

## 56 Blue Jays Way Rezoning Application – Final Report

<b>Date:</b>	September 24, 2009
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	08 209949 STE 20 OZ

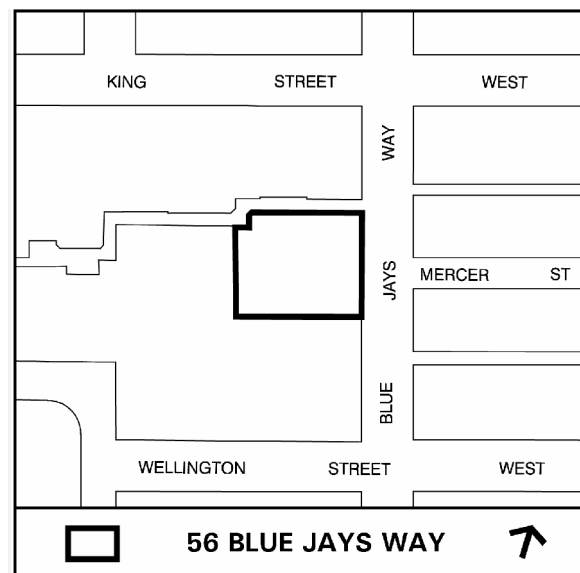
### SUMMARY

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

This application proposes a 41-storey (142 m) mixed use building with a five-storey podium incorporating the east facing heritage façade, and a 36-storey tower containing hotel and residential units at 56 Blue Jays Way.

This report reviews the application and recommends that the proposal be approved subject to a reduction in height to 120 m inclusive of mechanical penthouse and elevator/stair overrun.

Staff worked closely with the previous owner of this site and approved a 62 m height in 2007, a doubling of the previous height permission. The 62 m approval fit into its immediate height context and had no significant shadow impacts on King Street West. The current proposal has merit in that it provides a good condition at street level, continues to incorporate the heritage façade, and provides some architectural and functional improvements over the previously approved development. It is generally consistent with the King Spadina East Precinct Built Form Study in that it is located within an area that can



accommodate tall buildings without destabilizing the warehouse built form character of the area.

Staff have worked with the applicant, in consultation with the Ward Councillor, and have made some progress in achieving the built form goals of the Tall Building Guidelines and the King Spadina Built Form Study, with respect to tower floor plate size and adequate tower separation.

However, the proposal's current height of 142 m inclusive of mechanical penthouse/elevator overrun remains inappropriate within the framework of the King Spadina Built Form Study, which recommends a Second Tier height of 90 m for this site. The Second Tier height is based on a recognition of both the general trend of decreasing height from University to Spadina Avenue and from Front Street to Queen Street, as well as the immediately local context of 60-70 m tall buildings to the south, and recent OMB and Committee of Adjustment approvals allowing buildings of approximately 120 m to the north. This report therefore recommends that the Zoning By-law Amendment application be approved subject to a reduction in height to no more than 120 m inclusive of mechanical penthouse and elevator/stair overrun.

The reduction in height is appropriate for the following reasons:

- The proposed height of 142 m is approximately twice the height of the recently built context (with the exception of the OMB-approved M5V development at 371-379 King Street West, at 119.5 m and the Committee of Adjustment approval of 430 King Street West at 123 m);
- The site is located mid-block on a street that has been identified in the King-Spadina Secondary Plan as a smaller neighbourhood street, and as such does not warrant the requested height of 142 m;
- The proposed height represents an increase of approximately 58% over the Second Tier heights recommended in the King-Spadina Built Form Study. This increase cannot be supported without significantly compromising the recent Community Council approval of the framework of the Built Form Study.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council approve the proposal subject to a maximum height of 120 m inclusive of mechanical penthouse and elevator/stair overrun.
2. City Council amend Zoning By-law 438-86, as amended, substantially in accordance with the draft Zoning By-law Amendment to be available at or before the Toronto and East York Community Council meeting on October 13, 2009.

3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
4. City Council determine that no further notice under the Planning Act be required to effect the reduction of the proposed height to 120 m.
5. Before introducing the necessary 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 \$1,000,000.00 of which 10% will be allocated to affordable housing in Ward 20, and the remainder for the provision of one of more of the following:
    - capital improvements to non-profit arts and cultural facilities in Ward 20;
    - streetscape improvements to John Street and Mercer Street;
    - Heritage Conservation District Studies in the King Spadina East Precinct subject to the appropriate Official Plan Amendment coming into force and effect, and design development supporting the John Street streetscape project;
  - b. \$100,000 of the cash contribution is to be provided prior to the enactment of Bills, for the purpose of 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, or design development for the John Street and/or Mercer Street streetscapes, and the remainder of the cash contribution is to be provided prior to the issuance of an above-grade building permit;
  - c. 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;
  - d. Prior to Site Plan Approval for the subject property, the owner shall:
    - i) submit additional information based on the proposed Conservation Strategy, to include documentation substantially in accordance with that outlined within Section 6.0 of the Implementation and Monitoring Plan of the Heritage Impact Statement, prepared by Rassech Eckler Associates LTD, date stamped as received October 10, 2008 including an estimate of the costs associated with

its execution, for the reconstruction and restoration of 56 Blue Jays Way façade to the satisfaction of the Manager of Heritage Preservation Services;

- ii) amend the existing Heritage Easement Agreement registered on the site to address the proposed construction and permitted alterations;
  - iii) submit a Conservation Plan to include, but not necessarily be limited to revised drawings, to the satisfaction of the Manager of Heritage Preservation Services that provide: elevations and sections at 1:50 scale at the following locations for the applicable proposed elements: entry at the heritage façade elevation; return walls with detailing; new canopy; signage program at heritage façade if applicable; parapet and/or cornice details; and window specifications for the entire heritage façade elevation;
- e. In accordance with the Conservation Plan, the owner shall restore the heritage façade and in the event of a lesser expenditure than identified in the Conservation Strategy, the difference shall be re-directed to the provision of heritage studies of the King-Spadina East Precinct;
- f. Prior to the release of a building permit, including for demolition, excavation, shoring, foundation or above grade, the owner shall;
- i) supply a Letter of Credit equal to the approved amount contained within the Conservation Plan; and
  - ii) provide final plans satisfactory to the Manager, Heritage Preservation Services.
- g. Prior to the release of the Letter of Credit, the owner shall provide evidence and documentation that the project scheme has been implemented, per the approved Conservation Plan, satisfactory to the Manager, Heritage Preservation Services;
- h. The owner shall enter into an agreement with the City of Toronto to provide one floor and not less than 7 units of rental housing within the development, for a minimum of 20 years and at rents that do not exceed the average market rent by unit type (for the City of Toronto) as reported in the most recent CMHC rental market report;

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

- i. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms, or be convertible to three or more bedrooms;
  - j. Architectural plans, elevations and landscaping including 1:50 elevations will be secured to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the owner will be required to, in conjunction with each Site Plan Application submit 1:50 scale drawings in conformity with this requirement for the five storey podium;
  - k. The owner shall incorporate in the construction of the building, and thereafter, maintain exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director;
  - l. The owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director of City Planning Division, date-stamped October 23, 2008;
  - m. Prior to the introduction of Bills, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a Functional Servicing Report to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;
  - n. The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support the development;
  - o. The owner shall implement wind mitigation measures required by the applicant's wind study, revised to reflect changes to the proposal as described in this report, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval;
  - p. The owner shall provide and maintain in good order and operation 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.
6. Prior to the introduction of Bills, require the owner to submit to the Executive Director, Technical Services for review and acceptance, a site servicing review to

demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate.

7. Prior to the introduction of Bills, require the applicant to withdraw the appeal to the Ontario Municipal Board regarding Zoning By-laws 921-2006 and 922-2006 arising from the 2006 King-Spadina Secondary Plan Review.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

### **King-Spadina Built Form Review**

In 2005, a review of the King-Spadina Secondary Plan was initiated by Council to evaluate specific matters related to entertainment uses in the area, community infrastructure, built form policies and the policies related to the public realm. In September 2006, City Council enacted amendments to the King-Spadina Secondary Plan and RA zoning to update the planning framework for the Plan area which resulted in Official Plan Amendment 921-2006 and Zoning By-law Amendment 922-2006. The amendments to the Secondary Plan refined certain policies and updated maps to reinforce the original intent of the Plan to protect and enhance the area's unique physical attributes and heritage warehouse character. A new policy 3.7 provides criteria for considering tall buildings in certain parts of the East Precinct, which include setbacks above the base building and a requirement to not export facing distance constraints onto adjacent sites. The Zoning By-law amendment includes a provision that permits an additional 5 metres of building height, including mechanicals, subject to the mechanicals being wrapped and falling within a 45 degree angular plane from the street, for a total height of 35m.

These amendments are currently under appeal to the Ontario Municipal Board by some area owners and developers, including the applicant. A series of pre-hearing conferences have resulted in many appeals being withdrawn or settled. The hearing has been deferred with the consent of all parties, until November 2009. The applicant will be required to withdraw their appeal prior to Bills being enacted by Council.

### **Site-Specific Zoning By-Law**

The subject lands were rezoned in 2007 (By-law 1067-2007) after undergoing an extensive and comprehensive review, to permit an 18-storey building (62 metres) with 220 units and 18,330 square metres of gross floor area. The height was deemed acceptable because it was compatible with the height of the Soho Metropolitan to the immediate south of the site (16 storeys and 50 metres) and the development application for 99 Blue Jays Way (20 storeys and 61.5 metres) recommended for approval at the time. The approved height resulted in acceptable shadow impacts on King Street. This rezoning led to the withdrawal of the appeal to Official Plan Amendment 921-2006 and Zoning By-law Amendment 922-2006 by the applicant at the time. Since the site-specific Zoning By-law Amendment in 2007, there have been several development applications in

the immediate area that have also proposed more height and density. The subject site was subsequently sold and the current proposal for additional height and floor area has been submitted by a new applicant.

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

In April 2008, Council directed staff to undertake a further study of the built form in the East Precinct of the King-Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the area. This study recognizes areas within the East Precinct, which have been identified as Second Tier height areas, that can accommodate more height than currently permitted as-of-right, subject to meeting the criteria for development as set out in the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City's Tall Building Guidelines, and providing an appropriate Section 37 contribution. Any proposal seeking a Second Tier height beyond the current zoning permission of 30 m plus 5 m for mechanical will be required to undergo a rezoning process. This framework was endorsed by Toronto and East York Community Council at its meeting of September 15, 2009. The subject site is within a Second Tier height area where staff has identified the potential for some additional height, although not to the extent requested by this applicant.

Further work by staff will involve preparation of detailed guidelines regarding urban design, built form and performance criteria to guide future development, and the development of a revised Secondary Plan and Zoning By-law for the King-Spadina East Precinct.

### **Referral of Refusal Report**

Staff prepared a report, "56 Blue Jays Way Zoning By-law Application – Refusal", dated June 3, 2009, which was considered by Toronto and East York Community Council on September 15, 2009. The report was referred back to staff for additional discussion and consultation between the applicant, appropriate staff and the Ward Councillor.

## **PRE-APPLICATION CONSULTATION**

The applicant met with staff prior to submitting an application in 2008. Issues discussed included a 12-15 m wide proposed curb cut on Blue Jays Way to provide for the hotel drop-off. After discussion with staff, the proposed curb cut was removed from the proposal.

A number of other development applications were submitted within the vicinity of the subject application, including 355 King Street West/ 119 Blue Jays Way, 99 Blue Jays Way, and 60 John Street / 12-18 Mercer Street. A Design Charette for these Mercer Street area applications was held in August 2008, to bring together stakeholders including the Ward Councillor, City Staff, the developers and their architects. The proponents for this development participated in this City-initiated exercise. At the time of the charette, the height of the proposal for 56 Blue Jays Way was not determined. Issues discussed during the charette included the relationship of the four proposals with each other;

podium design, materials and articulation; pedestrian connections and open space; integration with heritage buildings; and streetscape. The charrette did not and was not intended to address the issue of the height of the individual proposals, but focused on the lower levels of the buildings, as the height was still under review.

The application for rezoning was subsequently submitted in October 2008, with a height of approximately 142 m to the top of the elevator overrun.

## **ISSUE BACKGROUND**

### **Discussions With The Applicant**

Subsequent to the referral of the June 3, 2009 Refusal Report, discussions were held with the applicant in consultation with the Ward Councillor. These discussions resulted in an increase of the setback from the rear (west) property line to 10 m from approximately 3.2 m above the 12<sup>th</sup> storey (except for a stair shaft in the centre of the west face of the tower, and balconies), and a resultant decrease in tower floor plate to approximately 750 square metres from 896 square metres.

### **Proposal**

This revised application proposes a 41 storey mixed-use building (142 metres, including mechanical and elevator/stair overrun). The first five floors (approximately 22 m high) comprise the podium or base component, consistent with the height of the podium of the adjacent Soho condominium / hotel to the south. The podium incorporates the façade of the heritage building that exists on the site, and is set back along the Blue Jays Way frontage to provide prominence to the heritage façade, visibility to the Soho development and additional pedestrian space.

The development proposes restaurant uses and a residential lobby on the ground floor, accessed through the public laneway to the north of the site; hotel functions and guest rooms on the second to tenth floors, accessed via a ground floor lobby on the Blue Jays Way frontage and from a public lane that abuts the site to the north; and residential dwelling units on floors 12 to 39. The applicant proposes rental residential units on the 12<sup>th</sup> floor. Fitness and spa space is proposed on the 11<sup>th</sup> floor and an indoor and outdoor lounge and pool space is provided on the 41<sup>st</sup> floor. Both of these spaces are intended to be shared between the hotel and residents. Mechanical uses comprise floor 40 and part of floors 11 and 41.

The proposed total gross floor area of the revised development proposal is 29,893 square metres (18,890 square metres of residential floor area and 11,004 square metres of hotel floor area), resulting in a floor space index of 15.1. The proposed unit breakdown consists of 127 hotel suites and 292 residential units. A total of 228 vehicle parking spaces and 200 bicycle parking spaces are proposed in five below-grade levels. (Refer to Attachment 7: Application Data Sheet)



Parking, loading, and a drop-off area to the residential lobby are proposed to be accessed from the public lane that abuts the site to the north. (Refer to Attachment 1: Site Plan).

## **Site and Surrounding Area**

The site is located on the west side of Blue Jays Way, between King Street West and Wellington Street West. The site has a frontage of 40.69 metres and a depth of approximately 49.12 metres, for an overall site area of 1,979 square metres. There is a public lane that runs along the north edge of the site.

The site is occupied by a three-storey designated heritage building currently used as the Diesel Playhouse. The Blue Jays Way façade of the existing building, which is set back approximately 3 metres from the property line, is proposed to be retained and is currently secured through a previously registered Heritage Easement Agreement.

The site is surrounded by the following uses:

North: to the north is a public lane and a series of low-rise buildings containing retail uses. To the immediate north-west on the lands municipally known as 371-379 King Street West is an OMB approved development for a 119.5 metre (35 storey) building.

East: Directly opposite at 99 Blue Jays Way on the south side of Mercer Street is a restaurant (Gretzky's), which was rezoned (By-law 574-2007) to permit a 20 storey (64m) residential condominium with commercial uses on the lower level. The site owner has submitted a new application for 99 Blue Jays Way, for a building approximately 40 storeys (138 m) tall.

At the northeast corner of Blue Jays Way and Mercer Street is a commercial parking lot municipally known as 119 Blue Jays Way, north of which is the 6-storey (approximately 24 metres) Westinghouse building at 355 King Street West. The Westinghouse building is designated under the Ontario Heritage Act and currently contains commercial uses. A combined Official Plan and Zoning By-law Amendment application for two towers and a podium is under review for these lands.

To the southeast, on the east side of Blue Jays Way at Wellington Street West is the Icon condominium, ranging in height from 12 storeys (approximately 35 metres) at Blue Jays Way, to 17 storeys (approximately 50 metres) mid-block, to 21 storeys (approximately 64 metres) near John Street.

South: to the immediate south of the site is the Soho residential condominium and hotel which has a maximum height of 16 storeys (approximately 50 metres).

West: to the west of the proposed building is a courtyard and 7 storey residential condominium building, developed in conjunction with the 16-storey Soho project.

## **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 Official Plan locates the subject site within the *Downtown*. Chapter Two – Shaping the City identifies that the downtown area offers opportunities for substantial employment and residential growth, but that this growth is not anticipated to be uniform. Rather, it is expected that the physical setting of many areas will remain unchanged and that design guidelines specific to districts of historic or distinct character will be implemented to ensure new development fits into the context of existing built form, streets, setbacks, heights and relationship to landmark buildings.

Chapter Three – Building a Successful City identifies that most of the City's future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Development will be located, organized and massed to fit harmoniously with its existing and/or planned context. Development will limit its impacts on neighbouring properties and the public realm by respecting street proportions, creating appropriate transitions in scale, providing for adequate light and privacy, and limiting shadow and wind impacts. This section of the Plan also contains specific policies on tall buildings and built form principles to be applied to the location and design of tall buildings, including locating buildings parallel to the street, with clearly visible entrances and ground floor uses with views to the street; locating and organizing parking and servicing to minimize impacts; providing an appropriate scale for adjacent streets; minimizing shadowing, loss of sky view and wind impacts; contribution to the skyline character; and fit within the local context.

The site is designated as a Regeneration Area, which permits the proposed residential, hotel and commercial uses.

Section 2.4 Policy 12 of the Official Plan requires that hotels make provision for a taxi stand on private property

## **King-Spadina Secondary Plan**

The subject site is located within the King-Spadina Secondary Plan area. The King-Spadina Secondary Plan (Chapter 6.16 of the Official Plan) provides a framework for reinvestment and development, the fundamental intent of which is to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to the historic building stock and the pattern of streets, lanes and parks.

In particular the policies of Section 3 – Built Form specify that new buildings will achieve a compatible relationship with their built form context through consideration of such matters of building height, massing, scale, setbacks, stepbacks, roof line and profile and architectural character and expression. The policies encourage buildings to be located along the street edge with lower levels providing public uses accessed from the street; encourage servicing and parking to be accessed from rear lanes; site new buildings for adequate light, view and privacy; compatibility with the built form context; provide appropriate proportional relationships to streets and open spaces; and minimize wind and shadow impacts on streets and open spaces.

The Urban Structure Plan identifies a number of north-south “Significant Streets”. Blue Jays Way/Peter Street is identified as a smaller neighbourhood street with a distinctive character.

By-law 921-2006, which is under appeal to the Ontario Municipal Board, proposed amendments to the King-Spadina Secondary Plan that are intended to further clarify and reinforce the fundamental intent of the Plan, re-emphasizing that new development should respond to the unique physical character of the area.

## **King-Spadina Urban Design Guidelines**

The King-Spadina Urban Design Guidelines (2004) support the implementation of the King-Spadina Secondary Plan. The Guidelines identify Blue Jays Way / Peter Street as a “Special Street”. New buildings are to permit a 3-hour sunlight standard at mid-day between March and September to support the role of the street as a pedestrian route and a location for outdoor cafes and restaurants. The Guidelines also state that height and massing are to be based on prevailing building types in the area. Building articulation and fenestration is to be based on the articulation of historic buildings.

Updated King-Spadina Urban Design Guidelines were endorsed by Council in September 2006. The updated Guidelines uphold the previous characterization of Blue Jays Way as a smaller neighbourhood street with a distinctive character. The updated Guidelines also seek to evaluate tall buildings in terms of massing and height, and impacts on light, view, privacy, sunlight access and wind conditions, as well as ensuring that the potential for other sites appropriate for tall buildings to develop in a similar manner is maintained. The Guidelines also note that the Zoning-By-law’s angular plane provisions to preserve sunlight on certain streets, including King Street, should be upheld. In addition, stepbacks between 3 and 9 m are encouraged so that tall portions of buildings do not overwhelm the street wall. In addition to these Guidelines, tall buildings are to be

assessed in accordance with the City's Tall Building Design Guidelines, including guidelines for tower separation and sky view and shadow impacts.

### **City of Toronto Tall Building Guidelines**

The Tall Building Guidelines provide direction on matters including the scale of buildings, building floor plates and spatial separation. Key criteria in the Guidelines are minimum facing distances of 25 metres between towers in order to achieve appropriate light and privacy, minimum side and rear yard tower setbacks of 12.5 metres, and articulation of tower floorplates that are larger than 743 sq. m to break down the mass of the building.

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

The findings of the King-Spadina East Precinct Built Form Study include the principle that heights decrease generally from east to west (University Avenue to Spadina Avenue), and from south to north (Front Street to Queen Street). Within this general height trend are areas of localized conditions. One of these localized areas is south of Adelaide Street to Front Street and west of Widmer Street, which contains the subject site. This is a Second Tier height area with the potential for additional height. Given the local context of the site, including the approved development at 371-379 King Street West (119 m), 430 King Street West (123 m), and the Soho and Icon developments to the south (approx. 40-64 m), a Second Tier Height of up to 90 m may be appropriate, subject to meeting appropriate performance criteria including the objectives of the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City's Tall Building Guidelines, as well as providing an appropriate Section 37 contribution.

Additional considerations for this particular site include shadow impacts on King Street West, which has been identified as a sunlight street and is subject to angular plane provisions in Section 12(2)260 of Zoning By-law 438-86, shadow impacts on Blue Jays Way, which is subject to a 3-hour sunlight standard mid-day between March and September in the 2004 King-Spadina Urban Design Guidelines, and ensuring adequate spacing distances for tall building elements given the OMB-approved development at 371-379 King Street West, as well as visual impacts on the Restaurant Row portion of King Street West.

### **Zoning**

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended. The RA zoning permits a range of uses and a maximum building height of 30 metres for this site. An additional 5 metres is permitted for rooftop mechanical elements. The Zoning By-law permits development to the front lot line and to the side lot lines to a depth of 25 metres. Beyond a depth of 25 metres, a 7.5 metre setback is required. A 7.5 metre setback to the rear lot line is also required. Section 12(2)246 of the Zoning By-law requires a 3-metre setback above 20 metres on all street frontages.

By-law 922-2006, implementing the zoning by-law amendments arising from the 2006 King-Spadina Secondary Plan review, added provisions that included requirements for windows of dwelling units to maintain a minimum separation of 15 m, and 7.5 m to a lot

line that is not a public street. By-law 922-2006 is under appeal to the Ontario Municipal Board.

The site-specific By-law 1067-2007 ([www.toronto.ca/legdocs/bylaws/2007/law1067.pdf](http://www.toronto.ca/legdocs/bylaws/2007/law1067.pdf)) permits a maximum building height of 62 metres and lower height restrictions on other portions of the lands. The site-specific By-law also regulates a maximum amount of gross floor area (18,330 sq. m), and Section 37 requirements.

### **Site Plan Control**

The proposed development would be subject to site plan approval. An application for site plan approval has not been submitted.

### **Reasons for Application**

The Zoning By-law Amendment application proposes a building that exceeded the permitted maximum building height by 80 metres, for a height of approximately 142 m including the mechanical penthouse and elevator/stair overrun. The proposal also exceeds the maximum permitted gross floor area cited in By-law 1067-2007.

A number of other variances are required for the proposal, including the following:

- rear and side yard setbacks for the podium portion of the building
- tower stepback of 3 m beyond a 20 m height
- amount of outdoor amenity space
- dimensions of obstructed parking spaces

In some cases adequate information was not provided and it was difficult for staff to determine the extent of the variances.

In addition, a taxi stand is required on-site for the hotel use, in order to avoid the requirement for an Official Plan Amendment.

### **Community Consultation**

A community consultation meeting was held January 20, 2009. Representatives from the Soho condominium to the south of the subject site expressed concern about the height, loss of north-easterly views, and the capacity of the lane to accommodate the proposed development as well as the existing Soho development and the OMB-approved M5V development at 371-379 King Street West. Residents also expressed concern that the applicant was seeking a significant change to the zoning so soon after By-law 1067-2007 was passed.

### **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. These comments were considered in evaluating this application.

## **COMMENTS**

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

The proposal was consistent with the PPS by proposing intensification within a built-up urban area near higher-order transportation.

The proposal conformed and did not conflict with the Growth Plan for the Greater Golden Horseshoe by proposing intensification within the Downtown, which is identified as an Urban Growth Area.

### **Land Use**

The proposed mix of residential, hotel, and restaurant uses was consistent with the land use permissions of the Official Plan, Secondary Plan and Zoning By-law.

Any new site-specific zoning by-law for the site will not permit an entertainment facility use on the site.

### **Height**

The proposed 142 m height does not provide an appropriate scale for either Blue Jays Way or as seen from King Street West, and is not supportable given the local context.

Staff acknowledge that the local context of this proposal has changed since the 2007 approval of a 62 m building. To the immediate south of the proposal are recently built or approved condominiums in the 60-70 m height range. The tallest approved buildings in the immediate vicinity are 119.5 m (371-379 King Street West) and 123 m (430 King Street West). In addition, the King-Spadina East Precinct Built Form Study acknowledges that additional height could be contemplated south of King Street subject to mitigating shadow impacts, and the visual effects of height on the character of King Street West, particularly on the “Restaurant Row” area between Blue Jays Way and John Street. The site is within a Second Tier height area of 90 m as identified in the Built Form Study. The proposed height of 142 m is 58% higher than the Second Tier height. This pierces the recommended limit to a degree that is inconsistent with other recent approvals, which, by achieving other built form objectives, have been permitted to exceed the Second Tier by approximately 20-30 percent and are on sites that can appropriately accommodate the increase.

The applicant has argued that the addition of a hotel to this project helps to support the area’s entertainment, tourist and cultural attractions, and this has driven the increase in height and floor area. The applicant also noted that should the hotel prove to be unfeasible, the height related to the hotel development could be subtracted from the height provisions in the by-law. The site-specific zoning by-law will therefore make the ultimate height conditional on the hotel use.

In the June 3, 2009 Refusal Report, a height of 98 m was recommended by staff. This remains staff’s preference as it is consistent with the direction of the Built Form Study. Discussions with the applicant have resulted in progress toward other objectives such as

adequate tower spacing, and therefore staff are willing to consider a height of no more than 120 m inclusive of mechanical and elevator overrun, in the interest of coming to an agreement. This height would be consistent with the highest elements in the local context.

## **Massing**

Subsequent to discussions with the applicant, the tower floor plate was reduced from 896 square metres above the 12<sup>th</sup> floor to approximately 750 square metres. This decreases the mass facing King Street West, improving sky view as experienced by pedestrians on King Street and improving the separation distance from adjacent tall development as compared to the original proposal.

The proposal's revised tower setback from the rear (west) property line of 10 m (with the exception of a stair shaft) now more closely meets the general intent of Policy 3.7(b) of the 2006 King-Spadina Secondary Plan (under appeal), requiring a proposal to not export facing distance constraints onto adjacent sites. The Tall Buildings Guidelines recommend a minimum 25 m separation distance between tower elements, with a minimum setback of 12.5 m on each property. Staff can accept the compromise of a 10 m setback, as the site to the west is currently developed with a courtyard and seven-storey portion of the recently built Soho development and therefore unlikely to be redeveloped with a tall building in the near to medium term. The revised rear yard setback of 10 m allows a diagonal separation of approximately 25 m between the proposed building and the OMB-approved tower at 371-379 King Street West, and is acceptable.

The tower does not meet the stepback requirement of 3 m beyond a height of 20 m at either the front or rear of the site, but instead begins to step back slightly at the 11<sup>th</sup> floor. This is acceptable since the entire building is well set back from the Blue Jays Way property line to accommodate the location of the heritage façade. In addition, the prevailing streetwall varies from the 20 m height.

Staff do not have issues with the podium levels of the proposal.

## **Shadow Impacts**

The site is directly south of King Street West, which has a height limit of 30 metres and a 44 degree angular plane from the street line at the 16 metre height level. The purpose of the angular plane is to minimize shadow impacts and ensure sky views at pedestrian level on King Street West. The previous approval for 62 m of height on the subject site was based on limiting shadow impacts on King Street West, mid-day between March and September.

The proposed building begins to add its own shadow impacts on King Street West after 11:00 am in March and September, including what appear to be minor impacts on Restaurant Row between approximately 3:30 and 4:00 in the afternoon. The east-west orientation of the proposed building creates a relatively wide shadow on King Street, particularly in the morning and early to mid afternoon hours, however, the 10 m tower setback from the rear property line improves this condition as compared to the original

proposal. In June, approximately half of Mercer Street (the western half) is shaded in late afternoon (approximately 4:30 pm).

The submitted shadow studies include a proposal for 355 King Street West, which is still under review by staff. It is difficult to fully determine the impact of the subject proposal's shadows on their own, since some of the shadow is obscured by the 355 King Street proposal, which may be subject to change.

## **Wind Impacts**

A wind study submitted by the applicant indicates very little change from existing wind conditions and did not recommend mitigation. However, staff reviewed the study and noted that the existing wind conditions were not particularly conducive to comfortable use of the proposal's outdoor café seating area at the northeast corner of the site, a sitting area at the southeast corner of site, and the main hotel entrance on Blue Jays Way.

Winter conditions would remain uncomfortable at the hotel entrance, exhibiting very little change from existing conditions. In spring, wind conditions around the entire building would be comfortable for walking only, representing no change from existing conditions. In summer, wind conditions at the hotel lobby would be comfortable for walking only, and for standing at the outdoor café area, sitting area, residential access area and on outdoor terraces. The summer conditions would be slightly worse than existing conditions, resulting in more points around the building and in the near vicinity becoming comfortable for walking only. In fall, all points around the building would be comfortable for walking only, representing no change from existing conditions.

An updated pedestrian wind study is required as part of the Site Plan review application, to determine whether the changes to the proposal mitigate the wind effects outlined in the applicant's original wind study.

The implementation of wind mitigation measures to the satisfaction of staff will be secured in the Section 37 agreement.

## **Traffic Impact, Access, Parking**

A Traffic Impact Study submitted by the applicant was satisfactory to Technical Services staff.

Loading and access to below-grade parking is at the west end of the property via the east-west laneway to the north of property. Residential drop-off is also accessed via the lane. This arrangement is satisfactory to Technical Services staff.

The proposal satisfies the parking requirements of the Zoning By-law by providing 228 parking spaces in five levels below grade, assuming that the unit mix remains essentially as proposed. Proposed loading arrangements require refinement in order to comply with Zoning By-law requirements. Alternately, the applicant will be required to provide justification for the proposed loading arrangement. This will be resolved during the Site Plan review process.



Section 2.4 Policy 12 of the Official Plan requires that hotels make provision for a taxi stand on private property. This will be secured in the site-specific zoning by-law.

## **Servicing**

The Functional Servicing Report provided by the applicant required revision in accordance with comments sent directly to the Servicing consultant. A revised study has not yet been received. Revisions to the satisfaction of Technical Services staff will be required prior to Bills being introduced to Council.

## **Amenity Space**

The proposal provides approximately 740 sq. m of indoor residential amenity space, shared between hotel guests and residents. This exceeds the Zoning By-law requirement of 2 sq. m per unit and is acceptable in principle. However, the proposal will require some revision at the Site Plan review stage to provide a minimum of 200 square metres of indoor amenity space, including a kitchen and washroom, for the exclusive use of the condominium, to allow adequate space for condominium board meetings. In the event that the hotel use ceases or changes, the indoor and outdoor amenity space provided in the project as a whole must continue to be accessible to the condominium residents.

Approximately 470 sq. m of outdoor amenity space is provided, shared between hotel guests and residents. This represents approximately 1.6 sq. m of outdoor space per residential unit, which is lower than the Zoning By-law requirement of 2 sq. m per unit, however it is acceptable.

## **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 Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.43 to 0.78 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposes 292 residential units on a total site area of .1979 hectares (1,979 sq. m). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would be 0.389 hectares (3,893 sq. m). However, a cap of 10% applies and hence the parkland dedication for the development would be .01979 hectares (197.9 sq. m). 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.

The applicant proposed to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of .01979 hectares (197.9 sq. m) would not be of a useable size and the site would have been encumbered with below grade parking. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

## **Streetscape**

The existing heritage building is set back 3.1 metres from the front property line. Additional proposed building setbacks from the front property line will provide some additional sitting/open space and an outdoor café area along the Blue Jays Way frontage. Tree planting is proposed in both the public boulevard as well as in the area between the property line and the existing heritage façade.

The Section 37 agreement will include a contribution for streetscape improvements to John Street and/or Mercer Street.

## **Heritage**

A Heritage Easement Agreement is registered on the property which protects the heritage character of the front (east) façade and includes the side walls going back approximately 5.8 metres. The proposal retains and restores the existing façade, with some modifications to windows and changes to the main entrance and large window above. These changes are satisfactory to Heritage Preservation Services and will be secured through the Section 37 Agreement.

## **Toronto Green Standard**

The applicant proposes to meet a number of the minimum recommended measures in the Toronto Green Standard. These will be secured through the Section 37 agreement.

## **Section 37**

This development will reach a height beyond the Second Tier identified in the King Spadina East Precinct Built Form Study. In keeping with framework of the Built Form Study, the applicant will be expected to provide a high level of community benefits, which will assist in providing the facilities and services that this area requires to support increasingly intense development.

In addition to a cash contribution, the applicant will be required to enter into an agreement with the City to secure affordable rental housing and a public art contribution.

The Section 37 agreement is recommended to include the following elements, subject to the approval of the proposal as recommended, i.e., a reduction in height to 120 m.

- a. An indexed cash contribution of \$1,000,000.00 of which 10% will be allocated to affordable housing in Ward 20, and the remainder for the provision of one or more of the following:
  - capital improvements to non-profit arts and cultural facilities in Ward 20;
  - streetscape improvements to John Street and Mercer Street;
  - Heritage Conservation District Studies in the King Spadina East Precinct subject to the appropriate Official Plan Amendment coming

into force and effect, and design development supporting the John Street streetscape project;

- b. \$100,000 of the cash contribution is to be provided prior to the enactment of Bills, for the purpose of 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, or design development for the John Street and/or Mercer Street streetscapes, and the remainder of the cash contribution is to be provided prior to the issuance of an above-grade building permit;
- c. 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;
- d. Prior to Site Plan Approval for the subject property, the owner shall:
  - i) submit additional information based on the proposed Conservation Strategy, to include documentation substantially in accordance with that outlined within Section 6.0 of the Implementation and Monitoring Plan of the Heritage Impact Statement, prepared by Rassech Eckler Associates LTD, date stamped as received October 10, 2008 including an estimate of the costs associated with its execution, for the reconstruction and restoration of 56 Blue Jays Way façade to the satisfaction of the Manager of Heritage Preservation Services;
  - ii) amend the existing Heritage Easement Agreement registered on the site to address the proposed construction and permitted alterations;
  - iii) submit a Conservation Plan to include, but not necessarily be limited to revised drawings, to the satisfaction of the Manager of Heritage Preservation Services that provide: elevations and sections at 1:50 scale at the following locations for the applicable proposed elements: entry at the heritage façade elevation; return walls with detailing; new canopy; signage program at heritage façade if applicable; parapet and/or cornice details; and window specifications for the entire heritage façade elevation;
- e. In accordance with the Conservation Plan, the owner shall restore the heritage façade and in the event of a lesser expenditure than identified in the Conservation Strategy, the difference shall be re-directed to the provision of heritage studies of the King-Spadina East Precinct;
- f. Prior to the release of a building permit, including for demolition, excavation, shoring, foundation or above grade, the owner shall;

- i) supply a Letter of Credit equal to the approved amount contained within the Conservation Plan; and
  - ii) provide final plans satisfactory to the Manager, Heritage Preservation Services.
- g. Prior to the release of the Letter of Credit, the owner shall provide evidence and documentation that the project scheme has been implemented, per the approved Conservation Plan, satisfactory to the Manager, Heritage Preservation Services;
- h. The owner shall enter into an agreement with the City of Toronto to provide one floor and not less than 7 units of rental housing within the development, for a minimum of 20 years and at rents that do not exceed the average market rent by unit type (for the City of Toronto) as reported in the most recent CMHC rental market report;

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

- i. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms, or be convertible to three or more bedrooms;
- j. Architectural plans, elevations and landscaping including 1:50 elevations will be secured to the satisfaction of the Chief Planner and Executive Director, City Planning Division, and the owner will be required to, in conjunction with each Site Plan Application submit 1:50 scale drawings in conformity with this requirement for the five storey podium;
- k. The owner shall incorporate in the construction of the building, and thereafter, maintain exterior building and landscape materials to the satisfaction of the Chief Planner and Executive Director;
- l. The owner shall be encouraged to build in conformity with the Green Development Standard Checklist on file with the Chief Planner and Executive Director of City Planning Division, date-stamped October 23, 2008;
- m. Prior to the introduction of Bills, the owner shall submit to the Executive Director, Technical Services for review and acceptance, a Functional Servicing Report to demonstrate how this site will be serviced and whether the existing municipal infrastructure is adequate;

- n. The owner shall pay for and construct any improvements to the municipal infrastructure in connection with the Functional Servicing Report as accepted by the Executive Director of Technical Services, should it be determined that improvements to such infrastructure are required to support the development;
- o. The owner shall implement wind mitigation measures required by the applicant's wind study, revised to reflect changes to the proposal as described in this report, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval;
- p. The owner shall provide and maintain in good order and operation 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.

## **Development Charges**

It is estimated that the development charges for this project will be \$ 2,795,000. This is an estimate. The actual charge will be assessed and collected upon issuance of a building permit.

## **Conclusion**

Staff have been analyzing the proposal in the context of the King-Spadina Built Form Study, the previous approval on the subject site, the OMB-approved 35-storey M5V development at 371-379 King Street immediately northwest of the proposal, and other approvals and applications for tall buildings in the area. The previous approval at 18 storeys (62 m) was the tallest possible height supportable without shadowing King Street West during mid day, the most commonly protected time on important retail streets.

Staff have reviewed the revised proposal, recognizing both the applicant's objective to include a hotel in the project, the approved context of the area, and the site's location within a Second Tier height area. The revised proposal meets the preferred tower floor plate of 750 sq. m. and provides an adequate separation between approved tall buildings and potential tall building applications in the immediate vicinity.

However, the proposed height of 142 m inclusive of mechanical penthouse and elevator/stair overrun continues to challenge the emerging King Spadina Built Form Study framework, and is taller than the two tallest approved buildings in its immediate context, and cannot be supported. Approval of this proposal in its current form could set a precedent for two current applications on the east side of Blue Jays Way, and for future applications on nearby sites, that could result in a concentration of excessively tall buildings on King Street West and immediately to the south. This could cast much of

King Street into shadow for the majority of the day, with impacts on Restaurant Row, and could obscure the landmark nature of the block that contains the TIFF/ Bell Lightbox development.

If the height is reduced to 120 m inclusive of mechanical and elevator/stair overrun, the revised proposal will achieve an improved balance of interests sought by the King-Spadina East Precinct Built Form Study and existing Tall Building Guidelines, and can be supportable without unduly compromising the intent of the East Precinct Built Form Study's emerging planning framework.

## **CONTACT**

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Fax No. 416-392-1330

E-mail: [jjosefo@toronto.ca](mailto:jjosefo@toronto.ca)

## **SIGNATURE**

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

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## **ATTACHMENTS**

Attachment 1: Site Plan

Attachment 2: East Elevation Showing 142 m Height

Attachment 3: South Elevation Showing 142 m Height

Attachment 4: West Elevation Showing 142 m Height

Attachment 5: North Elevation Showing 142 m Height

Attachment 6: Zoning

Attachment 7: Application Data Sheet

Attachment 8: Draft Zoning By-Law Amendment

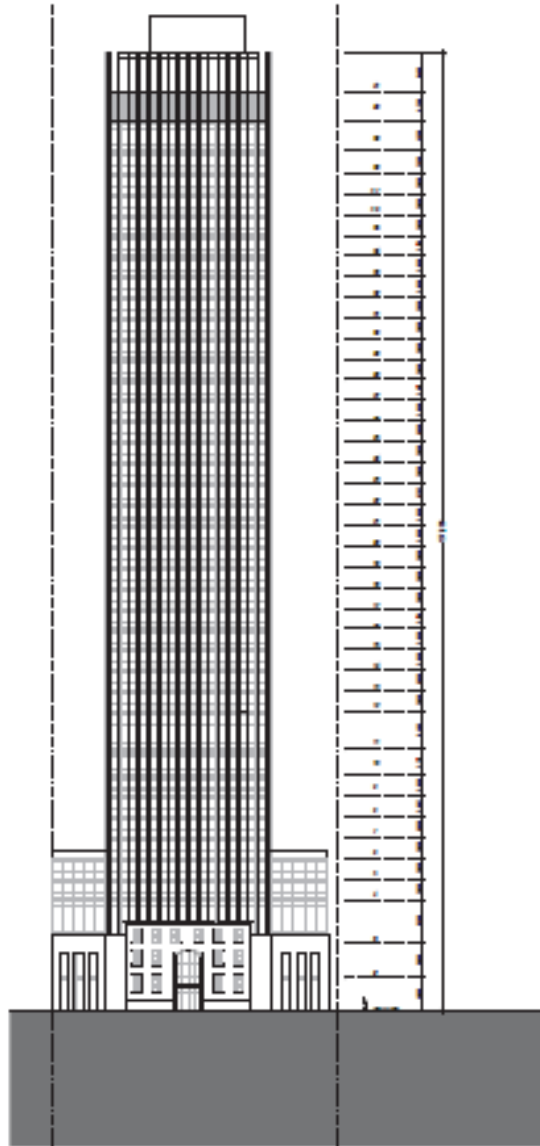
Architectural floor plan of the first floor of the Blue Jays Way building. The plan shows a large central area with various rooms, including a 'RECEPTION' area, 'OFFICE' spaces, 'STORAGE' areas, and a 'LOBBY'. There are also 'ELEVATOR' shafts and 'STAIR'cases. The plan is overlaid with a grid system with letters A through G on the left and numbers 1 through 11 at the top. Dimensions are provided for various sections. The right side of the plan shows a 'GLASS CURTAIN WALL' and 'GLASS ENTRANCE'.

## 56 Blue Jays



Staff report for action – Final Report – 56 Blue Jays Way

## Attachment 2: East Elevation Showing 142 m Height



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### East Elevation Jays Way

Applicant's Submitted Drawing  
Not to Scale

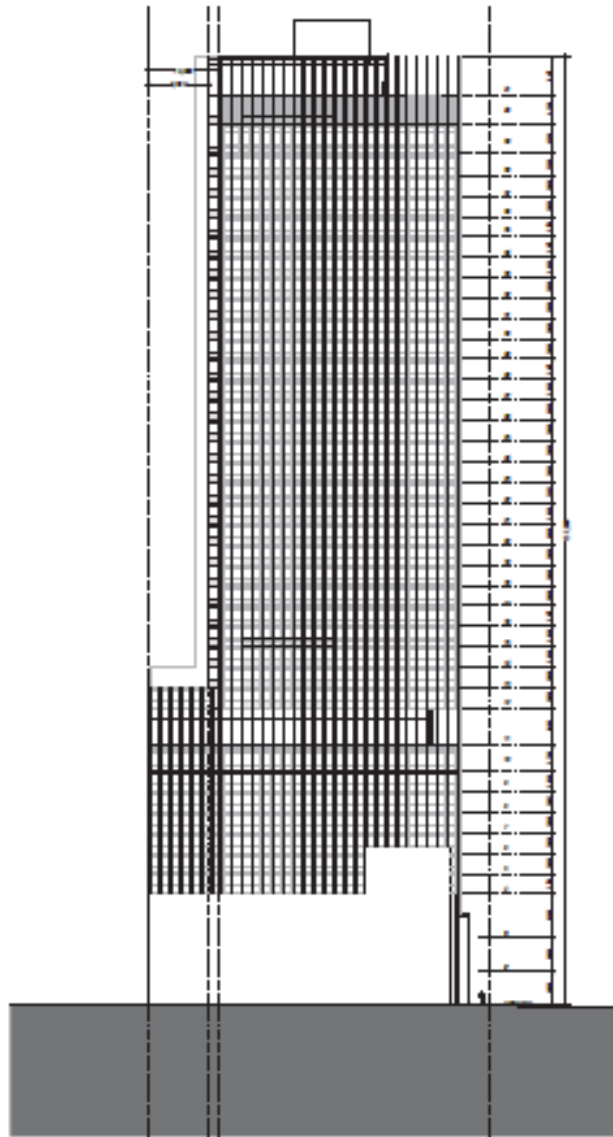
**56 Blue**

File # 08 209949 STE 20 OZ

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**Attachment 3: South Elevation Showing 142 m Height**



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**South Elevation**  
**Blue Jays Way**

**56**

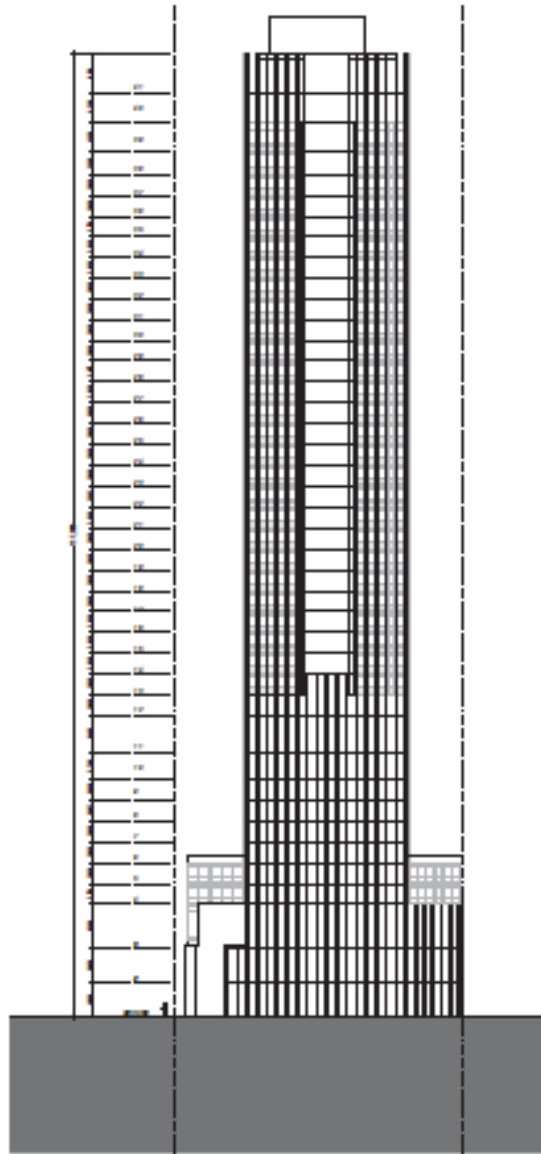
Applicant's Submitted Drawing  
Not to Scale

File # 08 209949 STE 20 OZ

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#### Attachment 4: West Elevation Showing 142 m Height



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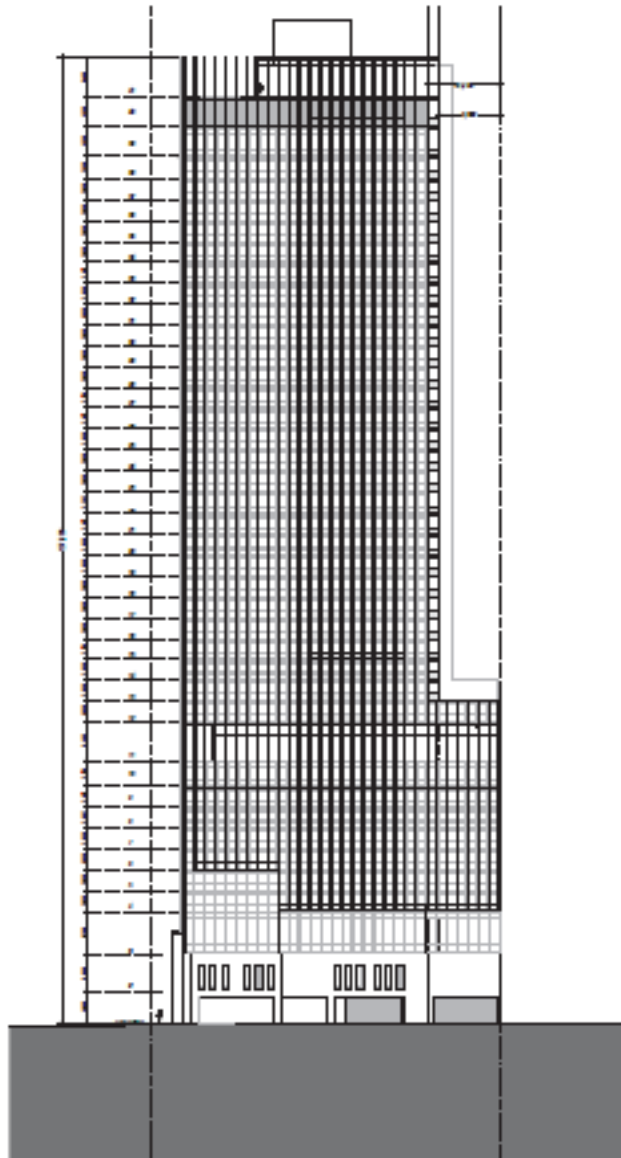
### West Elevation Jays Way

Applicant's Submitted Drawing  
Not to Scale

**56 Blue**



**Attachment 5: North Elevation Showing 142 m Height**



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**North Elevation**  
**Blue Jays Way**

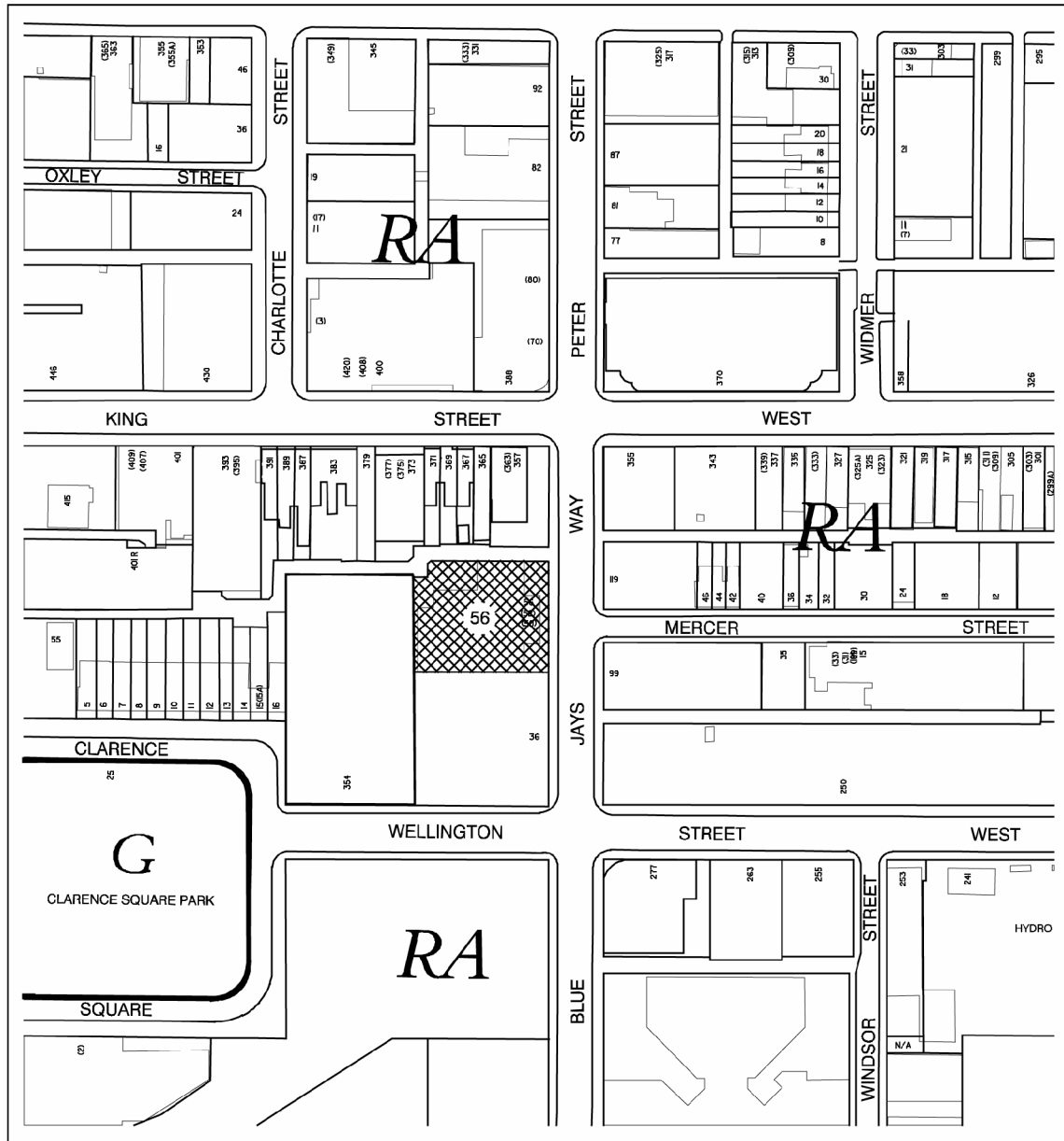
**56**

Applicant's Submitted Drawing  
Not to Scale

File # 08 209949 STE 20 OZ

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## Attachment 6: Zoning



**Toronto** City Planning  
Division  
**Zoning**

**56 Blue Jays Way**

File # 08\_209949

G Parks District  
RA Mixed-Use District



Not to Scale  
Zoning By-law 438-86 as amended  
Extracted 12/01/08 - DR

## Attachment 7: Application Data Sheet

### APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	08 209949 STE 20 OZ
Details	Rezoning, Standard	Application Date:	October 3, 2008

Municipal Address:	56 BLUE JAYS WAY
Location Description:	PL D263 LTS 18 & 19 RP 64R15263 PT 1 **GRID S2015
Project Description:	New rezoning application to permit the construction of a 41 storey point storey tower on the lands - refer to previous by law 1067-2007.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
SHERMAN BROWN DRYER KAROL			LIFETIME 56 BLUE JAYS WAY INC

#### PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	1067-02
Zoning:	RA	Historical Status:	Y
Height Limit (m):	30	Site Plan Control Area:	Y

#### PROJECT INFORMATION

Site Area (sq. m):	49.12	Height:	Storeys:	41
Frontage (m):	1979		Metres:	142
Depth (m):	40.7			
Total Ground Floor Area (sq. m):	1133			<b>Total</b>
Total Residential GFA (sq. m):	18890		Parking Spaces:	228
Total Non-Residential GFA (sq. m):	11004		Loading Docks	4
Total GFA (sq. m):	29893			
Lot Coverage Ratio (%):	57			
Floor Space Index:	15.1			

#### DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	218
2 Bedroom:	54
3 + Bedroom:	20
Total Units:	292

#### FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	18890	0
Retail GFA (sq. m):	0	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	11004	0

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	Judy Josefowicz, Senior Planner
	<b>TELEPHONE:</b>	(416) 392-1306

## **Attachment 8: Draft Zoning By-law Amendment**

To be available at or before the Toronto and East York Community Council meeting on October 13, 2009