

430 King St W –Official Plan Amendment – Final Report

Date:	May 24, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	12 141902 STE 20 OZ

SUMMARY

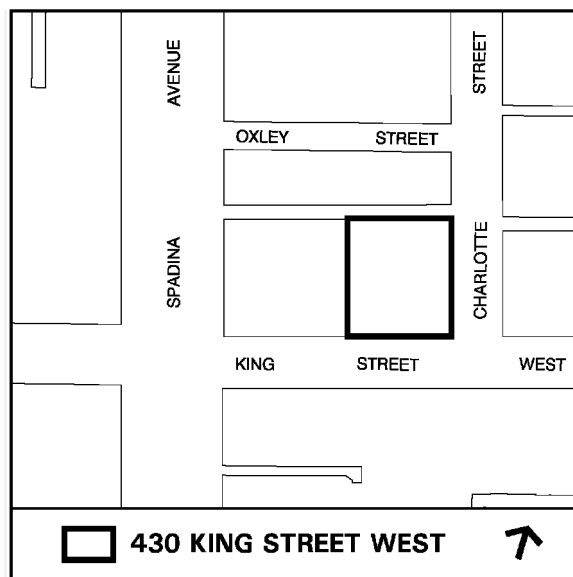
The proposed City-Initiated Official Plan Amendment (OPA) amends the definition of “rental housing” for the lands known as 430 King Street West in order for 4 condominium-registered units to be considered affordable rental housing and thus to be conveyed as a Section 45 benefit. The OPA would allow, by extension, a non-profit housing provider, which in this case is incorporated by the Kehilla Residential Housing Programme, to benefit from municipal assistance through property tax waivers for the provision of affordable rental housing.

This report recommends approval of the City Initiated OPA.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend the Official Plan, for the lands at 430 King Street West. substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 1 to the report dated May 23, 2012 from the Director, Community Planning, Toronto & East York District.



2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Ontario Municipal Board & Committee of Adjustment Decisions

The original rezoning application for a 32-storey building at 430 King Street West was approved through the Ontario Municipal Board. The order included a \$410,000 Section 37 contribution for public realm and parks improvements.

At its meeting of June 25, 2008, the Committee of Adjustment approved variances for 430 King Street West to add 4 storeys and increase the gross floor area. The variances were conditional on financial contributions pursuant to Section 37 being redirected towards the provision of affordable rental housing. The Committee decision also directed that 4 (four) condominium units be conveyed to a non-profit housing provider and be used as affordable housing and rented to tenants at *affordable rents* as defined in the City of Toronto Official Plan. The decision of Committee will not become final and binding until all conditions are fulfilled, in particular the conveyance of the four units to a non-profit housing provider.

ISSUE BACKGROUND

At its meeting of March 20, 2012, the Toronto and East York Community Council, adopted a motion from Councillor Adam Vaughan, requesting that the Chief Planner and Executive Director, City Planning Division, commence a City-Initiated amendment to the Toronto Official Plan to allow four affordable rental units at 430 King Street West to be condominium registered and owned by a non-profit housing provider incorporated by The Kehilla Residential Programme.

A preliminary report was considered by Toronto and East York Community Council on April 17, 2012 containing recommendations to hold a community consultation meeting to give notice to landowners and residents within 120 metres of the site for the meeting and to give notice of the public meeting to be held. The recommendations were adopted without amendment. The preliminary report can be accessed at:
<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-46272.pdf>

Community Consultation

A community consultation meeting was held on May 1st, 2012 at the CBC Broadcast Centre-250 Front Street West. Along with Planning staff, the Ward Councillor, a representative from Kehilla Residential Housing Programme and the owner were in attendance. There were 17 members of the public present. There were no issues raised in the meeting.

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

Section 3.1.2 of the Official Plan (OP), Housing, requires the provision of a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods.

Policy 3.2.1.4 outlines how the City can provide assistance in the production of affordable housing stating:

“Where appropriate, assistance will be provided to encourage the production of affordable housing either by the City itself or in combination with senior government programs and initiatives, or by senior governments alone. Municipal assistance may include:

- a. in the case of affordable rental housing and in order to achieve a range of affordability, measures such as: loans and grants, land at or below market rates, fees and property tax exemptions, rent supplement and other appropriate assistance; and
- b. in the case of affordable ownership housing provided on a long term basis by non-profit groups, especially affordable low rise family housing, measures such as: land at or below market rate, fees exemption and other appropriate forms of assistance; and
- c. with priority given to non-profit and non-profit co-operative housing providers.”

The Housing policies also include Housing Definitions, two of which are listed below:

“**Rental housing** is a building or related group of buildings containing one or more rented residential units, including vacant units that have been used for rented residential purposes, and units that are being or have last been used for rented residential purposes in equity co-operative or co-ownership housing, but does not include condominium-registered or life-lease units.”

“**Affordable rental housing and affordable rents** means housing where the total monthly shelter cost (gross monthly rent including utilities – heat hydro and hot water – but excluding parking and cable television charges) is at or below one times the average City of Toronto rent, by unit type (number of bedrooms), as reported annually by the Canada Mortgage and Housing Corporation.”

Section 5.1.1, Height and/or Density Incentives policies of the Official Plan, (Policy 6), specify that only "purpose built rental housing with mid-range or affordable rents" qualifies as an eligible Section 37 benefit, and by implication, Section 45 community benefit.

King Spadina Secondary Plan

The property is located within King Spadina Secondary Plan area. The Ontario Municipal Board indicated in their decision approving the development at 430 King Street West that the overall proposal is reflective of the policy framework and the planning instruments pertaining to the site, including the King Spadina Plan. The Secondary Plan can be accessed at this link:

http://www.toronto.ca/planning/official_plan/pdf_secondary/16_king_spadina_june2006.pdf

Zoning

The property is subject to the site specific Zoning By-law 1349-2007(OMB). The By-law can be accessed at this link:

<http://www.toronto.ca/legdocs/bylaws/2007/law1349.pdf>

The Committee of Adjustment 'Notice of Decision' which deals with the conditional approval of requested variances can be accessed at this link:

<http://www.toronto.ca/legdocs/mmis/2008/te/bgrd/backgroundfile-14596.pdf>

Agency Circulation

Planning staff have consulted all relevant Divisions in the preparation of the proposed OPA. Comments have been used to assist in refining the City-Initiated amendment to the Official Plan.

COMMENTS

Official Plan Amendment

The Official Plan definition of “rental housing” explicitly excludes condominium-registered units as a result of legal advice received during the formulation of the Plan. From a legal standpoint, a Section 37 or any other agreement which attempts to secure rental housing cannot over-ride the rights conferred by the Condominium Act, which means that despite the agreement provisions, individual condo-registered units could be sold and enforcing the agreement terms securing the units as rental units may be problematic for the municipality.

City Planning staff do recognize that the risk of condominium units secured as rental housing being individually sold would be lessened significantly if the condominium units were owned by a non-profit housing provider. Properties owned by non-profit housing providers have been sold in the past and likely will be in the future. There is little opportunity for government review of such sales if they occur after the expiry of housing subsidy agreements. The sales of these types of units result in the permanent loss of rental housing on any individual property and in the local community. Under Kehilla's

ownership, City staff's position is that the risk will be mitigated to what would be in an acceptable level, and thus, the site-specific amendment is recommended by City Planning.

In allowing condo-registered rental units, unlike purpose-built rental units, the City loses the ability to protect the affordable rental units once the affordable rental housing term expires (often 20 or 25 years). Staff is therefore recommending that the public interest be further protected in the site-specific Official Plan Amendment by adding a requirement that the rental tenure of the units be extended beyond the initial term so that the two terms combined would total 50 years, and be secured in one or more suitable agreements. Kehilla Residential Programme has agreed to this provision.

In the shorter term, the site-specific OPA could be seen as a precedent for developers and non-profit housing providers who see ownership of condominium units by non-profit organizations as a more convenient means of providing affordable rental housing than the conventional approach of requiring the units to be purpose-built (not condominium-registered) rental housing. Any future proposals to the City to allow condo-registered rental units, would need to be reviewed on a case-by-case basis.

The three conditions upon which staff would support the securing of condominium-registered units as rental units at 430 King Street are as follows:

- a. the units are secured in one or more agreements as affordable rental units for at least 25 years, in accordance with the Official Plan definitions (as amended to allow condo-registered units);
- b. the units are owned by a non-profit housing provider (Kehilla Residential Programme fulfills this condition); and
- c. the units are secured in one or more agreements as rental housing for an additional term beyond the initial affordable rental housing term, for a combined total term of at least 50 years.

These conditions are contained in the City Initiated site-specific OPA. The site-specific conditions recommended would not preclude consideration of other terms and conditions in a general Official Plan Amendment to allow condo-registered units owned by non-profit housing providers as rental housing units.

Official Plan Review

City Planning staff are reviewing the policy implications of changes to the Official Plan on a city-wide basis as part of the Official Plan Review with the purpose of determining an appropriate policy framework for similar future proposals.

Executive Committee (Affordable Housing Committee report)

The Municipal Housing Facility By-law, (By-law No. 282-2000), amendments proposed by the Affordable Housing Office through Executive Committee's report to the July 2012

Council agenda deals with the securing of appropriate terms and a related agreement intended to be implemented by the Affordable Housing Office for the affordable rental units on this site to ensure their long term protection as rental units.

Together with the proposed Official Plan Amendment, the proposed amendments to the Municipal Housing Facility By-law, will provide Kehilla Residential Housing Programme with the municipal assistance to provide affordable rental housing.

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Draft Official Plan Amendment

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Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~

Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To adopt an amendment to the Official Plan
for the City of Toronto
respecting the lands known municipally in the year 2011, as
430 King Street West**

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

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

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

1. The attached Amendment No. 182 to the Official Plan is hereby adopted pursuant to the *Planning Act*, as amended

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

AMENDMENT NO. 182 TO THE OFFICIAL PLAN
LANDS MUNICIPALLY KNOWN IN THE YEAR 2011 AS
430 KING STREET WEST

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 6, Section 16 (King-Spadina Secondary Plan) is amended by adding the following immediately after Sub-Section 12.1:

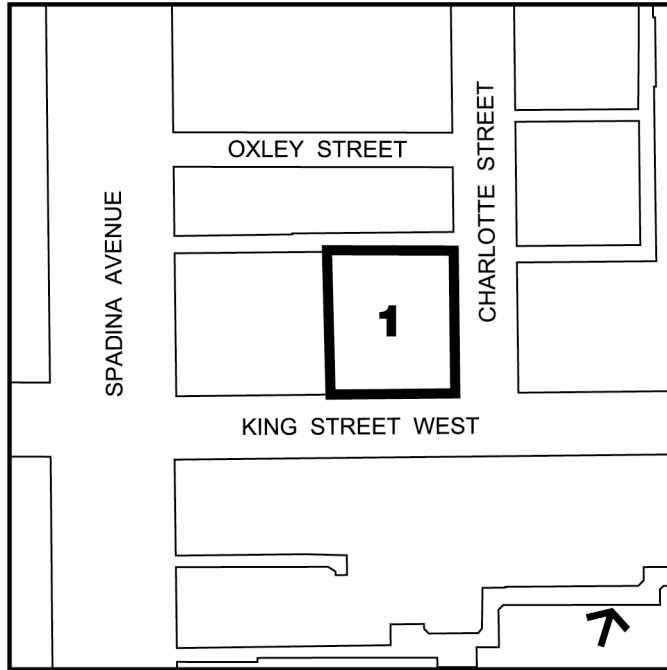
"13. SITE AND AREA SPECIFIC POLICIES"

13.1 430 King Street West

On the lands shown as 1 on Map 16-2:

- (a) Four (4) affordable units provided as affordable rental housing may be registered as condominium units, provided such units are:
 - (i) owned by a non-profit housing provider;
 - (ii) secured in one or more agreements with the non-profit housing provider as affordable rental housing for a term of at least 25 years; and
 - (iii) secured in one or more agreements with the non-profit housing provider as rental housing for an additional term beyond the initial term for which they are secured as affordable rental housing, for a combined total term of at least 50 years.
- (b) For the purposes of the Official Plan, the units described in (a) above are considered to be rental housing."

Schedule 1



- Map 16-2, Areas of Special Identity in the King-Spadina Secondary Plan is amended to show the lands known municipally in 2011 as 430 King Street West, as Site and Area Specific Policy Area Number 1, as shown on the below map.

