

**150 Bloor St W., 175 Cumberland St., 162 and 164
Cumberland St.– Rezoning Application – Final Report**

Date:	November 3, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	09 117053 STE 27 OZ

SUMMARY

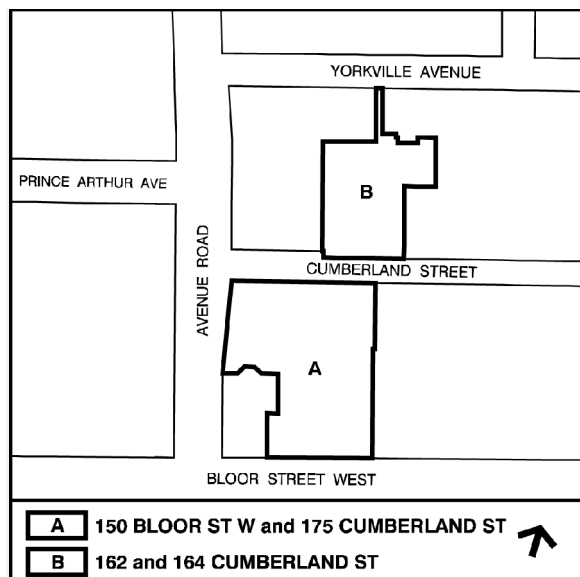
This application proposes to amend Site Specific By-law 492-80 to allocate the number and location of existing parking spaces within each parking garage for the various residential and commercial uses at 150 Bloor Street West, 175 Cumberland Street, and 162-164 Cumberland Street.

City Planning, Transportation Services and Buildings staff have reviewed this application based on: the current Zoning By-law 438-86, as amended; current parking standards; a review of the parking space sizes and numbers in the two buildings; and the history of the usage of the parking spaces. Staff recommend an appropriate distribution of parking space utilization in the two commercially owned garages and, where functional, staff recommend legalizing parking stall sizes, and loading spaces.

This report reviews and recommends approval of the application, with City staff modification, to amend Site Specific By-law 492-80.

RECOMMENDATIONS

The City Planning Division recommends that:



1. City Council amend Zoning By-law 492-80, as amended, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment Number. 7.
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.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Site

The sites are known as Renaissance Plaza, 150 Bloor St. W. and 175 Cumberland St. and Renaissance Court 162-164 Cumberland St. Renaissance Plaza is a 26 storey (not including mechanical penthouse) mixed-use building. The Renaissance Plaza site is located on the north and east sides of the historic Church of the Redeemer at the corner of Bloor Street West and Avenue Road. The Renaissance Court site is located across Cumberland Street to the north and accommodates a 7 storey mixed-use building.

The two buildings were built in the early 1980's. Renaissance Plaza (150 Bloor St.) has a single level of below grade parking with 115 parking spaces, 2,202 square metres of retail space at-grade as well as approximately 23,000 square metres of commercial space on the mezzanine level to the 9th floor. The 125 residential condominiums of MTCC 626 (the applicant) are located on floors named 10-25 with the address of 175 Cumberland St. The 10th floor is a two storey floor in height and is used for mechanical, storage and recreation space. There is no named 13th floor within the residential condominium portion of the building. There are a total of 16 floors of residential dwelling units in the building. The site area of the southern property is 5,781 square metres.

Renaissance Court (162 Cumberland St.) consists of a three level, below-grade parking garage with approximately 172 parking spaces. It also contains 1,233 square metres of retail space and 3,438 square metres of office space on floors 1-3. The 32 residential condominiums of MTCC 616 (164 Cumberland St.) are located on floors 4-7. The site area of the northern property is 2,492 m².

Site Specific By-law 492-80

Renaissance Plaza (150 Bloor St, W and 175 Cumberland St.) and Renaissance Court (162 and 164 Cumberland St.) were approved by City Council at its meeting of March 3, 1980. The application went through a rezoning approval process that resulted in Site Specific By-law 492-80, as amended.

The Final Planning report dated January 15, 1980, that recommended approval of the project, also recommended a requirement of 272 parking spaces of which 163 were to be designated for the exclusive use of the non-residential uses, in portions of both buildings. In addition, a maximum of 27 compact car spaces (min 4.9 m by 2.44 m) were permitted.

However, the Committee of Buildings and Development did not approve the staff recommendation to allocate 163 parking spaces for the non-residential uses. The Committee however, adopted the recommendation for the provision of a total of 272 parking spaces for owners and tenants of the two buildings, without specifying an allocation of parking spaces by use or building.

Over the past 30 years there have been a number of different owners of 150 Bloor St. and 162 Cumberland St., which contain the commercial garages, office and retail space that the owners lease out. Approximately 90 spaces have been made available in the parking garage at 150 Bloor St., through a combination of long and short term leases. The 32 residential condominium units at 164 Cumberland St. have reciprocal agreements for parking in the 162 Cumberland St. parking garage. Other commercial parking also occurs in this three level underground parking garage.

The most recent commercial owner, Bloor/Avenue Road Investment Inc. purchased the commercial portion of the subject building at 150 Bloor St. /175 Cumberland St. and advised the residential short term lease holders that they were exercising their rights to take possession of the 35 parking spaces on short term lease in the 150 Bloor Street garage. This resulted in a court injunction to stop cars from being towed away. The matter has been before the Superior Court of Ontario and a recent court decision is currently under appeal.

Committee of Adjustment Application

On March 13, 2009, May Luong, a planner with Borden, Ladner, and Gervais submitted a minor variance application on behalf of Roger Abbott and MTCC 626, owners of the residential condominiums at 175 Cumberland St. as directed by the court. A hearing was scheduled to be heard on June 17, 2009. The Committee decided not to hear the Minor Variance Application as they determined that the named applicants, MTCC 626, did not have standing to file an application. The rules of the Planning Act only allow owners of land to make a minor variance application.

ISSUE BACKGROUND

Proposal

On March 13, 2009 the applicant May Luong, a planner with Borden, Ladner, and Gervais, representing MTCC 626, the residential condominium owners of 175 Cumberland St., also applied for a site specific rezoning amendment to By-law 492-80, as amended. The applicant asked for the application to be placed on hold.

The rezoning application was reactivated on August 25, 2009 and copies of the updated consultant's Planning Report and Parking Supply Considerations Study were submitted and circulated to City Planning, Transportation Service and Building's staff for review.

The applicant requests that all owners or occupants of dwelling units in 150 Bloor St. W. /175 Cumberland St. be provided with parking entirely in the downstairs parking lot of

150 Bloor Street. St. for their exclusive use and the same for the residential owners or occupants of 164 Cumberland St. in the parking garage at 162 Cumberland St.

The applicant requests that parking spaces for use of owners or occupants of 150 Bloor St. W., 175 Cumberland St., 162 Cumberland St. and 164 Cumberland St. and for residential visitors to 175 Cumberland St. and 164 Cumberland St. shall be provided in accordance with the minimum supply required for such uses in Section 4(5) of By-law 438-86, (current By-law standards) as amended.

The applicant requests if there is excess parking in 150 Bloor St. W. or 162 Cumberland St. from time to time that it be maintained for the exclusive use of the owners or occupants of 150 Bloor St. W. and 175 Cumberland St. as well as 162 Cumberland St. and 164 Cumberland St. to provide flexibility for the residential and non-residential occupants.

The applicant requests that the parking spaces or drive-aisle that existed at the completion of construction of 150 Bloor Street and 162 Cumberland Street shall be deemed to conform to dimension standards for a parking space and a drive-aisle prescribed in By-law 492-80, amended to a maximum of 115 parking spaces at 150 Bloor St. W and 172 parking spaces in 162 Cumberland St. Otherwise except for these amendments the provisions of By-law 492-80, as amended should continue to apply to 150 Bloor St. W and 162 Cumberland St parking garages.

The applicant's proposal is shown in Attachments 1- 4 and detailed development statistics are included in Attachment No. 6: Application Data Sheet.

Site and Surrounding Area

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

South: Church of the Redeemer, 162 Bloor Street West

East: Cumberland Four theatres, east side of the Renaissance Plaza
Three commercial house form buildings and a parking garage, east side of the Renaissance Court

West: Hyatt Park Plaza, west side of Avenue Road for the Renaissance Plaza
Four Seasons Hotel directly abutting the Renaissance Court

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.

No particular policies of the Provincial Policy Statement provide specific direction on the issue of parking provision.

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.

As with the Provincial Policy Statement, above there is no particular policies in the Growth Plan that provide specific direction on how parking should be allocated.

Official Plan

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

Under the Official Plan, the site is within the Downtown district. The policies of Section 2.2.1 of the Official Plan promote the evolution of the Downtown as a healthy and attractive place to live and work. Development will build on the strength of the Downtown as the premier employment centre in the GTA, and will provide a full range of housing for Downtown workers, reducing the need for inbound commuting (2.2.1.1 a) and 2.2.1.1 b). The accompanying text to the Official Plan policies explains that priorities include accommodating growth through public transit and the provision of housing that allows people to walk and cycle to work, and that "policies favouring the expansion of transit over increases in road capacity and encouraging more Mixed Used development in the Downtown are key components of (the) Plan" (2-11). This section also indicates the lower parking requirements, including maximum parking limits for new office development, have contributed to a pattern of accommodating a growth in trips through increased transit use, walking and cycling. Policy 2.2.1.8 states that "priority will be given to improving transit (TTC and GO) access to the Downtown while the expansion of automobile commuting and all-day parking will be discouraged."

The subject site is designated Mixed Use Areas designation on the Official Plan Use map. Mixed Use Areas consist of a broad range of uses, including commercial, residential and institutional, in single-use or mixed-use buildings, in addition to parks, open spaces and utilities. Official Plan policies for Mixed Use Areas state that development will "create a balance of high-quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community" (Policy 4.5.2 a)). Development in Mixed Use Areas will also "take advantage of nearby transit services" (Policy 4.5.2 h) and provide an adequate supply of parking for residents and visitors. (Policy 4.5.2 i).

Policy 2.4. 5 a) of the Official Plan states that “Better use will be made off-street parking by encouraging the shared use of parking and developing parking standards for mixed-use developments which reflect the potential for shared parking among uses that have different peaking characteristics.”

Bloor-Yorkville/North Midtown Urban Design Guidelines

The Bloor-Yorkville/North Midtown Urban Design Guidelines (UDG) (June 2004) document sets out a series of strategies, which build on the policies of the Official Plan and Zoning By-laws to improve the quality of the environment for the area and to ensure that the special character of the district are retained and enhanced. The subject sites are within the Avenue Road Corridor area of Bloor-Yorkville. Section 3.1.8 of the UDG, which provides direction for the Avenue Road Corridor, specifies that development in mixed-use areas will provide an adequate supply of parking for residents and visitors. The UDG document also encourages parking to be placed below-grade where possible and hidden from view (Section 4.1.3).

Zoning

The in-force zoning by-law for the City of Toronto (438-86) is relevant to the subject site because it provides the contemporary requirements of the City and thus informs any current Zoning By-law Amendment application. This review focuses on the parking requirements of the zoning by-law rather than other provisions because of the nature of the amendment application.

Section 4(5) of the Zoning By-law sets out rates for determining parking requirements between each use and requires that total parking requirements be established by adding the contributions of various uses, subject to various time-of-day occupancy and other provisions. Section 4 (5) (f) of the By-law requires that in the defined Downtown Area (where the subject properties are located) required parking spaces shall be provided and maintained on the same lot, with the exception of non-residential uses (including office uses), which may also be provided off-site within 300 metres(S4(5)f(ii)(B)).

If the buildings on the site were constructed today and subject to current parking standards, Zoning By-law 438-86, as amended would require 98 residential parking spaces in 150 Bloor St. parking garage, 20 residential parking spaces in 162 Cumberland St. and 87 parking spaces between both garages for non-residential uses within both buildings, and for residential visitors to-both buildings. The total parking requirement would be 205 parking spaces.

Site Plan Control

Site Plan Approval is not required for this application.

Community Consultation

A community meeting was held at the Church of the Redeemer on October 14, 2009. Over 100 members of the public attended this meeting. The residential building condominium owners at 175 Cumberland St. and nearby residential and commercial

owners had concerns about: how this parking problem had originated; loss of short term lease parking spaces in the 150 Bloor St. underground garage; mobility problems of elderly owners in 175 Cumberland St. condominiums; families with children that are being left without parking spaces on site; having to drive around the block because of one-way traffic flow on Cumberland St.; and elderly owners having to cross the street in winter to find parking. Loading at 162-164 Cumberland St. was raised as an issue at the meeting. There was a request from Councillor Rae, with the agreement of the applicant, to address it in the current application. The concerns raised at the meeting were also shared in numerous phone calls, letters and e-mails sent to City Planning staff.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate by-law standards.

COMMENTS

Parking and Access

Parking

The applicant representing 175 Cumberland St. residential condominium owners has requested that almost all those parking spaces in 150 Bloor St. West garage be provided for the residential condominium owners and that a minimum of twenty spaces be reserved in 162 Cumberland St. garage for the residential condominium owners located in 164 Cumberland St. The applicant also requests that all non-residential owners or tenants be provided parking to meet By-law 438-86, as amended in 162 Cumberland St. garage among other matters.

In support of the application, the owner has submitted a Parking Supply Consideration Study, prepared by BA Group Transportation Consultants, dated August 21, 2009, and a Planning Rationale Report by Urban Strategies Inc., dated August 2009. The reports include detailed information regarding the parking supply in the buildings' parking garages, and the planning rationale to support the requested amendment. As noted in the Parking Supply Considerations Study, a total of 287 parking spaces were identified including 115 spaces in 150 Bloor St. West garage and 172 spaces in 162 Cumberland St. garage.

As far can be ascertained, there are only 225 "standard" sized parking spaces on the sites, plus no more than 23 parking spaces, which comply with the Site Specific parking space size requirements for compact cars (4.9 m by 2.44 m). This would yield a total parking supply on the sites of no more than 248 parking spaces, including 103 spaces in 150 Bloor St. West and 145 spaces in 162 Cumberland St., which meet the parking dimensions and drive aisle requirements of the 1980 site-specific by-law. This is 24 fewer than the 272 spaces required by the 1980 by-law. This appears to be a long standing situation that has probably existed since the building has been constructed.

A draft by-law has been prepared by staff. (Attachment No.7). To address the issues of deficient parking spaces, which are currently in use, the proposed by-law will confirm the parking supply. The draft by-law provision stipulates that the existing number of spaces are deemed to conform to Zoning By-law 492-80 up to a maximum of 115 spaces in 150 Bloor St. West garage and 172 spaces in 162 Cumberland St. garage for a total of 287 parking spaces in both buildings.

In accordance with the Site Specific By-law 492-80, both buildings are classified for mixed use zoning and have residential, as well as non-residential components. The non-residential components of the parking requirement include residential visitors, retail and office use. As far as can be ascertained, the minimum parking supply requirements, according to By-law 438-86, are as follows:

<u>Use</u>	<u>Parking Requirements</u>
Residential uses in 175 Cumberland St	98 spaces
Residential uses in 164 Cumberland St.	20 spaces
<u>Non-residential uses in both buildings</u>	<u>87 spaces</u>
 Total minimum parking required in both buildings Parking garages	 205 spaces

As a result of the foregoing, as far as can be ascertained, the parking supply exceeds the current by-law standards, which is acceptable. It is understood that there is dispute among property owners on the two lots with respect to the distribution of the required parking spaces. The owner of 150 Bloor Street West also provided their own planning and parking studies to the city, which challenge the studies submitted by the applicants. As noted elsewhere in this report, staff have based their recommendations on current zoning standards and practices. Furthermore, it is understood that efforts to date, have failed to provide a consensus to allocate the parking spaces between the parties in 150 Bloor St. W and 162 Cumberland St. parking garages.

Based on the study by the applicant's consultant, until recently, approximately 90 residents of 175 Cumberland St. had parking agreements for the use of parking within the buildings' garage and 11 vehicles owned by residents are parked in the area surrounding the site, for a total of 101 vehicles owned by residents of 175 Cumberland St. parked in either the 150 Bloor St. W. parking garage or in the area surrounding the site.

If the buildings were to be constructed today, current by-law standards would require 98 resident parking spaces. In maintaining the most recent parking supply arrangement, 90 parking spaces can be located in 150 Bloor St. W. parking garage used by 175 Cumberland St. residential condominium owners and eight parking spaces can be located at the 162 Cumberland St. parking garage. No study was provided for the parking demand in the 162 Cumberland St. parking garage, generated by the residential use in the 164 Cumberland St. residential condominium units. However, in accordance with current

by-law standards, 20 residential parking spaces should be provided, which can be located in the same building.

Current by-law standards would require a minimum of 87 shared non-residential parking spaces based on combined peak occupancy. After allowing 90 parking spaces for residents of 175 Cumberland St., 25 non-residential parking spaces can be provided in the 150 Bloor St. W. parking garage. The remaining 62 of the required non-residential parking spaces can be provided in the 162 Cumberland St. parking garage. The 162 Cumberland St. parking garage, which contains 172 parking spaces, will sufficiently accommodate 20 resident and 62 non-residential parking spaces including visitor parking spaces, and the eight parking spaces reserved for 175 Cumberland St. as noted above.

The applicant is advised to request the building owner of 150 Bloor St. to erect information signs in 150 Bloor St. W. denoting availability of additional parking in 162 Cumberland St. across the street, for non-residential users (including residential visitors). The proposed amendment will also deem the substandard parking spaces for use as “Compact Car” spaces which are in excess of the parking supply normally required under current by-law standards. In order for these spaces to be used, the applicant must ensure the owner designates, individually by means of clearly visible signing, and maintain, the substandard parking spaces for use by compact cars only.

Site Specific By-law 492-80 among other things requires that there be no more than 27 parking spaces with minimum dimensions of 4.9 metres by 2.44 metres. It has become apparent that some of the “as constructed” spaces are smaller than the dimensions permitted by the Site Specific By-law and as a result, only 248 of the existing parking spaces qualify as “*parking spaces*” as defined in the current zoning by-law. Notwithstanding, it is understood that 287 parking spaces on the two sites are presently used for parking spaces. Staff recommends amending the minimum size definition for small cars parking spaces for this site. This will legalize the use of 24 of the 272 parking spaces required by By-law 492-80, which do not currently comply with the small car parking space definition in the By-law. Furthermore, the revised Site Specific By-law will recognize an additional 15 parking spaces over the minimum parking requirement of the 1980 site specific by-law, resulting in a gain of 15 “new” legal parking spaces on the two sites. As a result, the proposed by-law amendments will legalize the use of a total of 39 parking spaces that do not presently qualify as “*parking spaces*” in the existing Site Specific By-law No. 492-80.

Consequently, the proposed parking supply of 287 spaces exceeds the residential and non-residential requirements of the 205 parking spaces for both buildings, which is acceptable to City staff.

Loading and Servicing

Previous Refuse/Recycle Collection Arrangement for 162-164 Cumberland St.

At the Community Meeting, City staff were advised that 162 and 164 Cumberland Street were previously using the loading facilities on 150 Bloor St W. for refuse collection purposes. Apparently, owners of 150 Bloor St. W. are no longer permitting use of their loading facilities by 162 Cumberland St. Residents wonder whether the previous arrangement could be restored with the current application. Although By-law No. 492 - 80 contemplated shared parking arrangements, it was clear from the onset that each lot was to have its own loading facilities on-site. Staff do not support legalizing the previous informal arrangement, which involved refuse bins being hauled across the street to the loading facilities.

Interim Refuse/Recycle Collection Arrangement for 162-164 Cumberland St.

Staff of Solid Waste Management met with residents of the condominium at No. 164 Cumberland Street to discuss options for City refuse services. Options for City collection are available to the residential condominium, which do not entail any changes to the current loading spaces on the site. Notwithstanding, it is understood that both the residential and commercial components of 162 and 164 Cumberland Street have entered into an interim private refuse/recycle collection arrangement with the owners of 21 Avenue Road utilizing a mutual right-of-way. The existing 162 Cumberland St. loading space is accessed from 21 Avenue Road.

The Future Development of 21 Avenue Road

It is noted that there is a current application to redevelop 21 Avenue Road. The owners of 162 and 164 Cumberland Street should not agree to relinquish their right-of-way to the loading spaces unless a suitable alternative arrangement for access to their loading has been provided and secured. Alternate interim arrangements will likely be required during the construction of the new project at 21 Avenue Road, as it is anticipated that the existing right-of-way will be excavated for the construction of the parking garage.

In this regard, the owner could consider City curbside refuse and recycle collection service (utilizing multi-family bins). Alternatively, consideration could be given to utilizing the existing laneway extending south from Yorkville Avenue. Although access to this laneway is presently blocked by a planter box, a review of the original plans for the development suggests that this laneway could be available for loading purposes. This use could be re-established by a temporary relocation of the planter box.

Loading for 175 Cumberland St. & 150 Bloor St.

No physical changes are proposed to the existing loading facilities serving this building. The proposed revisions to the By-law clarify that those loading spaces are to be available to serve residential and non-residential uses.

Requested amendments to the Site Specific By-law to provide the residential component of 164 Cumberland St. with access to all loading spaces on that site

It is understood that existing loading rights-of-way only affords residents of the building at 164 Cumberland St. formal access to the at-grade loading space access from 21 Avenue Road. Notwithstanding, it is understood that residents sometimes use the two small loading spaces at the foot of the ramp in the underground garage. The City only typically requires the provision of one loading space for residential buildings containing more than 30 units, so it is not unusual for residents only to have access to one loading space. In this case, it is likely that access to the “residential” loading space will not be available during the excavation and construction of the new development at 21 Avenue Road. In order to provide consistency with the proposed loading amendments for 150 Bloor St. W., and to provide for alternative interim loading arrangements for 162 and 164 Cumberland St. garage during construction of 21 Avenue Road, staff suggest that the proposed by-law allow for loading provisions for 162 and 164 Cumberland St. to be similar to those of 150 Bloor St. W. Loading spaces would be available to serve both residential and non-residential components of the development. It is understood that the non-residential owner of the loading spaces in the underground garage would still have the right to schedule deliveries for these spaces, so that the residential component would not have unrestricted use of these loading spaces.

City staff request that the existing loading requirements of 162 and 164 Cumberland St. be enforced, as it is alleged that some of the loading spaces have illegally been converted to parking spaces.

By-law No. 492-80 requires the provision and maintenance of the following loading spaces on the property:

- 1 space with minimum dimensions of 12.2 m by 3.7 m by 4.3 m (vertical)
- 1 space with minimum dimensions of 9.15 m by 3.7 m by 3.0 (vertical)
- 2 space with minimum dimensions of 6.1 m by 3.7 m by 2.4 m (vertical)

During site checks, it became apparent that the residential loading space, as constructed, is about 11 m in length, and not 12.2 as required by the Site Specific By-law. Furthermore, the overhead door, as constructed, limits vertical clearance over the space. Given that the building has already been constructed and that the loading space has been used in this configuration for over 25 years, it is suggested that the Site Specific By-law be amended to legalize this space with its current dimensions.

Although the two required loading spaces with dimensions of 6.2 m by 3.7 m by 2.4 m have been constructed and are located at the base of the ramp to the underground garage, past correspondence from the Buildings Division and discussions with residents have revealed that these spaces have (at times) been used for parking purposes instead of loading purposes. Due to limited turning radii in the underground garage, it is noted that these spaces are suitable for deliveries by cars, vans and small trucks only.

At present there is no loading space with minimum dimensions of 9.15 m by 3.7 m by 3.0 m (vertical) at 162 Cumberland St. Given vertical clearance and turning radii restrictions, it would not be feasible to provide this space in the underground garage. A review of historic plans shows a private laneway extending south from Yorkville Avenue on the site. It is possible that this was the original intended location for the loading space. At present, the laneway is not accessible by delivery vehicles as a large planter box has been placed near the mouth of the laneway. It would appear the planter box could be moved in the future if this area is required for interim loading when access to 11 m long loading space is blocked during construction of 21 Avenue Road. Given the negative impact of loading in the pedestrian walkways on the site and the fact that this appears to be a long standing situation, staff do not recommend that the space be restored in the current draft Site Specific By-law.

Legal Issues

The applicant for this rezoning application is not the owner of 150 Bloor Street West parking garage. The owner of 150 Bloor Street W. retail, office space and parking garage is Bloor/Avenue Road Investment Inc. and to date they are refusing to co-operate with the rezoning process. The applicant represents the residential Condominium Corporation MTCC 626 located in 175 Cumberland Street condominium units, on the upper floors of 150 Bloor St. W. The applicant is entitled under the Planning Act to apply to rezone another owner's property. City staff have responded in this report to the rezoning application based on the parking and loading standards in the current Zoning By-law 438-86, as amended for the underground parking garages. City staff have approached this application in good faith based on sound planning principals.

The concern of enforceability has been raised by the owners of the parking garage at 150 Bloor Street throughout the review process. The garage owner has suggested that the parking arrangement will not be altered by the passage of the draft by-law amendment in Attachment 7 of this report, as the parking situation will remain legal non-conforming. City Legal have advised that it does not agree with this interpretation as the by-law is not proposing to change the use of the parking garage only to allocate specific parking spaces. Secondly, the concept of legal non-conformity is relevant to zoned uses or performance standards which are proposed to be changed. In this circumstance, neither the use nor the performance standards are proposed to be changed. In fact, City staff are recommending that Council recognize the long term existence of the 39 substandard parking spaces, including 15 over the 272 required by the Site Specific By-law 492-80 and are recommending that Council accept them as legal at both buildings and in the amended by-law. Also City staff are willing to relax the loading standard for loading facilities for 162 Cumberland Street as they exist.

Finally, even if this circumstance was to create a legal non-conforming situation, that circumstance is contemplated by the Planning Act and legally permitted to exist. Due to the fact that the garage in 150 Bloor St. W. is not owned by the condominium residents in the upper floors of 150 Bloor, with the address of 175 Cumberland St., the by-law amendment recommended by staff will not necessarily have the effect of granting the residents legal access to the parking garage at 150 Bloor St. West.

The owner of 150 Bloor Street, to date, has also refused to allow City Transportation and planning staff inside the building to undertake a review of the parking and loading facilities to confirm parking and access information submitted by the applicant's transportation consultant.

Conclusion

City staff have undertaken best efforts to provide a fair and reasonable parking solution for the tenants and owners of 150 Bloor Street W, 175 Cumberland St and 162 and 164 Cumberland Street in a timely manner. Staff have held a well attended community meeting as well as smaller meetings with planning and legal representatives of both commercially owned underground garages and the residential condominium owners of 175 Cumberland Street. Staff also have had discussions with representatives of the residential Condominium Corporation MTCC 616 at 164 Cumberland Street. City Transportation and Planning staff have undertaken site visits to the commercial garage at 162 Cumberland Street and have held follow up discussions and requested additional information from both applicant' Planning and Transportation consultants.

Staff have based this parking review on the current Zoning Standards (By-law 438-86), as amended and undertaken this report in consultation with City Legal staff, who have reviewed this report. City staff recognize that these buildings have had functioning parking and loading operations that appeared to have worked out up until last fall when 150 Bloor St. W. was sold. City staff acknowledge that the change in ownership and the termination of short parking leases for 35 residential owners has caused hardship for those residential owners and the on-going court appeals has made it difficult for the commercial owner to successfully rent out office space at 150 Bloor Street. The owners of the 162 Cumberland Street parking garage will, in the future, have to apply to legalize their commercial parking lot operation after the other matters have been resolved.

City Planning staff believe that a negotiated agreement between the parties is the best solution to the parking situation on the sites. However, the City must respond to a lawfully submitted application under the Planning Act. Thus, the site specific by-law amendment as recommended in this report is an opportunity for a solution for all parties. The City's normal practice is to require all residential parking to be located on site, however, we have balanced that with the recognition of the separate commercial garage ownership issue in this case and the need to service both land uses in the two buildings in the long term, as has been the on-going approach over the past three decades.

CONTACT

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SIGNATURE

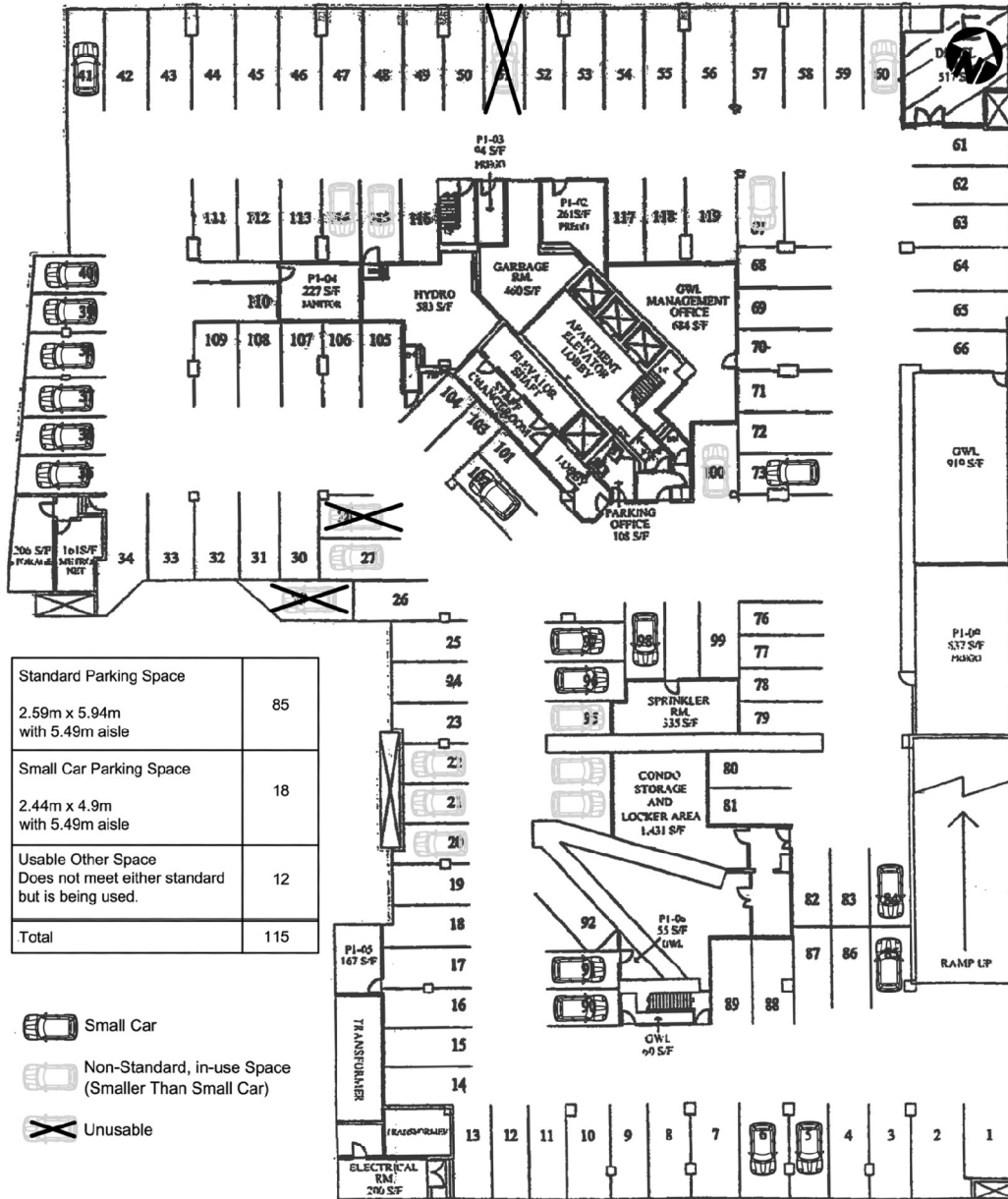
Raymond David, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Parking Level 1 – 150 Bloor Street West
Attachment 2: Parking Level 1 – 162 Cumberland Street
Attachment 3: Parking Level 2 – 162 Cumberland Street
Attachment 4: Parking Level 3 – 162 Cumberland Street
Attachment 5: Zoning
Attachment 6: Application Data Sheet
Attachment 7: Draft Zoning By-law Amendment

Attachment 1: Parking Level 1 – 150 Bloor Street West



Standard Parking Space 2.59m x 5.94m with 5.49m aisle	85
Small Car Parking Space 2.44m x 4.9m with 5.49m aisle	18
Usable Other Space Does not meet either standard but is being used.	12
Total	115

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

150 Bloor Street West and 175 Cumberland Street

Number of Parking Spaces

Applicant's Submitted Drawing

Not to Scale 

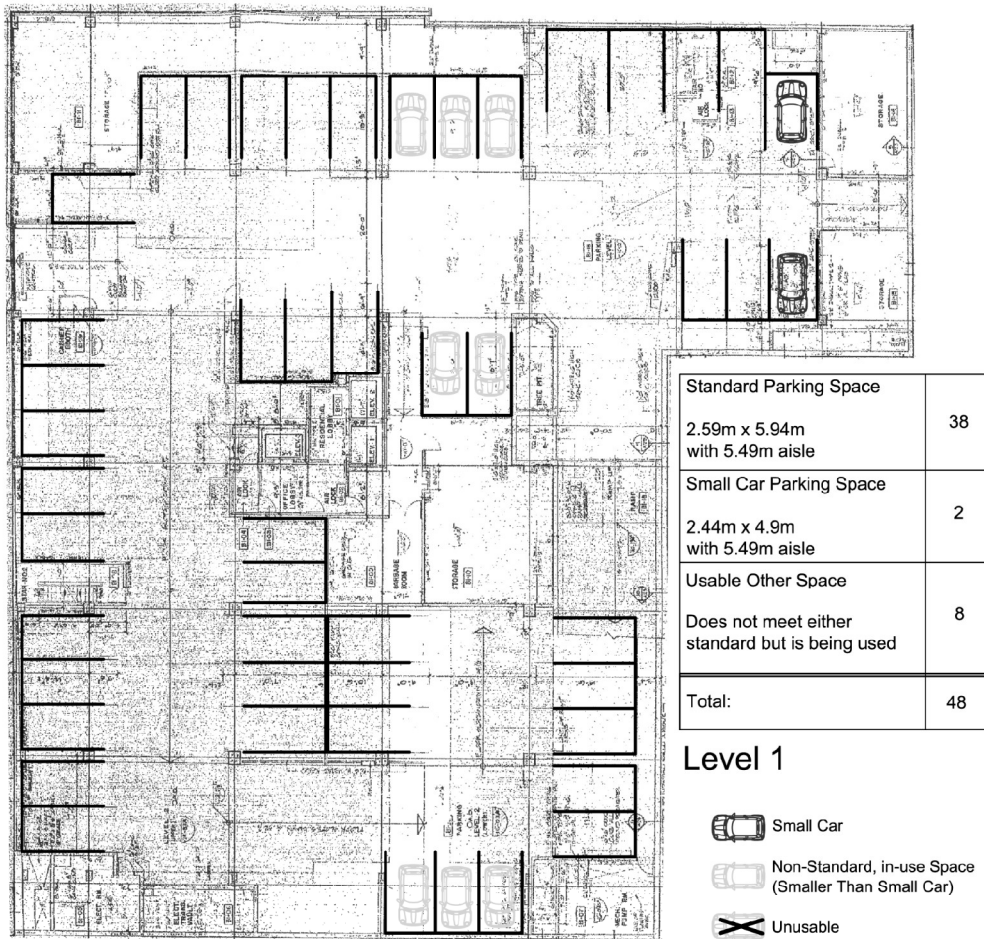
10/09/2009

150 Bloor Street West, 175 Cumberland Street and 162 & 164 Cumberland Street

File # 09_117053

Attachment 2: Parking Level 1 – 162 Cumberland Street

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



162 - 164 Cumberland Street

Parking Spaces - Level 1

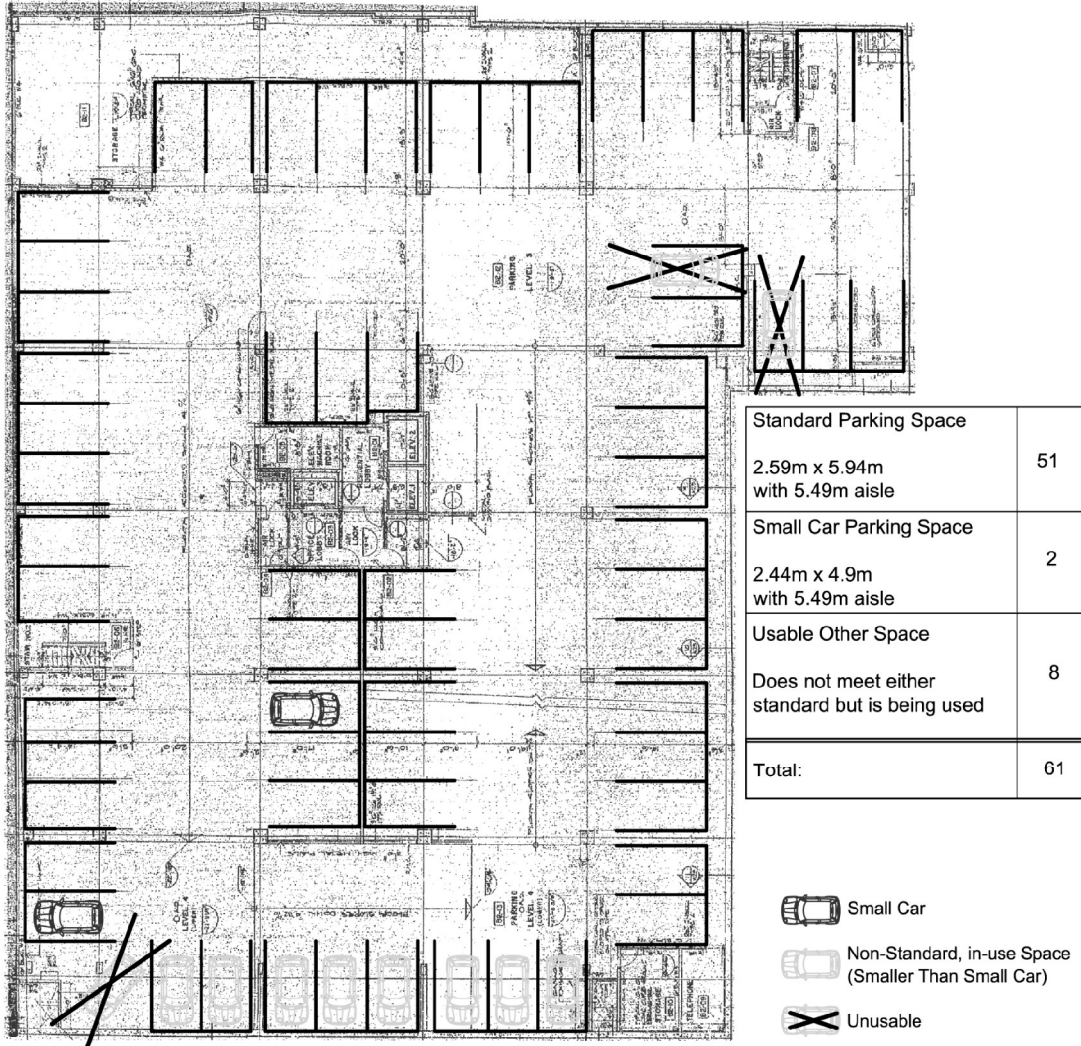
Applicant's Submitted Drawing

Not to Scale

150 Bloor Street West, 175 Cumberland Street
and 162 & 164 Cumberland Street

File # 09_117053

Attachment 3: Parking Level 2 – 162 Cumberland Street



162 - 164 Cumberland Street

Parking Spaces - Level 2

Applicant's Submitted Drawing

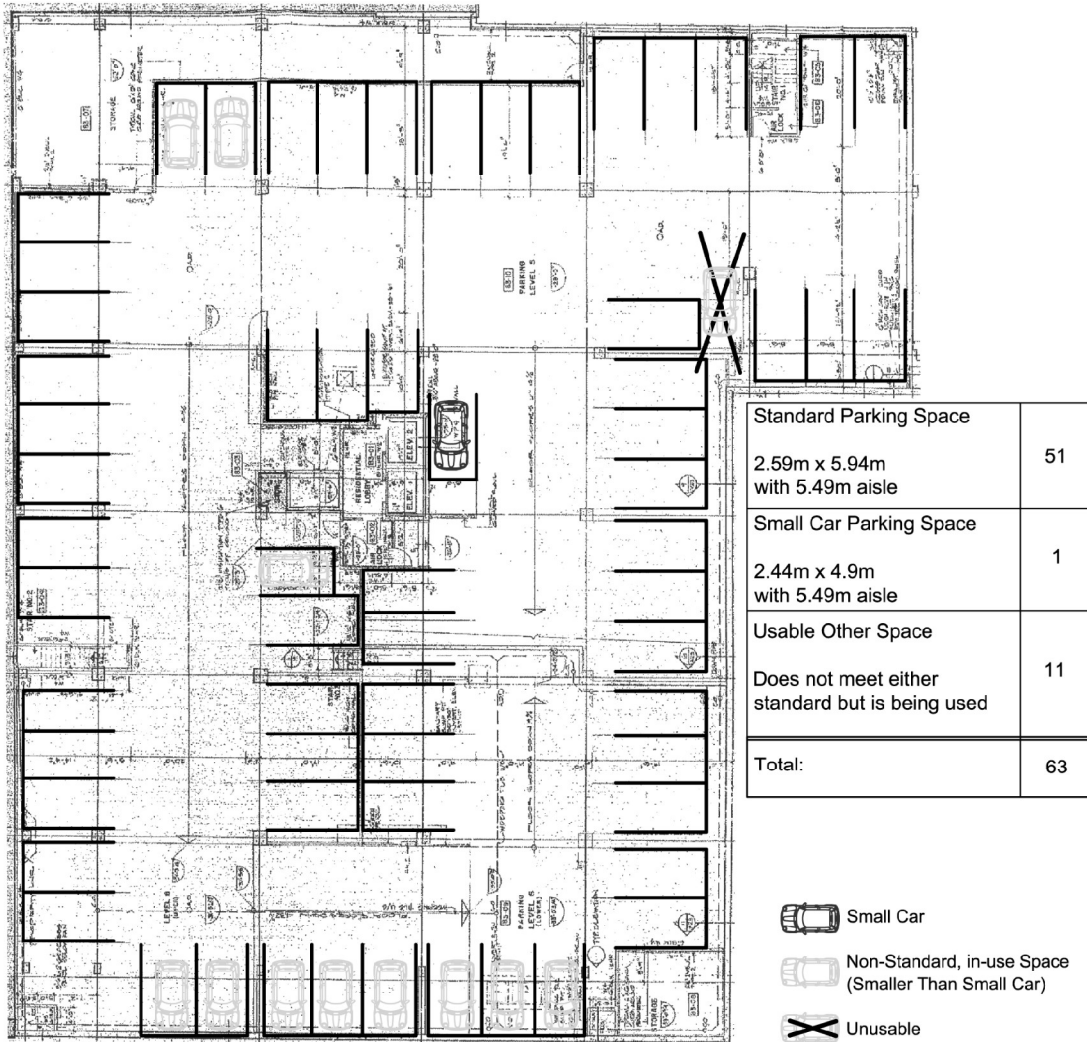
Not to Scale

10/09/2009

150 Bloor Street West, 175 Cumberland Street
and 162 & 164 Cumberland Street

File # 09_117053

Attachment 4: Parking Level 3 – 162 Cumberland Street



162 - 164 Cumberland Street

Parking Spaces - Level 3

Applicant's Submitted Drawing

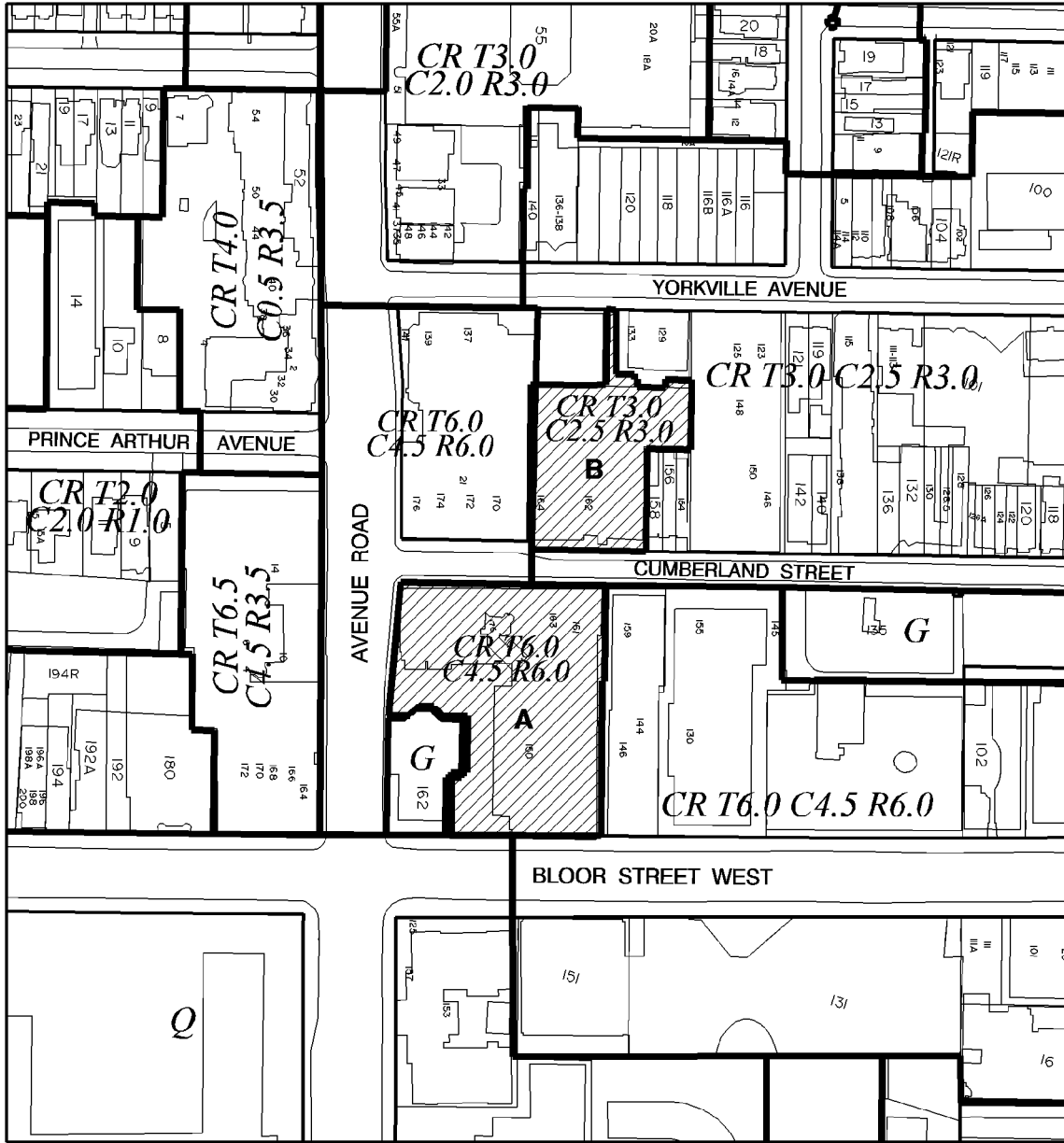
Not to Scale

10/09/2009

150 Bloor Street West, 175 Cumberland Street
and 162 & 164 Cumberland Street

File # 09_117053

Attachment 5: Zoning



**150 Bloor Street West & 175 Cumberland Street
and 162 & 164 Cumberland Street** File # 09_117053

- A** 150 Bloor Street West & 175 Cumberland Street
- B** 162 & 164 Cumberland Street

CR Mixed-Use District
G Parks District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 09/30/2009

Attachment 6: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	09 117053 STE 27 OZ
Details	Rezoning, Standard	Application Date:	March 13, 2009

Municipal Address: 150 BLOOR ST W (southern property)
 Location Description: PL 118E LTS D+E PT LTS A TO C PL 289 PT LT1 RP 63R2045 PTS 1 TO 11 & PTS 16 TO 20 **GRID S2703
 Project Description: Rezoning application to satisfy requirements of court order issued March 12, 2009. Submission without drawings and or specifications that was satisfactory to City Legal Staff as in email provided by BLG LLP dated March 13, 2009 .

Applicant:	Agent:	Architect:	Owner:
MAY LUONG			BLOOR / AVENUE ROAD INVESTMENTS INC.

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	492-80
Zoning:	CR T6.0 C4.5 R6.0	Historical Status:	
Height Limit (m):	46	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	5781	Height:	Storeys:	26
Frontage (m):	107.83		Metres:	0
Depth (m):	137.68			
Total Ground Floor Area (sq. m):	2403			Total
Total Residential GFA (sq. m):			Parking Spaces:	115
Total Non-Residential GFA (sq. m):	25305		Loading Docks	0
Total GFA (sq. m):				
Lot Coverage Ratio (%):	0			
Floor Space Index:	6.66			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:	Condo		
Rooms:	0	Residential GFA (sq. m):	0
Bachelor:	0	Retail GFA (sq. m):	2202
1 Bedroom:	34	Office GFA (sq. m):	21971
2 Bedroom:	63	Industrial GFA (sq. m):	0
3 + Bedroom:	28	Institutional/Other GFA (sq. m):	0
Total Units:	125		

CONTACT:	PLANNER NAME:	Barry Brooks, Senior Planner
	TELEPHONE:	(416) 392-1316

Attachment 7: Draft Zoning By-law

Authority: Toronto and East York Community Council Item •• as adopted by City of Toronto Council on _____, 2009

Enacted by Council: _____, 2009

CITY OF TORONTO BY-LAW No. xxx-2009

To amend General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands municipally known as 150 Bloor Street West, 175 Cumberland Street, 162 and 164 Cumberland Street.

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

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

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

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Sections 2(7), 2(8), 2(9) and 2(17) of By-law 492-80 are deleted and replaced by the following:
 - 2 (7) the owners or occupants of buildings A and B shall provide, maintain and make accessible, for their exclusive use, parking spaces in accordance with the following:
 - (a) Parking spaces for use by owners or occupants of dwelling units in buildings A and B shall be provided at the rates prescribed for such uses in Section 4(5) of By-law No. 438-86, as amended, as follows:
 - (i) A minimum of 98 parking spaces for exclusive use by residential owners or occupants of dwelling units in building A, whereby 90 parking spaces are to be provided on lot A and eight parking spaces on lot B.
 - (ii) A minimum of 20 parking spaces for exclusive use by residential owners or occupants of dwelling units in building B, to be provided on lot B.
 - (b) Parking spaces for use by non-residential owners or occupants and for residential visitor parking shall be provided at the rates

prescribed for such uses in Section 4(5) of By-law no. 438-86, as amended, as follows:

- (i) a minimum of 87 parking spaces for use by non-residential owners or occupants of buildings A and B and for residential visitors of buildings A and B on lots A and/or B.
 - (ii) in the event that the owners of Lots A and B elect to provide dedicated exclusive-use parking for the non-residential components of the project and the residential visitor components of the project in lieu of a shared pool of a minimum of 87 parking spaces, that the allocation of the minimum of 87 parking spaces required for such purposes must also be at the rates prescribed for such uses in Section 4(5) of By-law No. 438-86 , as amended and include:
 - (a) a minimum of 73 parking spaces of the non-residential owners and occupants and residential visitors of Building A such spaces to be located on lot A and/or lot B; and
 - (b) a minimum of 14 parking spaces in respect of the non-residential owners or occupants and residential visitors of Building B such spaces to be located on lot A and/or lot B.
 - (c) If there exists in Buildings A or B *parking spaces* in excess of the number of *parking spaces* required under paragraphs (a) and (b) of this section, from time to time, such excess *parking spaces* shall be maintained for the exclusive use of the owners or occupants of Building A and B.
 - (d) For the sake of clarity, the establishment of a minimum parking requirement for the residential component of Building B does not supercede or replace the provisions of the Parking Agreement between Condominium Corporation (MTCC #616) and the owners of the Lot B parking garage (162 Cumberland Holdings Inc) registered on title as Instrument No. AT 2206739.
- 2 (8) the owners of occupants of Building A shall provide, maintain and make accessible on lot A at least two loading spaces having dimensions of not less than 11.9 metres (length) x 3.7 metres (width) x 4.3 metres (vertical), such spaces to be for the exclusive use of owners and occupants of Building A;

- 2 (9) a circular vehicular driveway on lot A, as shown on plan A attached hereto, with access from Cumberland Street, is provided, maintained and made accessible;
- 2 (17) the owners of occupants of Building B shall provide, maintain and make accessible on lot B, three loading spaces for the exclusive use of owners and occupants of Building B; comprised of:
 - (a) At least two loading spaces having dimensions of not less than 6.1 metres (length) x 3.7 metres (width) x 2.4 metres (vertical): and
 - (b) The loading space at grade, as it existed in the year 2009 with access via a right-of-way on the west side of the site, and having approximate dimensions of 11 metres (length) x 3.7 metres (width).
- 2. A *parking space* of drive-aisle that existed on March 13, 2009 within Building A or Building B shall be deemed to conform to the dimension standards for a *parking space* and a drive-aisle prescribed in By-law 492-80, as amended, to a maximum of 115 parking spaces in Building A and 172 parking spaces in Building B, provided further that all such spaces having a length of less than 5.0 metres and/or width of less than 2.5 metres be individually signed for use by small cars only.
- 3. Subject to section 2 of this By-law, words or expressions italicized in this By-law shall have the same meaning as such words or expressions have in By-law 492-80.
- 4. Except as provided herein, the provisions of By-law 492-80 as amended shall continue to apply to lots A and B.

ENACTED AND PASSED this ____ day of _____, A.D. 200____.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)