

621 King Street West - Zoning Amendment Application - Refusal Report

Date:	December 12, 2011
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	11 242716 STE 20 OZ

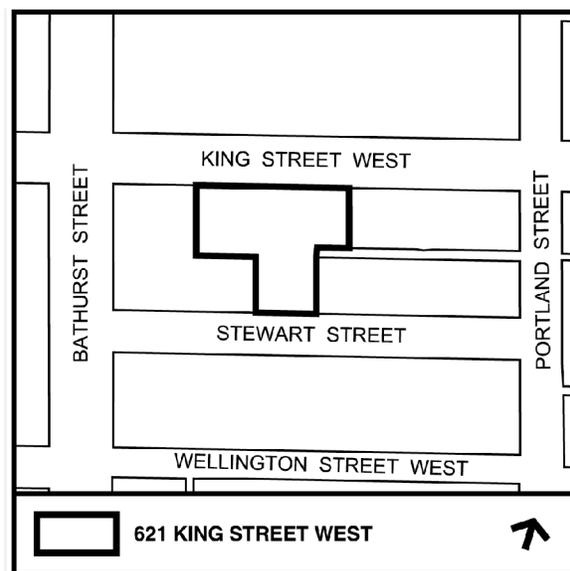
SUMMARY

The application proposes to amend the former City of Toronto Zoning By-law 438-86 to permit the construction of a mixed-use development on a through lot with frontages on both King Street West and Stewart Street. The development proposed comprises a 15-storey building (47.3 metres plus a 4.7 metre mechanical penthouse) fronting on King Street West with commercial uses on the ground floor and second floor. An 11-storey building (35.8 metre plus 5.2 metre mechanical penthouse) is proposed for the portion of the site fronting on Stewart Street. The development would include a total of 404 units.

The proposal includes 296 parking spaces on five levels of underground parking with 130 parking spaces for residents and 166 commercial (public) parking spaces. There is no visitor parking provided.

The proposed vehicular access is off King Street West. Service vehicles will access the site using a shared public laneway off Portland Street.

The proposal represents over-development of the property contrary to the planning framework for King-Spadina. The proposed development does not address the existing built form and context and no policies are in place to support a building which substantially differs



from both the existing built form and the requirements of the Zoning By-law. Its approval would set a negative precedent for future development that undermines the vision for this area of the City.

City Planning recommends that Council refuse the zoning by-law amendment application.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the Zoning By-law Amendment application for 621 King Street West for the reasons set out in the report dated December 12, 2011, from the Director, Community Planning, Toronto and East York District, including:
 - a. the proposal represents an over-development of the property;
 - b. the proposed height, massing and profile are inappropriate for the development of the lands and creates shadows on the north side of King Street West and exports negative impacts in terms of privacy and overlook on adjacent properties;
 - c. the proposal departs from Council's approved planning framework for the area;
 - d. the proposal is inconsistent with the King-Spadina Urban Design Guidelines; and
 - e. the height and massing of the proposal, if approved, has the potential to set a negative precedent for other applications within the West Precinct of the King-Spadina area. Such a precedent could undermine the goals of reinforcing the historic built form and preserving the mid-rise character within the West Precinct of the King-Spadina area.
2. City Council authorize the City Solicitor together with City Planning and other appropriate staff to appear before the Ontario Municipal Board in support of City Council's decision to refuse the application, in the event that the application is appealed to the Ontario Municipal Board.
3. City Council authorize City Planning in consultation with the Ward Councillor, to secure services, facilities or matters pursuant to Section 37 of the *Planning Act*, as may be required by the Chief Planner, should the proposal be approved in some form by the Ontario Municipal Board.

DECISION HISTORY

Previous Application on the Subject Site

On February 18, 2010 Mr. Adam Brown of Sherman Brown Dryer Karol met with City Planning staff regarding a proposed development on the former Travel Lodge site at 621 King Street West. The proposal presented to staff was for a 12-storey building fronting

on King Street West and an 11-storey building fronting on Stewart Street. Staff indicated at that meeting that they could not support the proposal as presented and responded in writing outlining staff concerns, including the proposed height and potential sun/shadow impacts.

On March 18, 2010, Armstrong Hunter Associates filed an application on behalf of 621 King Development Ltd. for Site Plan Control approval of a proposal to redevelop the former Travel Lodge site at 621 King Street West. The proposal was for a 12-storey building (39.5 metres plus a 4.7 metre mechanical penthouse) fronting on King Street West with commercial uses on the ground floor and second floor. An 11-storey (35.8 metre plus 5.2 metre mechanical penthouse) was proposed for the portion of the site fronting on Stewart Street. The development would include a total of 314 units and included 296 parking spaces on five levels of underground parking with 130 parking spaces for residents and 166 commercial (public) parking spaces. The proposal was almost identical to current zoning amendment application with the exception of the height of the proposed building fronting on King Street West, which has gone from 12-storeys and 39.5 storeys in the site plan application to 15-storeys and 47.3 metres in the current zoning amendment application. The number of proposed units had also increased from 314 units to 404 units.

Subsequent to the site plan control application being filed, the applicant met separately with both the local Councillor and residents and City staff to discuss the proposal. At both meetings the applicant heard concerns regarding the proposed height of the buildings and impacts on King Street West. On September 14, 2010, an application was filed on behalf of 621 King Development Ltd. for variances required to develop the site as proposed in the previously submitted Site Plan Control application. A City of Toronto Planning Staff Report recommending against approving the variances was filed with the Committee of Adjustment. The local Councillor and the Wellington Place Neighbourhood Association also wrote to the Committee of Adjustment citing concerns with regard to the height and massing of the proposal as well as the proposed rooftop patio. On October 6, 2010 the Committee of Adjustment refused the required variances.

On October 20, 2010 Sherman Brown Dryer Karol filed an appeal to the Ontario Municipal Board on behalf of 621 King Development Ltd. of both the refusal of the Committee of Adjustment to grant the required variances and of the City's failure to approve the Site Plan Control application. On January 18, 2010, Toronto and East York Community Council passed a motion directing the City solicitor and appropriate City staff to appear before the Board to defend the decision of the Committee of Adjustment.

The Ontario Municipal Board hearing was held on February 2nd and 3rd, 2011. On February 16, 2011 the OMB issued a written decision granting the applicants request to overturn the decision of the Committee of Adjustment to approve the variances and also to approve the Site Plan Control application. The Board order established a deadline by which the site plan conditions were to be finalized.

City Legal Services staff recommended that the City seek leave to appeal the decision of the Board based on their opinion that the Board decision contained errors in law and that these errors and the decision of the Board could have negative implications for future planning decisions in the King-Spadina Secondary Plan area, and on a City-wide basis. On March 9, 2011 Council authorized City legal staff to proceed with the request to seek leave to appeal. On April 12, 2011, City Legal staff argued before the OMB that the Board's February 16th decision should be stayed, pending the City's request for leave to Appeal to Divisional Court. In a decision issued on April 15, 2011, the City's request to the OMB to stay their decision was denied.

The City's request for leave to appeal the OMB decision was heard at Divisional Court on May 16, 2011. On June 1, 2011, the decision of Justice Wilson of Divisional Court was released. Justice Wilson agreed with the City that the decision of the OMB with regard to the approval of the required variances and the Site Plan control application raised several questions of law and that there was "...good reason to doubt" the correctness of the decision and that the issues raised by the decision were of "...sufficient general public importance and warrant the review of the Board decision by Divisional Court".

The City's appeal of the Board decision was heard at Divisional Court on October 27, 2011. On December 7, 2011 Divisional Court issued their decision which upheld the earlier decision of the Ontario Municipal Board, citing the test of "reasonableness" and the "deference" owed toward the decision of a specialized tribunal as reasons for their decision.

The applicant has sought and obtained approval for a permit for shoring and excavation on the site. Toronto Building staff issued a conditional permit on the basis that the foundation for the proposed project will be required whether the building is constructed as proposed in the application as approved by the OMB, or in the zoning amendment application which is the subject of this report.

An application has also been filed with the Alcohol and Gaming Commission (AGCO) for a liquor licence for the rooftop lounge and other locations within the proposed building. At the November 29, 2011 Council meeting, a motion was passed which directed City staff to oppose the issuance of the licence to the AGCO and to attend the Licence Appeal Tribunal to impose conditions on the issuance of any licence.

Planning History for King-Spadina

In 1996, Council of the former City of Toronto approved Part II Official Plan and Zoning By-law amendments for King-Spadina and King-Parliament (the Kings) that introduced a planning framework aimed at encouraging rejuvenation of these historic districts that were instrumental in shaping the City. The Part II Plan for King-Spadina was included as a Secondary Plan in the new City of Toronto Official Plan adopted by Council in 2002. Along with the objectives and policies of the Official Plan, the Secondary Plan seeks to encourage investment in King-Spadina for a broad range of uses in a manner that reinforces its historic built form, pattern of streets, lanes and parks. These objectives were implemented through the Reinvestment Area (RA) zoning, urban design guidelines and a community improvement plan.

There has been significant investment through new construction and conversions of existing buildings in King-Spadina since the approval of the planning framework in 1996. Along with this investment, a number of issues have arisen related to land use, community services and facilities, quality of life, built form and the public realm.

In 2006 Council enacted amendments to the King-Spadina Secondary Plan and the Zoning By-law and adopted new urban design guidelines for the area (Official Plan Amendment No. 2/By-law 921-2006 and Zoning By-law Amendment 922-2006).

The amendments are currently under appeal to the Ontario Municipal Board by some area owners and developers. A series of pre-hearing conferences have resulted in many appeals being withdrawn or settled. The pre-hearing has been deferred with the consent of all parties. As of the date of the writing of this report, this deferral remains unchanged.

Also in 2006, Council adopted design criteria for the review of tall building proposals that implement the built form policies of the Official Plan and these apply throughout the City including King-Spadina. A community improvement plan has also been approved for King-Spadina. In addition the Entertainment District Business Improvement Association's Master Plan, that includes portions of King-Spadina, provides the BIA's recommended directions for King-Spadina.

Together these initiatives provide a framework for development in King-Spadina. They encompass the vision for King-Spadina as an area where growth is encouraged, while ensuring that its place as an historic district, essential to the development of the City, is maintained and reflected in its buildings and along its streets well into the future.

Pre-Application Discussion

No pre-application discussions were requested by the applicant.

ISSUE BACKGROUND

Proposal

The applicant proposes the development of a 15-storey building (47.3 metres plus a 4.7 metre mechanical penthouse) fronting on King Street West with commercial uses on the ground floor and second floor. An 11-storey building (35.8 metres plus 5.2 metre mechanical penthouse) is proposed for the portion of the site fronting on Stewart Street.

An indoor lounge/amenity area and outdoor pool are proposed to be located on the rooftop of the 15-storey building at the western end of the building. The indoor lounge will add approximately 3.0 metres to the height of the building, so the King Street building is in fact a 16-storey building with a height of approximately 50.3 metres.

The proposed King Street West building is stepped back 1.2 metres from the property line above the 2nd floor. Above this level, the façade of the King Street building has what the applicant refers to as 'alternating' setbacks, as alternating units are stepped back from

the adjacent units between 1.7 metres and 2.7 metres. The resulting irregular façade with some units punched back from the main wall is a feature of the front and rear facades of both the proposed Stewart Street and King Street buildings.

The buildings are joined by a narrow corridor on the ground floor adjacent a proposed outdoor pedestrian connection which runs through the site from north to south. The loading area is located at-grade adjacent the rear lane which terminates at the eastern end of the site. The loading is proposed to be screened from above by a green roof.

The ground floor of the proposed King Street building would be built to the rear lot line adjacent the two-storey brick homes on the north side of Stewart Street. The building would step back from the rear lot line above this level, but terraces and balconies are proposed to be built within 4.5 metres of this lot line on the 2nd floor. For floors 3 to 12, the proposed King Street building would be set back approximately 9.2 metres from this lot line. The 14th and 15th floors cantilever over the rear yard and project a further 4.5 metres into the proposed yard setback.

The proposed King Street building would also back onto the existing 8-storey apartment building located to the east of the proposed 11-storey building on Stewart Street. The distance between the proposed King Street building and the existing residential buildings fronting on Stewart Street is approximately 12.5 metres. The 14th and 15th floors would project 3.0 metres into this yard setback.

The 15-16-storey and 11-storey buildings would be separated by approximately 13.0 to 14.0 metres in the interior portion of the site.

The proposed gross floor area of the development is 24,866.9 square metres. The proposed residential gross floor area is 22,427.9 square metres and the non-residential gfa is 2,439.0 square metres, resulting a floor space index of 7.95.

The proposed unit mix consists of 300 bachelor units, 90 one-bedroom units and 14 two-bedroom units for a total of 404 units. Three hundred and twenty-two suites would be located in the King Street building with 82 units located in the much smaller Stewart Street building. Amenity areas would be comprised of 805.0 square metres of indoor amenity area and 739.0 square metres of outdoor amenity area located on the roof of the proposed 15-storey building.

The proposal includes 296 parking spaces in five (5) levels of underground parking with 130 parking spaces for residents and 166 commercial (public) parking spaces. There is no visitor parking provided. The proposed vehicular access is off King Street West. Service vehicles will access the site using a shared public laneway off Portland Street. Two hundred and seventy eight (278) bicycle parking spaces are proposed.

Further details are provided in Attachment 3 - Site Plan, Attachments 4-7 - Elevations, and Attachment 11 - Application Data Sheet.

Site and Surrounding Area

The site is located on the south side of King Street West between Bathurst Street and Portland Street. The site is a T-shaped through lot approximately 3,128 sq. m in area with a larger frontage (approximately 73 metres) on King Street West and a smaller frontage (Approximately 28 metres) on Stewart Street. The property is being excavated to permit development on the site based upon a conditional shoring and excavation permit issued by Toronto Building.

The site is surrounded by the following uses:

North: On the north side of King Street West are two predominantly two to four-storey former industrial buildings, as well as the site of the recently approved development at 560 King Street West comprised of a 12-storey multiple use building with 334 units.

South: Stewart Street to the south is flanked by recently-constructed residential buildings predominantly 8 storeys tall with step-backs above the 6th floor. Immediately to the south of the western portion of the site on the north side of Stewart Street are three semi-detached two and a half storey Victorian homes.

East: To the east of the site are commercial buildings of one to three storeys in height fronting on King Street West and recently constructed residential buildings on the north side of Stewart Street.

West: To the immediate west of the King Street frontage of the site is a slender six-storey building beyond which is a four-storey former bank building at the corner of King Street West and Bathurst Street. This building is listed on the City's Inventory of Heritage Properties.

Planning Act, Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets forth matters of Provincial interest which municipal Councils shall have regard to in making decisions under the *Act*. These include 2(h) the orderly development of safe and healthy communities; 2(l) the protection of the financial and economic well-being of the Province and its municipalities; and 2(p) the appropriate location of growth and development.

The Provincial Policy Statement 2005 (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. Its objectives include: building strong communities; wise use and management of resources; and carefully managing land use to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns. Section 3(5) of the *Planning Act* requires City Council's planning decisions to be consistent with the PPS.

The *Planning Act*, PPS and the City's Official Plan are inter-connected. One of the stated purposes of the *Planning Act* in Section 1.1(f), is to recognize the decision-making authority of municipal councils in planning. Section 4.5 of the PPS provides that the official plan is the most important vehicle for implementation of the PPS. In addition, the PPS provides that comprehensive, integrated and long term planning is best achieved through municipal official plans, that official plans are to identify provincial interests and set out appropriate land use designations and policies, and that official plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

The City's Official Plan is up-to-date, having been approved at the OMB in 2006, and, along with guiding development in the City, it implements the PPS in order to protect Provincial interests. The King-Spadina Secondary Plan is one of 27 secondary plans to the Official Plan. Furthermore, the King-Spadina Secondary Plan area was reviewed in its entirety in 2006, with amendments (By-laws 921-2006 (OPA 2), and accompanying Zoning By-law amendment 922-2006) adopted by Council. The amendments reinforced and strengthened the in-force planning framework.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

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

Chapter Three – Building a Successful City identifies that most of the City's future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Section 3.1.2 Built Form provides policies that are aimed at ensuring that new development fits within and supports its surrounding context. Policies 3.1.2.1 to 3.1.2.4 seek to ensure that development is located, organized and massed to fit harmoniously with existing and/or planned context; frames and appropriately defines streets, parks and open spaces at good proportion; and limits impacts of servicing and vehicular access on the property and neighbouring properties. Meeting these objectives requires creating consistent setbacks from the street, massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and /or planned street proportion, creating appropriate transitions in scale to neighbouring existing and/or planned buildings, and limiting shadow impacts on streets, open spaces and parks.

Section 3.1.3 contains specific policies on tall buildings and built form principles to be applied to the location and design of tall buildings. The background text in Section 3.1.3, which provides context for the policies, is clear in stating that tall buildings do not belong everywhere. Tall buildings are generally limited to areas in which they are permitted by a Secondary Plan, an area specific policy, a comprehensive zoning by-law, or site specific zoning. Tall buildings will only be permitted in other areas on the basis of appropriate planning justification consistent with the policies of the Official Plan.

Policy 3.1.3.1 indicates that where a tall building is appropriate, it should have a base at an appropriate scale for the street and that integrates with adjacent buildings, a middle with a floor plate size and shape with appropriate dimensions for the site. Policy 3.1.3.2 requires new tall development to address key urban design considerations, including:

- meeting the built form principles of the Official Plan;
- demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
- demonstrating how the proposed building and site design relate to the existing and/or planned context;
- taking into account the relationship of the site to topography and other tall buildings;
- providing high quality, comfortable and usable publicly accessible open space areas; and
- meeting other objectives of the Official Plan.

Section 3.1.5 deals with the City's heritage resources. Policy 3.1.5.1 seeks to conserve significant heritage resources through listing or designating properties, and designating areas with a concentration of heritage resources as Heritage Conservation Districts and adopting conservation and design guidelines to maintain and improve their character. Policy 3.1.5.2 requires that development adjacent to listed or designated heritage buildings respect the scale, character and form of the heritage buildings and landscapes.

The site is designated as a *Regeneration Area*, the boundaries of which correspond with the boundaries of the King-Spadina Secondary Plan Area. The *Regeneration Area* designation permits a wide range of uses, including the proposed residential and commercial uses. Section 4.7.2 of the Official Plan provides development criteria in Regeneration Areas, which is to be guided by a Secondary Plan. The Secondary Plan will provide guidance through urban design guidelines related to each *Regeneration Area's* unique character, greening, community improvement and community services strategies, and a heritage strategy identifying important resources, conserving them and ensuring new buildings are compatible with adjacent heritage resources, and environmental and transportation strategies. See Attachment 9 - Official Plan Schedule.

King-Spadina Secondary Plan

The subject site is located within the King-Spadina Secondary Plan area. The King-Spadina Secondary Plan (Chapter 6.16 of the Official Plan) provides a framework for reinvestment and development, the fundamental intent of which is to encourage

reinvestment for a wide range of uses in the context of a consistent built form that relates to the historic building stock and the pattern of streets, lanes and parks.

In particular the policies of Section 3.6 – General Built Form Principles specify that:

- buildings are to be located along the front property line to define edges along streets; lower levels are to provide public uses accessed from the street;
- encourage servicing and parking to be accessed from lanes rather than streets and minimize pedestrian/vehicular conflicts;
- site new buildings for adequate light, view and privacy; compatibility with the built form context;
- new buildings achieve a compatible relationship with their built form context through consideration of such matters of building height, massing, scale, setbacks, stepbacks, roof line and profile and architectural character and expression;
- provide appropriate proportional relationships to streets and open spaces; and minimize wind and shadow impacts on streets and open spaces;
- provide coordinated streetscape and open space improvements; and
- provide high quality open spaces.

Heritage policies in Section 4 acknowledge that heritage buildings are essential elements of the physical character of King Spadina. Policy 4.3 requires that new buildings achieve a compatible relationship to the heritage buildings within their context through consideration of matters including height, massing, scale, setback, stepbacks, roof line and profile, and architectural character and expression.

The Urban Structure Plan identifies a number of “Significant Streets”. King Street West is identified as a Significant Street. Its quality and character is intended to be enhanced through zoning, design guidelines and streetscape improvement programs.

King-Spadina Secondary Plan Review

OPA No. 2 (By-law 921-2006), which is under appeal to the Ontario Municipal Board, proposed amendments to the King-Spadina Secondary Plan that are intended to further clarify and reinforce the fundamental intent of the Secondary Plan.

New Policy 2.2 notes that the scale and character of the historic buildings and pattern of the public realm will be protected and enhanced.

New Policy 3.2 (b)(iii) identifies King Street West as a special character street. It is an important main street with a vibrant commercial character and historic buildings of varying scale that should be reinforced.

New Policy 3.1 (Urban Structure and Built Form) states that the King-Spadina Area is comprised of the West Precinct, Spadina Avenue Corridor and the East Precinct (see

Attachment 1 – Urban Structures Plan). The policy states that development will complement and reinforce the distinctive qualities of these precincts and corridor.

Further, new Policy 3.2 (c) states that development throughout the King Spadina Area is to reinforce the historic built form context, and that Heritage Areas as identified in Map 16-2 of OPA 2 (see Attachment 2 - Areas of Importance) are to be considered for district designation under Part V of the *Ontario Heritage Act* (the subject site is within the King Street Heritage Area).

King-Spadina Urban Design Guidelines

The King-Spadina Urban Design Guidelines (2004) support the implementation of the King-Spadina Secondary Plan.

Section 2.5 contains the overall Guidelines. Heritage guidelines seek to ensure that new development is compatible with adjacent heritage buildings in terms of massing, height, setbacks, stepbacks and materials, and should relate to key elements such as cornices, rooflines, and setbacks from the property line. New development should reinforce the character and scale of the existing street wall, the base of the building should respond proportionally to the width of the street, and development should reinforce the existing streetscape and building rhythm at the street.

Tall buildings, where appropriate, must meet the policies of the Official Plan and Urban Design Guidelines, achieve adequate light, privacy and views, and maintain the potential for adjacent sites to develop in a similar manner. New development should reinforce a street wall height that reflects the character and scale of the area, particularly that of heritage buildings on the same block face.

Section 4.3.1 Heritage notes that the historic form of development on King Street between Bathurst Street and Brant Street is of buildings primarily low to mid-rise commercial and manufacturing buildings, of red brick and of between three and four storeys in height.

Section 4.3.3 Built Form states that the western part of King-Spadina is developing as a mid-rise neighbourhood, a distinguishing characteristic which differentiates this area from the Spadina and eastern portions of the Secondary Plan Area.

Section 5 contains built form guidelines that expand on Section 4.0. Section 5.4.1 recognizes that heights transition down to the west. It also notes that heights that are beyond the permitted zoning and are anomalous with the heritage fabric of the area should not be used as precedents for development. Section 5.4.3 deals with angular planes and stepbacks to minimize shadows and ensure adequate sunlight, and strengthen the existing streetwall scale to maintain a comfortable pedestrian experience. Section 5.4.4 addresses light, view and privacy requirements.

The Guidelines point out that accommodations in tall buildings tend to be small, so access to natural light and reasonable views will particularly important in improving the livability of these units. Protecting privacy is also important in a high density

neighbourhood. Light, view and privacy are described as "quality of life" issues, which must be evaluated based on the existing and potential development.

With regard to separation distances (facing distances) between towers, the Guidelines refer to the standard of 25 metres between towers or a distance of 12.5 metres between the tower and the property line, as called for in the City's Design Criteria for the Review of Tall Buildings Proposals.

Design Criteria for the Review of Tall Building Proposals

The City's 'Design Criteria for the Review of Tall Building Proposals' provide guidelines for the design and evaluation of tall buildings in the City. Intended to implement the built form policies of the City's Official Plan, they include measurable criteria and qualitative indicators to assist in the review of tall building proposals. Criteria and indicators are related to four main areas; site context, site organization, building massing and the pedestrian realm.

In considering site context, tall building proposals must address concerns related to transitions between taller buildings and lower scale features nearby. Measures such as height limits, setbacks, stepbacks and angular planes are used to achieve appropriate transitions in scale and the protection of sunlight and sky views.

Design criteria related to site organization address issues of building placement and orientation, location of building entrances, servicing and parking requirements, enhancement of adjacent streets and open spaces, and respect for heritage buildings.

New tall buildings are expected to enhance the public realm by providing active frontages, and high quality streetscape and landscape design elements. To reduce negative impacts of taller buildings elements, a minimum stepback of 5 metres for the tower from the street edge of the base building is required. Other considerations include weather protection, limiting shadowing impacts and uncomfortable wind condition on nearby streets, properties and open spaces.

Zoning

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended (see Attachment 8 - Zoning Map, By-law No. 438-86).

The provisions of the Reinvestment Area (RA) zoning which applies to the area reflect the purpose and intent of these policies through a number of performance standards, including:

- the maximum permitted building height at the street line in the RA zone is 20 metres;
- the Zoning By-law requires that for the King Street building, where building heights exceed 20 metres, the building shall be located within a 44 degree angular plane measures from 20 metres above the street line; and
- maximum permitted height is 23 metres.

The above noted Zoning By-law provisions are intended to create a building envelope which will allow for buildings which reinforce the historic built form and meet the objectives as outlined in the King-Spadina Secondary Plan. As part of efforts to address the policies in the King-Spadina Secondary Plan, City Planning staff have consistently worked to keep height limits in the King-Spadina Secondary Plan area west of Spadina Avenue in the 30-34 metre range. The exception is for properties with frontages on Bathurst Street or those developments which include the conservation, restoration and maintenance of one or more heritage buildings. In cases where additional height is supported, staff have recommended that it be stepped back from the street frontages.

By-law 922-2006, implementing the zoning by-law amendments arising from the 2006 King-Spadina Secondary Plan review, added provisions that included requirements for windows of dwelling units to maintain a minimum separation of 15 metres, and comply with the angular plane as per the previous zoning by-law. By-law 922-2006 is under appeal to the Ontario Municipal Board.

Site Plan Control

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

Reasons for Application

The Zoning amendment application proposes a building that exceeds the permitted maximum building height of 23 metres by 24.3 metres for the proposed King Street West building (or approximately 28 metres if the rooftop amenity area is included) and 11.7 metres for the proposed Stewart Street building. A number of other variances are required for the proposal, including the following identified by the Chief Building Official:

- failure to comply with the requirements for maximum building height at the street line of 20 metres;
- failure to comply with the angular plane requirements of the By-law (King Street building);
- deficiency in required indoor residential amenity space;
- outdoor amenity space to be provided on the roof top will not be for the exclusive use of the residents and may be defined as an 'entertainment facility', which is not a permitted use; and
- no dedicated visitor parking spaces.

Community Consultation

The community was canvassed through meetings held by the local Councillor when the previous site plan control and minor variance applications were being discussed prior to the applicants appeal to the OMB. Several local residents also made submissions opposing the previous proposal at the Ontario Municipal Board hearing in February of 2011. As the applicant's submitted proposal is taller than the previous proposal (15 storeys and 47.3 metres versus 12 storeys and 39.5 metres) it is reasonable to assume that residents concerns regarding the impact of the previous proposal both on adjacent properties and on the public realm have not been addressed by the revisions made to the

proposal. Issues raised at these meetings by members of the public include the following:

- the proposed building is too tall given its context;
- the proposed buildings will not allow sufficient sunlight on King Street West;
- separation distance between the proposed buildings is not sufficient;
- separation distances between the proposed King Street West tower and the existing residential buildings on Stewart Street is not sufficient;
- the use of the proposed rooftop amenity and pool as a facility for the use of residents and "guests" raises concerns about this being used as a public as opposed to a private entertainment facility; and
- the proposal for a development consisting almost exclusively of bachelor and 1-bedroom units will result in a development which will have trouble maintaining a stable condominium board due to an absence of long-term owners or tenants.

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

Land Use

The proposed mix of residential and commercial uses is consistent with the land use provisions of the Official Plan, Secondary Plan and Zoning By-law. There is some question as to the actual use of the residential units in this development and the relationship with the adjacent Thompson Hotel. The Planning and Urban Design

Rationale Report submitted by the applicant states that residents of the proposed development would be able to "...enjoy certain services and amenities in the adjacent Thompson Hotel". It isn't clear if guests at the Hotel would also be able to enjoy the amenities in the proposed development. The adequacy of the amenities proposed for the development (if they are to be shared with other users) and use of the rooftop amenity areas proposed as part of the King Street building are issues that may be impacted by the relationship between the proposed development and the Thompson Hotel.

Height and Massing

Height at the Street Line

The project as proposed would result in a building on King Street West with a height at the street line of 47.3 metres (notwithstanding a 1.5 metre stepback at the third floor) versus the 20 metres as required by the By-law. The 34.7 metre building proposed for the Stewart Street frontage (with no stepback) is subject to the same required stepback at the streetline. King Street West between Bathurst Street and Brant Street is characterised by buildings at 2 to 4 storeys in height. New developments which have been approved with overall heights in excess of 20 metres provide for significant stepbacks from the street for height beyond that permitted in the Zoning By-law in recognition of the prevailing historic built form. Most of these recent approvals have been granted permissions for height based on the depth of the lots (taller portions have been stepped back from King

Street West), because they have frontage on a wider street such as Bathurst Street, or because they have been granted a bonus for the preservation of heritage resources in accordance with the provisions of the King-Spadina Secondary Plan.

The subject site has approximately 73 metres (240 feet) of frontage on Stewart Street. The width of this portion of the site will result in a wide building which will exacerbate the height of the proposed streetwall. The resulting building would have a dramatic visual impact on the character of this portion of King Street West.

The proposed King Street building has a step back of 1.2 metres above the second storey. The façade of the building is described as having "a modular and rhythmic building face (streetwall) that articulates (popping in and out), vertically and horizontally, with alternating 1.2 and 2.7 metres setbacks above grade". This rhythm of alternately inset and protruding façade's for the 8th to 15th floors (floors 2 to 7 have a more modest 0.5 metre alternating setbacks) will not result in any reduction in the visible mass of the building, as it will not be apparent when looking at the building from the front, and when viewed from any angle, the more forward or protruding element will define the viewers perception of the building.

The proposed buildings should provide an appropriate setback at 20 metres to respect the historic built form in a manner similar to recently approved developments.

Overall Height

With regard to overall height, the proposed heights at approximately 51.0 metres and 34.7 metres do not address the existing built form context, be they the historic streetwall buildings on King Street West or the overall height of more recently approved buildings in the area. The proposed Stewart Street building is considerably taller than the 8-storey (26 metre) buildings adjacent and the existing house form buildings. Again, there is no locational attribute for this portion of the site which would justify a taller building. The proposed development should provide a transition in scale to the adjacent existing midrise buildings on this smaller local street. The heights for the south side of Stewart are 29 metres with smaller portions of the building at 35 metres granted as a result of additional density for heritage preservation as per the By-law.

Approving the proposed height and massing on this particular site would undermine the planning and policy framework that seeks to protect and reinforce the historic built form on King Street West and the more recently established built form charter on Stewart Street. The approval of the King Street West building is of particular concern as the approval of the development as proposed could set a precedent for similar streetwall heights and overall heights on King Street West. This would encourage the erosion of the historic built form of this portion of King Street West.

Tall Buildings Guidelines

The West Precinct of the King-Spadina Secondary Plan area is not a tall buildings neighbourhood. The proposed King Street West building, however, at 15 to 16 storeys, has a height and massing which have more in keeping with a tall building than a mid-rise building. Staff do not support a tall building in this location, but in response to the

application are providing an analysis to demonstrate that the proposed building does not address the City's guidelines for a mid-rise or a tall building.

The City's 'Design Criteria for the Review of Tall Building Proposals' describes tall buildings as buildings as '...a building whose height is greater than the width of the right-of-way of the principle street on which it is located...'. Based upon this definition, both the proposed King Street West building and the Stewart Street building are tall buildings. City Planning staff have a number of concerns with regard to the proposed development when reviewed on this basis.

As discussed above, the proposed buildings do not address the width of the adjacent streets. A 1:1 relationship with adjacent streets is typically what defines an appropriate height for a building (or a podium or base building where a tall building is appropriate). In the case of the proposed buildings, tall buildings are not appropriate (the West Precinct of King-Spadina is a mid-rise neighbourhood) and there is little attempt at a base building for the King Street building and no attempt to create a base for the Stewart Street building.

City Planning staff also have concerns regarding the separation distances between the proposed 15 to 16-storey and 11-storey portions of the buildings. The applicants proposal would result in a "facing distance" between the proposed buildings of between 13 and 14 metres (based upon the varied articulation in the building design which has units alternately setback or projecting). There are several consequences to constructing buildings too close together, including resulting wind conditions, sense of pedestrian scale, lack of access to sunlight, loss of privacy and blockage of sky views. A minimum 15 metre separation between the King Street and Stewart Street buildings is recommended.

The 'Design Criteria for the Review of Tall Building Proposals' calls for buildings to be set back 12.5 metres from adjacent properties to achieve a facing distance between tall buildings of 25 metres. These guidelines also call for tower floor plate sizes not to exceed 743 square metres. The proposed King Street building has no side yard setbacks and a tower floor plate which, at approximately 1,440 square metres, is twice the maximum. If the form of tall building proposed for King Street West were deemed to be acceptable on this site, there is the potential that the same type of development (a wide slab-like tower built to the property line with no regard for the existing built form) could be replicated along King Street West. The consequences of such a scenario would be significant, as there would be considerable loss of sunlight and sky views on King Street West, an inadequate separation between existing and future developments on the south side of King Street West between Bathurst Street and Portland Street and potentially the loss of any relationship to the existing historic built form along King Street West, which has been a defining elements in the policy and planning framework in the King-Spadina Secondary plan area. This approach has the potential to threaten the stability of areas whose built form attributes the planning policies seek to conserve and which has become the focus of significant reinvestment and growth.

Proximity to Adjacent Buildings

This same facing distance issue which exists between the buildings on the site is also present with regard to the relationships which would be created between the proposed buildings and the adjacent semi-detached units to the west of the proposed Stewart Street building and the 8-storey apartment building to the east. The proposed King Street West building would be located too close to these buildings with a resulting loss of access to sunlight, privacy and blockage of sky views. The approval of the development as proposed would create a precedent to replicate this pattern for any future development on the block, particularly as they impact existing Stewart Street buildings.

The King-Spadina Urban Design Guidelines contain provisions related to the importance of protecting privacy in a high density neighbourhood. Light, view and privacy are described as "quality of life" issues, which must be evaluated based on the existing and potential development.

Sun and Shadow

A 44 degree angular plane as required by the By-law at 20 metres in height measured at the street line would permit a building with height and massing which would allow for sunlight on the north sidewalk of King Street West at the critical lunch period and throughout the afternoon. The proposed building would not allow sunlight on the north sidewalk over the lunch period for much of the year.

Rooftop Amenity Space

The proposal includes rooftop amenity space which is comprised of an indoor and outdoor lounge/amenity area and a pool. It isn't clear from the applicant's submitted drawings whether the public will have access to the proposed rooftop amenity area. As a result of this uncertainty, the rooftop amenity area has been identified by Toronto Building staff as an 'entertainment facility', which is not a permitted use within the RA Zone. Any site specific zoning dealing with the use of the property should identify the function of the rooftop amenity area and the intended users of these facilities.

An application has been submitted to the Alcohol and Gaming Commission for the proposed premises at 621 King Street West. The licence includes permission to serve alcohol in the covered 16th floor amenity area. At the November 29, 2011 Council meeting, a motion was passed which directed City staff to oppose the issuance of the licence to the AGCO and to attend the Licence Appeal Tribunal to impose conditions on the issuance of any licence.

Traffic Impact, Access, Parking, Servicing

The proposal includes 296 parking spaces on five levels of underground parking with 130 parking spaces for residents and 166 commercial (public) parking spaces. There is no visitor parking provided. Vehicular access is proposed from King Street West at the eastern end of the site. Service vehicles will access the site using a shared public laneway off Portland Street.

The Traffic Impact Study provided with the submission concluded that the traffic associated with the development proposal could be accommodated by the area road

system. Transportation Services staff have indicated that additional information and analysis is required prior to accepting the traffic impacts of the proposal.

With regard to the proposal that vehicular access for the site be taken from King Street West, Transportation Services staff have commented that the proposal does not comply with the City's Access Management Guidelines. These Guidelines state that where a site is bounded by two or more roads, access should be taken from the lower order road, which would be Stewart Street in this instance.

Transportation Services staff have indicated that no acceptable documentation or evidence has been submitted to justify the proposed reduction in residential parking supply from 146 spaces to 130 spaces. Although the provision of commercial parking to satisfy the visitor parking requirement was deemed to be acceptable, Transportation Services staff requested that the proposed commercial parking garage rate structure should accommodate residential parking (ie. monthly permits) in the event that demand for parking increases in the future. This comment was made in response to the applicant's submitted Traffic Impact Study which depended on sales figures to justify a reduction in the resident parking requirements.

With regard to the public laneway, a 1.17 metre wide laneway widening is required. Transportation Services staff have noted that a strata conveyance to a minimum depth of 1.0 metre from the finished grade will be required, given the proposed encroachment of the below-grade parking garage.

Urban Forestry

Urban Forestry staff have indicated that a privately owned tree on an adjacent property will be impacted by the proposed development. The applicant must obtain written permission for the removal of this tree. Matters related to the Private Tree By-law must be addressed prior to the approval of the development.

There are seven City-owned trees adjacent to the property. One tree is proposed to be retained while the others are to be removed. Urban Forestry staff have requested that the species proposed for street trees are not acceptable and that the applicant provide a detailed landscape drawing and composite utility plan.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B/C of the Toronto Official Plan shows local parkland provisions across the City. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1020-2010.

The application proposes 404 residential units and 2,439 square metres of non-residential gfa on a total site area of 0.31 hectares. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication would have been 0.54 hectares or 191.4% of the site area. A cap of 10% is applied to the residential uses while the non-residential use is subject to a 2% parkland dedication. The non-residential component would generate a 0.03 hectares.

The applicant proposed to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement would not be of a useable size and the site would be encumbered with below grade parking. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit, should the development proceed in some form.

Toronto Green Standard

The application was submitted on July 21, 2011 and is subject to the new mandatory Green Development Standard. The applicant has indicated that the building would comply with the mandatory Green Standards. Environmental Planning staff, however, have noted that the proposal does not meet the Tier 1 (mandatory) requirements with regard to bicycle parking.

Should the zoning amendment application be approved, a site plan control application will be required prior to the development and would be reviewed for compliance with the Toronto Green Standards.

Section 37

Section 37 benefits were not discussed in the absence of an agreement on appropriate height and massing.

Development Charges

It is estimated that the development charges for this project would be approximately \$2,397,530. This is an estimate. The actual charge is typically assessed and collected upon issuance of a building permit.

CONCLUSION

The proposal represents an inappropriate development for reasons including:

- the proposed height, massing and profile is inappropriate for the development of the lands; it creates shadows on the north side of King Street West; and exports negative impacts in terms of privacy and overlook on adjacent properties;
- the proposal departs from Council's approved planning framework for the area, particularly with regard to built form, with respect to a compatible relationship with its context and negative effects on the public realm;
- the proposal is inconsistent with the King-Spadina Urban Design Guidelines; and
- The height and massing of the proposal, if approved, has the potential to set a negative precedent for other applications within the West Precinct of the King-Spadina area. Such a precedent could undermine the goals of preserving and reinforcing the historic built form and ensuring that new development is compatible in scale with heritage buildings.

There is no question that appropriate intensification and development are planning goals in King-Spadina. City Planning staff are prepared to consider development on the site but only in a manner that is respectful of the existing planning policy framework, including heritage context and scale. Sensitive infill, complementary to the heritage character and the existing scale of the heritage streetwall, is supported by the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines, and OPA 2. The proposed height and massing overwhelm the streetscape and are detrimental to the character of this portion of the King-Spadina area. The proposal is inappropriate and unsupportable and does not represent good planning.

CONTACT

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E-mail: dnichol2@toronto.ca

SIGNATURE

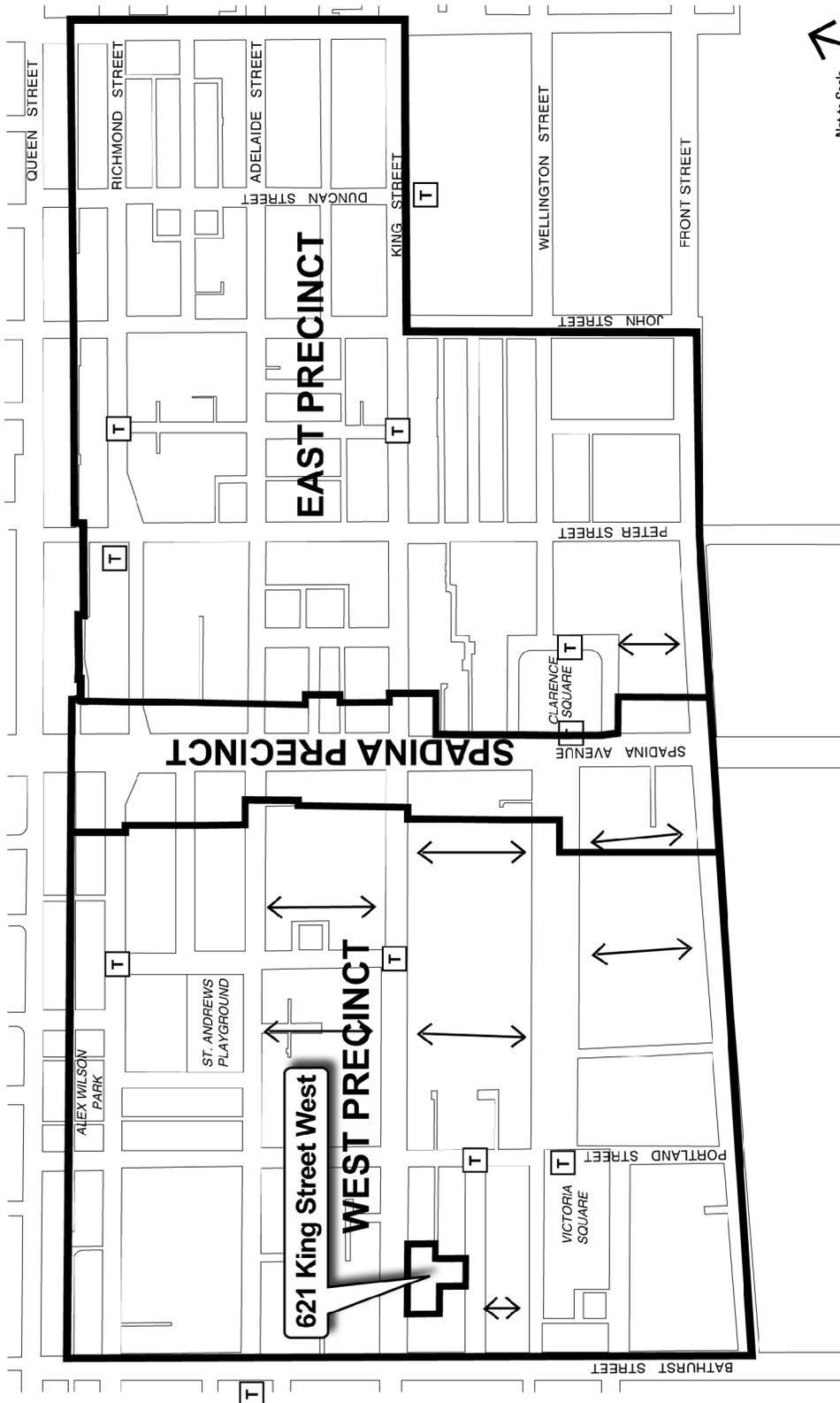
Gregg Lintern, Director, MCIP, RPP
Community Planning, Toronto and East York District

(p:\2011\Cluster B\pln\TEYCC\33315763034.doc) - at

ATTACHMENTS

- Attachment 1: King-Spadina Secondary Plan Review – Urban Structure Plan
- Attachment 2: King-Spadina Secondary Plan Review – Areas of Importance
- Attachment 3: Site Plan
- Attachment 4: North Elevation
- Attachment 5: South Elevation
- Attachment 6: West Elevation
- Attachment 7: East Elevation
- Attachment 8: Zoning
- Attachment 9: Official Plan
- Attachment 10: King-Spadina Secondary Plan
- Attachment 11: Application Data Sheet

Attachment 1: King-Spadina Secondary Plan Review – Urban Structure Plan



Official Plan Amendment No. 2 for King-Spadina Secondary Plan

MAP 16-1 Urban Structure Plan

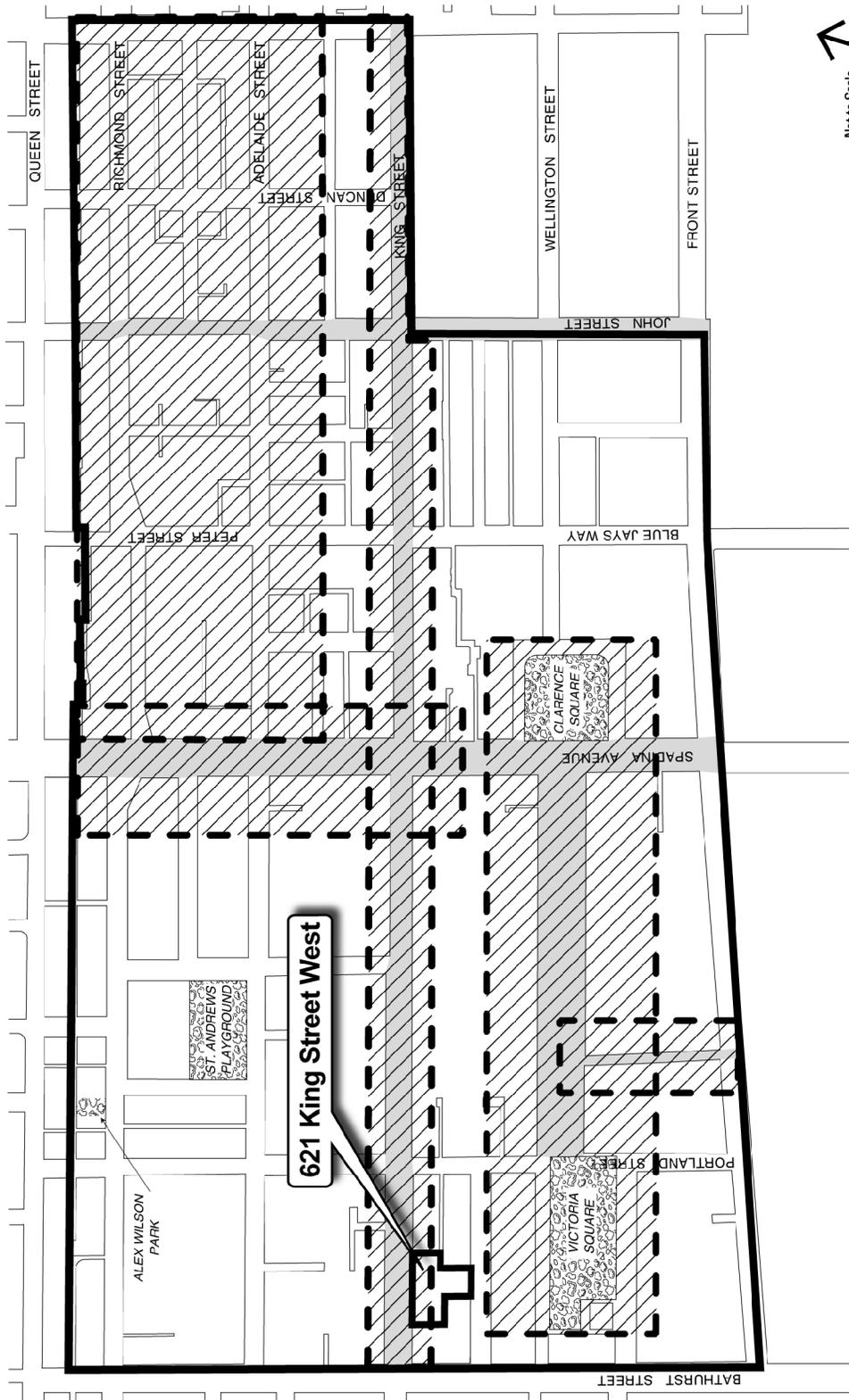


— Secondary Plan Boundary

T View/Terminus

↔ Potential Mid-block Connections

Attachment 2: King-Spadina Secondary Plan Review – Areas of Importance



Official Plan Amendment No. 2 for King-Spadina Secondary Plan
 MAP 16-2 Areas of Importance



- Secondary Plan Boundary
- Special Character Street
- Public Parks
- Heritage Areas

Not to Scale

July 2006

Attachment 3: Site Plan



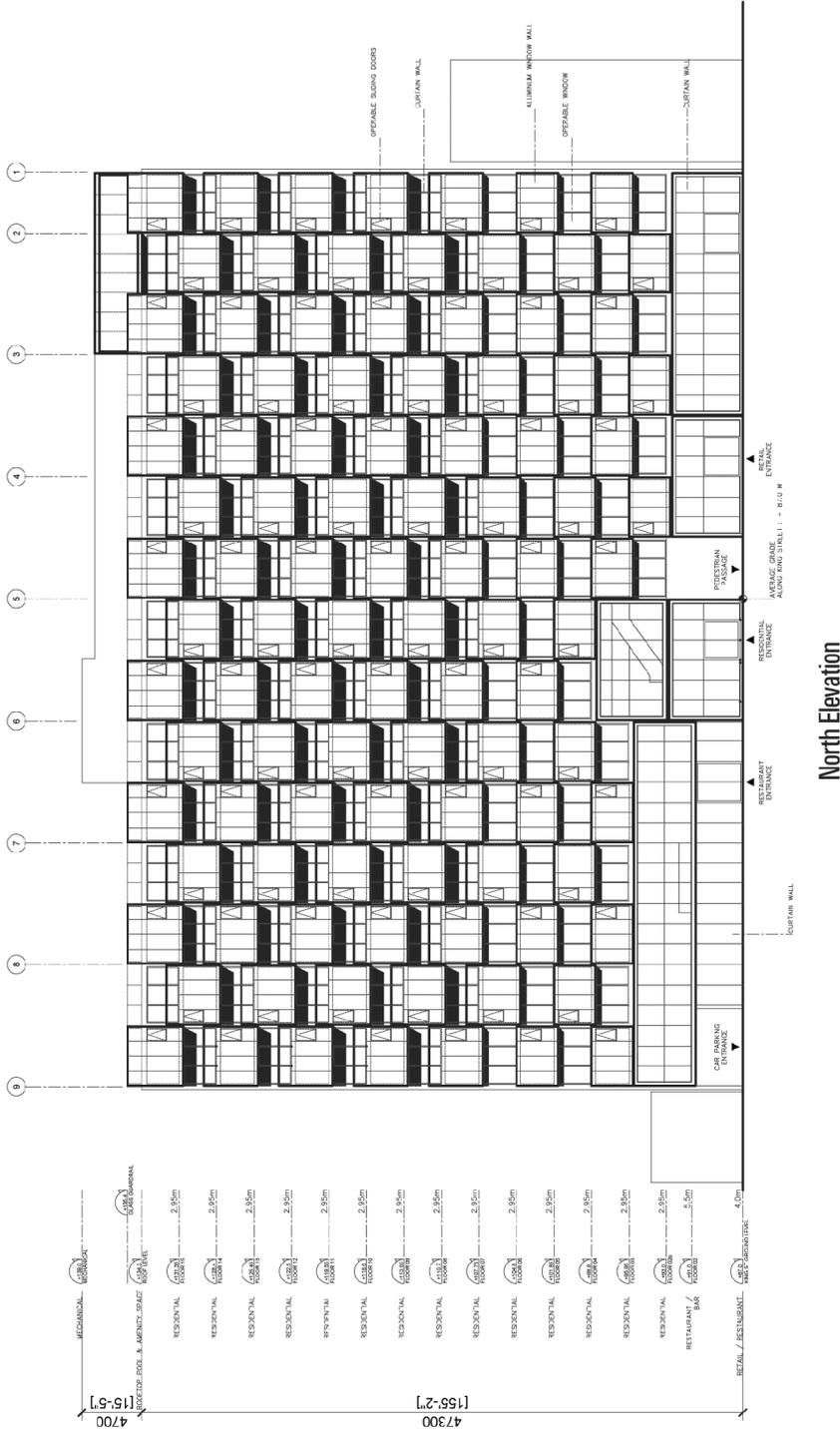
621 King Street West

Site Plan
 Applicant's Submitted Drawing

Not to Scale
 11/24/2011

File # 11 242716 0Z

Attachment 4: North Elevation



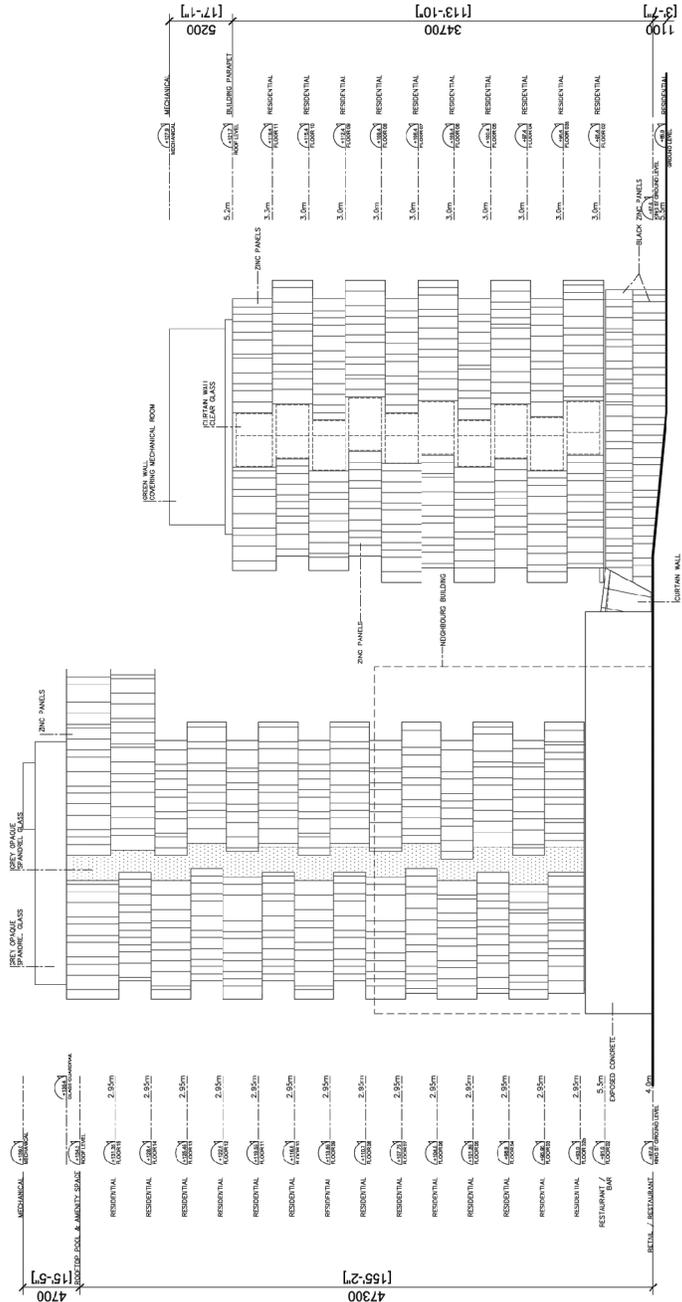
621 King Street West

Elevations
Applicant's Submitted Drawing

File # 11 242716 0Z

Not to Scale
11/24/2011

Attachment 6: West Elevation



West Elevation

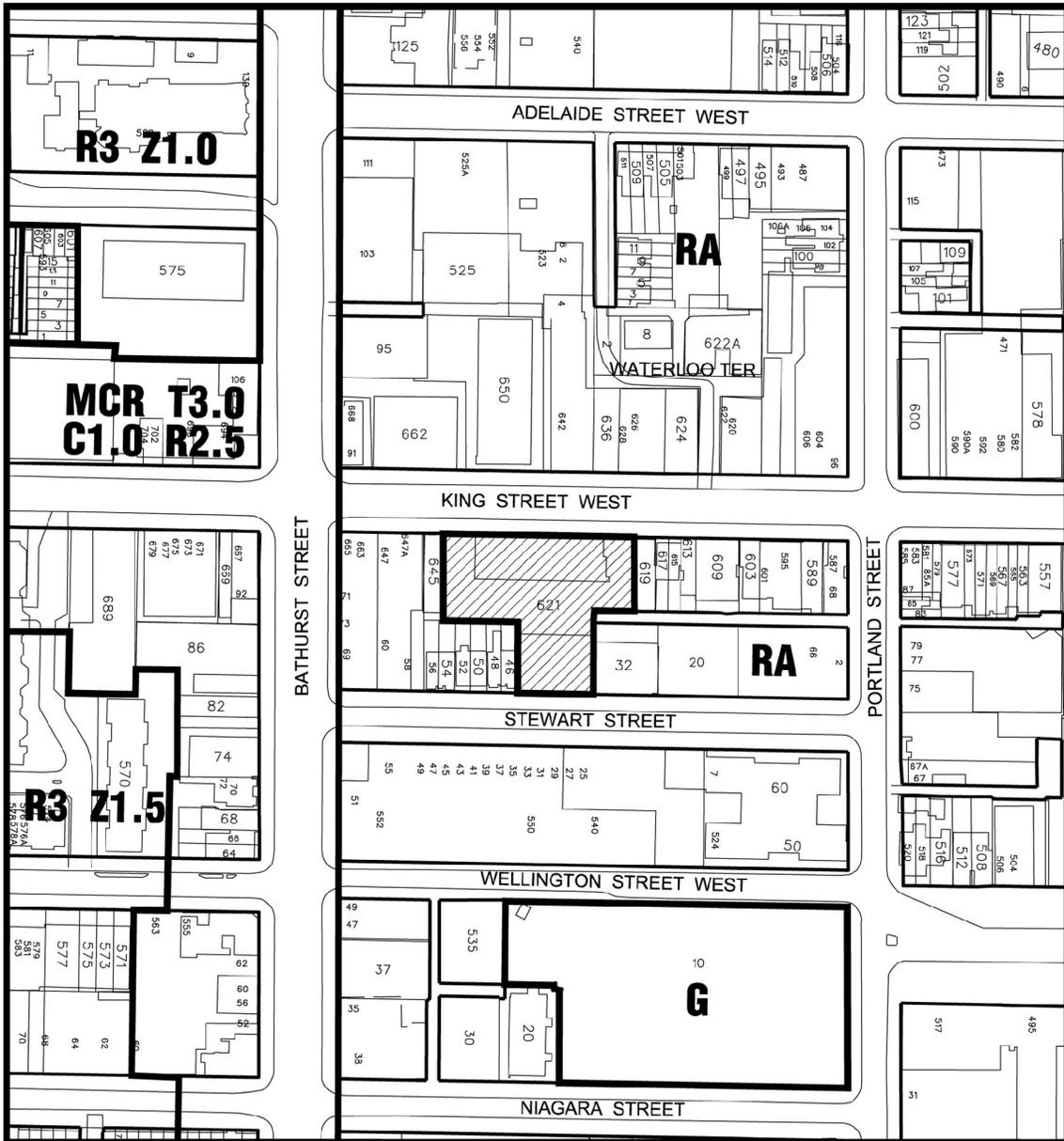
621 King Street West

Elevations
Applicant's Submitted Drawing

Not to Scale
11/24/2011

File # 11 242716 02

Attachment 8: Zoning



621 King Street West

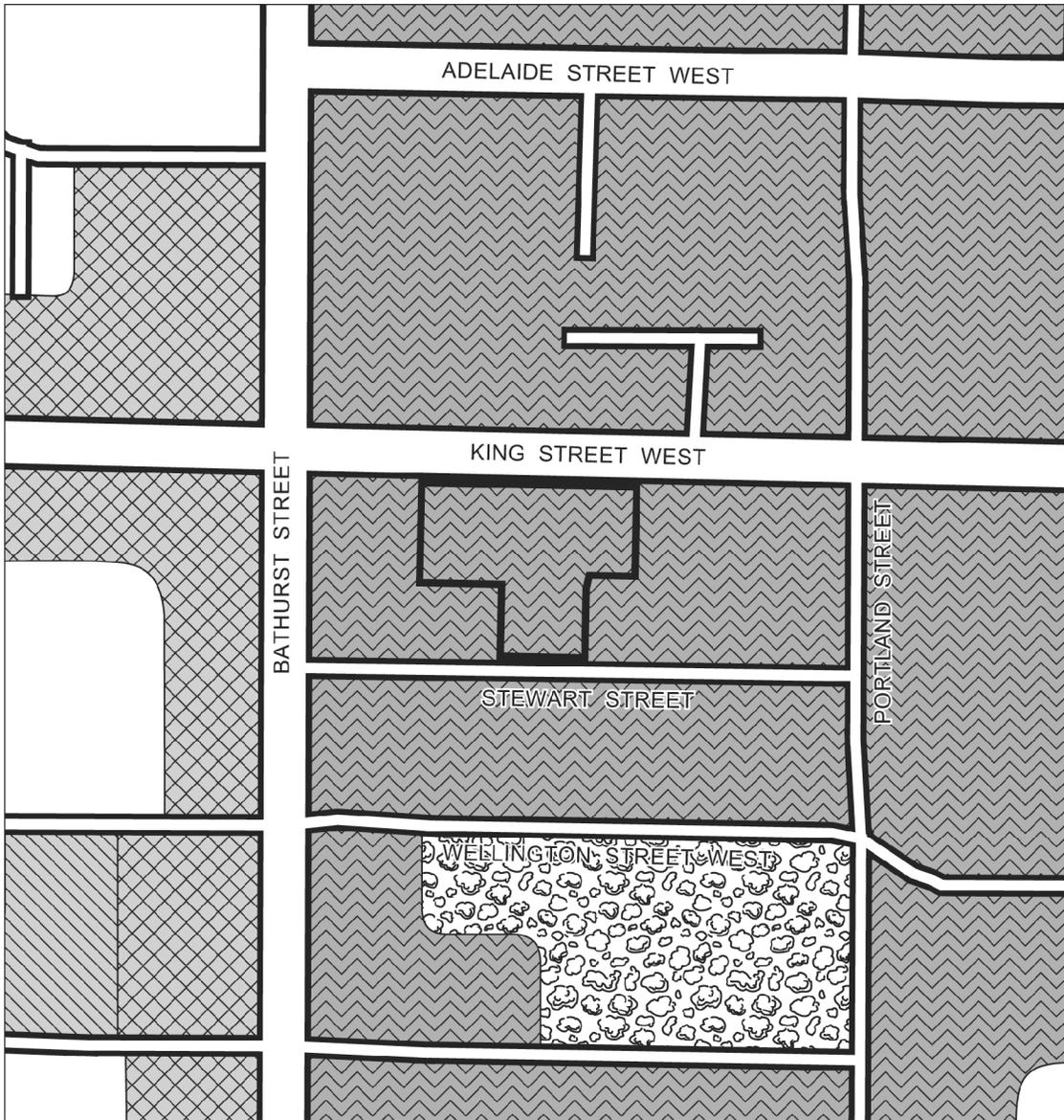
File # 11 242716 0Z

- G Parks District
- RA Mixed-Use District
- MCR Mixed-Use District
- R3 Residential District



Not to Scale
Zoning By-law 438-86 (as amended)
Extracted 11/24/2011

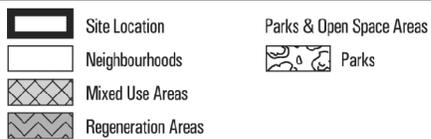
Attachment 9: Official Plan



TORONTO City Planning
Official Plan

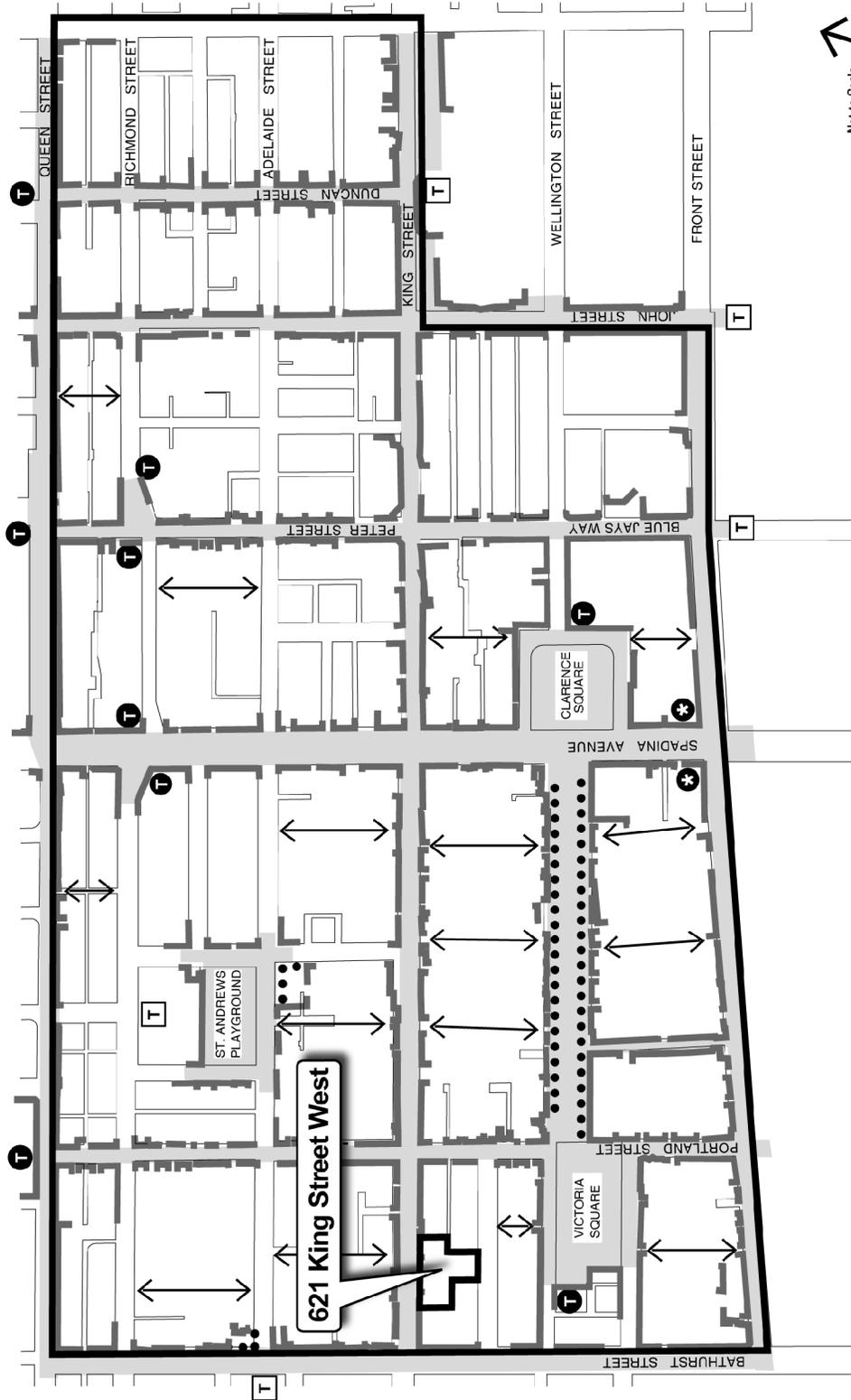
621 King Street West

File # 11 242716 0Z




 Not to Scale
 11/24/2011

Attachment 10: King-Spadina Secondary Plan



Not to Scale

King-Spadina Secondary Plan MAP 16-1 Urban Structure Plan



- Secondary Plan Boundary
- Potential Gateway
- Potential View Terminus
- Existing View Terminus
- Existing and Potential Building Edge
- Potential Mid-block Connections
- Significant Street & Open Space
- Landscape Edge

June 2006

Attachment 11: Application Data Sheet

Application Type	Rezoning	Application Number:	11 242716 STE 20 OZ
Details	Rezoning, Standard	Application Date:	July 21, 2011

Municipal Address: 621 KING ST W
 Location Description: PLAN D82 PT LOTS 11 AND 12 S KING ST PLAN MILITARY SECTION
 M PT LOTS 4 AND 5 **GRID S2014

Project Description: Rezoning application for new mixed use building containing retail on ground floor with residential above - 404 residential units - 296 parking spaces below grade - residential 130 - retail / visitor 166 - 2 loading spaces - 278 bicycle parking spaces. 5 levels below grade parking.

Applicant:	Agent:	Architect:	Owner:
Sherman Brown Dryer Karol		Saucier + Perrotte Architects	621 King Developments Ltd

PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:
Zoning:	RA	Historical Status:
Height Limit (m):	23	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	3128	Height:	Storeys:	15
Frontage (m):	73.096		Metres:	47.3
Depth (m):	60.665			
Total Ground Floor Area (sq. m):	1572			Total
Total Residential GFA (sq. m):	22427.9		Parking Spaces:	296
Total Non-Residential GFA (sq. m):	2439		Loading Docks	2
Total GFA (sq. m):	24866.9			
Lot Coverage Ratio (%):	50.3			
Floor Space Index:	7.95			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	22,427.9	0
Bachelor:	300	Retail GFA (sq. m):	2,439	0
1 Bedroom:	90	Office GFA (sq. m):	0	0
2 Bedroom:	14	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	404			

CONTACT: PLANNER NAME: Dan Nicholson, Planner
TELEPHONE: (416) 397-4077