

21-31 Widmer St & 299 Adelaide Street West – Rezoning – Supplementary Report

Date:	September 14, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	08 118571 STE 20 OZ

SUMMARY

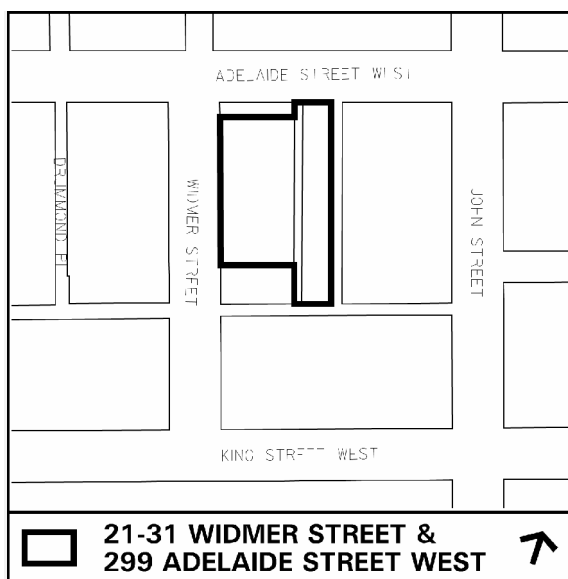
The June 3, 2009 report, “21-31 Widmer St & 299 Adelaide Street West – Rezoning – Final Report”, recommends approval for a 43-storey mixed use building at 21-31 Widmer St. & 299 Adelaide Street West. At the time of report preparation, the Section 37 contribution details were still under discussion between the applicant, staff and the Councillor. The details have now been resolved. This supplementary report provides revised recommendations as a result of concluding the negotiations with the applicant.

This report also includes the Draft Zoning By-law for the development, in Attachment 1.

RECOMMENDATIONS

The City Planning Division recommends that the recommendations in the June 3, 2009 Final Report be replaced with the following:

1. City Council amend the Zoning By-law for the lands at 21-31 Widmer St. & 299 Adelaide Street West substantially in accordance with the draft Zoning By-law Amendment provided in Attachment 1.



2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the Bills for enactment, City Council authorize the appropriate City officials and require the owner to execute an Agreement pursuant to Section 37 of the Planning Act satisfactory to the Chief Planner and Executive Director, City Planning Division, and the City Solicitor, such agreement to be registered on title to the lands in a manner satisfactory to the City Solicitor, to secure the following facilities, services and matters:
 - a. An indexed cash contribution of \$1,100,000.00, of which 10% will be allocated for affordable housing projects in Ward 20; and the remainder for any or all of the following: streetscape improvements to Widmer Street, John Street, and Adelaide Street, and improvements to the proposed community/ performance space at 21-31 Widmer/299 Adelaide;
 - b. \$200,000 of the cash contribution to be provided at the passing of Bills, with \$100,000 contributing to one or more Heritage Conservation District studies within the East Precinct of King-Spadina, subject to the appropriate Official Plan Amendment coming into force and effect, and \$100,000 contributing to design development supporting the John Street streetscape project;
 - c. \$450,000 (indexed) of the cash contribution to be paid prior to the issuance of an above-grade Building Permit for the development;
 - d. \$450,000 (indexed) of the cash contribution to be paid prior to condominium registration;
 - e. The provision of a community/ performance space in the building having a minimum gross floor area of 420 square metres, to be provided to the City at cost, subject to funds being secured on or before the passing of Bills. If the City is unable to fund the purchase of the community/ performance space, the applicant shall provide an appropriate alternate community benefit to be negotiated with planning staff and the Ward Councillor, acting reasonably;
 - f. A public art contribution in accordance with the Percent for Public Art Program for a value not less than one percent of the gross construction cost, at least 50% of which is to be applied to the treatment of the building podium;

The following matters are also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

- g. A minimum of ten percent (10%) of the residential units in the building have at least three bedrooms, or be convertible to three or more bedrooms;

- h. 1:50 scale elevations, satisfactory to the Chief Planner and Executive Director, City Planning Division, for the lower floors of the project to be provided as part of a revised application for Site Plan Approval;
 - i. The implementation of any wind mitigation measures required by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of a revised application for Site Plan Approval;
 - j. The provision and maintenance of an irrigation system, at the applicant's expense, for proposed trees within the public road allowances, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the Executive Director, Technical Services Division, and requirements to maintain in good order and operation; and
 - k. Certain green development elements, satisfactory to the Chief Planner and Executive Director, City Planning Division, as may be identified in the Green Development Checklist received by City Planning on April 9, 2009.
4. Authorize the appropriate City officials to resume the process to stop up and close parts of the 3.048 metre wide public laneway that runs north-south through the site.

COMMENTS

Continued negotiations with the applicant have resulted in an agreement on Section 37 benefits. An indexed cash contribution of \$1,100,000.00 is to be provided in three installments:

- At passing of bills, the first installment of \$200,000 will be provided, to help fund Heritage Conservation District Studies for the King-Spadina East Precinct area, and design development for John Street streetscape improvements;
- At the issuance of the first above-grade building permit, the second indexed installment of \$450,000 will be provided; and
- At the registration of the condominium, the final indexed installment of \$450,000 will be provided.

The negotiations have also resulted in the removal of the obligation in the Section 37 Agreement to provide two affordable housing units for purchase at cost by Habitat for Humanity or another suitable housing provider. This feature of the development had originally been intended to be secured as a legal convenience in the Section 37 Agreement. While it represents a social benefit, it is not a direct public benefit to the City, and therefore could not be considered to be a part of the Section 37 contribution.

The applicant has indicated a willingness to consider providing these affordable housing units regardless of the Section 37 Agreement, however, the removal of the obligation allows them flexibility in this regard.

The recommendations have also been amended to change the process by which the City purchases the community/ performance space at cost and provide flexibility for securing funds. Should a funding source to purchase the community/ performance space be unavailable, staff will work with the applicant and Ward Councillor to secure an alternate, appropriate community benefit.

CONTACT

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Draft Zoning By-law

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CITY OF TORONTO BY-LAW No. ____ - 2009

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 21-31 Widmer Street and 299 Adelaide Street West

WHEREAS the Council of the City of Toronto has been requested to amend its by-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, with respect to lands known municipally in the year 2009 as 21-31 Widmer Street and 299 Adelaide Street West; and

WHEREAS the Council of the City of Toronto has provided adequate information to the public and conducted at least one public meeting in accordance with Section 34 of the *Planning Act*; and

WHEREAS the Official Plan of the City of Toronto contains provisions relating to the authorization of the height and density of development;

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

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

WHEREAS the Owner of the lands hereinafter referred to has elected to provide the facilities, services and matters as are hereinafter set forth;

THEREFORE, the Council of the City of Toronto HEREBY ENACTS as follows:

1. The *owner* of the *site* shall ensure that all water mains, sanitary and storm sewers and appropriate appurtenances required for the development of this *site* have been built or secured via a letter of credit acceptable to the Director of Technical Services prior to the issuance of a below grade permit.
2. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *site*.
3. None of the provisions of Sections 4(2)(a), 4(5)(h), 4(14)(a), 7(3) PART II 1(i) and 3, 12(2)132, 12(2)246(a) and 12(2)246(e) of By-law No. 438-86, being “A By-law to

regulate the use of land and the erection, use, bulk, height, pacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection or use of a *mixed-use building on the site* provided that:

- (a) The *lot* on which the building is located comprises at least the *site*;
- (b) the *total residential gross floor area* and *non-residential gross floor area* shall not exceed 38,750 square metres;
- (c) the *residential gross floor area* shall not exceed 38,000 square metres;
- (d) notwithstanding Section 12(2)270, the *non-residential gross floor area* shall not exceed 2,000 square metres;
- (e) no portion of the building or structure erected or used above grade is located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2, subject to the following:
 - (i) awnings, lighting fixtures, ornamental elements, trellises, window sills, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, landscape and public art features may extend to a maximum of 1.5 metres beyond the heavy lines shown on Map 2;
 - (ii) notwithstanding section 7(3) PART II 7 A of Zoning By-law 438-86, as amended, eaves and cornices may extend to a maximum of 1.5 metres beyond the heavy lines shown on Map 2;
 - (iii) notwithstanding section 7(3) PART II 7 E of Zoning By-law 438-86, as amended, balconies may extend a maximum of 2.0 metres beyond the heavy lines shown on Map 2 as measured perpendicular to the exterior walls of the building, except for balconies on the west wall of the tower within the area shown in hatching on Map 2, which may extend to a maximum of 1.5 metres beyond the heavy lines shown on Map 2 as measured perpendicular to the exterior walls of the building; and,
 - (iv) within the area shown in hatching on Map 2 (i.e. subject to the lane widening) the building or structure shall be permitted beyond a depth of 1 metre below the finished elevation of the ground;
- (f) the *height* of any building or structure, or portion thereof, does not exceed those *heights* as indicated by the numbers following the symbol H on the attached Map 2, with the exception of the following:

- (i) the maximum height for parapets, terrace guards and dividers, planters, railings, decorative screens, and window washing equipment shall be the sum of 1.8 metres and the applicable height limit shown on Map 2;
- (ii) nothing shall prevent the erection or use of a structure, on the roof of the building, used for noise attenuation, outside or open air recreation, safety or wind protection purposes, provided:
 - A. the maximum height of the top of the structure is no higher than the sum of three metres and the *height* limit applicable to the *site*; and,
 - B. the structure does not enclose space so as to constitute a form of penthouse or other room or rooms;
- (iii) notwithstanding subsection (i) above, additional *height* for parapets is not permitted within the area shown having a height of 137.85 m on Map 2;
- (iv) the mechanical penthouse shall be permitted only within the areas having a *height* of 137.85 m and 13.0 m as shown on Map 2, and shall not exceed 5 metres above the permitted *height* as shown on Map 2;
- (g) Subject to subsections (h) to (n) below, a minimum number of *parking spaces* shall be provided and maintained on the *site* in accordance with the following:
 - (i) 0.3 *parking spaces* for each *bachelor dwelling unit*;
 - (ii) 0.5 *parking spaces* for each *one bedroom dwelling unit*;
 - (iii) 0.75 *parking spaces* for each *two bedroom dwelling unit*;
 - (iv) 1.2 *parking spaces* for each *three bedroom dwelling unit*;
 - (v) 0.06 *parking spaces* for each *dwelling unit* shall be provided for visitors; and,
- (h) for each on-site *car-share parking space* provided on the *site*, the minimum resident parking required shall be reduced by 5 *parking spaces*;
- (i) The maximum number of *car-share parking spaces* shall be 5;
- (j) If after not less than a period of 3 years following the date of registration of the last unit, the car-share operation fails to be sustainable, to the satisfaction of the Chief Planner, such spaces shall revert as follows:

- (i) 51% of any such spaces shall be provided and maintained on the site as a residential visitor *parking space* for the exclusive use of residential visitors to the site and signed as such and equally available to all residents of the site; and
 - (ii) 49% of any such spaces shall be provided and maintained as a resident *parking space*, for the exclusive use of residents of the site;
 - (k) the minimum parking required for affordable ownership housing shall be in accordance with the following:
 - (i) 0.3 *parking spaces* for each affordable ownership bachelor dwelling unit;
 - (ii) 0.5 *parking spaces* for each affordable ownership one or more bedroom dwelling unit contained therein; and
 - (iii) 0.06 *parking spaces* for every affordable ownership dwelling unit shall be provided for visitors;
 - (l) *tandem parking spaces* shall be permitted in addition to the required *parking spaces*.
 - (m) a *commercial parking garage* shall be permitted on the *lot*, and shall contain a maximum of 200 spaces;
 - (n) visitor parking spaces for residential uses may be provided within a *commercial parking garage* and shall be for the exclusive use of visitors to the residential portion of the building;
 - (o) at least one *loading space – type “G”* and one *loading spaces – type “B”* are provided and maintained on the *site*;
4. The facilities, services and matters set out herein are the matters required to be provided by the *owner* of the *lot* to the City in accordance with an agreement or agreements, pursuant to Section 37(3) of the *Planning Act*, in a form satisfactory to the City with conditions providing for indexing of the financial contributions, indemnity, insurance, GST, termination and unwinding, and registration and priority of the agreement:
- a. An indexed cash contribution of \$1,100,000.00, of which 10% will be allocated for affordable housing projects in Ward 20; and the remainder for any or all of the following: streetscape improvements to Widmer Street, John Street, and Adelaide Street, and improvements to the proposed community/ performance space;

- b. \$200,000 of the cash contribution to be provided at the passing of Bills, with \$100,000 contributing to one or more Heritage Conservation District studies within the East Precinct of King-Spadina, subject to the appropriate Official Plan Amendment coming into force and effect, and \$100,000 contributing to design development supporting the John Street streetscape project;
- c. \$450,000 (indexed) of the cash contribution to be paid prior to the issuance of an above-grade Building Permit for the development;
- d. \$450,000 (indexed) of the cash contribution to be paid prior to condominium registration;
- e. The provision of a community/ performance space in the building having a minimum gross floor area of 420 square metres, to be provided to the City at cost, subject to funds being secured on or before the passing of Bills. If the City is unable to fund the purchase of the community/ performance space, the applicant shall provide an appropriate alternate community benefit to be negotiated with planning staff and the Ward Councillor, acting reasonably;
- f. A public art contribution in accordance with the Percent for Public Art Program for a value not less than one percent of the gross construction cost, at least 50% of which is to be applied to the treatment of the building podium;

The following matters are also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

- g. A minimum of ten percent (10%) of the residential units in the building have at least three bedrooms, provided that a pair of adjacent dwelling units shall be counted as one dwelling unit containing three or more bedrooms where:
 - (i) each of the adjacent *dwelling units* contain less than three bedrooms, and
 - (ii) the two *dwelling units* are separated by knock-out panel(s) that would allow the two adjacent *dwelling units* to be combined into one *dwelling unit* containing three or more bedrooms;
- h. 1:50 scale elevations, satisfactory to the Chief Planner and Executive Director, City Planning Division, for the lower floors of the project to be provided as part of a revised application for Site Plan Approval;
- i. The implementation of any wind mitigation measures required by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of a revised application for Site Plan Approval;

- j. The provision and maintenance of an irrigation system, at the applicant's expense, for proposed trees within the public road allowances, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the Executive Director, Technical Services Division, and requirements to maintain in good order and operation; and
 - k. Certain green development elements, satisfactory to the Chief Planner and Executive Director, City Planning Division, as may be identified in the Green Development Checklist received by City Planning on April 9, 2008.
5. For the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception that the following expressions shall have the following meanings:

"grade" means 87.0 metres Canadian Geodetic Datum;

"height" means the vertical distance between *grade* as defined in this By-law and the highest point of the roof except for those elements prescribed in this By-law;

"car-share parking space" shall mean a *parking space* used exclusively for the parking of a *car-share motor vehicle*;

"car-share motor vehicle" shall mean a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected on the *site*;

"tandem parking space" means a parking space that is only accessed by passing through another parking space from a street, lane, drive aisle or driveway; and,

"site" shall mean those lands outlined by heavy lines on Map 1 attached hereto;

6. By-law 95-2006 is hereby repealed.

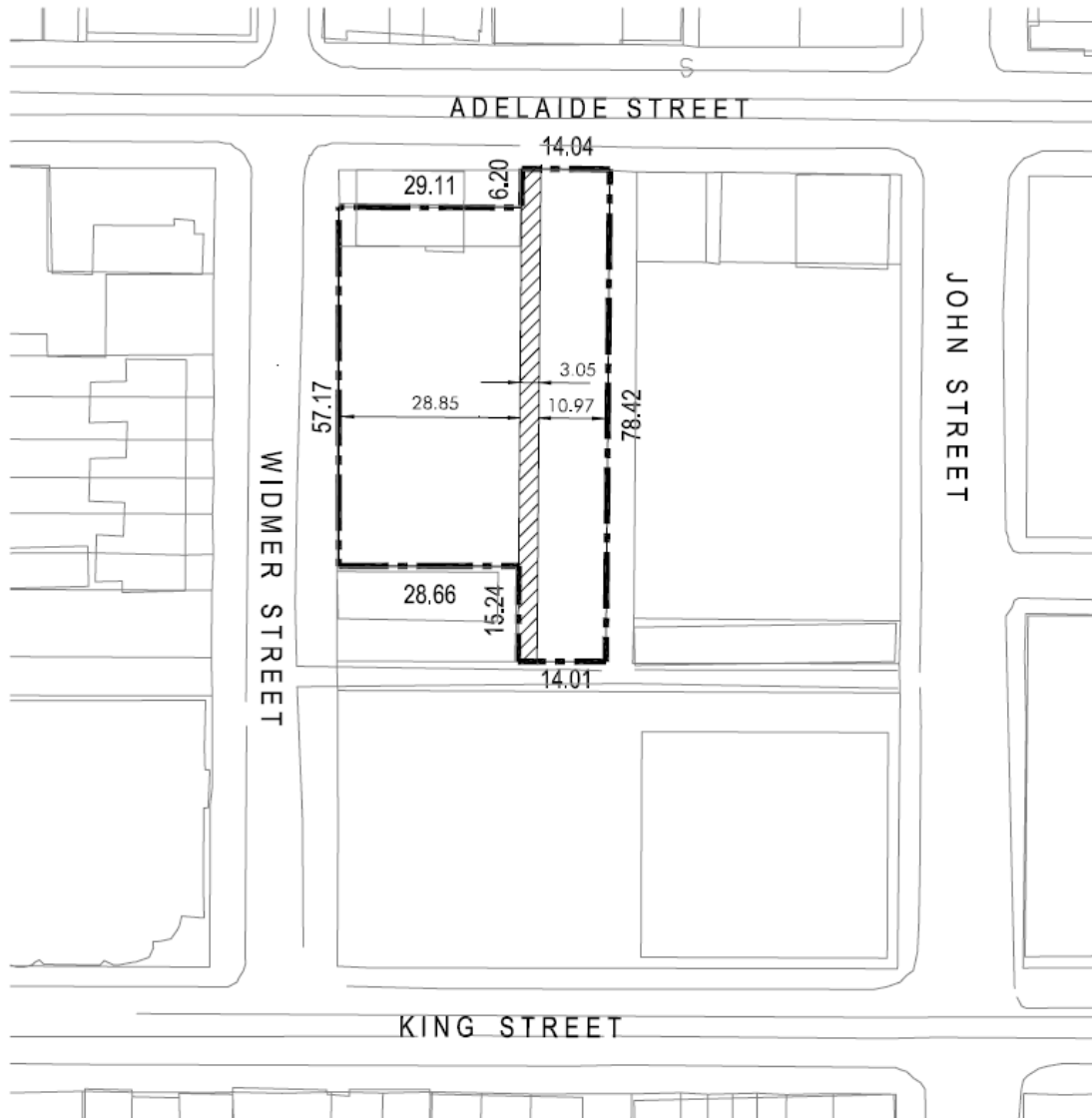
ENACTED AND PASSED this ____ day of ____, A.D. 2009

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)

Map 1



LANE TO BE PURCHASED BY THE APPLICANT



ALL DIMENSIONS ARE IN METRES



N.T.S.

0785-17sk June 11, 2009

Draft Map 1 – Applicant's submitted map

Map 2



H DENOTES MAXIMUM HEIGHT IN METRES ABOVE GRADE
ALL DIMENSIONS ARE IN METRES



0785-19en Sept. 11/09

Lane Widening To Be Conveyed



Draft Map 2 - Applicant's submitted map