

**406 Adelaide Street East
Rezoning Application
Final Report**

Date:	November 12, 2007
To:	Toronto and East York District Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	06 163120 STE 28 OZ

SUMMARY

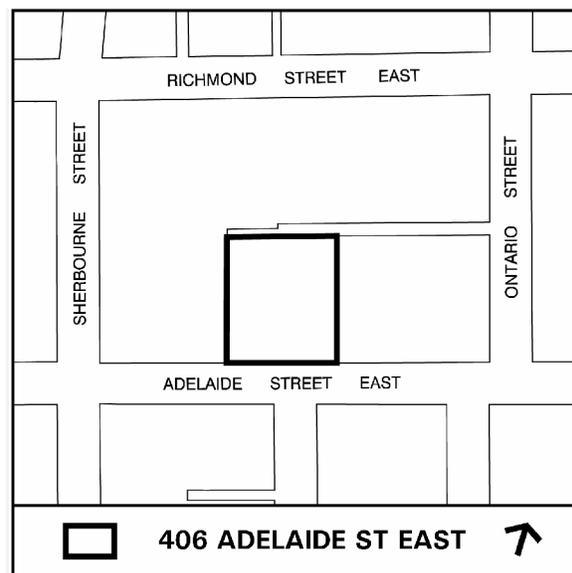
This application proposes a 19-storey residential building with 272 residential units and retail space at grade at 406 Adelaide Street East. A total of 230 parking spaces are provided in three levels of underground parking. Vehicle access to the site will be from the east-west lane to the north of the site.

This report reviews and recommends approval of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend the Zoning By-law for the former City of Toronto substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 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.

3. Before introducing the necessary Bill to City Council for enactment, require the owner to enter into an Agreement pursuant to Section 37 of the Planning Act for the provision by the owner of the following facilities services and matters;
 - (a) prior to issuance of an above grade building permit for the building on the *lot*, the *owner* shall make a cash contribution to the City in the amount of \$85,000.00 toward improvements to the east-west public lane adjacent to the north side of the *lot* but where all or some of such cash contribution has not been allocated for expenditure within 5 years of the date of enactment of this By-law any remaining monies shall be applied to the Heritage Lighting Program in the King - Parliament Community Improvement Plan;
 - (b) prior to issuance of an above grade building permit on the lot, the owner shall make a cash contribution to the City in the amount of \$245,000.00 toward the Heritage Lighting Program being an identified community improvement program in the King-Parliament Community Improvement Area;
 - (c) the owner shall provide and maintain a public pedestrian walkway over the lot which shall have a minimum width of 3 metres and shall directly connect at grade Adelaide Street and the existing public lane within the area identified as “Public Pedestrian Walkway and Landscape Area” as shown on Map 2 of the Zoning By-law amendment, with the specific location, configuration and design to be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 and Section 41 of the Planning Act as applicable;
 - (d) the owner shall, at its own expense, provide and maintain an irrigation system for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor and constructed with a back flow preventer, to the satisfaction of the General Manager Parks, Recreation and Forestry;
 - (e) in support of the orderly development of the lot;
 - (i) the owner shall:
 - A. use reasonable commercial efforts to obtain Leadership in Energy and Environmental Design (“LEED”) certification of the proposed building on the lot;

- B. prior to site plan approval for development on the lot, register the proposed building with the Canada Green Building Council and provide written confirmation of such registration to the Chief Planner and Executive Director, City Planning Division; and
 - C. provide such documentation and supporting materials as may be requested by the Chief Planner and Executive Director, City Planning Division, with respect to LEED certification;
- (ii) the owner shall incorporate into its submission of plans and drawings for site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 or Section 41 of the Planning Act as applicable, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, acting reasonably, quality exterior building materials to be used in the construction of the building on the lot; and
 - (iii) the *owner* shall, for the purpose of enhancing the terminus of Princess Street shown on Map 1, retain an artist to design, provide and maintain an art feature on the lot satisfactory to the Chief Planner and Executive Director, City Planning Division, acting reasonably, which shall be financially secured as part of the landscaping requirements prior to site plan approval and the specific location and details of the art feature shall be determined in the context of site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 and Section 41 of the Planning Act as applicable;
 - (iv) retain a consultant archaeologist, licensed by the Ministry of Culture under the provision of the Ontario Heritage Act, as amended, to undertake a Stage 1 Archaeological Assessment of the lot and such further stages of assessment as may be required and shall:
 - A. prior to site plan approval for development on the lot, submit an Archaeological Assessment and Mitigation Plan, satisfactory to the Manager, Heritage Preservation Services;
 - B. prior to issuance of the first building permit for a building on the lot and prior to any remediation, demolition, excavation, grading, construction or other soil disturbances on the lot, satisfy all archaeological licensing and technical review requirements of Heritage Preservation Services and the Ministry of Culture; and

- C. at its own expense, mitigate adverse impacts to any archaeological resources found on the lot in accordance with the Archaeological Assessment and Mitigation Plan to the satisfaction of the Manager of Heritage Preservation Services.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

The applicant has submitted a revised proposal for a 19-storey building with 272 residential units with retail at grade. The proposed development is a 13-storey residential tower on top of a 6-storey podium. The proposed gross floor area of the project is 24,169 square metres. The proposed height is 59 metres, exclusive of the mechanical penthouse.

The tower is situated on the western half of the property. The podium base is located to a maximum of 6 metres from the western property line allowing room for a double row of trees and walkway along the western edge of the property. The tower has a curved wall feature on the east side which provides architectural interest and a visual feature while enlarging the courtyard to the development. Pedestrian access to the building will be from Adelaide Street East through this landscaped courtyard.

There is a 6-storey L-shaped brick podium along the Adelaide Street East frontage. The tower steps back from the podium 3 metres at the seventh floor and a further step back of 8 metres at the eighteenth storey. The eastern wing of the podium is 9 storeys in height with a step back of 3 metres at the seventh floor situated along the north edge of the property. The positioning of the east wing of the podium creates a large courtyard for the development that will be landscaped. The eastern wing of the podium and the landscaped courtyard are situated at the terminus of Princess Street forming a view terminus.

Retail use area is provided along the Adelaide Street East frontage which will enhance the pedestrian activity at street level. Residential units at grade on the west side of the site have access to grade providing a townhouse appearance to the area and encouraging more pedestrian activity in this area.

Vehicular access to the underground parking garage will be from the east-west lane on the north side of the property, which will remove turning movements from Adelaide Street. Access to the lane is from Ontario Street, east of the property, which is a two way operation.

Refer to Attachment 6 for project data.

Site and Surrounding Area

The site is located on the north side of Adelaide Street East between Sherbourne Street and Ontario Street. The site is currently used as a commercial surface parking lot. There are no existing buildings on the site.

North: an existing 1-storey building at 381 Richmond Street East. This existing building will be demolished when the first phase of Innovation Square, a new office development is built. Phase 1 of Innovation Square will have a height of 64 metres. A site plan application has been made and Notice of Approval Conditions have been issued.

South: the property forms the terminus to Princess Street. On the west side of Princess Street is a 1-storey building and on the east side of Princess Street is a parking lot.

East: a 1-storey building located immediately to the east of the property. This building will be demolished for Phase 2 of Innovation Square, a 55-metre commercial building. A site plan application for Phase 2 has not been submitted.

West: at the corner of Adelaide Street East and Sherbourne Street is the building known as the Victorian Tin Works. The building is designated under the Ontario Heritage Act. On the south side of Adelaide Street East at Sherbourne are two historic townhouses which are part of a larger redevelopment project of King's 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.

Official Plan

The site is located in the Downtown and Central Waterfront area identified on the Urban Structure map of the Toronto Official Plan.

The Official Plan designates the site Regeneration Area, which permits a broad mix of uses, including residential, light industrial, commercial, parks and open space, institutional, live/work and utility uses in an urban form. The Plan sets out matters that should be included in a Secondary Plan that will guide redevelopment into regeneration areas.

The site is located in the Jarvis Parliament Regeneration Area in the King Parliament Secondary Plan. Policies in Section 8 of the King Parliament Secondary Plan indicate that the Jarvis Parliament area is an area targeted for significant growth, the introduction of new residential uses, including live/work units as complimentary to the areas role as business area.

Zoning

The site is currently designated RA, Reinvestment Area. This designation provides for a wide variety of uses including residential, light industrial, commercial and live work. The current height limit on the property is 26 metres (approximately 8 storeys).

Site Plan Control

A site plan application was submitted on November 1, 2007. It will be circulated for agency review and comment.

Reasons for Application

The applicant has applied for a Zoning By-law amendment to permit the increase in height to 59 metres from the as-of-right height of 26 metres. The project has been reviewed for compliance with all the performance standards of the RA designation as discussed below.

Community Consultation

A community consultation meeting was held at St. James United Church Hall on February. 21 2007, attended by approximately 30 people. Issues that arose at this meeting included height of the building, shadow impacts, views and traffic impacts including parking.

After the community meeting, a working group was established. Participation in the working group included members of the St. Lawrence Neighbourhood and Old Town Toronto groups, as well as members of neighbouring condominiums and businesses. Participants met three times between February and April 2007 and recommended changes to the proposal that have been reflected in the revised submission. The group was concerned with the architectural quality of the building and as site plan had not yet been submitted these details were unavailable. The applicant has agreed to meet at least once more with the working group to review architectural details such as materials and colour.

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

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS.

Land Use

The proposed development is consistent with the Official Plan and King Parliament Secondary Plan designations, as a site suitable for intensification including residential uses. The current Zoning By-law designation of RA, Reinvestment Area permits residential and commercial uses with a height limit but no density provisions. The site is

suitably located for intensification, due to its proximity to the downtown and to urban infrastructure. Retail space at the ground level along Adelaide Street frontage is acceptable and will enliven the street frontage. As discussed below, the proposal results in an acceptable built-form.

Height, Massing

The applicant worked with the working group to revise the original 29-storey proposal to a 19-storey building. The proposed development is now a 13-storey residential tower on top of a 6-storey podium. The tower is situated on the western half of the property 6 metres from the western property line allowing room for a double row of trees and walkway along the western edge of the property. The tower has a curved wall feature on the east side. This feature was introduced after the working group meetings. Staff supports this revision as it is seen to enhance the architectural design while enlarging the developments courtyard. There is a step back of 3 metres at the seventh floor of the tower and a further step back of 8 metres at the eighteenth storey.

There is a 6-storey L-shaped brick podium along the Adelaide Street East frontage. The east wing of the podium is 9-storeys situated along the north edge of the property. The positioning of the east wing of the podium creates a large courtyard for the development that will be landscaped. The eastern wing of the podium and the landscaped courtyard are situated at the terminus of Princess Street forming a view terminus. The working group felt that the landscape courtyard was an important feature for the development and the neighbourhood introducing a green element to the streetscape and to the view terminus.

The location of the tower on the site and its height and massing have all been considered in relation to the surrounding developments. The height at 19 storeys is supportable at this location. The site is situated in a large block in an area that has significant redevelopment with heights ranging from 14 to 20 storeys. Innovation Square, a large commercial development, surrounds the site on the north and east sides. The approved height for Phase 1 of Innovation Square to the north of the site is 63 metres. This proposal at 59 metres provides a slightly reduced height to that of Innovation Square, leaving Innovation Square with the prevailing height limit in the area. The location of the tower, through discussions has been shifted to the west half of the site and opens up the view terminus at Princess Street and the siting of the east wing of the L-shaped podium provides context to the view. Now, the view north along Princess Street is focussed on the landscaped courtyard, the 9-storey east wing of the podium and rises to view Innovation Square in the background. Further, the movement of the tower to the west half of the site and 6 metres off the western property line improves the relationship with the residential building to the north west. The proposals shadow impacts are discussed in the next section.

Sun, Shadow

The applicant has submitted a shadow study to demonstrate shadow impacts of the proposal at the spring and fall equinoxes. The most sensitive area is the residential building to the northwest, particularly the southeast corner of this building. Shadow

impacts of the tower move off the south east corner of the neighbouring building by approximately mid-day and move across the commercial buildings to the north and east.

Shadow impacts will move off the walkway on the western edge of the site by approximately mid-day, which are acceptable in this case.

Residential Amenity Space

The proposal meets the Zoning By-law requirements to provide 2 square metres of both outdoor and indoor amenity space per unit. The applicant has proposed a minimum of 544 square metres of indoor residential amenity space on the ground floor and a minimum of 544 square metres of outdoor residential amenity space located on the 9th and 19th floor rooftops.

Traffic Impact and Vehicular Access

The applicant provided a traffic impact study. The report indicates that the development proposal will generate a net decrease in vehicular trips when taking into account the elimination of the existing surface parking lot. The consultant concludes that the proposed development can be adequately accommodated on the adjacent road system. Transportation Services staff has reviewed the study and concur with this conclusion.

The site fronts onto Adelaide Street East, a one way street. Vehicular access to the site will be from the east-west public lane to the north of the property. The public lane connects to Ontario Street, to the east of the site which is a two-way operation.

Parking

The applicant has proposed a total of 230 parking spaces, including 212 resident spaces, 16 visitor spaces and two commercial spaces. This demand is based on the surveyed parking demand exhibited by condominium projects in the City. Transportation Services staff has reviewed the proposed parking requirement and find it acceptable.

Staff recommends the following parking standard be included in the site specific by-law:

Dwelling Unit Type	Parking Ratio
Bachelor	0.3 spaces/unit
1 Bedroom unit	0.7 spaces/unit
2 Bedroom unit	1.0 spaces/unit
Visitor	0.6 spaces/unit

Servicing

The applicant has satisfied Technical Services that the existing City infrastructure has adequate capacity to support the development proposal in terms of sanitary and storm drainage.

Landscaped Open Space

The applicant is proposing landscaped open space in the courtyard to the building and along the walkway on the western edge of the property. The applicant has further agreed to include an art feature to enhance and complement the view terminus of Princess Street. This art feature will be determined at site plan. The proposal also provides a landscape area and walkway along the western edge of the site. The proposed landscape areas are appropriate and well located, given the site's location on a major street and mixed use area.

Toronto Green Development Standard

The application included a completed Green Development Standards checklist which indicates that the project meets 37 items on the checklist. The applicant has also indicated that the project will be seeking LEED certification and the project has been registered with the Canada Green Building Council.

Section 37

The proposal represents an increase in height permitted by the Zoning By-law. It is appropriate to secure a package of public benefits in exchange for the requested increase in height permission pursuant to Section 37 of the Planning Act.

The community benefits recommended to be secured in the Section 37 agreement are as follows:

1. a contribution of \$85,000 towards laneway improvements on the east-west lane adjacent to the north side of the property. Should some or all of the cash contribution for laneway improvements not be allocated for use within 5 years of the date of this by-law, any remaining monies shall be applied to the Heritage Lighting Program;
2. a contribution of \$245,000 to the Heritage Lighting Program, an identified Community Improvement program in the King-Parliament Community Improvement Plan; and
3. the owner shall provide and maintain a public pedestrian walkway over the westerly limit of the lot which shall have a minimum width of 3 metres and shall directly connect at grade Adelaide Street and the existing public lane with the specific location, configuration and design to be determined in the context of a site plan approval.

The following matters are also recommended to be secured in the Section 37 agreement to support the orderly development of the site:

1. retain a consultant archaeologist, licensed by the Ministry of Culture under the provisions of the Ontario Heritage Act (R.S.O 1990 as amended) to carry out a Stage 1 archaeological assessment of the entire development property and follow

through on recommendations to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The assessment is to be completed in accordance with the Final Draft – Standards and Guidelines for Consulting Archaeologists, September 2006, Ministry of Culture;

2. should the archaeological assessment process continue beyond a Stage 1 assessment, any recommendations for Stages 2 - 4 mitigation strategies must be reviewed and approved by Heritage Preservation Services prior to commencement of the site mitigation;
3. prior to final site plan approval, the consultant archaeologist shall submit a copy of the relevant assessment report(s) to the Heritage Preservation Services Unit in both hard copy format and as an Acrobat PDF file on compact disk;
4. no demolition, construction, grading or other soil disturbances shall take place on the subject property prior to the City's Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) confirming in writing that all archaeological licensing and technical review requirements have been satisfied;
5. the owner shall, for the purpose of enhancing and complimenting the view terminus of Princess Street, retain an artist to design, provide and maintain an art feature on the lot satisfactory to the Chief Planner and Executive Director, City Planning Division, which shall be financially secured and determined in the context of site plan approval;
6. provision and maintenance of an automatic irrigation system for street trees;
7. use of quality exterior building materials for the development; and
8. register the proposed development and use reasonable commercial efforts to obtain LEED certification and provide such documentation as may be required by the Chief Planner and Executive Director.

Development Charges

It is estimated that the development charges for this project will be \$1,349,138. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

CONTACT

Kathryn Thom, Senior Planner
Tel. No. (416) 392-0759
Fax No. (416) 392-1330
E-mail: kthom@toronto.ca

SIGNATURE

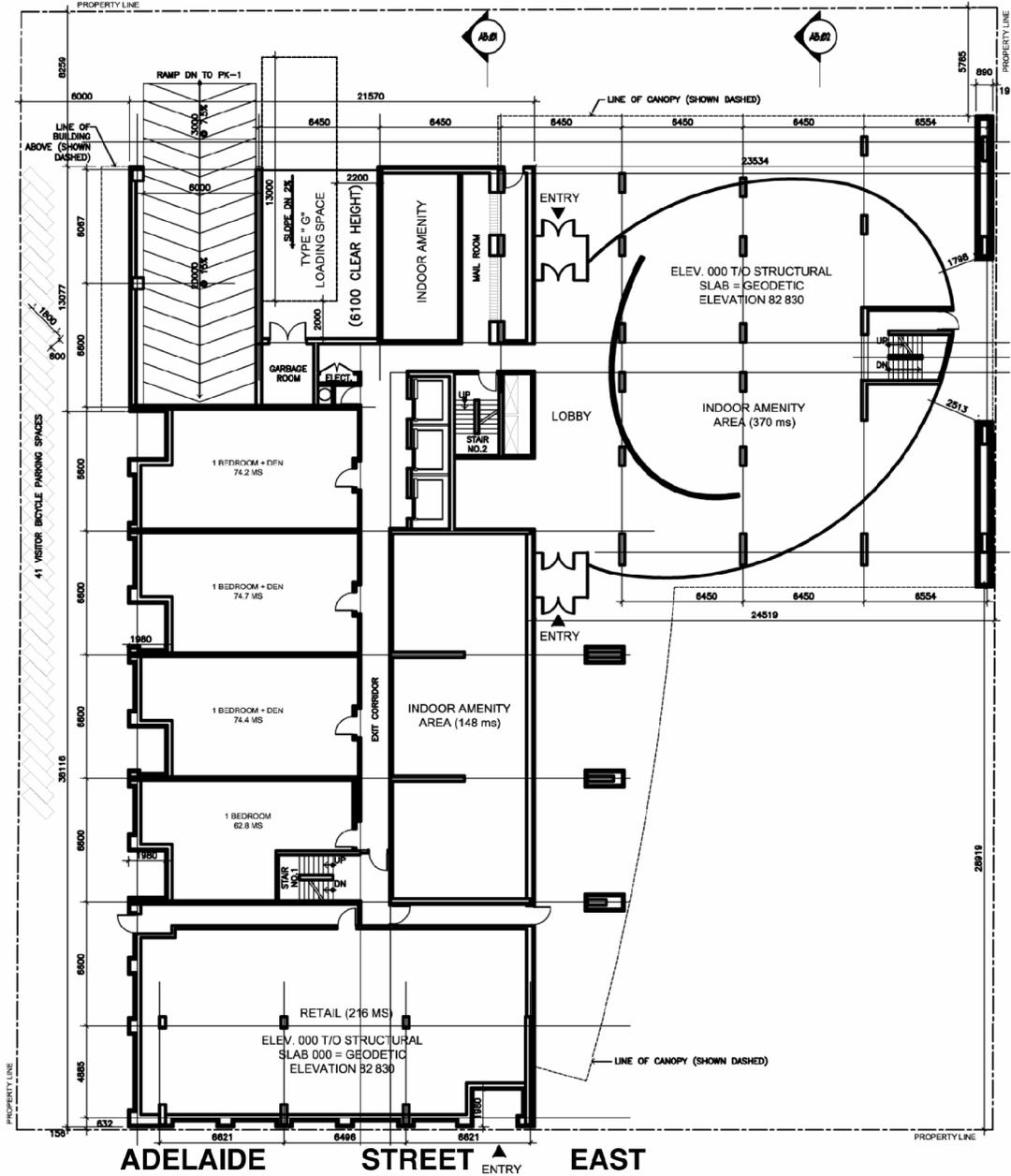
Gary Wright, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: North Elevation
Attachment 3: South Elevation
Attachment 4: East elevation
Attachment 5: West Elevation
Attachment 6: Application Data Sheet
Attachment 7: Draft Zoning By-law Amendment

Attachment 1: Site Plan



Ground Floor Plan

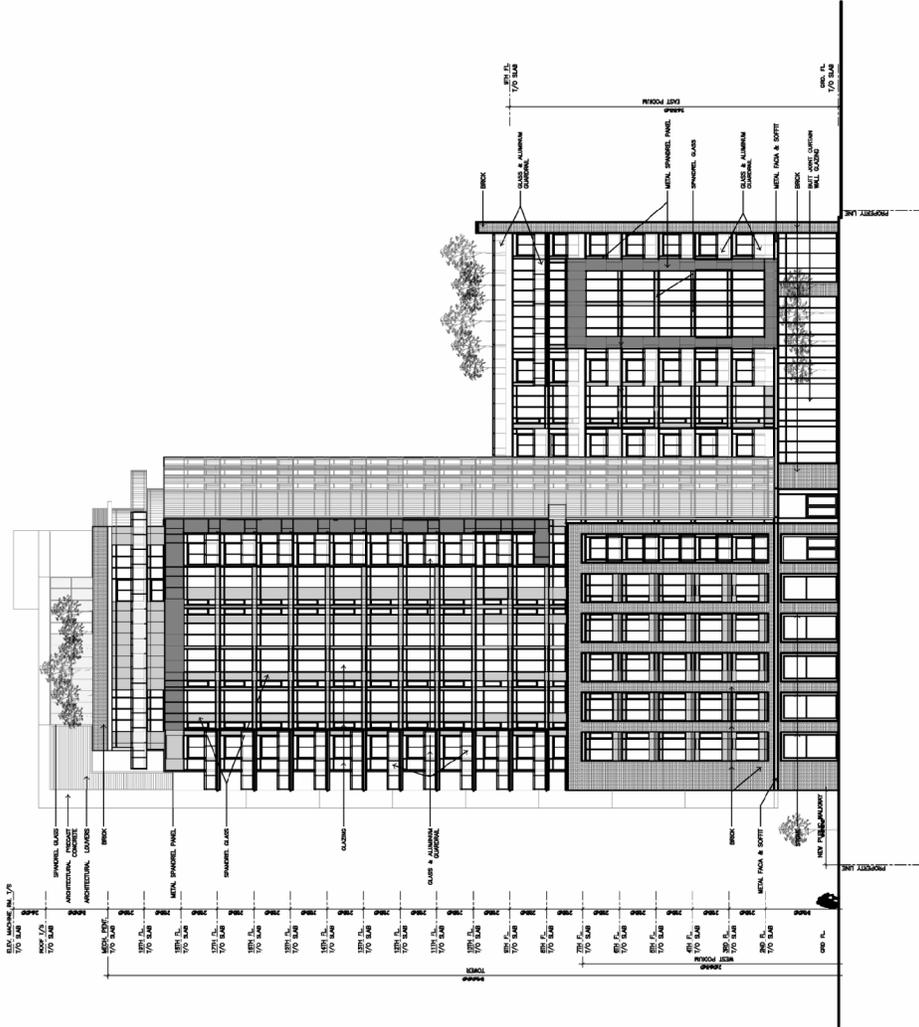
406 Adelaide Street East

Applicant's Submitted Drawing

Not to Scale 

File # 06_163120

Attachment 3: South Elevation



406 Adelaide Street East

South Elevation
 Applicant's Submitted Drawing

File # 06_163120

Not to Scale
 10/08/07

Attachment 6: Application Data Sheet

Application Type	Rezoning	Application Number:	06 163120 STE 28 OZ
Details	Rezoning, Standard	Application Date:	August 2, 2006

Municipal Address: 406 ADELAIDE ST E
 Location Description: PL D39 PT BLK A **GRID S2808
 Project Description: Proposed 19-storey residential building containing 272 units with three levels of underground parking.

Applicant:	Agent:	Architect:	Owner:
MCCARTHY TETRAULT CYNTHIA MACDOUGALL			400 ADELAIDE RESIDENCES C

PLANNING CONTROLS

Official Plan Designation:	Site Specific Provision:
Zoning: RA	Historical Status:
Height Limit (m): 26	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	3102.6	Height:	Storeys:	19	
Frontage (m):	52.02		Metres:	59	
Depth (m):	59.828				
Total Ground Floor Area (sq. m):	1344				Total
Total Residential GFA (sq. m):	23953		Parking Spaces:	230	
Total Non-Residential GFA (sq. m):	216		Loading Docks	1	
Total GFA (sq. m):	24169				
Lot Coverage Ratio (%):	43.3				
Floor Space Index:	7.79				

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	7
1 Bedroom:	191
2 Bedroom:	74
3 + Bedroom:	0
Total Units:	272

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	23953	0
Retail GFA (sq. m):	216	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT: PLANNER NAME: Kathryn Thom, Senior Planner
TELEPHONE: (416) 392-0759

Attachment 7: Draft Zoning By-law Amendment

CITY OF TORONTO

BY-LAW No. • - 2007

To amend the General Zoning By-law No. 438-86 of the former City of Toronto with respect to lands known municipally in the year 2007 as 406 Adelaide Street East.

WHEREAS the Council of the City of Toronto has been requested to amend its zoning by-law pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, with respect to lands known municipally in the year 2007 as 406 Adelaide Street East;

WHEREAS the Council of the City of Toronto has provided adequate information to the public and has conducted at least one public meeting under Section 34 of the *Planning Act* regarding the proposed zoning by-law amendment;

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

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

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

WHEREAS the owner of the land that is the subject of this By-law has elected to provide the facilities, services and matters as hereafter set out in return for the increase in height and density beyond that otherwise permitted on the subject lands by By-law No. 438-86, as amended;

WHEREAS Council of the City of Toronto has required the owner of the subject lands to enter into one or more agreements with respect to the facilities, services and matters in return for the increases in height and density proposed;

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

4. None of the provisions of Sections 4(2)(a), 4(12), 7(3) Part II 1, 3, 7, and 12(2) 246 of By-law No. 438-86, being “A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structure and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection and use of a *mixed-use building* and *accessory*

uses on the *lot* provided that the provisions of Section 2 herein and the following provisions are complied with:

- (a) the *lot* consists of the lands delineated by heavy lines on the attached Map 1;
- (b) the total combined *residential gross floor area* and *non-residential gross floor area* of any building on the *lot* shall not exceed 24,175 square metres, of which not more than 23,955 square metres shall be *residential gross floor area* and not more than 220 square metres shall be *non-residential gross floor area*;
- (c) the use of the *non-residential gross floor area* shall be limited to one or more uses permitted under section (8)(1)(f)(b)(iv) of By-law No. 438-86, as amended;
- (d) no *above grade* portion of a building or structure on the *lot* is located other than wholly within the areas delineated by heavy lines on the attached Map 2 with the exception of cornices, lighting fixtures, awnings, canopies, ornamental elements, parapets, trellises, eaves, window sills, guardrails, balustrades, railings, stairs, stair enclosures, bay windows, wheel chair ramps, underground garage ramps and their associated structures, fences, screens, and landscape and public art features, all of which may extend beyond the heavy lines on the attached Map 2;
- (e) the *height* of any building or structure, or portion thereof, on the *lot* does not exceed those *heights* as indicated by the numbers following the symbol “H” on the attached Map 2, except for the following:
 - (i) a structure on the roof of the building used for outside or open air recreation, safety or wind protection purposes, chimney stack or other heating, cooling or ventilating equipment, window washing equipment, stairs, stair enclosures, and safety railings may exceed the height limit on the attached Map 2 by no more than 3.0 metres; and
 - (ii) parapets and ornamental elements may exceed the height limit on the attached Map 2 by no more than 1.2 metres;
- (f) a minimum of 544 square metres of indoor *residential amenity space* shall be provided within the building on the *lot* in a multi-purpose room or a number of rooms on the ground floor that may or may not be contiguous to each other and that have a kitchen and a washroom adjoining or directly accessible thereto;
- (g) a minimum of 544 square metres of outdoor *residential amenity space* shall be provided on the *lot* of which at least 40 square metres is to be

provided in a location adjoining or directly accessible from the indoor *residential amenity space*;

- (h) a minimum number of *parking spaces* shall be provided and maintained on the *lot* in accordance with the following:
 - (i) 0.30 *parking spaces* for each *bachelor dwelling unit*;
 - (ii) 0.70 *parking spaces* for each *one bedroom dwelling unit*;
 - (iii) 1.00 *parking spaces* for each *two bedroom dwelling unit*;
 - (iv) 0.06 *parking spaces* for each *dwelling unit* for visitors use; and
- (i) at least one *loading space – type G* shall be provided and maintained on the *lot*;

5. Pursuant to Section 37 of the Planning Act, the heights and density of development as contemplated on the *lot* by this By-law are permitted in return for the provision by the *owner* of the *lot* of the following facilities, services and matters to the City at the *owner's* sole expense, in accordance with and subject to the provisions of the agreement(s) to be executed and registered on title to the *lot* as referred to in Section 2(a) herein;

- (a) the *owner* shall enter into one or more agreements with the City pursuant to Section 37 of the Planning Act to secure the facilities, services and matters required to be provided by this Section 2 and consents to the registration of such agreement against title to the *lot*, the said agreement to include provisions relating to indemnity, insurance, GST, termination, unwinding, registration, priority of agreement and the indexing of financial contributions as applicable;
- (b) prior to issuance of an above grade building permit for the building on the *lot*, the *owner* shall make a cash contribution to the City in the amount of \$85,000.00 toward improvements to the east-west public lane adjacent to the north side of the *lot* but where all or some of such cash contribution has not been allocated for expenditure within 5 years of the date of enactment of this By-law any remaining monies shall be applied to the Heritage Lighting Program referred to in (c) below;
- (c) prior to issuance of an above grade building permit for the building on the *lot*, the *owner* shall make a cash contribution to the City in the amount of \$245,000.00 toward the Heritage Lighting Program being an identified community improvement program in the King-Parliament Community Improvement Area;
- (d) the *owner* shall provide and maintain a public pedestrian walkway over the *lot* which shall have a minimum width of 3 metres and shall directly

connect at *grade* Adelaide Street and the existing public lane within the area identified as “Public Pedestrian Walkway and Landscape Area” identified on the attached Map 2, with the specific location, configuration and design to be determined in the context of a site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 and Section 41 of the Planning Act as applicable;

- (e) the *owner* shall, at its own expense, provide and maintain an irrigation system for any proposed trees within the public road allowance, including an automatic timer, designed to be water efficient by a Certified Landscape Irrigation Auditor and constructed with a back flow preventer, to the satisfaction of the General Manager Parks, Recreation and Forestry;
- (f) provide the following in support of the orderly development of the *lot*:
 - (i) the *owner* shall:
 - A. use reasonable commercial efforts to obtain Leadership in Energy and Environmental Design (“LEED”) certification of the proposed building on the *lot*;
 - B. prior to site plan approval for development on the *lot*, register the proposed building with the Canada Green Building Council and provide written confirmation of such registration to the Chief Planner and Executive Director, City Planning Division; and
 - C. provide such documentation and supporting materials as may be requested by the Chief Planner and Executive Director, City Planning Division, with respect to LEED certification including, application materials, marketing materials, reports and decision documents;
 - (ii) the owner shall incorporate into its submission of plans and drawings for site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 or Section 41 of the Planning Act as applicable, to the satisfaction of the Chief Planner and Executive Director, City Planning Division, acting reasonably, quality exterior building materials to be used in the construction of the building on the *lot*; and
 - (iii) *owner* shall, for the purpose of enhancing and complimenting the terminus of Princess Street shown on Map 1, retain an artist to design and shall provide and maintain an *artistic feature* on the *lot* satisfactory to the Chief Planner and Executive Director, City Planning Division, acting reasonably, which shall be financially

secured as part of the landscaping requirements prior to site plan approval and the specific location and details of the *artistic feature* shall be determined in the context of site plan approval pursuant to Section 114 of the City of Toronto Act, 2006 and Section 41 of the Planning Act as applicable;

- (iv) retain a consultant archaeologist, licensed by the Ministry of Culture under the provision of the Ontario Heritage Act, as amended, to undertake an archaeological assessment of the *lot* and shall:
 - A. prior to site plan approval for development on the *lot*, submit an Archaeological Assessment and Mitigation Plan;
 - B. prior to issuance of the first building permit for a building on the *lot* and prior to any remediation, demolition, excavation, grading, construction or other soil disturbances on the *lot*, satisfy all archaeological licensing and technical review requirements of Heritage Preservation Services and the Ministry of Culture; and
 - C. at its own expense, mitigate adverse impacts to any archaeological resources found on the *lot* in accordance with the Archaeological Assessment and Mitigation Plan to the satisfaction of the Manager of Heritage Preservation Services.
- 6. Notwithstanding any of the foregoing provisions, where provisions of this By-law or the Section 37 agreement require provision of facilities, services and matters prior to issuance of a building permit for the proposed development of the *lot*, including the provision of financial securities, and payment of contributions, no building or structure may be erected or used on the lot until the owner has satisfied the said requirements and building permit issuance shall be dependent upon the same.
- 7. Wherever in this By-law, a provision is stated to be conditional upon the execution and registration of any agreement entered into with the City pursuant to Section 37 of the Planning Act in accordance with the provision of Section 2 herein, then once such agreement has been executed and registered, such conditional provisions shall continue to be effective notwithstanding any subsequent release or discharge of all or any part of the agreement.
- 8. None of the provisions of By-law No. 438-86, as amended, shall apply to prevent a temporary sales office, including an office in a sales trailer, on the *lot* for the purpose of selling the residential dwellings provided for in this By-law.
- 9. For the purposes of this By-law:

- (a) “*artistic feature*” shall include without limitation a work of sculptured art, work of visual or graphic art, sculptured landscaping, fountains and artistic treatment of landscaping or building elements;
- (b) “*grade*” shall mean 82.830 metres Canadian Geodetic Datum;
- (c) “*public pedestrian walkway*” shall mean an exterior pedestrian walkway that:
 - (i) is a *publicly accessible open space*;
 - (ii) is designed and intended for and is used by the public;
 - (iii) provides direct access between streets, parks, public buildings and/or other public spaces, and or common outdoor spaces;
 - (iv) is not used for commercial purposes, including retail areas, commercial display areas or other rentable space within the walkway, but may be adjacent to it;
- (d) “*publicly accessible open space*” shall mean an open space which is:
 - (i) open and accessible to the public between the hours of 7:00 a.m. and 9:00 p.m. daily and such access may be refused, or a person may be required to leave the open space in the case of any person who:
 - A. unreasonably interferes with the ability of other members of the public or lawful occupants to use the open space;
 - B. carries on an unlawful activity;
 - C. acts in a manner unreasonably inconsistent with the intended use of the open space;
 - D. injures or attempts to injure any person, property or property rights;
 - E. obstructs or injures any lawful business or occupation carried on by the building owner or person in lawful possession of the open space; or
 - F. commits any criminal or quasi-criminal offence; and
 - (ii) illuminated to a minimum average intensity of 10 lux on the walkway surface; and

(iii) maintained clear of snow, ice and other obstructions at all times;
and

(e) With the exception of the words referred to in paragraphs (a) to (d) above, each word or expression that is italicized in this By-law shall have the same meaning as the said word or expression as defined in By-law No. 438-86, as amended.

ENACTED AND PASSED this • day of •, A.D. 2007

DAVID R. MILLER
WATKISS

Mayor

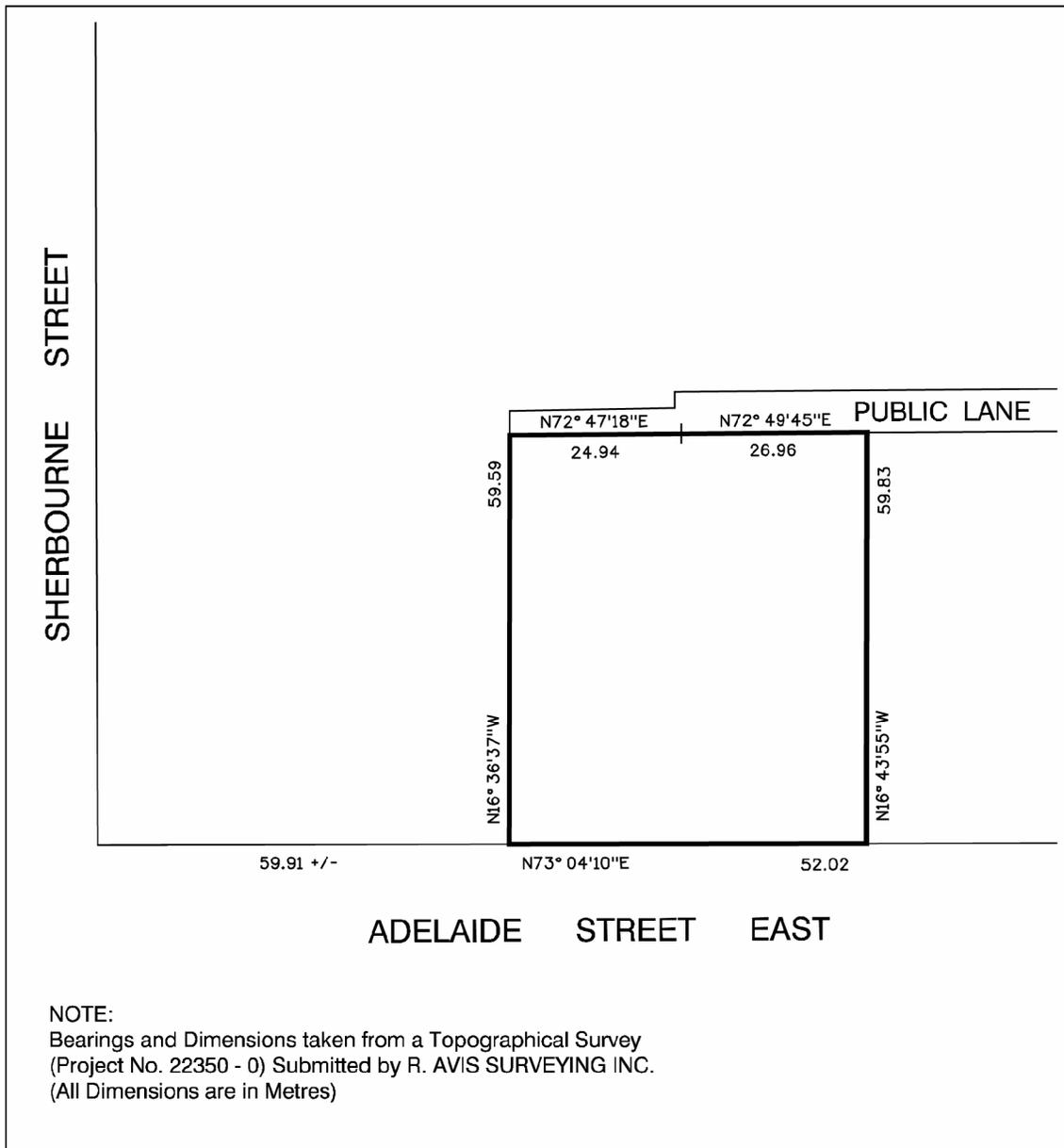
Clerk

(Corporate Seal)

ULLI S.

City

MAP 1



MAP 2

