



**STAFF REPORT
ACTION REQUIRED**

**333 Bay Street, 10 and 40 Adelaide Street West, 40
Temperance Street, and 118 Yonge Street – Plan of
Subdivision– Final Report**

Date:	September 28, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	09 115489 STE 28 SB

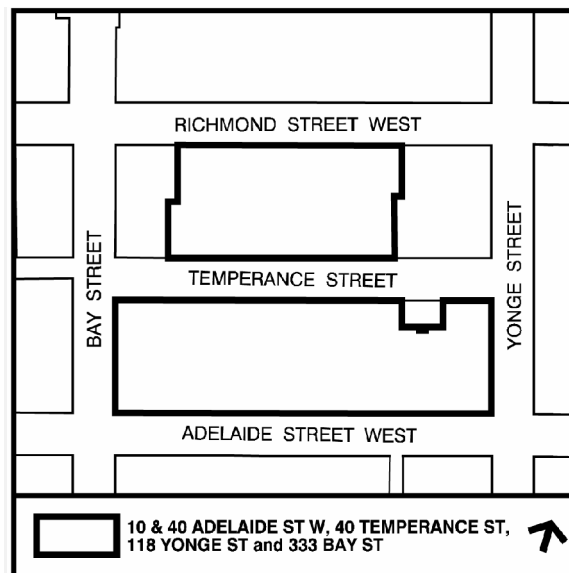
SUMMARY

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

BPO Ontario Properties Limited, Exchange Tower Limited, and 6537626 Canada Inc. (the owners) submitted an application for a Draft Plan of Subdivision on March 11, 2009 to divide the lands known municipally as 333 Bay Street, 10 and 40 Adelaide Street West, 40 Temperance Street, and 118 Yonge Street into three blocks to facilitate the applicant’s intention to request part lot control exemption.

In response to staff questions, the applicants have revised the proposal at this time to just apply for Draft Plan of Subdivision. They have indicated that they will apply for part lot control exemption when the future development plans are more advanced.

This report also advises that the Chief Planner may approve the Draft Plan of Subdivision.



RECOMMENDATIONS

The City Planning Division recommends that:

1. In accordance with the delegated approval under By-law 229-2000, City Council recommend to the Chief Planner that the draft plan of subdivision be approved, generally as illustrated on Attachment No. 1 subject to:
 - a. the conditions as generally listed in Attachment 2, which except as otherwise noted, must be fulfilled prior to the release of the plan of subdivision for registration; and
 - b. such revisions to the proposed plan of subdivision or additional modified conditions as the Chief Planner may deem to be appropriate to address matters arising from the ongoing technical review of the development.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The subject lands were part of a larger area in the blocks bounded by Queen Street West, Yonge Street, Adelaide Street West and Bay Street that was approved for a comprehensive, integrated redevelopment in 1988. The proposal for the 1988 Bay-Adelaide project consisted of the following:

- the retention and restoration of the historic Simpson's store on the north block between Queen Street West and Richmond Street West;
- the creation of a public park and the construction of a 12-storey office building on the centre block between Richmond Street West and Temperance Street; and
- the construction of a 57-storey office tower,
- an underground parking garage; and
- the preservation and relocation of the historic Aikenheads building as part of a new office building on the south block between Temperance Street and Adelaide Street West.

Upon approval of the Part II Plan and Zoning By-law amendment in 1988, the following components of the project were constructed:

- the historic Simpson's building was retained and restored;
- the Cloud Gardens public park between Richmond Street West and Temperance Street; and

- the façade of the historic Aikenheads building was incorporated into a new office building located on the south side of Temperance Street and is currently occupied by the Hong Kong Trade Development Council.

The concourse of the project was completed in shell form. In addition, three levels of below grade parking with approximately 1,000 spaces and a loading dock area were built to serve the now Hudson Bay department store and the new buildings anticipated on the Bay-Adelaide lands, before construction was suspended.

In 1999, a revised site plan for a 47-storey tower was approved and a variance to reduce the amount of common outdoor space was granted. This proposal did not proceed.

In 2005, the applicant submitted an application (05 175877 STE 28 OZ) to amend the Official Plan for the former City of Toronto and Zoning By-law to permit three new buildings: a 50-storey office tower (the “West Tower”, fronting on Bay Street); a 43-storey office/residential tower (the “East Tower”, fronting on Adelaide Street West); and a 49-storey hotel/residential tower (the “North Tower”, fronting on Temperance Street). The three proposed towers would contain a total aggregate density of 240,396 square metres (2,587,598 square feet). The existing Yonge/Temperance and Hong Kong Trade Development Council buildings and below grade retail space have an existing density of 9,830 square metres (105,812 square feet). This application included a new PATH connection between Scotia Plaza and the east tower between Adelaide Street West and Temperance Street.

In 2006 a new zoning by-law and Official Plan amendment were approved for the site which allowed for a 50 storey office building on Bay Street, a 43 storey office/residential building on Adelaide Street West and a hotel/residential building on Temperance Street with a height of 120 metres.

In January 2008 the Committee of Adjustment granted variances allowing an office tower to extend approximately 0.7 metre east of the easterly limit of Parcel C, as defined by By-law 460-2006 and included the lands located at 118 Yonge Street. The height for the east tower was increased to 192 metres (196 metres including the mechanical penthouse) and an aggregate gross floor area of 286,594 square metres was approved.

ISSUE BACKGROUND

Proposal

The proposal is to subdivide the land into three blocks. The areas of the blocks are as follows: Block 1 – 5,712 square metres, Block 2- 8,371 square metres and Block 3 -942 square metres. Block 1 is located on the north block between Richmond Street West and Temperance Street and Blocks 2 and 3 are located on the south block between Temperance Street and Adelaide Street West. The Cloud Gardens public park is included in Block 1; the City owns strata title to these lands. The Hong Kong Trade and Development Council Building is not included in the plan of subdivision. The applicant

has revised the proposal and is not pursuing the part lot control exemption at this time. Refer to Attachment No. 3 for project data.

Site and Surrounding Area

The subject site includes lands on two city blocks bounded by Adelaide Street West, Yonge Street, Bay Street and Richmond Street West. The west tower and publicly accessible plaza has recently been completed.

The surrounding uses are as follows:

- North of the subject lands is the historic Hudson Bay department store and office tower.
- South of the subject lands is the 68-storey Scotia Plaza building and the site of the Trump Tower which is currently under construction.
- Various commercial and retail uses are fronting onto the east side of Yonge Street and the Hong Kong Trade Development Council on Temperance Street; and
- West of the subject lands is Bay Street beyond which are commercial office buildings with grade-related retail uses fronting onto Bay Street.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Under the *Planning Act*, there are tools for land division: a plan of subdivision, part lot control, consent to sever and a plan of condominium. The principles of land division are set out in s. 51(24) of *Planning Act* and include the suitability of the lands for the purposes of which it is to be subdivided and the dimensions and shapes of the proposed lots.

Official Plan

The site is designated Mixed Use Areas and subject to Site Specific Policy 224 setting out transitions in height and design guidelines for the Bay-Adelaide lands. Mixed Use Areas allow for a mix of residential, office, retail, services and institutional uses.

Zoning

In 2006 a new site specific zoning by-law (460-2006) was approved for the site which allowed for a 50 storey office building on Bay Street, a 43 storey office/residential building on Adelaide Street West and a hotel/residential building on Temperance Street with a height of 120 metres. A 2008 Committee of Adjustment application permitted the height of the 43 storey office/residential tower to be increased to 192 metres.

The base zoning of CR T12.0 C8.0 R11.7 sets out the following requirements for the subject property:

- a. The total gross floor area for a mixed-use building does not exceed 12 times the area of the lot;
- b. The non-residential gross floor area does not exceed 8 times the area of the lot; and
- c. The non-residential gross floor area does not exceed 11.7 times the area of the lot.

Site Plan Control

The West Tower on Bay Street has site plan approval and the building has recently been opened. The Notice of Approval Conditions was issued for the East Tower but the applicant has not entered into a site plan agreement. No site plan application has been filed yet for the northern portion of the site on the north side of Temperance Street.

Reasons for Application

An underlying plan of subdivision is required in order to enact a part lot control exemption by-law. The applicant has also applied for part lot control exemption to facilitate the real estate transactions required as part of the development, financing and operation of the lands without the need for ongoing applications for consent to the Committee of Adjustment.

Community Consultation

The statutory public meeting for the plan of subdivision will be held at Toronto and East York Community Council meeting on October 13, 2009.

Agency Circulation

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

COMMENTS

The zoning for the Bay-Adelaide lands is not affected by the proposed land division as the by-law treats the lands as one lot regardless of any conveyances or easements.

The items needed to support the development have been secured in the Site Plan Agreement for the West Tower and the Section 37 Agreement and Heritage Easement Agreement that apply to the entire property with the exception of the recently acquired 118 Yonge Street. There are no new roads or parks to be secured.

As noted, the applicants had requested a by-law exempting the site from part lot control in order to facilitate certain future real estate transactions. As a first step they wished to have the lands divided by plan of subdivision as this is a prerequisite to the passage of a part lot control exemption by-law. However, two buildings remain to be built, the site plan approval for the East Tower has not been finalized and that there is no detailed concept for the North Tower. Therefore Planning and Legal staff require a more complete explanation from the applicant of the nature and timing of the proposed real estate transactions before recommending passage of a part lot control exemption by-law. The applicant has agreed to provide more information about the transactions to the City prior to proceeding with the part lot control exemption, but has asked staff to proceed with the subdivision approval in the interim.

Parks, Forestry and Recreation and Technical Services Division had no comments or conditions of approval, except for the Legal Division to ensure that the City's ownership and interests with respect to the Cloud Gardens Park remains secured.

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS. The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

The blocks proposed in the plan of subdivision generally match the blocks in the approved zoning by-law. However, the boundary between Blocks 2 and 3 on the draft plan has been adjusted to reflect the height envelope approved by the Committee of Adjustment.

The draft plan of subdivision will need to be revised to address technical issues prior to draft plan approval. These revisions include a description of existing and proposed uses for each block, showing the buildings constructed to date and identifying the most current easements on the site such as the heritage conservation easement and those for the PATH system, among other requirements as set out in Schedule 1 to subsection 51(17) of the *Planning Act*. Revisions may also be required to clearly illustrate strata ownership of the Cloud Gardens Park in Block 1. Additional issues may be identified from the ongoing review of the revised draft plan and as a result, additional conditions of draft plan approval may be required.

Proposed draft plan approval conditions are included in Attachment 2. The proposed draft plan of subdivision approval conditions address the standard conditions required by the City. Staff recommend that Council support the draft plan of subdivision and recommend to the Chief Planner that the draft plan of subdivision be approved.

CONTACT

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Draft Plan of Subdivision

Attachment 2: Proposed Conditions of Draft Plan of Subdivision Approval

Attachment 3: Application Data Sheet

Attachment 1: Draft Plan of Subdivision



Draft Plan of Subdivision
10 & 40 Adelaide Street West, 40 Temperance Street,
118 Yonge Street and 333 Bay Street

Draft Plan of Subdivision
Applicant's Submitted Drawing

Not to Scale
05/21/2009

File # 09_115489

Attachment 2
Proposed Conditions of Draft Plan of Subdivision Approval

THE FOLLOWING CONDITIONS MUST BE FULFILLED PRIOR TO THE REGISTRATION OF THE PLAN OF SUBDIVISION OR ANY PHASE THEREOF FOR REGISTRATION

SUBDIVISION AGREEMENT

1. If required, the owner shall enter into a standard Subdivision Agreement with the City of Toronto in a form and content to the satisfaction of the City Solicitor and shall provide such security for the obligations of the agreement as the City may reasonably require.

TAX PAYMENT

2. Prior to the registration of the plan of subdivision the Owner shall pay the City in full all taxes on lands included in the plan of subdivision for the current taxation year. The required taxes shall be estimated by the City if required, and where such taxes have been estimated, they shall be subject to adjustment upon final determination thereof.

PREPARATION OF THE FINAL PLAN OF SUBDIVISION

3. The Owner shall prepare the final plan of subdivision in metric units related to the Ontario Co-ordinate System and submit a digital copy of the plan to the Technical Services.

ZONING

4. Prior the registration of the plan of subdivision, the lands must be zoned in accordance with the uses proposed on the draft plan of subdivision.

GENERAL REQUIREMENTS

5. Draft approval of this subdivision is in effect for a period of 5 years from the date draft approval is issued. Without otherwise fettering its authority or jurisdiction, at its discretion, the City may after the 5 years have lapsed, elect to modify some or all of the conditions of draft approval or revoke the draft approval.

**Attachment 3
APPLICATION DATA SHEET**

Application Type: Subdivision Approval Application Number: 09 115489 STE 28 SB
 Details: Application Date: March 10, 2009
 Municipal Address: 10 and 40 Adelaide Street West, 40 Temperance Street, 118 Yonge Street
 Location Description: **GRID S2806
 Project Description: Draft plan of subdivision approval for lands municipally known as 40 Adelaide Street West, 40 Temperance Street, 335 & 347 Bay Street plan of subdivision. is described as Blocks 1-3 inclusive on plan dated Feb 26, 2008.

Applicant:	Agent:	Architect:	Owner:
Goodmans LLP 250 Yonge Street, Suite 2400 Toronto, ON			Exchange Tower Limited 181 Bay Street, Suite 330 Toronto, ON

PLANNING CONTROLS

Official Plan Designation:	Mixed Use	Site Specific Provision:	460-2006, 94-0605, 998-88, 332-02, 138-03, 74-93
Zoning:	CR T12.0 C8.0 R11.7, G	Historical Status:	Y
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	15,025 sq m	Height:	Storeys:	50
Frontage (m):	0		Metres:	218
Depth (m):	0			
Total Ground Floor Area (sq. m):	0			Total
Total Residential GFA (sq. m):	29,881		Parking Spaces:	1015
Total Non-Residential GFA (sq. m):	256,713		Loading Docks	20
Total GFA (sq. m):	286,594			
Lot Coverage Ratio (%):	0			
Floor Space Index:	0			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	33
1 Bedroom:	277
2 Bedroom:	43
3 + Bedroom:	0
Total Units:	353

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	20,174	60
Retail GFA (sq. m):	0	7,380
Office GFA (sq. m):	215,353	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	30,530	0

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