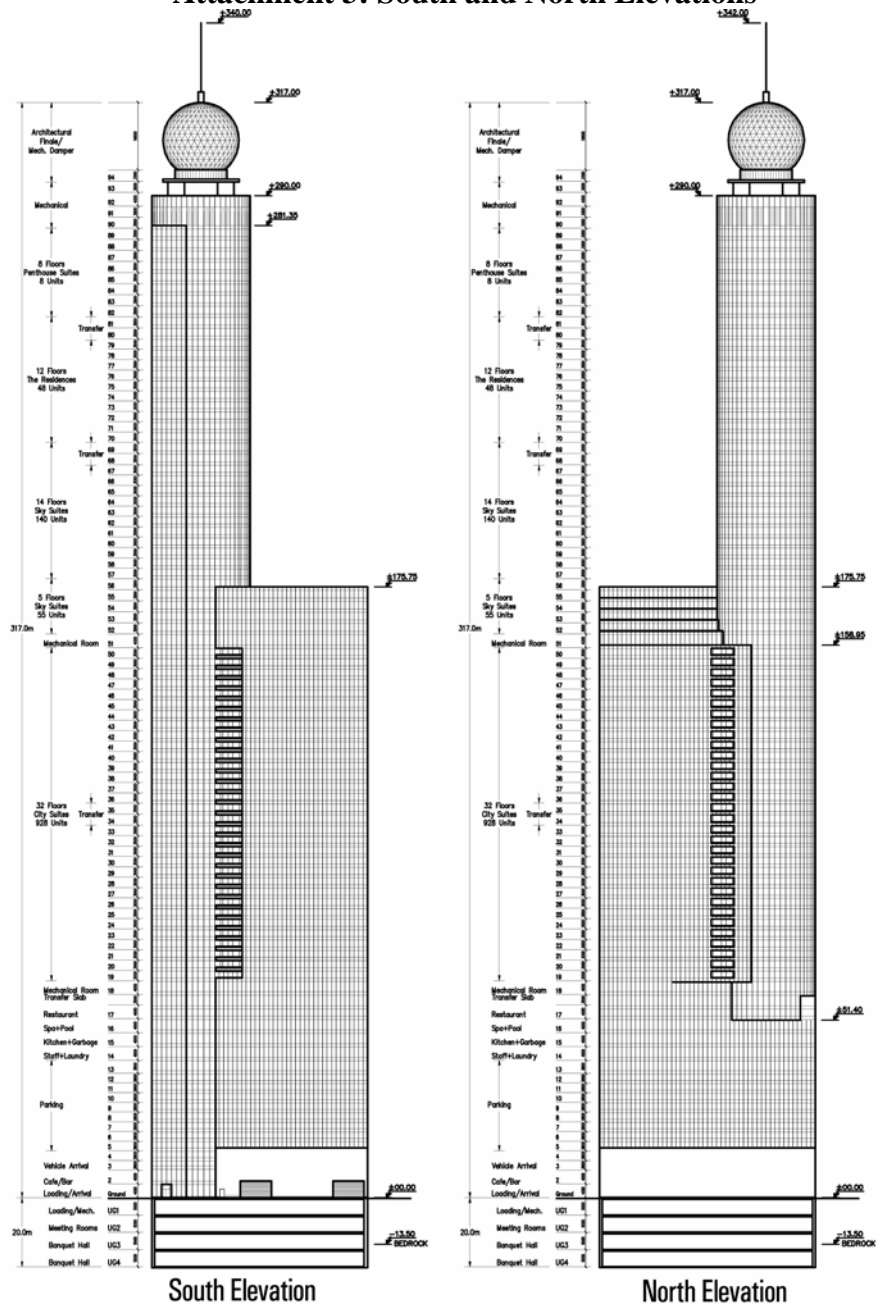
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Site Plan
Applicant's Submitted Drawing

Not to Scale
10/06/05



Attachment 3: South and North Elevations



Elevations

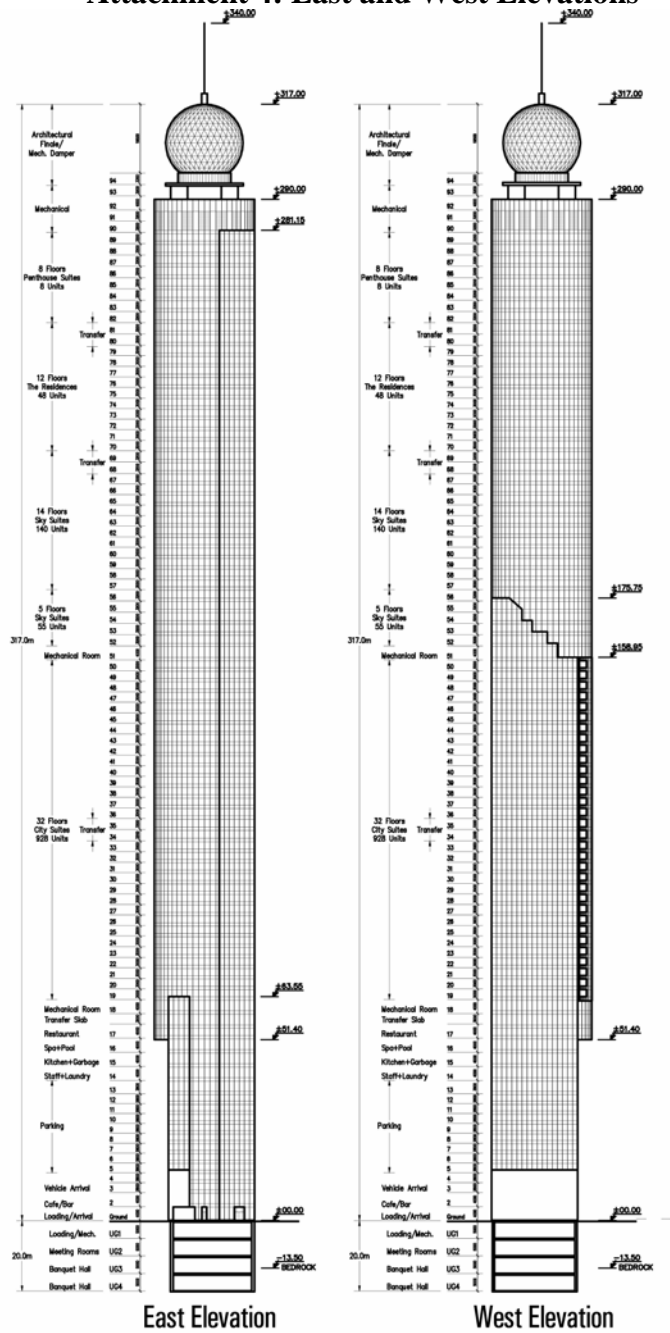
Applicant's Submitted Drawing

Not to Scale
10/06/05

56-66 Temperance Street and
73 Richmond Street West

File # 04_157269

Attachment 4: East and West Elevations



Elevations

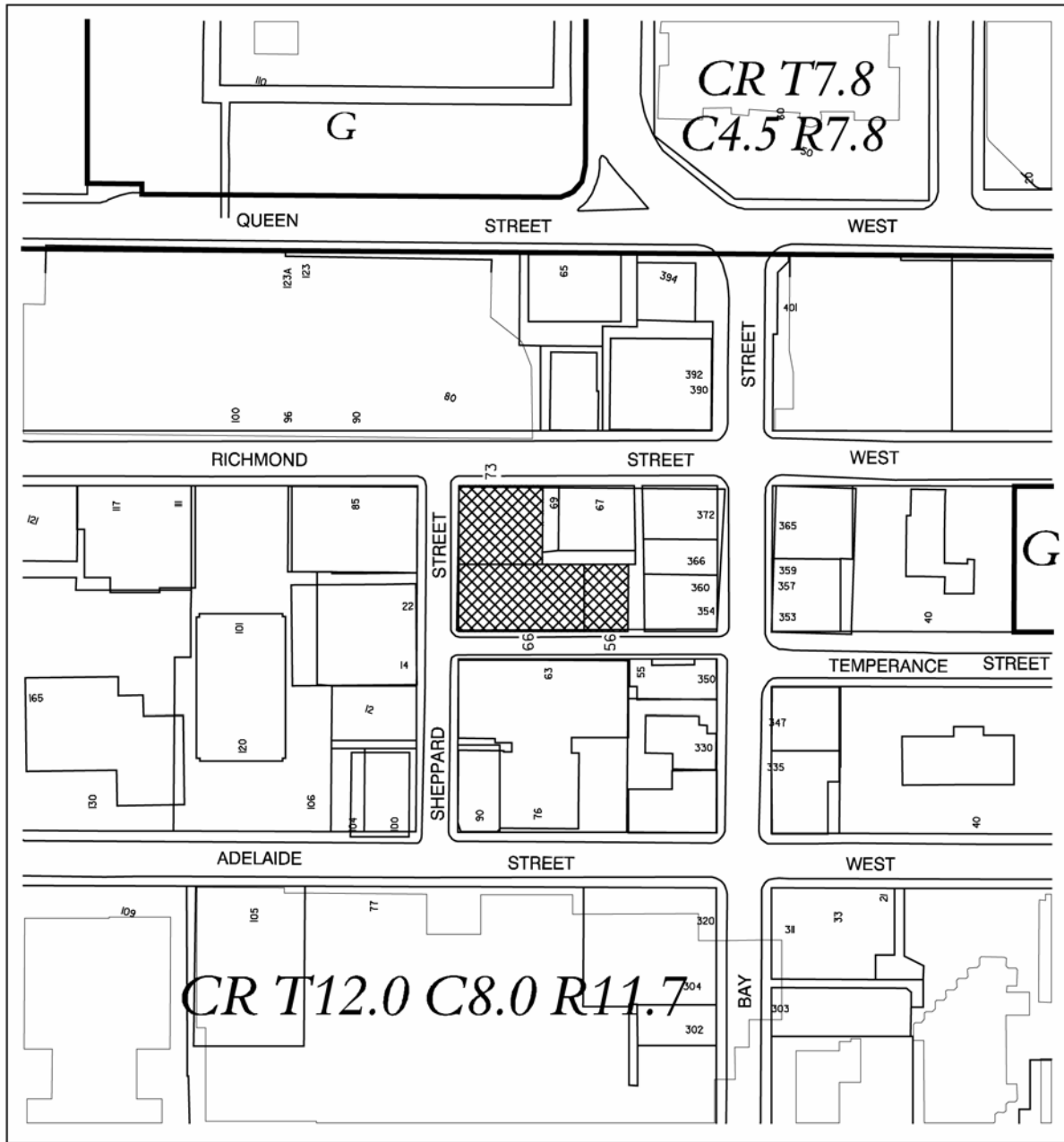
Applicant's Submitted Drawing

Not to Scale
10/06/05

56-66 Temperance Street and
73 Richmond Street West

File # 04_157269

Attachment 5: Zoning (Map)



56-66 Temperance Street & 73 Richmond Street West

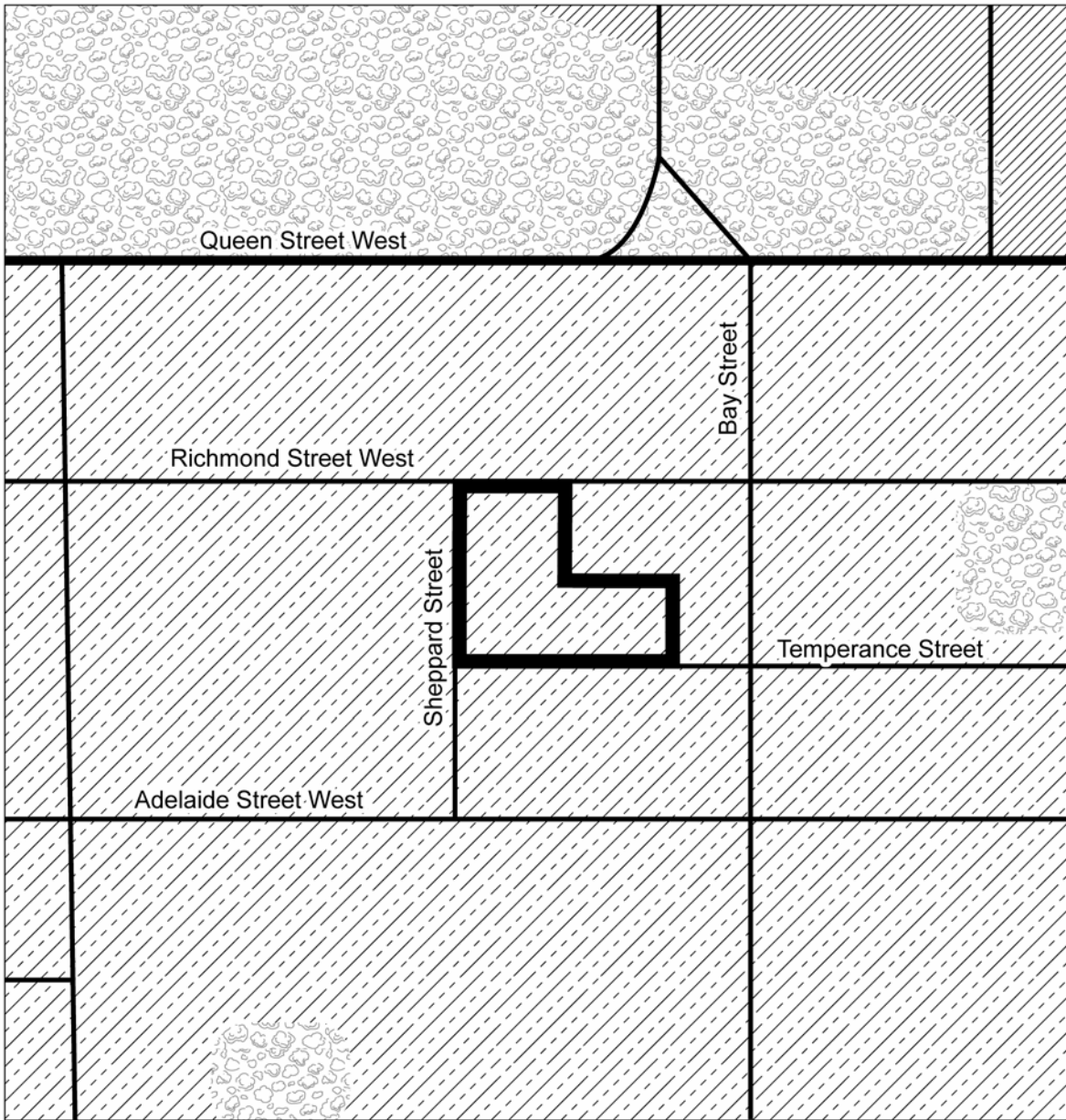
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G Parks District
CR Mixed-Use District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 10/06/05 - EM

Attachment 6: Official Plan (Map)



 **TORONTO** City
Planning Division
Official Plan

**56-66 Temperance Street and
73 Richmond Street West**

File # 04_157269

-  Site
-  Open Space
-  High Density Mixed
Commercial-Residential Areas 'B'
-  Financial District


Not to Scale
10/06/05