

**20 Edward Street – Zoning Amendment Application
Request for Direction Report**

Date:	October 27, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	14-266298 STE 27 OZ

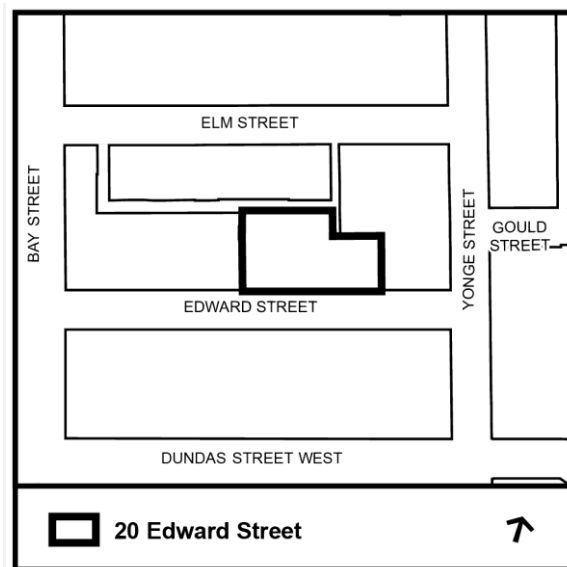
SUMMARY

On September 14, 2016, the owner of the property at 20 Edward Street appealed its application for Zoning By-law Amendment to the Ontario Municipal Board due to Council's failure to enact the requested amendments within the time allotted by the *Planning Act*.

The purpose of this report is to seek City Council's direction with respect to the position of the City at the Ontario Municipal Board hearing.

This report recommends that Council direct the City Solicitor, together with appropriate City staff, to support the proposal at the Ontario Municipal Board, subject to the modifications recommended in the Final Report dated August 18, 2016.

This report also provides information regarding further community consultation.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor, together with City Planning and other appropriate staff to attend at the Ontario Municipal Board in support of the proposal described in the report from the Director, Community Planning, Toronto and East York District, (August 18, 2016) "20 Edward Street – Zoning Amendment Application – Final Report".
2. City Council direct the City Solicitor, in the event that the Ontario Municipal Board allows the appeal in whole or in part, to request that the Board require the Owner to agree to the following park matters, to be secured as a convenience under Section 37 of the *Planning Act*:
 - (a) That prior to the issuance of the first above-grade building permit for the site, the Owner shall convey an off-site dedication for parkland purposes to the satisfaction of the General Manager, Parks Forestry and Recreation (PFR) in consultation with the Ward Councillor;
 - (b) The value of the off-site parkland dedication shall be equal to the value of 0.0253 hectares (253 square metres) on-site dedication as appraised by Real Estate Services as of the day before the day the first above grade building permit is issued. The location of the off-site parkland will be to the satisfaction of the General Manager, PFR in consultation with the Ward Councillor. The land to be conveyed as off-site parkland shall be free and clear, above and below grade, of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise approved by the General Manager, PFR;
 - (c) Should the Owner not have achieved the off-site parkland dedication requirement prior to the issuance of the first above-grade building permit, the Owner is required to submit a Letter of Credit to the value of the Section 42 requirement the day before the day the first above-grade building permit is issued. Should the off-site parkland dedication not be conveyed by the first registration of the condominium or first occupancy of the building the City may cash the Letter of Credit and apply the proceeds to be paid towards the cash-in-lieu payment;
 - (d) The Owner to pay for the costs of the parkland dedication and the preparation and registration of all relevant documents. The Owner shall

provide, to the satisfaction of the City Solicitor, all legal descriptions and applicable reference plans for the parkland dedication;

- (e) Should the applicant design and construct Above Base Park improvements, a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Owner of the Above Base Park Improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation. The development charge credit shall be in an amount that is the lesser of the cost to the Owner of designing and constructing the Above Base Park Improvements, as approved by the General Manager, Parks, Forestry and Recreation, and the Parks and Recreation component of development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time.
- 3. City Council direct the City Solicitor, in the event that Ontario Municipal Board allows the appeal in whole or in part, to request that the Board withhold any order to approve a Zoning By-law Amendment for the subject lands until such time as the Owner submit a revised Functional Servicing Report and a revised Supplementary Hydrological Evaluation for Construction Report to the satisfaction of the Executive Director, Engineering & Construction Services.
 - 4. City Council direct the City Solicitor, in the event that the Ontario Municipal Board allows the appeal in whole or in part, to request that the Board withhold any order to approve a Zoning By-law Amendment for the subject lands until such time as the Owner enters into one or more agreements with the City pursuant to Section 37 of the *Planning Act* to the satisfaction of the City Solicitor and the Chief Planner and Executive Director on the basis that the community benefits to be provided by and at the Owner's expense and secured through the Zoning By-law Amendment and the required Section 37 Agreement are as follows:
 - i. An indexed cash contribution of \$3,500,000.00 to be paid or secured as noted below in the Section 37 Agreement. The total amounts are indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto, calculated from the date the Section 37 Agreement to the date of payments and is detail as follows:
 - a. Prior to the issuance of the first above-grade building permit the owner shall provide an indexed cash contribution to the City in the amount of \$3,500,000.00 to be allocated to capital improvements which will benefit the community in the vicinity of the project such as, but not limited to, an underground

pedestrian tunnel (PATH connection) connecting the subject property to the property at 595 Bay Street (Atrium on Bay), non-profit licensed daycare facilities, community centres, recreation facilities, libraries, arts related community space, local streetscape improvements, capital improvements to Toronto Community Housing in Ward 27, to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor, and improvements to public parks in the area or for parkland acquisition in Ward 27, such parkland to be to the satisfaction of the General Manager, Park, Forestry and Recreation.

- b. The following matters are to be secured in the Section 37 Agreement as a legal convenience to support development:
 - i. the Owner shall provide, at its own expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, a minimum area of 72 square metres on the northwest corner of the site as a Privately-Owned Publicly Accessible Space (POPS) and provide public access easements to hand over the POPS, for use by members of the general public, for nominal consideration, to the City, such easement to be conveyed to the City prior to the earlier of the issuance of any site plan approval for the site and the issuance of any building permit for the site and with the specific location, configuration and design to be determined to the satisfaction of the Chief Planner and Executive Director, City Planning Division in the context of site plan approval. The Owner shall own, operate, maintain and repair the POPS and install and maintain a sign, at its own expense, stating that members of the public shall be entitled to use the POPS at all times of the day and night, 365 days of the year. The Owner shall have completed the construction of the POPS prior to the earlier of any new commercial or any residential use of the site and registration of any condominium on the site;
 - ii. the Owner shall at its expense provide knock-out panels along the north and east walls of the concourse level of the building for potential future underground pedestrian network connections, to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - iii. the Owner shall at its expense design, construct, and finish in accordance with TTC's standards and specifications a

TTC second exit/entrance facility from Dundas Subway Station through the development to Edward Street, which shall include fare gate equipment and related appurtenances. The TTC second exit/entrance facility shall be constructed within the development, more specifically at the southeast quadrant of the proposed development to the satisfaction of the TTC in consultation with the Chief Planner and Executive Director, City Planning Division. The second exit/entrance facility shall include a knock-out panel at the concourse level to facilitate a direct connection to a future pedestrian tunnel that will be constructed below grade within the Edward Street right-of-way that will connect the southbound platform of Dundas Subway Station to the second exit/entrance facility within the development;

- iv. the Owner shall, prior to the issuance of a below-grade permit, complete a Toronto Transit Commission technical review(s) respecting the development and the TTC second exit/entrance facility, and shall address all concerns arising from the technical review(s) to the satisfaction of the TTC in consultation with the Chief Planner and Executive Director, City Planning Division;
- v. the Owner shall convey an easement or fee simple conveyance to the City and TTC, at its election, for access and other rights as may be required for the TTC second exit/entrance facility over and through the portion of development lands owned by the Owner;
- vi. the Owner shall enter into agreement(s) with the TTC that will set out the Owner's obligations to construct and maintain a new exit/entrance within the development and the necessary easements in place for public egress and ingress. The terms of the agreement shall be negotiated with the Owner, in consultation with the Chief Planner and Executive Director, City Planning Division and the agreement shall be to the satisfaction of TTC in consultation with the Chief Planner and Executive Director, City Planning Division;
- vii. The Owner shall pay for and construct upgrades the municipal infrastructure should it be determined that such upgrades are required to support the development in accordance with the servicing report accepted by the Executive Director, Engineering and Construction

Services. The Owner agrees to enter into a Municipal Infrastructure Agreement to secure the construction of the infrastructure upgrades as required, as a condition of approval of the Site Plan Control application; and

- vii. Those matters pertaining to park land set out in Recommendation 3 of this Report.

- c. In the event that the cash contributions referred to in Section (a) above has not be used for the intended purpose within 3 years of this By-law coming into force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purposes are identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

Financial Impact

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

DECISION HISTORY

On September 7, 2016, the Toronto and East York Community Council commenced a statutory public meeting, pursuant to notice given in accordance with the *Planning Act*. The Toronto and East York Community Council adjourned the meeting to allow sufficient time for further public consultation on various outstanding concerns.

On September 14, 2016, the applicant filed a Notice of Appeal of City Council's refusal or neglect to make a decision within 120 days and 30 days from the submission of the application for a Zoning By-law Amendment for the property municipally known as 20 Edward Street.

ISSUE BACKGROUND

Staff Recommendation – September 7, 2016

At the September 7, 2016 Toronto and East York Community Council, Staff submitted a final report recommending approval of the applicant's proposal with minor modifications to the zoning by-law application as submitted by the applicant. The proposal implements the PPS and is consistent with the policies of the Official Plan, provides high quality retail space and employment opportunities as well as offers public realm improvements including a widening of a portion of an existing midblock pedestrian connection from Edward Street to Elm Street, and provides a second exit TTC access to Dundas Station. While a smaller tower plate is typically preferred, in this very local context, given the achievement of other tall building performance standards, including setbacks from lot lines, and design attributes, the proposed massing and siting is appropriate.

The Ontario Municipal Board Appeal

Following the decision to adjourn by Toronto and East York Community Council, the applicant filed a notice of appeal for the rezoning application on Council's failure to make a decision within 120 days pursuant to Section 34(11) of the *Planning Act*. No dates have been set for the Ontario Municipal Board hearing. However, the OMB has advised it will be setting a prehearing in early 2017. In the event the Owner agrees to the recommendations of this report the OMB could be requested to turn that prehearing into a settlement hearing.

Stakeholder Consultation Meeting (October 11, 2016)

Following the September 7, 2016 Toronto and East York Community Council meeting, as requested, City Staff organized and facilitated a meeting with the residents of 25 Elm Street, the Toronto Community Housing building to the north of the proposal, to discuss issues related to the various impacts the proposal may have on accessibility, mobility, health and safety and the quality of life. The Downtown Yonge BIA and a representative of 633 Bay Street were also in attendance. The following City divisions and agencies were in attendance: Community Planning, Transportation Services, Equity, Diversity & Human Rights Office, Toronto Community Housing Project Management Office in Social Development, Finance & Administration, and Wheel Trans. Approximately 20 community members attended. The applicant was not in attendance.

The consultation began with a presentation by Community Planning staff on: the Toronto and East York Community Council meeting upon which Staff's recommendations for the proposal were considered; Community Council's decision to defer the application and the motion brought forward for continued consultation; and a discussion on the applicant's appeal and the Ontario Municipal Board process.

Below is a list of the key questions and comments raised at the meeting and the responses from the City.

The rear public laneway will be used by loading trucks servicing the proposal.

Access to the loading spaces for 20 Edward Street is off Edward Street and not from the rear public lane. A loading vehicle would not be able to access the loading spaces from the laneway. Overhead doors are proposed to the rear which will only be opened and used for "A" Type loading vehicles to maneuver into and out of the building. Without knowing the intended user of the retail and commercial spaces and only dealing with the use itself and the size of the proposed use, it is difficult to determine how often 20 Edward Street will require the type "A" loading space; however, such documentation may be requested as part of the site plan application and mitigation may be imposed as a condition of site plan approval should it be deemed necessary. In addition, a staff person will be required as part of the site plan application to control the movements of the loading vehicles.

The rear public laneway is blocked by illegally parked vehicles.

Transportation Services acknowledged that there are times when public laneways are illegally used with parked vehicles, whether that be a car or a truck. This issue extends to

other public laneways throughout the City. Signage could be provided to deter illegal parking and has been used by other laneways in the City. However, for 20 Edward, access to underground parking and loading bays are off Edward Street, not the rear public laneway.

Can we limit access to the laneway?

Limiting access to a laneway is not standard practice. These laneways are public, much like a street is public. The Official Plan under Section 2.2 – Structure Growth in the City: Integrating Land Use and Transportation, Policy 3 (g) states that the City's transportation network will be maintained and developed to support the growth management objectives of the Official Plan by "ensuring that laneways are not closed to public use and stay within the public realm where they provide present and future access and servicing to adjacent development(s)." It is City Council policy to use laneways for access and servicing.

25 Elm's pickup/drop-off zone will be used by the loading trucks and by vehicles picking up friends/relatives.

It is not expected that this behaviour will occur. Loading vehicles will be using the access off Edward Street. Vehicles are likely to stop on Edward Street as opposed to stopping on private property. Staff cannot, however, guarantee that this behaviour won't occur. Residents of 25 Elm Street raised this concern because this was their experience from other buildings in and around the neighbourhood. It was suggested by staff that a gate could be installed on 25 Elm Street to bar unwanted access and use of the pickup/drop-off zone. A fob could be used by residents of 25 Elm to control access into and out of their building.

Loading and servicing the site should be wholly contained on site and not use the rear public laneway.

The majority of the loading trucks will be able to service the building on site without using the rear public lane. Type "A" trucks will need to use the rear public lane for manoeuvring purposes only; however, this manoeuvring is further east from the 25 Elm Street's pickup/drop-off zone and should not cause a conflict. Staff stated that public laneways are regularly used by servicing vehicles and it is the preference of Transportation Services and City Planning for servicing to occur at the rear of a building with the use of a public lane. Access to the underground parking and service bays off Edward Street were deemed acceptable in this case because of the concerns raised by local residents and the deficiencies of the laneway access off Elm Street and because Edward Street has the character of a servicing street; however, the standard practice is for all servicing trucks and underground parking to be accessed from the rear of the building.

Commercial deliveries and garbage trucks will cause noise.

The Noise Control By-law under Toronto Municipal Code 591-4 allows and prohibits noise for certain activities. In this case, garage or delivery trucks are allowed to cause noise from private property between 7:00 am to 11:00 pm. Prohibited hours are 11:00 pm to 7:00 am (Monday to Saturday) and 11:00 pm to 9:00 am (Sundays and statutory holidays).

Overhead doors for the larger trucks will be left open.

The overhead doors will only be open for the Type “A” trucks for manoeuvring purposes in and out of the loading dock. The overhead doors are not intended to be left open. A staff person will be required as part of the site plan application to control the movements of the loading vehicles. This requirement will be registered on title as part of the site plan agreement and the future condominium will be required, by law, to provide that person in perpetuity.

There will be a queue of loading trucks waiting to service the site, causing congestion.

The proposal is providing the required number of loading spaces as per the new requirements in Zoning By-law 569-2013 for the downtown, which were put in place following a study of parking and loading standards in the downtown. It is, therefore, not expected that a queue will occur or congest the streets.

The building is too close to the rear lot line.

The rear of the building’s podium does not have any windows and therefore a setback is not required as per the Zoning By-law. The three-storey podium is at a height of 18.2 metres, where as the Zoning By-law would permit a building with a height of 46 metres. The building to the west of 20 Edward Street, at 633 Bay Street, does not have a podium and incorporates landscaping to the east through a setback and surface parking to the north. The buildings to the east are two-stories at approximately 8 metres in height and with a zoning by-law height permission of 20 metres. The buildings to the north of the site include two-storey buildings at approximately 8 to 9 metres in height and with zoning by-law height permissions of 46 metres. The building at 25 Elm Street has a tower setback from the front lot line only and with an L-shaped tower of which a portion of the tower is setback from the rear lot line and a portion of the tower is flush with the rear lot line. As for the tower portion of 20 Edward, the tower does have secondary windows, of which, given the orientation of the tower’s floorplate, would face a blank wall.

Given the character of the block and the zoning by-law permissions, Staff believe the building's placement and organization is appropriate and fits with the existing and/or planned context, as recommended in the Final Report dated August 18, 2016.

Can a crosswalk be installed on Edward Street connecting the west walkway on the 633 Bay Street to the Atrium on Bay?

It was suggested to the residents of 25 Elm Street that, with the help of the Councillor’s office, they could contact Traffic Operations at the City of Toronto to install speed tables to slow traffic and help with crossing Edward Street. A crosswalk did not seem feasible in that location given its close proximity to the intersection at Yonge and Edward. However, further analysis could be conducted on Edward Street that could result into a future public realm plan.

The increase in density and population will mean more vehicular, pedestrian, and cyclist impacts and will make it more difficult for deliveries, wheelchair repair vehicles, and Wheel Trans to service 25 Elm Street.

As part of the review of the proposal, a transportation impact study was required and provided by the applicant. This study was reviewed and deemed acceptable by Transportation Services. A transportation impact study must meet the standards of transportation planning and traffic engineering and is supplemented by local survey data. The study has to demonstrate good planning principles cognizant of the Official Plan policies and objectives. It must provide a balanced approach between facilitating development and protecting existing development. It also ensures equitable access to the transportation system by all users, including transit, pedestrians, cyclists, private automobiles and trucks. The overall goal of a transportation impact study is to integrate development with the existing and future transportation systems and to ensure the transportation supply and demand is optimized in a manner consistent with relevant policies, guidelines and criteria.

Taxis wait by 25 Elm Street for the Delta Chelsea where they are not permitted.

Taxi cabs are prohibited from parking for hire in a location which is not an authorized cab stand. In this case, Elm Street is not an authorized cab stand. Taxis are only permitted to stop on a street if they are in the act of either picking up or dropping off a fare. If a taxi is parked with the lights off, or the driver is not in the car and is not available for hire, then it is a parking infraction. Taxi cabs are not exempt from rush hour routes, no standing zones, private property, parking longer than permitted time or areas that impede vehicular/pedestrian or emergency vehicles.

The north-south pathway should be widened by increasing the west side setback.

The building is widened on the west side setback through a privately owned publicly-accessible space (POPS) located at the northwest corner of the site and a patio space to be used in conjunction with a retail space that fronts on Edward Street. The retail space animates Edward Street and helps alleviate safety concerns by providing “eyes on the street”.

The proposal will shadow 25 Elm Street.

In accordance with the Official Plan, the proposal does not shadow any lands designated *Neighbourhoods* or *Parks and Open Spaces*. The proposal does shadow 25 Elm Street, which is a building designated as a *Mixed Use Area* in the Official Plan, from 9:18 am to 2:18 pm, at which point the shadow is on the blank wall of 25 Elm Street, on the spring and fall equinoxes. It is staff’s opinion that the shadow impacts are adequately limited as per the policies in the Official Plan.

How was the size of the floorplate considered?

The proposed base and tower is designed to fit within the local context on Edward Street and adjacent buildings. The immediate context includes two buildings with large floor plates and compatible heights. At 633 Bay Street, the 26-storey building (76.2 metres) has a floor plate size of 1633 square metres and to the south at 595 Bay Street and 306 Yonge Street (Atrium on Bay) which is a full-block-sized office and retail building. The existing heights of the two towers atop the Atrium on Bay are 55.1 and 51.5 metres. There is an approval, however, for 5 additional storeys atop each tower totalling

approximately 79 metres (File No. 13 166022 STE 27 OZ). The floor plates for the recently approved additions are approximately 2,784 square metres. The proposed floor plate fits within this local context given the shallower depth of the subject site and its longer frontage along Edward Street. The site is almost large enough to accommodate two towers and meet the Tall Building Guidelines tower separation distances but, proportionally, the site can accommodate the proposed articulated single tower. While a smaller tower plate is typically preferred, in this very local context, given the achievement of other tall building performance standards, including setbacks from lot lines, and design attributes, the proposed massing and siting is appropriate.

Has the physical construction of the building been considered?

Physical construction of buildings is not typically reviewed by City Planning Staff, and is governed through the Ontario Building Code and overseen by the Toronto Buildings Division. A construction management committee may be created with the developer, local residents, and the Ward Councillor to discuss the construction process, hours of work, and egress and ingress to the site for construction purposes.

In addition to the above questions and comments, residents asked general questions on the process at the Ontario Municipal Board. The meeting adjourned at 9:00 pm.

Accessibility Design Guidelines

At the September 7, 2016 Toronto and East York Community Council, deputations were made with regard to accessibility and how the proposal would address issues of accessibility and mobility.

In the Official Plan, Section 3.1.1 The Public Realm, policy 13(b) states that universal physical access to publicly accessible spaces and buildings will be ensured by “requiring that plans for all new buildings and additions meet the City’s accessibility guidelines”. As part of the City’s commitment to make Toronto a “barrier free” community, Council adopted a comprehensive set of Accessibility Design Guidelines, which guide the design, planning and construction of accessible facilities and the preparation of accessibility audits. The *Planning Act* stipulates that applicants seeking site plan approval provide to the satisfaction of and at no cost to the City, “facilities designed to have regard for accessibility for persons with disabilities.” The Official Plan goes further to add that examples of accessibility facilities the City may request include: accessible pedestrian route(s) or path(s) wide enough to accommodate wheelchairs or other mobility devices; accessible entrances clearly marked with the International Symbol of Accessibility; and, continuous handrails on both sides of ramps or exterior stairs. These and other accessibility facilities can be incorporated into the design and site layout of new development and public works. As the Official Plan states, “Site Plan Control will be used to secure accessibility facilities.”

The applicant has not submitted an application for Site Plan Control, but will be required to obtain site plan approval before a building permit can be issued. As part of the

requirements for a complete application, the applicant will be required to submit an accessibility design standards checklist, which will conform to the City's Accessibility Design Guidelines. In addition, the site plan control application will be circulated and reviewed by the City's accessibility consultant to ensure compliance with the Accessibility Design Guidelines.

Lastly, the Ontario Building Code includes standards for accessibility such as accessible routes and corridors, entrances, and doorways. These standards, most of which are more recent, are an attempt to update the Ontario Building Code to meet the *Accessibility for Ontarians with Disabilities Act*. The applicant would be required to meet these accessibility standards in the Ontario Building Code.

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SIGNATURE

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