

**323-333 King Street West - Zoning Amendment  
Application – Revised Request for Direction Report**

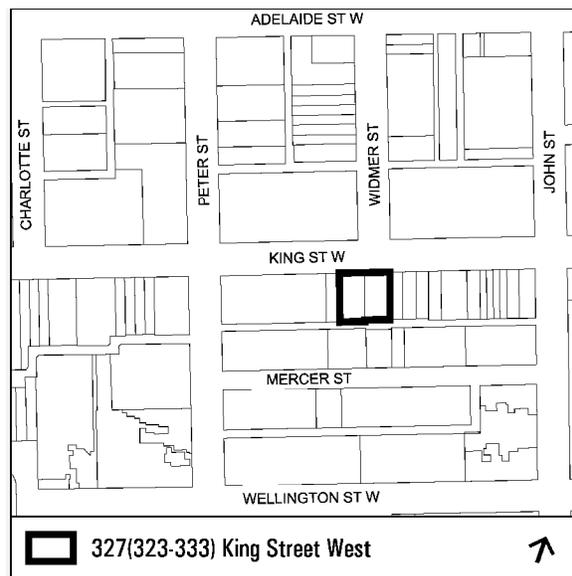
<b>Date:</b>	May 22, 2012
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	10 182677 STE 20 OZ

**SUMMARY**

The application proposes to amend the former City of Toronto Zoning By-law 438-86 to permit the development of a 47-storey (154.5 metre) mixed-use building at 321-333 King Street West. The proposed building would contain 304 residential units and retail uses on the ground and second floors. On-site parking is to be provided in a five (5) level underground parking garage. The applicant proposes to retain the façades of the listed heritage buildings which will be integrated into the 3-storey podium.

The proposed building site also includes the property at 321 King Street West, however, that property was not included in the original zoning amendment application and no zoning amendment application has been filed on that site. Staff recommend that the City agree to a settlement to be presented at the Ontario Municipal Board (OMB) on the revised proposal as described in this report (including the property at 321 King Street West). The terms of the settlement being recommended by staff and supported by the applicant are described in recommendations of this report.

The terms of the settlement will include the request that the Board withhold its order on the Zoning By-law amendment until a site plan application can be approved for the



entire development site. The applicant has agreed that a subsequent City-initiated zoning amendment application will be undertaken for the property at 321 King Street West, to consolidate the site within the site-specific zoning for the larger development site.

The purpose of this report is to seek City Council's direction for the City Solicitor, together with Planning and other appropriate City staff, to present a settlement on the approved form of the development and the conditions for the approval at the OMB.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to attend at the OMB in support of the revised proposal respecting the Zoning By-law Amendment application for 323-333 King Street West (File 10 182677 STE 20 OZ) as outlined in the report dated May 22, 2012, from the Director, Community Planning, Toronto and East York District.
2. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning Division to continue to work with the applicant on the final form of the By-law to be presented as part of the settlement at the OMB.
3. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to prepare and present minutes of settlement, to be presented to the OMB jointly with the applicant. These minutes of settlement will be based upon the following:
  - (a) The Parties agree to request the OMB to withhold its final order until the following events shall have occurred:
    - i) A site plan agreement is executed and registered on the title to 321-333 King Street West and a Statement of Approval is issued by the City.
    - ii) The Applicant agrees to provide the City with proof that a Limiting Distance Agreement, in a form satisfactory to the City, is executed by the owner of 321 King Street West and registered on title.
    - iii) The Applicant agrees to provide the City with proof that a Heritage Easement Agreement, as required for the relevant addresses within 321-333 King Street East identified by Heritage Preservation Services, in a form satisfactory to Heritage Preservation Services, is executed by the owner of 321-333 King Street West and registered on title.

- iv) The Parties agree to enter into a Section 37 Agreement with respect to 323-333 King Street East that provides for, *inter alia*: 10 units to be retained for a period of 20 years and to be rented at a rate consistent with the City's definition of affordable rental housing; and provision of the heritage preservation steps called for in the Heritage Conservation Plan, satisfactory to Heritage Preservation Services.
  - v) The Applicant agrees that the ownership of 321-333 King Street East be consolidated into a single ownership and proof be provided to the satisfaction of the City Solicitor.
  - iv) The Applicant agrees to provide to the City all necessary background material (Sketch Illustrating Lots 10 to 13 Inclusive Registered Plan 57 City of Toronto, Architectural Plans and Drawings, Landscape Plans, Arborist Report, Toronto Green Standards Checklist, Shadow Study, Heritage Impact Assessment, Addendum to Planning Assessment and Rationale Report, Revised Stormwater Management Report, Revised Preliminary Servicing Report and Updated Urban Transportation Considerations Report) for the purpose of the City commencing (at no cost to the Applicant) a municipally-initiated rezoning application to amend the by-law to be approved by the OMB regarding 323-333 King Street West to also include 321 King Street East. Such zoning by-law amendment is not to be commenced until the Board issues its final order regarding 323-333 King Street West.
4. As a condition of the settlement, the owner agrees to comply with the resident parking space requirements of Zoning By-law No. 438-86, or alternately, to provide documentation which supports a reduced parking supply as proposed in the submitted plans.
  5. City Council authorize the City Solicitor and the Chief Planner and Executive Director, 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, in consultation with the Ward Councillor.

Such benefits will include:

- a) An indexed cash contribution of \$600,000, \$400,000 which will be allocated to streetscape improvements to John Street and the remainder for the provision of one or more of the following: public housing in Ward 20; streetscape and public realm improvements in the vicinity of the site; and Heritage Conservation District studies in the King-Spadina Secondary Plan Area. The cash contribution is to be provided prior to the issuance of an above-grade building permit.

- b) The provision, as a Section 37 community benefit, of at least 10 affordable rental housing units encompassing an entire residential floor of the new development, with provisions that:
  - i) The rental housing units shall remain as rental housing for a period of at least 20 years, with no application for condominium registration or any conversion to non-rental housing purposes;
  - ii) The rents shall be affordable rents for a period of at least 20 years, with provisions for phase-out of the affordable rent restrictions to market rents thereafter; and
  - iii) The unit mix shall include at least 4 two-bedroom units and 2 three-bedroom units.

As a matter of legal convenience, the following will also be secured pursuant to Section 37 of the *Planning Act*;

- c) The owner shall provide a minimum of ten percent (10%) of the residential units in the building (including affordable rental units) having at least three bedrooms;
  - d) The implementation of any wind mitigation measures required by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval; and
  - e) Issues regarding the protection and preservation of heritage resources as outlined below.
6. As a condition of the settlement, the owner agree to submit, as soon as possible, an application under Municipal Code 667 for a Section 111 permit for the demolition of all the rental units in the affected properties from 321 to 333 King Street West, which provides for the replacement of the rental units and the provision of tenant relocation assistance.
  7. As a condition of settlement, the owner agrees to the necessary amendments to the zoning by-law that is before the OMB to incorporate the replacement of the rental housing units and the provision of tenant relocation assistance, and the securing of these provisions in the Section 37 Agreement.

8. As a condition of settlement, the City requires that a construction management agreement be negotiated between the owner and adjoining restaurant row businesses with attention paid to wind, noise, dust, street closures, parking and laneway uses and access. Such agreement to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor.
9. As a condition of settlement, laneway access by established uses be recognized and incorporated into condominium documents. Additionally, restaurant uses shall be recognized and acknowledged as an existing use, including but not limited to, restaurant storage in the alley and mechanical apparatus on the roof tops.
10. As a conditions of settlement, the owner agrees to the following conditions regarding the protection and preservation of heritage resources:
  - a) Prior to the zoning by-law coming into full force and effect, the owner shall:
    - i) Withdraw his appeal to the Conservation Review Board with respect to the City's Intention to Designate the properties at 321-325 King Street West and 333 (327) King Street West.
    - ii) Enter into a Heritage Easement Agreement with the City for the designated heritage properties at 321-325 King Street West and 333 (327) King Street West.
    - iii) Provide a Conservation Plan detailing all restoration, repair, dismantling, reconstruction, stabilization and new construction work associated with the project, to the satisfaction of the Manager, Heritage Preservation Services.
  - b) Prior to Site Plan Approval the applicant shall provide site plans and drawings in accordance with the approved Conservation Plan.
  - c) Prior to issuance of any heritage permit, including a permit for demolition, shoring or excavation, the applicant shall:
    - i) Provide a Letter of Credit to secure all conservation work set out in the Conservation Plan.
    - ii) Submit building permit drawings, including plans, elevations and details, to the satisfaction of the Manager of Heritage Preservation Services.

11. Prior to the release of the Letter of Credit, the applicant shall provide a certificate of project completion prepared by a qualified heritage consultant confirming that the conservation work has been completed in accordance with the approved Conservation Plan to the satisfaction of the Manager, Heritage Preservation Services.
12. City Council authorize the City Solicitor and other City staff to take any necessary steps to implement the foregoing.

## **DECISION HISTORY**

On May 26, 2010 the applicant filed a Zoning By-law amendment application for the property at 323-333 King Street West to allow for the construction of a 39-storey mixed use building (129.2 metres) and containing 201 residential units. The proposed building would be comprised of a 3-storey podium and a 36-storey tower. Retail uses were proposed at grade and on-site parking was to be provided in a six (6) level underground parking garage. The façades of the listed heritage buildings were proposed to be retained or reconstructed and integrated into the podium.

The tower was proposed to be stepped back 3 metres from the facades of the heritage buildings and 5.5 metres from the centre line of the laneway at the rear of the property. The tower was proposed to be set back 6.0 metres from the western property line and 5.0 metres from the eastern property line. Staff, in meetings with the applicant, stated that the proposed development was not supportable, principally because of the insufficient facing distances resulting from the proposed development and the impact of the development on the listed heritage buildings.

On June 2, 2011 the City Clerk's Office received notification that the applicant filed an appeal of the Zoning By-law Amendment application to the Ontario Municipal Board, citing Council's failure to make a decision on the application within the prescribed timelines of the *Planning Act*.

A Directions report presented at the September 12, 2011 meeting of Toronto and East York Community Council recommended that City Council authorize staff to oppose the applicant's appeal respecting the Zoning By-law Amendment application for 323-333 King Street West. The applicant had informed staff and the local Councillor that he was working on changes to the proposal to address staff concerns as outlined in meetings and in the staff report. On February 7, 2012, City Council adopted the recommendations of the staff report and directed staff to "...continue to work with the applicant on the basis of revised plans to be submitted, with the objective of reaching a settlement on an acceptable form of development...". Council also directed that specific requirements for a construction management agreement and provisions for condominium documents to recognize the laneway access and uses associated with existing restaurants on King Street West be included as part of any settlement.

On February 17, 2012, the applicant filed amended plans incorporating the adjacent property at 321 King Street West. The proposal was for a 45-storey tower (147.9 metres). A total of 304 units were proposed in the development. The revised application

continued to propose façade retention for the listed heritage buildings included in the original proposal (323-333 King Street West) and also included the retention of the façade of the listed heritage building at 321 King Street West. The building at 321 King Street West is a part of the original Hughes Terrace building, a portion of which is included on the property at 323-333 King Street West.

The most significant changes from the original submission were as follows:

- The proposal (but not the Zoning By-law amendment application) now includes the property at 321 King Street West. This property is occupied by a bay of Hughes Terrace (a listed heritage property proposed for designation).
- With the addition of the 7.85 metres wide property at 321 King Street West, the tower setbacks (which originally had been 5.0 metres to the lotline to the west and 6.0 metres to the lot line to the east) have increased to 10.0 metres to the west and 8.4 metres to the east. The tower has effectively shifted to the east on the larger site.
- A commitment was made to provide 12 affordable rental units.
- The original proposal had a tower at 39 storeys (129.2 metres, including mechanicals). The revised proposal includes a 45-storey tower at 147.9 metres.
- Vehicle parking has been reduced from a total of 114 parking spaces in a six (6) level underground parking garage with an additional 18 tandem parking spaces provided for the use of the family (three-bedroom) unit owners. The revised proposal included a total of 95 spaces on four underground levels.
- Access to the underground parking, which had been proposed to be accessed using two elevators is now accessed by a typical ramp. Parking and servicing is still proposed from the rear laneway.
- The unit count has been increased from 201 to 304.
- The gfa has increased from 18,597 square metres to 21,660 square metres

The covering letter submitted by the applicant and the addendum to the planning rationale report refer to the transfer of density from 321 King Street West as the rationale for the increase in density and height.

### **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. 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. 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 study of the built form in the East Precinct of King-Spadina, within which the subject site is situated, that addressed area specific issues related to height, massing and built form context was considered by Council in 2009. 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.

### **King Spadina Secondary Plan Review**

In 2005, a review of the King-Spadina Secondary Plan was initiated by Council to evaluate specific matters related to entertainment uses in the area, community infrastructure, built form policies and the policies related to the public realm. In September 2006, City Council enacted amendments to the King-Spadina Secondary Plan and RA zoning to update the planning framework for the Plan 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 had been deferred with the consent of all parties, until May 2010. As of the writing of this report, this deferral remains unchanged.

### **King Spadina East Precinct Built Form Study**

In April 2008, Council directed staff to undertake a study of the built form in the East Precinct of the King-Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the East Precinct area. This study recognizes areas within the East Precinct, identified as Second Tier height

areas, that can accommodate more height than currently permitted as-of-right. Achieving additional height is subject to meeting criteria for development as set out in the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City's Tall Building Guidelines, and subject to providing an appropriate contribution pursuant to Section 37 of the *Planning Act*. Any proposal seeking a Second Tier height beyond the current zoning permission of 30 metres plus 5 metres for a mechanical penthouse will be required to undergo a rezoning process. This framework was endorsed by City Council at its meeting of September 30, October 1, 2009.

The subject site is not within a Second Tier height area. It is in a portion of King Street West that has a uniquely intact heritage character and that is not considered appropriate for development beyond the as-of-right height of 30 m plus 5 m mechanical.

### **Pre-Application Discussion**

A pre-application meeting was held with the applicant in February of 2010. At the meeting, staff indicated that they had significant concerns with the height and built form proposed and that it was inappropriate for the site given its physical and planning policy context.

## **ISSUE BACKGROUND**

### **Discussions with the Applicant**

On May 2, 2012 staff met with the applicant to respond to the revised submission. Staff stated that they would not be able to support a development that did not provide a minimum separation distance between the proposed tower and the property line of 10 metres, to provide a tower separation distance of 20 metres. On May 10, 2012, City staff met with the applicant to discuss required changes to the proposed development and the process by which a settlement could be presented to the Board which would address the City's concern that the approval of the proposed development ultimately include a Zoning By-law amendment to incorporate 321 King Street West in the development. At that meeting, the applicant proposed to submit revised plans to provide the following:

- The required 10 metre tower setbacks will be provided on the site. This will require the tower floorplate to be reduced. The applicant has requested an additional 2-storeys in height for a tower of 47-storeys to maintain the proposed gross floor area.
- The number of rental units has been reduced from 12 to 10 units. Based upon a review of the plans provided at the meeting, staff concluded the size and layout of the 10 units was an improvement over the 12 units previously proposed. All affordable units are to be located on the third floor.

Staff and the applicant also discussed the requirement for a Section 111 permit under Chapter 667 of the Municipal Code for demolition of 6 rental units. This permit is a requirement before the owner may demolish the buildings. The requirement for a Section 111 permit is the result of the inclusion of two rental units in the property at 321 King

Street West. There are four rental units in the original development site at 323-333 King Street West, resulting in a total of six rental units. Six rental units is the threshold for requiring rental replacement.

## **Proposal**

The applicants revised proposal is for a 47-storey (154.5 metre) mixed use building at 321-333 King Street West. The proposed building would contain 304 residential units and retail uses, on the ground floor and second floors. On-site parking is to be provided in a five (5) level underground parking garage. The applicant proposes to retain the façades of the listed heritage buildings which will be integrated into the 3-storey podium.

The tower is proposed to be stepped back 3 metres from the facades of the heritage buildings. The proposed gross floor area of the development is 23,620 square metres. The proposed residential gross floor area is 21,751 square metres and the non-residential gfa is 1,254 square metres, resulting a floor space index of 18.4. The proposed tower has a typical floor plate of 478 square metres. The proposed unit mix consists of 170 one-bedroom units, 131 two-bedroom units, and 3 three-bedroom units for a total of 304 units. A total of 102 parking spaces are proposed in a four (4) level underground parking garage. Three hundred and thirty three (333) bicycle parking spaces are proposed. Vehicular access to parking and loading is proposed to the rear of the site from an existing public laneway off John Street.

Indoor and outdoor amenity areas total 615.3 square metres and 479.8 square metres respectively. The amenity space requirement as per the zoning By-law for both indoor and outdoor amenity space is two square metres per unit or 608 square metres based upon 304 units. The outdoor residential amenity space is below the By-law requirement, but is acceptable as the 4<sup>th</sup> floor rooftop area utilized for outdoor amenity area is the only suitable location for outdoor amenity space. The indoor amenity area is on the fourth and fifth floors. The four floor amenity area is adjacent the rooftop amenity area.

It is proposed that the façade of the western half of Hughes Terrace be disassembled during construction, the building demolished and the façade reconstructed to the current (original) design. The Gardiner Boyd Buildings would be demolished with the façade supported during construction and reincorporated into the new building.

Further details are provided in Attachment 6 - Site Plan, Attachment 7, 8 and 9 - Elevations, and Attachment 13 - Application Data Sheet.

## **Site and Surrounding Area**

The site is located on the south side of King Street West opposite the terminus of Widmer Street, approximately midway between John Street and Blue Jays Way. The site (including 321 King Street West) has a frontage of approximately 39.3 metres on King Street West, a depth of approximately 30.0 metres and has an overall site area of 1,183 square metres. There is a public lane which runs along the south edge of the site that will be used for servicing.

The site is currently occupied by commercial buildings of one to three storeys in height. All of the buildings on the site, with the exception of a one-storey building which is contemporary in appearance, are listed in the City's Inventory of Heritage Properties. This contemporary building is located at 327 King Street West between the two listed heritage buildings on the site.

The building which occupies the eastern portion of the property at 323-321 King Street West forms the western half of the building known as Hughes Terrace. This residential building was designed by architect John Tully and constructed c. 1856 as a four-unit terrace block. The two western bays (323-325) were demolished and reconstructed in 1985, reproducing the original and reusing some original materials. Hughes Terrace is one of the earliest residential buildings remaining on King Street West in the King-Spadina Neighbourhood.

The building which sits on the western portion of the property at 333 King Street West is known as the Gardner Boyd Buildings. The Gardiner Boyd Buildings, were constructed in 1886 as a pair of three-storey buildings, but were reduced to two stories following a mid-century fire.

The property at 321 King Street West, which as described in this report is part of the development proposal but is not part of this zoning amendment application, includes one bay of Hughes Terrace. This property, like the other listed properties on the site, is listed on the City's Inventory of Heritage Properties. The City is currently in the process of designating the listed properties on the site.

This block along King Street West remains largely historically intact with the majority of buildings being listed and designated. Adjacent to the proposal site and contiguous with the side lot line of the project is 319 King Street West (the easternmost bay of Hughes Terrace), which is listed on the City's Inventory of Heritage Properties. The remainder of the block consists of listed properties at 315, 301-303, 299, 297, 293, 291 King Street West and a designated property at 287-289 King Street West.

The site is surrounded by the following uses:

North: The northern edge of the site is defined by King Street West. On the north side of King Street West between Peter Street and Widmer Street is the 20-storey Hyatt Regency Hotel and Offices. The 42-storey Festival Tower with the Bell Lightbox (TIFF) is located east of the project between Widmer Street and John Street.

South: To the south of the subject site is a public laneway, opposite which is the Hotel Le Germain, a ten-storey contemporary building fronting on Mercer Street.

West: To the west of the Hotel Le Germain and the subject site are commercial parking lots and the six-storey Westinghouse Building. These properties are the location

of the recently approved development at 355 King Street and 119 Blue Jays Way, which features two towers at 42 and 47 storeys.

East: To the east of the Hotel Le Germain and the subject site and south west of the subject site is the recently approved residential development at 60 John Street which consists of a 33-storey mixed-use building with a five-storey podium fronting on Mercer Street.

## **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(d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest; 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, including cultural heritage resources, over the long term; 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 PPS provides minimum standards and states that it does not prevent planning authorities and decision makers from going beyond the minimum standards established in specific policies, unless doing so would conflict with any policy in the PPS. Planning authorities are to keep their Official Plans up to date with the PPS in order to protect Provincial interests.

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. As described earlier in this report, 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 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 and wind 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, and a top that contributes to the skyline character. 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 Official Plan provides for a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods. Specifically, applicants proposing to demolish six or more residential rental dwelling units, except where all rents are above mid-range, are required to replace the rental units and to provide tenant relocation assistance to affected tenants.

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 11 - 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.

Specifically, 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. 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). New Policy 3.7 notes that additional height significantly in excess of existing zoning regulations may be considered for the north side of King Street between Spadina and John Streets. This does not include the stretch of King Street that contains the subject site. Where tall buildings are contemplated by this

policy, proposals must demonstrate that they do not export facing distance constraints onto adjacent sites and that they do not preclude other appropriate tall buildings in the 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 4.1.1 Heritage notes that the historic form of development on King Street between Spadina Ave. and Peter Street comprising former residential buildings which support ground-floor restaurant uses, creates an ambiance which contributes to the current character of the area.

Section 4.1.2 Public Realm states that with regard to King Street West, development should protect for sunlight and sky views on the public realm.

Section 4.1.3 Built Form states that the eastern part of King-Spadina is adjacent to the downtown core and financial district where there are permissions for significantly greater height. It goes on to note that the vision for, and character of, King-Spadina is distinct from the adjacent financial district and downtown core. This distinction is primarily based on the lower scale of the historic buildings. This distinction should be preserved and enhanced through new development.

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

liveability 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. Aimed 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, in addition to requirements for master plans on larger sites, 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, as well as minimizing additional shadowing on neighbouring parks to preserve their utility.

### **King-Spadina East Precinct Built Form Study**

In April 2008, Council directed staff to undertake a study of the built form in the East Precinct of the King-Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the East Precinct area.

The findings of the King-Spadina East Precinct Built Form Study include the principle that heights decrease generally from east to west (University Avenue to Spadina Avenue), and from south to north (Front Street to Queen Street). Within this general height trend are areas of localized conditions.

The subject site is not located within an area where buildings with additional height beyond the “First Tier” or as-of-right heights as provided in By-law 483-86 are to be considered. Applications for buildings with “Second Tier” height permissions are to be considered in light of the policy objectives in the King-Spadina planning framework as well as the built form standards that apply to any tall building development in the City.

Achieving additional height is subject to meeting criteria for development as set out in the King-Spadina Secondary Plan, the 2006 King-Spadina Urban Design Guidelines and the City’s Design Criteria for the Review of Tall Buildings Proposals, and subject to providing an appropriate contribution pursuant to Section 37 of the *Planning Act*. The criteria include but are not limited to respect for heritage in the immediate context; preservation of sunlight on important pedestrian streets (including King Street West); conformity with the King-Spadina Built Form Guidelines; and achieving a 25 metre tower separation and a maximum 750 square metre floor plate to address light, view and privacy. This framework was considered by City Council at its meeting of September 30, October 1, 2009.

The subject site is within the King Street Corridor identified by the Built Form Study and falls within the “Restaurant Row” sub-area. “Restaurant Row” describes a row of substantially intact heritage and pedestrian level streetscapes. The study states that “Restaurant Row” is not considered to be an appropriate location for tall buildings.

### **Tall Buildings Downtown Study**

In October of 2010 the City released the finding of the Tall Building Downtown Study. The consultant’s report, entitled “Tall Buildings, Inviting Change in Downtown Toronto”. In recommending a set of customized performance standards for tall buildings downtown, the report draws upon pre-existing Toronto-wide design guidelines known as the Design Criteria for Review of Tall Buildings Proposals as well as an on-the-ground assessment of local conditions and the results of selective testing of chosen sites in Downtown Toronto. An assessment of experiences of comparable cities from around North America was also part of the study.

Notwithstanding that the King-Spadina area was excluded, the recommendations which come out of the consultant's Study represent a useful tool in evaluating tall buildings proposals. Public consultation on the study was undertaken in the Spring of 2011 and staff presented a report on the study to the Toronto and East York Community Council in February of this year. A supplementary report addressing questions raised by Community Council is scheduled to be presented at the June 13, 2012 Toronto and East York Community Council meeting. The report has not yet been presented to Council.

The report concludes that assuming a minimum tower dimension of 20 metres by 30 metres, the minimum size for a mid-block site to accommodate a tower is approximately 33 metres depth by 50 metres width or 43 metres depth by 40 metres width.

## **Toronto Entertainment District Master Plan**

In 2008 the Entertainment District Business Improvement Association (BIA) initiated a Master Plan Study of the BIA that was completed in May 2009 intended to articulate the long-term vision for the BIA and provide guidance for change. Although the boundaries of the BIA are different than those of King-Spadina it does encompass the East Precinct and a portion of the Spadina Avenue Corridor and the Master Plan complements the planning framework for King-Spadina.

Similar to the Built Form Study, the Master Plan identifies areas of distinct character within the BIA, and three are within the East Precinct of King-Spadina. These include the 'Warehouse Precinct', the 'King Street Precinct' and the 'Front Street Precinct' and they are closely related to the character areas identified in the Built Form Study.

The subject site is in the 'King Street Precinct' which is described as, "Defined by the animated and active King Street West corridor comprised of contemporary and pockets of historically significant buildings". Among the objectives of the Plan with regard to the 'King Street Precinct' is to protect and enhance remaining heritage resources that lend to King Street's distinction and charm". Section 4.3 of the BIA Master Plan identified the section of King Street West between Blue Jays Way and John Street as a "Heritage Character Streetscape".

## **Zoning**

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended (see Attachment 10 - Zoning Map, By-law No. 438-86). As part of the RA zoning controls, density standards were replaced by built form objectives expressed through height limits and setbacks.

The Zoning By-law permits a maximum building height of 30 metres for this site. An additional 5 metres is permitted for rooftop mechanical elements. A 3-metre stepback above 20 metres on all street frontages is also required.

## **Site Plan Control**

The proposed development would be subject to site plan approval. An application for site plan approval was not submitted. As part of the settlement the OMB will be asked jointly by the applicant and the City to withhold the order to approve the zoning for 323-333 King Street West until a site plan agreement has been executed and registered on title and final site plan approval has been issued.

## **Reasons for Application**

The Zoning By-law Amendment application proposes a building that exceeds the permitted maximum building height of 30 metres (plus 5 metres for mechanical elements) by approximately 120 metres, resulting in a proposed building height of approximately 154.5 metres, including the mechanical penthouse. A number of other variances were required for the proposal.

## **Ontario Municipal Board Appeal**

On June 2, 2011 the City Clerk's Office received notification that the applicant filed an appeal of the Zoning By-law Amendment application to the Ontario Municipal Board, citing Council's failure to make a decision on the application within the prescribed timelines of the *Planning Act*. The applicant has been working with staff to reach a settlement with regard to an acceptable form of the development on the site. No date has been set for the hearing.

## **Preservation of Heritage Resources**

On July 13, 2011, the applicant filed a Notice of Intention to Demolish a Listed Building under the *Ontario Heritage Act* for the heritage properties at 323 and 333 King Street West. The *Ontario Heritage Act* requires owners to provide 60 days notice of the intention to demolish a listed property. The Chief Planner had delegated authority from City Council and the Toronto Preservation Board to deal with demolition matters through By-law 906-2011 between July 13, 2011 and September 1, 2011. Under this delegated authority, the Chief Planner is required to issue a Notice of Intention to Designate when demolition notices for listed buildings are received.

Heritage Preservation Services staff prepared a report recommending the designation under Part IV of the *Ontario Heritage Act* of the listed properties at 321, 323, 325 and 333 King Street West. The report was presented at the September 20, 2011 meeting of the Toronto Preservation Board and at the November 2, 2011 meeting of Toronto and East York Community Council. On November 29, 2011 City Council voted to issue an Intention to Designate these properties under Part IV of the *Ontario Heritage Act*. The owner of 323-325 King Street West and 333 King Street West and the previous owner at 321 King Street West had appealed the Intention to designation to the Conservation Review Board.

## **Rental Housing Replacement**

The original application, which is the subject of the appeal to the OMB, involved the properties from 323-333 King Street West. These properties contained 4 two-bedroom rental apartments. Being below the minimum threshold of 6 units, the Official Plan policies on protection of rental housing, and the by-law on rental demolition and conversion under section 111 of the *City of Toronto Act* did not apply.

With the current proposal to incorporate 321 King Street West into the larger development, the rental housing situation has changed. There are 2 one-bedroom apartments at 321 King which will be demolished, which when added to the 4 two-bedroom apartments in the adjacent properties brings the total to the minimum policy threshold of 6 rental units. The owner has been informed of the requirement, and has agreed to submit an application for a Section 111 permit under Chapter 667 of the Municipal Code for demolition of 6 rental units. This permit is a requirement before the owner may demolish the buildings.

## **Community Consultation**

A community consultation meeting was held on March 30, 2011. The proposal had been presented twice previously at community meetings hosted by the local Councillor.

Community members asked questions about the architectural treatment of the building and the proposed retention of heritage facades as well as the servicing and traffic on the rear laneway and wind conditions resulting from the developments of towers.

Comments and concerns included the following:

- There is too much residential development in the neighbourhood and buildings are too much alike.
- The restaurants and hotel (Hotel Le Germain) are already having issues with use of the laneway as it is undersized and often blocked by deliveries to the restaurants. As new developments are constructed, use of the laneway will become more difficult, even with the widening of the lane. How will the arrangements for parking and servicing impact the businesses already using the lane?
- There are already issues with wind with material being blown off the roof of the TIFF building (Festival Tower). As more towers are added, the wind conditions will worsen.
- There is a need for a comprehensive wind study to address wind impacts associated with towers in King-Spadina.
- The proposed facing distances between towers and potential towers on adjacent properties are a concern. Buildings are too close. Arrangements should be made with adjacent property owners to the east to purchase their property or acquire air rights to allow more room between towers.
- What will the impact be of noise from patios and restaurants on residents in the area?

## **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**

### **Planning Act, Provincial Policy Statement and Provincial Plans**

#### **Planning Act**

Section 2(d) refers to the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest; 2(h) refers to the orderly development of safe and healthy communities; 2(l) refers to the protection of the financial and economic well-being of the Province and its municipalities; and Section 2(p) refers to the appropriate location of growth and development. Policies pertaining to these items of

Provincial interest are contained within the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe.

Notwithstanding staff concerns regarding the impact of the development on heritage resources, Heritage Preservation Services staff have concluded that the applicant has taken steps to mitigate some of these impacts. The implementation of the recommendations of this report regarding the preservation of heritage resources will ensure that the façade's of these heritage buildings are restored and protected and that a sense of the scale and depth of the heritage buildings on the site will remain, by requiring setbacks for the tower elements.

### **Provincial Policy Statement**

The application proposes intensification within a built-up urban area near higher-order transportation. Steps taken by the applicant to acquire an adjacent property (321 King Street West), to incorporate this property into the proposed development and to substantially improve the setbacks between the proposed tower and the property line (from 6.0 metres on the west and 5.0 metres on the east to 10.0 metres on either side) are a substantial improvement to the development and go some way toward creating a more liveable environment.

Staff continue to have concerns regarding the impact of permitting towers on a section of King Street West (Restaurant Row) identified by the planning framework as a unique area with a character, scale and mix of uses that provide a draw for the King-Spadina and Entertainment District areas. Staff will work with the applicant through the site plan approval process to ensure that the character of the street at grade and the sense of Restaurant Row as a unique place is reflected in the development of the site.

For the reasons outlined above, the proposed development is consistent with the PPS.

### **Growth Plan for the Greater Golden Horseshoe**

The Growth Plan for the Greater Golden Horseshoe identifies the *Downtown* as an Urban Growth Area, to which intensification should be directed. Policy 2.2.3.6 requires Official Plans to provide a strategy and policies to achieve intensification targets identified in the Growth Plan. Policy 2.2.3.6 g) requires the Official Plan to identify the appropriate type and scale of development in intensification areas. Policy 2.2.3.7 f) requires intensification areas to be planned to achieve an appropriate transition of built form to adjacent areas.

Policy 4.2.4.e) of the Growth Plan requires municipalities, through Official Plan policies and other strategies, to conserve cultural heritage as built up areas are intensified. The proposed development, as revised, does a better job of addressing the policies of the Official Plan and the Secondary Plan with respect to the compatibility of infill development with existing heritage built form. The proposed development, however, continues to be out of scale with the adjacent heritage buildings and will alter the character of this distinctive heritage streetscape. Staff will secure mitigating measures

such as stepbacks as proposed for this development and will continue to implement the objectives of the policy framework for heritage preservation on this site through measures such as designation, heritage conservation easements and the implementation of Conservation Plan as outlined in the recommendations of this report.

## **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.

## **Height and Massing**

### **Height**

The proposed building height of 47-storeys (154.5 metres including mechanicals) will exceed the permitted height of 30 metres plus 5 metres for mechanical elements by approximately 120 metres. Staff support of the proposed settlement is based largely upon the improvements to the size of the subject site through the inclusion of the adjacent property at 321 King Street West and the resulting improvement to facing distances between approved and potential towers. The increase in the height of the proposal over time (from 39-storeys to 47-storeys) is related to securing this improvement to the proposal as the applicant has been required to both acquire additional property and to shrink an already small tower floorplate. The proposed height of the building is comparable to the height of 155.8 metres for the approved 47 storey tower located immediately to the west of the subject site at 355 King Street West and 119 Blue Jays Way (By-law 1041-2010).

### **Massing**

The small size of the lot creates a challenge as a tall building site. The original proposal, with a tower covering most of the site and with proposed tower setbacks from the property line of 6.0 metres on the west and 5.0 metres on the east represented an inappropriate response to the constraints of the site.

Notwithstanding that the 10.0 metres setback for the tower from the east and west property lines of the site is less than the guideline minimum distance of 12.5 metres, the change to the proposal, made possible through the addition of the site at 321 King Street West and shrinking an already small floorplate, is a substantial improvement to the development.

The distance between the applicants proposed tower and the westerly 47-storey tower at 355 King Street West and 119 Blue Jays Way would be 20 metres. The adjacent tower also achieved a setback of 10 metres on their site through the purchase of an additional property which had not been part of their original application.

There are several consequences to constructing buildings too close together, "...resulting wind conditions, distortion and sense of pedestrian scale, lack of access to sunlight and blockage of sky views creates an uncomfortable pedestrian environment".

In addition to the impacts on pedestrians, the 2006 King-Spadina Urban Design Guidelines noted that in a high density neighbourhood such as the East Precinct of King-Spadina, access to natural light and reasonable views will be particularly important for quality of life. This is particularly true given the small size of many of the units proposed in King-Spadina. The units in the proposed development range in size from 37.3 m<sup>2</sup> square metres (402 ft<sup>2</sup>) to 74.8 m<sup>2</sup> (805 ft<sup>2</sup>).

The tall buildings downtown study notes that "when buildings are constructed very close to the side property lines, the result is a 'first to the post' development scenario whereby the development of one site restricts or prohibits adjacent sites in a similar manner". Staff were concerned that if side yard setbacks of 5.0 to 6.0 metres are deemed acceptable, a precedent may be set for towers to be constructed with total face-to-face distances of only 10.0 to 12.0 metres. Alternatively, the proposed lack of setbacks impacts the as-of-right development potential of other sites on the block by exporting facing distance constraints to adjacent properties and compromising adjacent property rights. Approval of the inadequate setbacks could set a precedent whereby the development rights of adjacent landowners are compromised.

Staff originally took the position that Restaurant Row is not a suitable location for a tall building. That assessment was based upon the evaluation of the applicants original submission, in particular the impacts upon the heritage character of Restaurant Row and the poor relationships it created with its surrounding context. The applicants acquisition of the property at 321 King Street West and the significant steps taken to meet a minimum tower setback of 10 metres from the east and west property lines, as well as commitments to address the heritage character of the site through the measures outlined in this report, have allowed staff to find the proposed settlement acceptable. The settlement as outlined in this report recognizes the emerging character of the East Precinct of the King-Spadina Secondary Plan area as a tall building neighbourhood with significant challenges with regard to both heritage preservation and achieving acceptable built form.

### **Sun, Shadow, Wind**

Shadow studies submitted by the applicant showed a slim shadow that did not impact any public parks. A wind study is required by the City as part of a development application that seeks to develop a building higher than 6 storeys or 20 metres in height. The application included a pedestrian level wind study which makes assumptions regarding wind impacts without conducting any actually wind tunnel testing. The study noted that there is the potential for wind conditions at grade on King Street West to be uncomfortable (except during the summer months), with "the potential for severe wind speeds occurring around the building corners on windy days". This is of particular concern given the concentration of entertainment and restaurant uses in the area, including many outdoor patios.

As is outlined in the Design Criteria for Review of Tall Buildings Proposals (June 2006) there is the opportunity to reduce the impact of wind created by a tower building (referred to a "downwashing flow") by providing a larger step back between the face of the tower

and the podium. The minimal setback of 3.0 metres between the tower and the facades of the retained heritage building on this site will not reduce the winds which flow down the face the proposed building as much as a larger setback. The submitted wind study recommended that the setback between the tower and the heritage be increased to 5.0 metres at a minimum to reduce wind impacts on King Street West. In addition to wind conditions on King Street West, the preliminary wind study also concluded that proposed development will result in higher wind activity in the public laneway south of the site due to the "Chanelling Effect" of prevailing westerly winds.

Staff acknowledge that the applicants efforts to introduce an acceptable tower separation distance to the east and the west have reduced an already small floorplate down to 478 square metres, well below the recommended maximum tower floorplate of 743 square metres. Staff will work with the applicant through the site plan process to find ways to reduce the anticipated impact of the project on wind conditions.

## **Heritage**

The cultural heritage value of Hughes Terrace and the Gardiner Boyd Buildings lie in their design as significant representative examples of mid-19<sup>th</sup> century early residential and late-19<sup>th</sup> century commercial buildings, respectively. Their exterior form, massing and scale are identified as important heritage attributes. Further, Hughes Terrace is one of the oldest remaining residential buildings in the city.

The cultural heritage value of the properties on this site, including the adjacent property at 319 King Street West, also lies contextually in their link to the evolution of King Street West in the King-Spadina Neighbourhood as it changed from institutional and residential uses to a commercial and industrial area.

### Revised Proposal:

The revised application now includes the property at 321 King Street West (part of Hughes Terrace) which is currently subject to City Council's Intention to Designate under Part IV of the Ontario Heritage Act. This building will, along with the other heritage properties, form part of the podium component of the proposed development. The tower has been repositioned slightly to the east and steps back 3 meters from the property line. The reconstruction of a missing original third floor at 333 King Street West is also proposed.

Heritage Preservation Services staff have reviewed drawings accompanying the application dated January 18, 2012 prepared by Page+Steele IBI Group Architects and the revised Heritage Impact Assessment (HIA) dated February 9, 2012 prepared by Philip Goldsmith Architect.

While staff believe that the impact of the proposed development on the context of the historic block, on the adjacent heritage properties and on the heritage properties on the site remains considerable, the applicant has taken steps to mitigate some of those impacts through revisions to this application, as follows:

- A step back of three metres has been provided from the property line to the tower, placing the tower just behind the ridge line of the roof of 321-325 King Street West, allows the three dimensional quality of the heritage buildings to be maintained.
- The reconstruction of a new third storey on the Gardner Boyd buildings at 333 King Street West will reinstate the building to its original height and mitigate the impact of the original proposal, which was to extend the new glass podium above and behind it, and allowing it to be viewed as a separate building. It is recommended that the new third storey incorporate design and/or material variations in an effort to allow its status as a new addition to be legible.
- While a contemporary design for the new entrance lobby is supported by staff, the design should incorporate façade patterns and materials that complement the heritage buildings on the site as well as support the heritage context of the entire block. It is also anticipated that the interior of the lobby space will reveal the brick side walls of the adjacent east and west buildings to further reinforce the scale of the historic properties.

Heritage Preservation Staff have recommended as a condition of a settlement at the OMB that the applicant withdraw the appeal of the Intention to Designate the listed properties at 321, 323 and 325 King Street West and 333 King Street West as part of the settlement to be presented at the OMB. The applicant has indicated their willingness to agree to the designation of the listed heritage properties. Other recommendations from Heritage Preservation staff regarding the protection and preservation of heritage resources associated with this development application are included in the recommendations of this report. These include: requiring that a heritage easement agreement be secured for the retained/restored facades; the submission and approval of a Conservation Plan; and securities to be provided to ensure the completion of work as set out in the Conservation Plan.

### **Provision of New Affordable Rental Housing:**

The applicant has agreed to provide affordable rental housing in the proposed development to replace the existing units and as a Section 37 community benefit. An entire storey (the 3<sup>rd</sup> floor) will be reserved for affordable rental housing units, secured in a Section 37 Agreement on the City's standard terms. These include maintaining the rental housing units as rental housing for a period of at least 20 years, with no condominium registration and ensuring affordable rents for a period of at least 20 years, followed by a phase out to unrestricted market rents.

The zoning by-law and Section 37 Agreement will establish that the entire floor is reserved for the affordable rental housing, with a specified minimum number of units and a unit mix. As of the date of the writing of this report, the floor plans are being revised,

which will affect the final total and unit mix. Currently, these plans provide for 10 rental apartments, comprising 2 one-bedroom units, 5 two-bedroom units and 3 three-bedroom units. The significant number of larger units contributes to an excellent unit mix for rental housing downtown, compared to the predominance of 1 bedroom units in typical new apartment buildings in the area. The rental floor will be between the lower commercial floors, and the amenity floor and residential condominium above. Current plans are to share access to condominium amenity space with the rental housing floor.

## Rental Housing Replacement

Demolition and Replacement of Existing Rental Housing:

The Section 111 application must come before City Council for approval, and Planning staff will meet with tenants in the existing units prior to submitting the report for decision. If approved, staff proposes that the conditions for replacement and tenant relocation assistance would be secured not only in the Section 111 agreement, but also in the Section 37 Agreement. Accordingly, staff intends to propose the necessary amendments to the draft zoning by-law before the Ontario Municipal Board, when incorporating 321 King Street West into the development, and request the OMB order be withheld until the registration of the agreement.

The proposed unit mix for the new affordable rental units meets the Official Plan policy requirements for replacement of the same number of units by unit type, so there are no changes required to the proposal for the affordable rental floor in the development. A comparison is below in Table 1.

**Table 1**

<b>Comparison of Existing and Proposed Rental Units</b>		
Unit Type	Existing	Proposed
One-bedroom	2	2
Two-bedroom	4	5
Three-bedroom	0	3
<b>Total</b>	<b>6</b>	<b>10</b>

The new requirement for replacement of 6 rental units with the addition of 321 King Street West to the application has two key implications. First, there is a need for tenant relocation assistance that had not been part of the original proposal, as there are currently 5 tenant households with one vacant apartment. Secondly, the assessment of the Section 37 community benefits is affected to the extent that 6 of the proposed 10 rental units are required as replacement units under the Official Plan regardless of any increase in density and Section 37 obligations, and may be secured as a condition of the Section 111 permit for demolition without any needed reference to Section 37.

#### Tenant Relocation and Assistance Plan:

The Zoning By-law, Section 37 and Section 111 Agreements will also secure the provision of appropriate tenant relocation assistance. Information on current rents and the tenant households is being submitted and it is recommended that a plan based on the City's standard practices be secured, satisfactory to the Chief Planner.

#### Housing Conclusion:

Staff supports this proposal for the total 10 affordable rental units and make special note of the desirability of achieving affordable rents in two and three-bedroom apartments downtown. The applicant's agreement to secure all the rental units with affordable rents for at least 20 years provides a significant Section 37 community benefit that exceeds the City's standard requirements in two important ways. The 6 rental replacement units could have been secured with mid-range rents, instead of the proposed lower affordable rents, since none of the existing apartments has affordable rents. Secondly, the City's standard period for controlling rents for all 10 of the affordable units is 10 years, not the proposed 20 years. After the expiry of the time period secured (whether 10 or 20 years), rents for new tenants moving into vacant units are unrestricted. With this proposal, the owner is agreeing to postpone for an additional 10 years the date at which rents for new tenants could rise, unrestricted by the City's agreement.

#### Affordable Rents and Section 37 Benefits:

Based on currently available information, none of the 6 existing rental units has affordable rents. Under the Official Plan requirements, the owner would typically be required to ensure during the affordability period of the agreement, that rents be no higher than the maximum mid-range rent for that unit type. The maximum mid-range rent is 50% higher than the CMHC average market rent for the same unit type.

By agreeing to secure affordable rents for all 10 rental units, the reduction from mid-range to the lower affordable rent maximum for the 6 rental replacement units meets the criteria for a Section 37 community benefit.

This can be added to the community benefit provided by the 4 net, new affordable rental units. Staff supports this proposal for the total 10 affordable rental units and make special note of the desirability of achieving affordable rents in two and three-bedroom apartments downtown.

#### **Traffic Impact, Access, Parking, Servicing**

The Urban Transportation Considerations report provided with the original submission concluded that the traffic associated with the development proposal could be accommodated by the area road system. Transportation Services staff are satisfied with the report and its conclusions regarding traffic impact.

A total of 102 parking spaces are proposed in a four (4) level underground parking garage. Three hundred and thirty three (333) bicycle parking spaces are proposed. No vehicular spaces are provided for visitors or the proposed commercial uses. Vehicular access to parking and loading is proposed to the rear of the site from an existing public laneway off John Street. Additional information on the proposed retail gfa is required to confirm the assumptions of Transportation Services staff regarding parking requirements are correct. Transportation Services staff have not yet had an opportunity to review the most recent proposal as staff are still awaiting revised plans. The comments provided on the previous (February 2012) submission were based on a proposal for 95 parking spaces and 304 units. The current proposal is for 102 spaces for the same unit count. The applicant has been requested to have their traffic consultant provide supporting documentation to Transportation Services staff to justify the proposed shortfall in required parking. In the absence of this justification, staff are requesting that parking be provided in accordance with By-law No. 438-86.

Access to the parking and servicing is proposed from the public laneway at the rear of the property. Access to the below grade parking is now proposed to be provided by a ramp to the underground parking whereas the original proposal was for access to be accommodated via two vehicle elevators.

Transportation Services has agreed to accept the provision of one Type G loading space to serve the proposed development.

The public lane also serves as the servicing area for the adjacent restaurants to the east of the property. The approved 33-storey development at 60 John Street and 12 Mercer Street ("The Mercer") will take its servicing from this laneway and the approved development at 355 King Street West and 119 Blue Jays Way (47 and 42-storey towers) will use this laneway for servicing and vehicular access. Restaurant operators have expressed concern that the laneway is often blocked by delivery trucks. The issue of the capacity of the laneway should be improved somewhat with the proposed laneway widening and reconfiguration associated with the development at 355 King Street West and 119 Blue Jays Way. Council has directed that the condominium documents for the development should recognize the use of the lane by restaurants, including storage in the lane and mechanical apparatus on roof tops.

### **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 of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.42 to 0.78 hectares of local parkland per 1,000 people. 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 original application proposed 201 residential units on a total site area of 0.09495 hectares (949.5 sq. m). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication would have been 0.268 hectares or 282.25%

of the site area. However, a cap of 10% is applied to the residential uses while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 91 sq. m.

The applicant proposed to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 91 sq. m. 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 in May 2010 and is subject to the new mandatory Green Development Standard. The applicant has indicated that the building would comply with the mandatory Green Standards.

### **Section 37**

This development will reach a height beyond the Second Tier identified in the King Spadina East Precinct Built Form Study. In keeping with framework of the Built Form Study, the applicant will be expected to provide a high level of community benefits, which will assist in providing the facilities and services that this area requires to support increasingly intense development.

The Section 37 agreement is recommended to include the following elements:

- a) An indexed cash contribution of \$600,000, \$400,000 which will be allocated to streetscape improvements to John Street and the remainder for the provision of one or more of the following: public housing in Ward 20; streetscape and public realm improvements in the vicinity of the site; and Heritage Conservation District studies in the King-Spadina Secondary Plan Area. The cash contribution is to be provided prior to the issuance of an above-grade building permit.
  
- b. The provision, as a Section 37 community benefit, of at least 10 affordable rental housing units encompassing an entire residential floor of the new development, with provisions that:
  - i) The rental housing units shall remain as rental housing for a period of at least 20 years, with no application for condominium registration or any conversion to non-rental housing purposes; and
  - ii) The rents shall be affordable rents for a period of at least 20 years, with provisions for phase-out of the affordable rent restrictions to market rents thereafter; and
  - iii) The unit mix shall include at least 4 two-bedroom units and 2 three-bedroom units.

The following matters are also recommended to be secured in the Section 37 Agreement to support development as a legal convenience:

- c. The owner shall provide a minimum of ten percent (10%) of the residential units in the building having at least three bedrooms;
- d. The implementation of any wind mitigation measures required by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning Division, to be submitted as part of an application for Site Plan Approval.
- e. The following matters related to heritage preservation.
  - i) Enter into a Heritage Easement Agreement with the City for the designated heritage properties at 321-325 King Street West and 333 (327) King Street West.
  - ii) Provide a Conservation Plan detailing all restoration, repair, dismantling, reconstruction, stabilization and new construction work associated with the project, to the satisfaction of the Manager, Heritage Preservation Services.
  - iii) Prior to Site Plan Approval the applicant shall provide site plans & drawings in accordance the approved Conservation Plan.
  - iv) Prior to issuance of any heritage permit, including a permit for demolition, shoring or excavation, the applicant shall:
    - Provide a Letter of Credit to secure all conservation work set out in the Conservation Plan.
    - Submit building permit drawings, including plans, elevations and details, to the satisfaction of the Manager of Heritage Preservation Services.
  - v) Prior to to the release of the Letter of Credit, the applicant shall provide a certificate of project completion prepared by a qualified heritage consultant confirming that the conservation work has been completed in accordance with the approved Conservation Plan to the satisfaction of the Manager, Heritage Preservation Services.

### **Development Charges**

It is estimated that the development charges for this project would be approximately \$2,202,800. This is an estimate. The actual charge is typically assessed and collected upon issuance of a building permit.

## **CONCLUSION**

Staff have analyzed the proposal in the context of the King-Spadina Built Form Study, the Tall Buildings guidelines, and other approvals and applications for tall buildings in the area.

The revised development proposes a tower, well below the tower floor plate maximum of 743 sq. m. By purchasing the additional property at 321 King Street West, the applicant was able to increase the lot size and achieve an adequate separation between approved tall buildings and potential tall building applications in the immediate vicinity.

The application also provides Section 37 benefits, including the creation of affordable rental housing. Staff are generally satisfied with the overall massing of the proposal and the mitigation proposed for the preservation of the heritage resources on the site. City Planning recommends that a settlement be pursued based upon the recommendations as outlined in this report.

## **CONTACT**

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Fax No. (416) 392-1330  
E-mail: [dnichol2@toronto.ca](mailto:dnichol2@toronto.ca)

## **SIGNATURE**

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

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## **ATTACHMENTS**

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

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

Attachment 3: King-Spadina East Precinct Character Areas

Attachment 4: King-Spadina East Precinct Height Areas

Attachment 5: King-Spadina Heritage Built Form

Attachment 6: Site Plan

Attachment 7: North Elevation

Attachment 8: East and West Elevations

Attachment 9: South Elevation

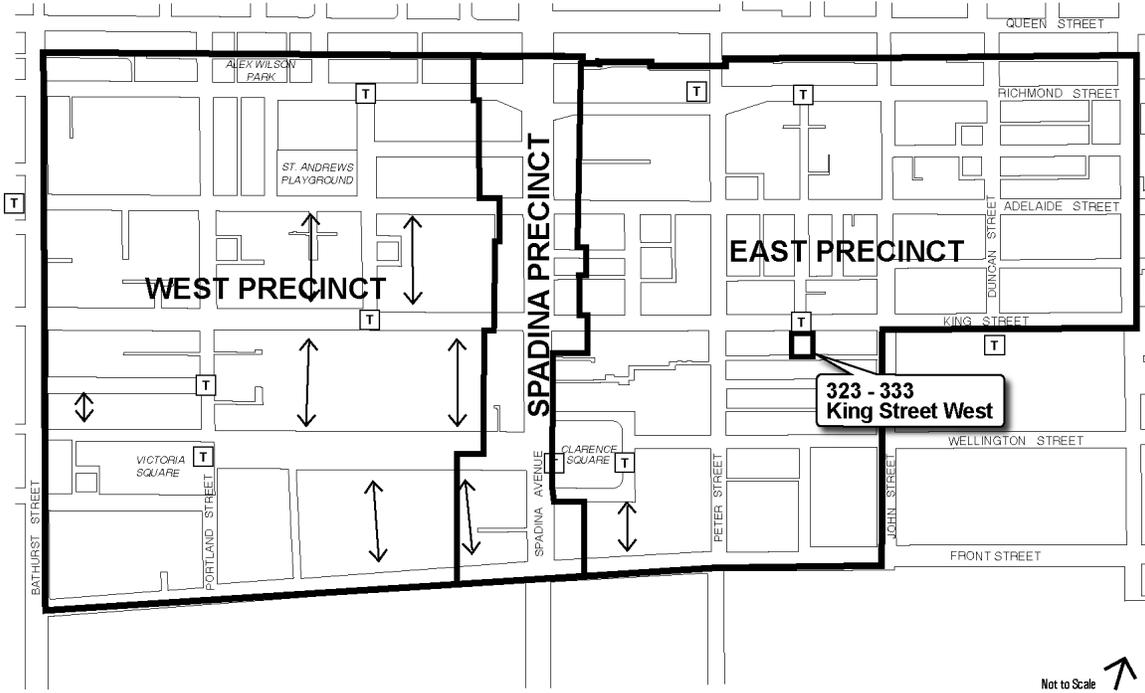
Attachment 10: Zoning

Attachment 11: Official Plan

Attachment 12: King-Spadina Secondary Plan

Attachment 13: Application Data Sheet

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



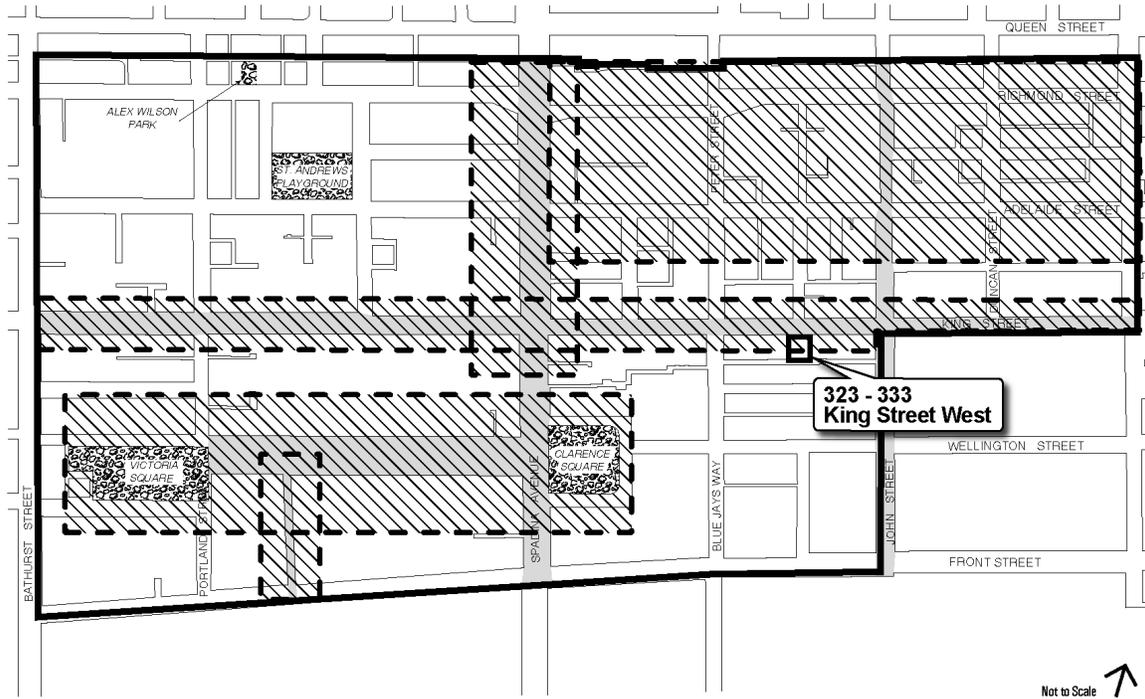
## Official Plan Amendment No. 2 for King-Spadina Secondary Plan

MAP 16-1 Urban Structure Plan

- Secondary Plan Boundary
- View Terminus
- Potential Mid-block Connections

July 2006

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



Not to Scale ↑



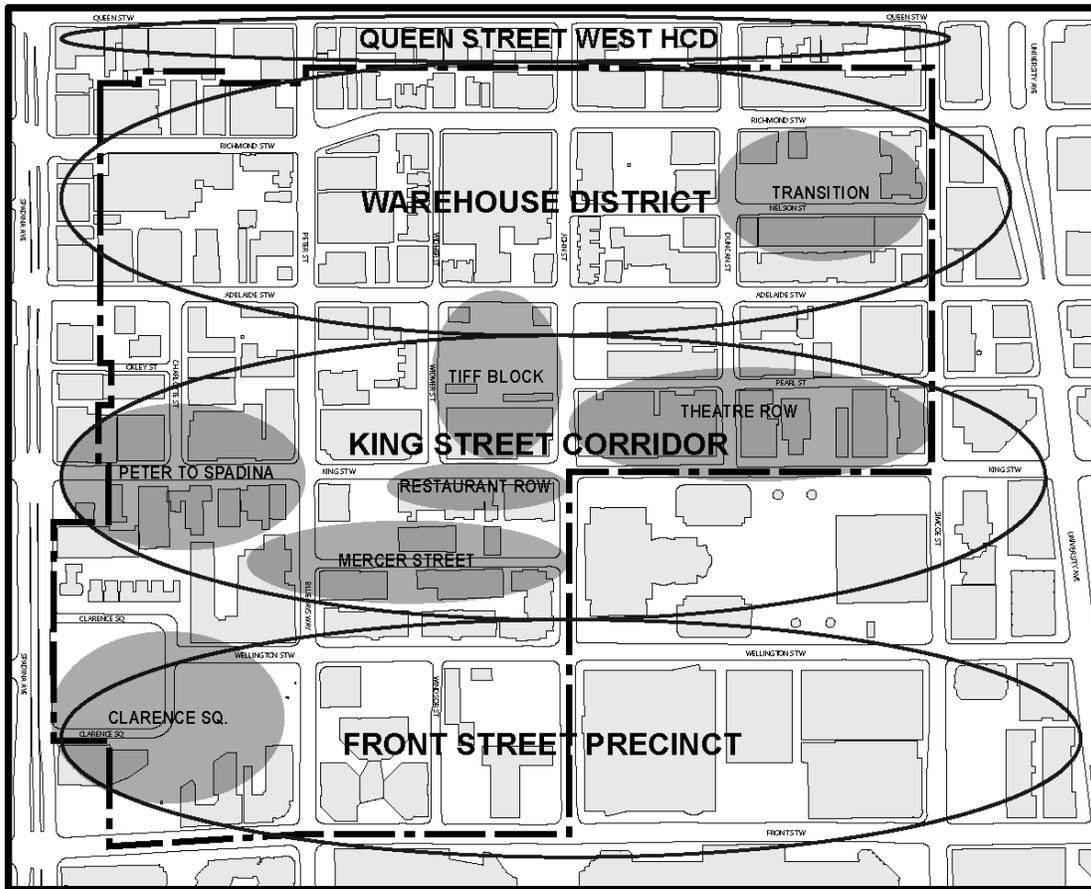
### Official Plan Amendment No. 2 for King-Spadina Secondary Plan

MAP 16-2 Areas of Importance

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

July 2006

### Attachment 3: King-Spadina East Precinct Character Areas



-  Character Areas
-  Sub-Character Areas
-  East Precinct Boundary

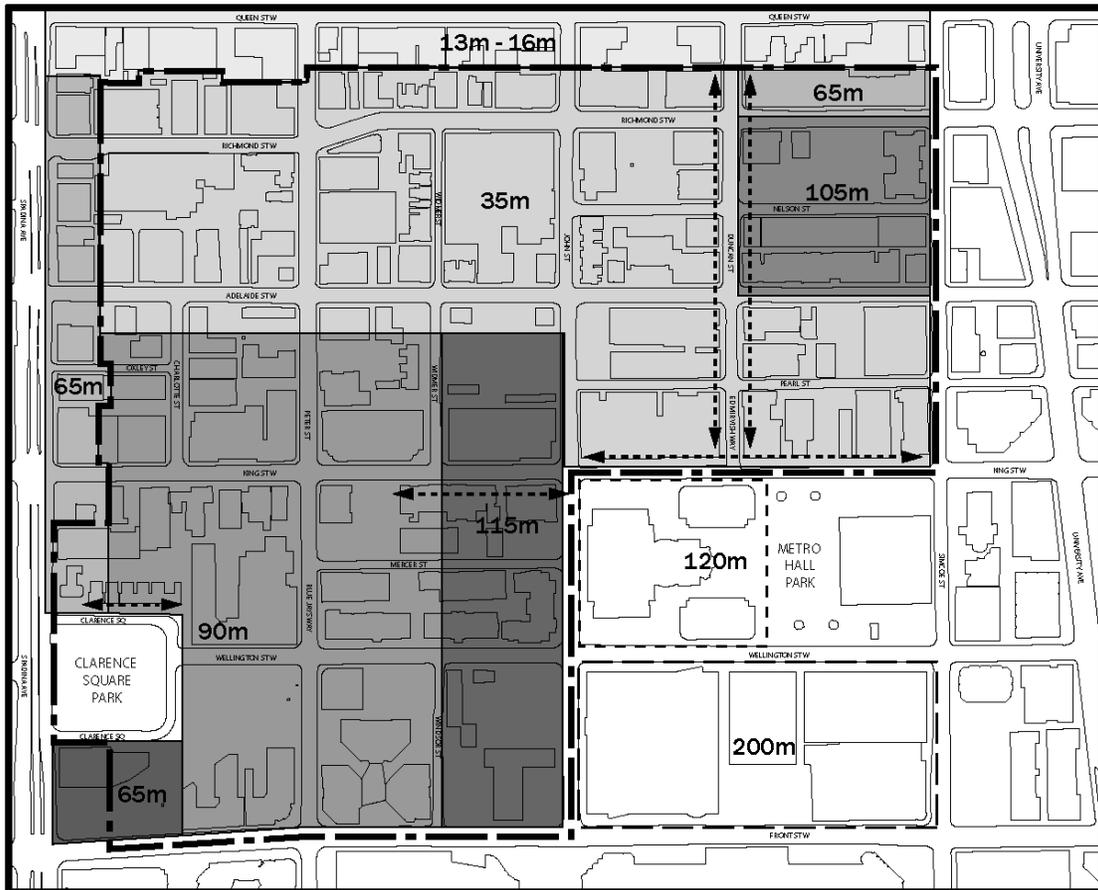
#### Character Areas

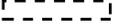
323 - 333 King Street West

Not to Scale   
08/05/11

File # 10\_182677\_OZ

## Attachment 4: King-Spadina East Precinct Height Areas



-  Existing Heights in Metro Hall
-  Existing / Approved Heights in Financial District
-  Properties Contributing to Heritage Character
-  East Precinct Boundary

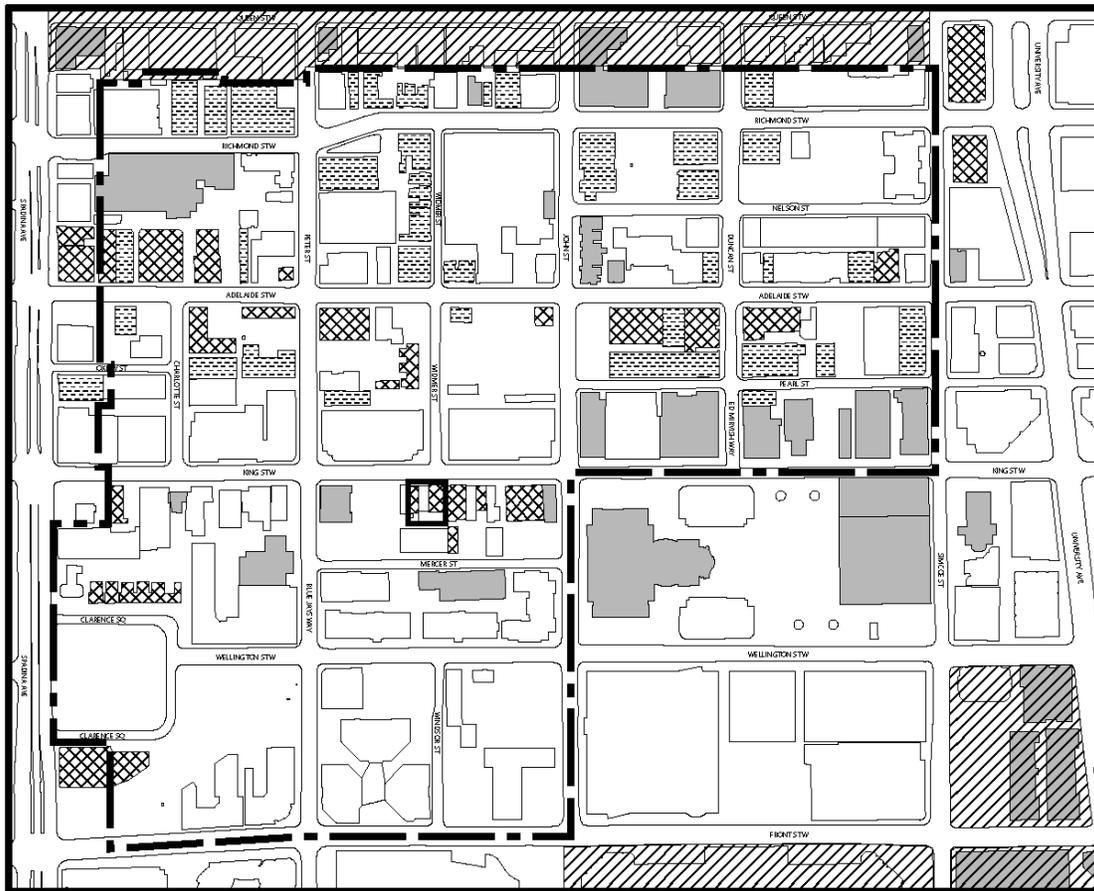
### Height Areas

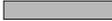
### 323 - 333 King Street West

Not to Scale  
08/05/11

File # 10\_182677\_02

## Attachment 5: King-Spadina Heritage Built Form



- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li> Designated Heritage Properties</li> <li> Listed Heritage Properties</li> <li> Properties Contributing to Heritage Character</li> </ul> | <ul style="list-style-type: none"> <li> Heritage Conservation Districts (HCD)</li> <li> Existing Buildings</li> <li> East Precinct Boundary</li> </ul> |
|---|---|

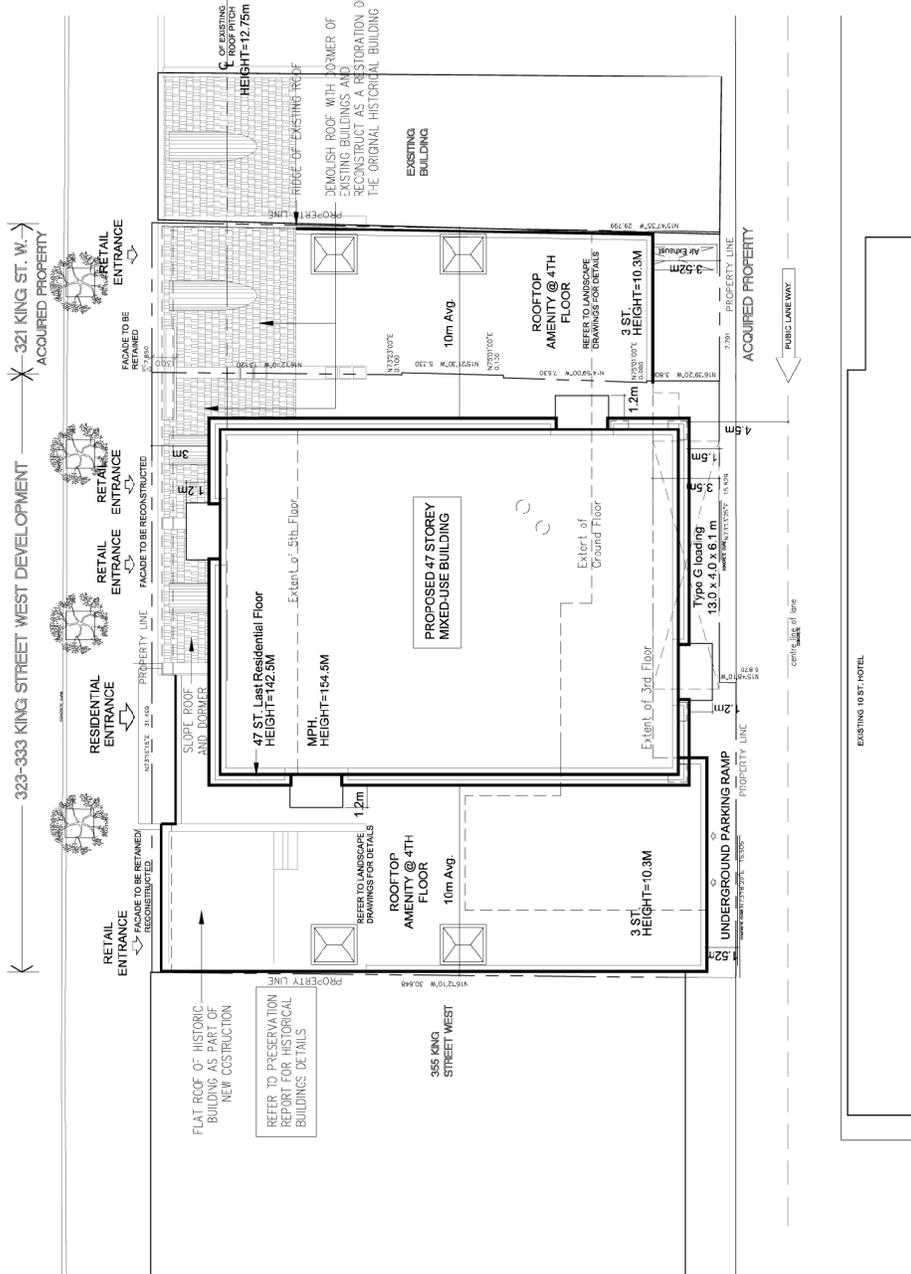
### Heritage Context

### 323 -333 King Street West

Not to Scale  
08/05/11

File # 10\_182677\_OZ

# Attachment 6: Site Plan



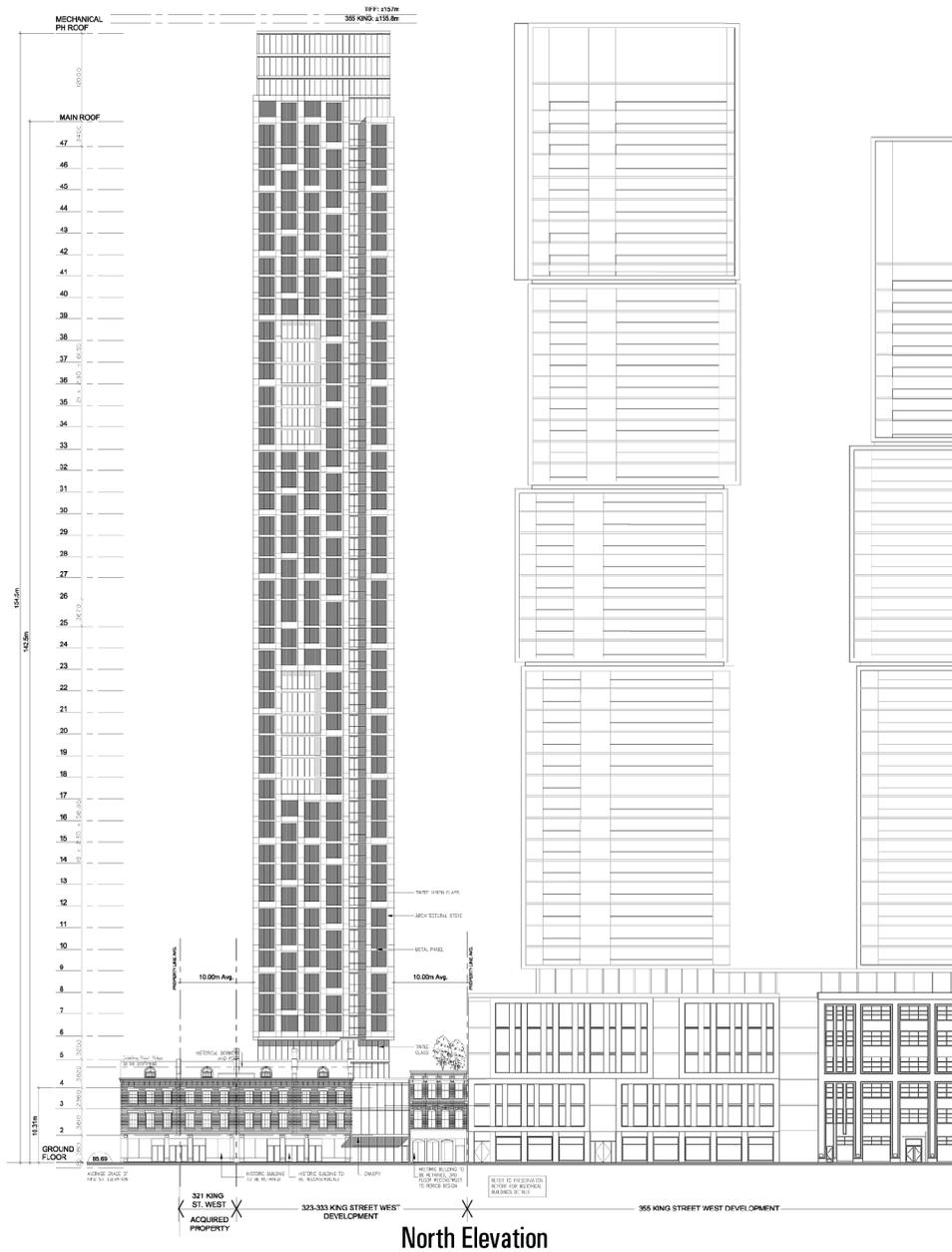
323-333 King Street West

Site Plan  
 Applicant's Submitted Drawing

File # 10 182677 0Z

Not to Scale  
 05/17/2012

# Attachment 7: North Elevation



## Elevations

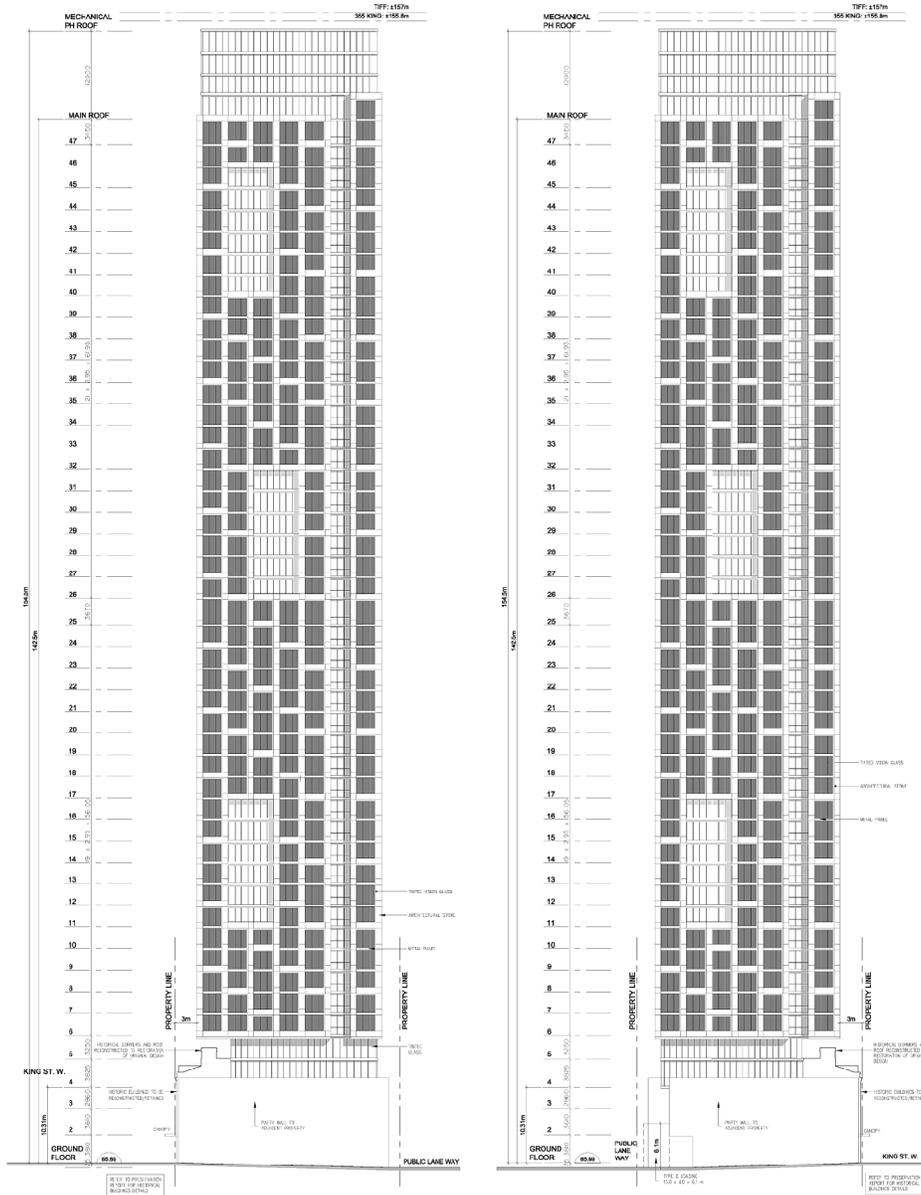
Applicant's Submitted Drawing

Not to Scale  
05/10/2012

## 323-333 King Street West

File # 10 182677 02

# Attachment 8: East and West Elevations



West Elevation

East Elevation

## Elevations

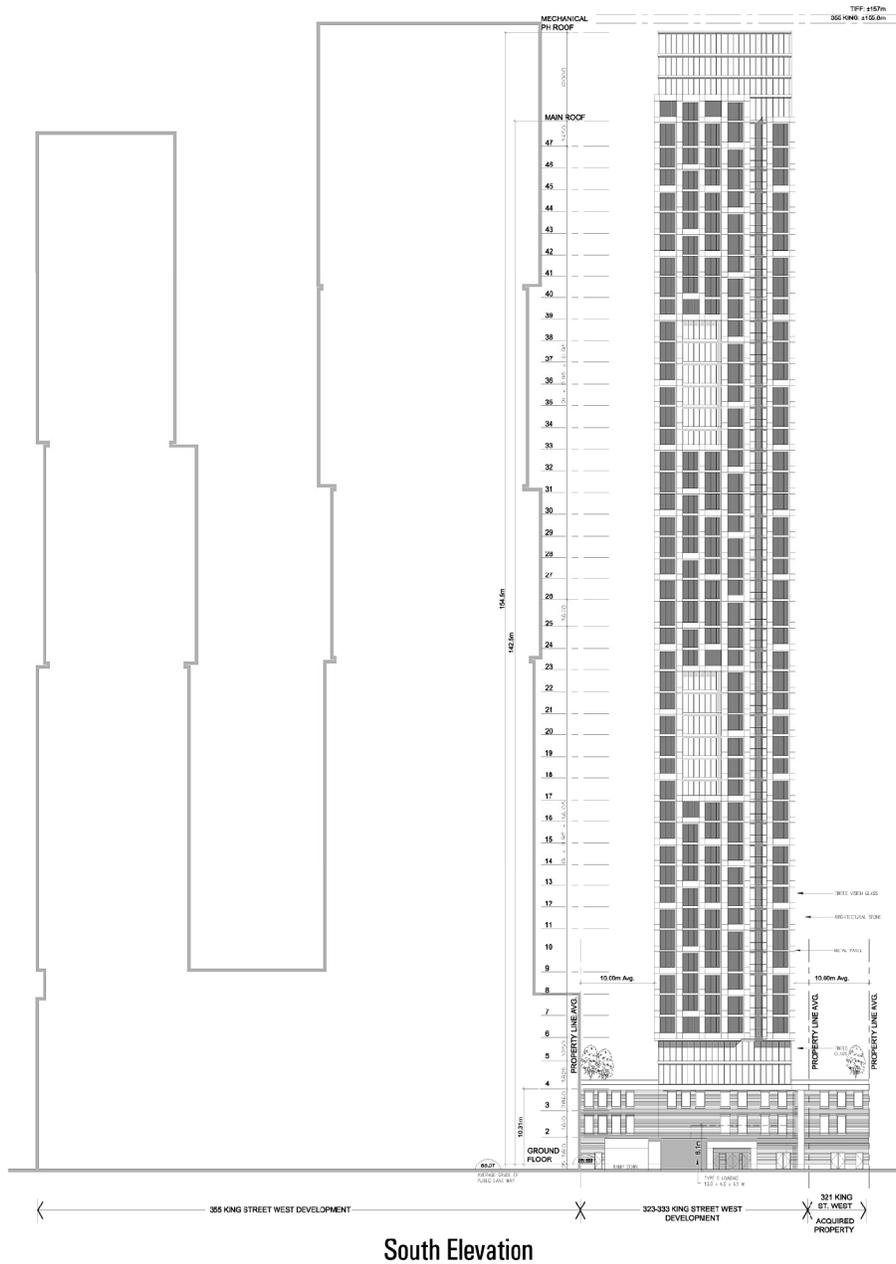
Applicant's Submitted Drawing

Not to Scale  
05/10/2012

## 323-333 King Street West

File # 10 182677 0Z

# Attachment 9: South Elevation



## Elevations

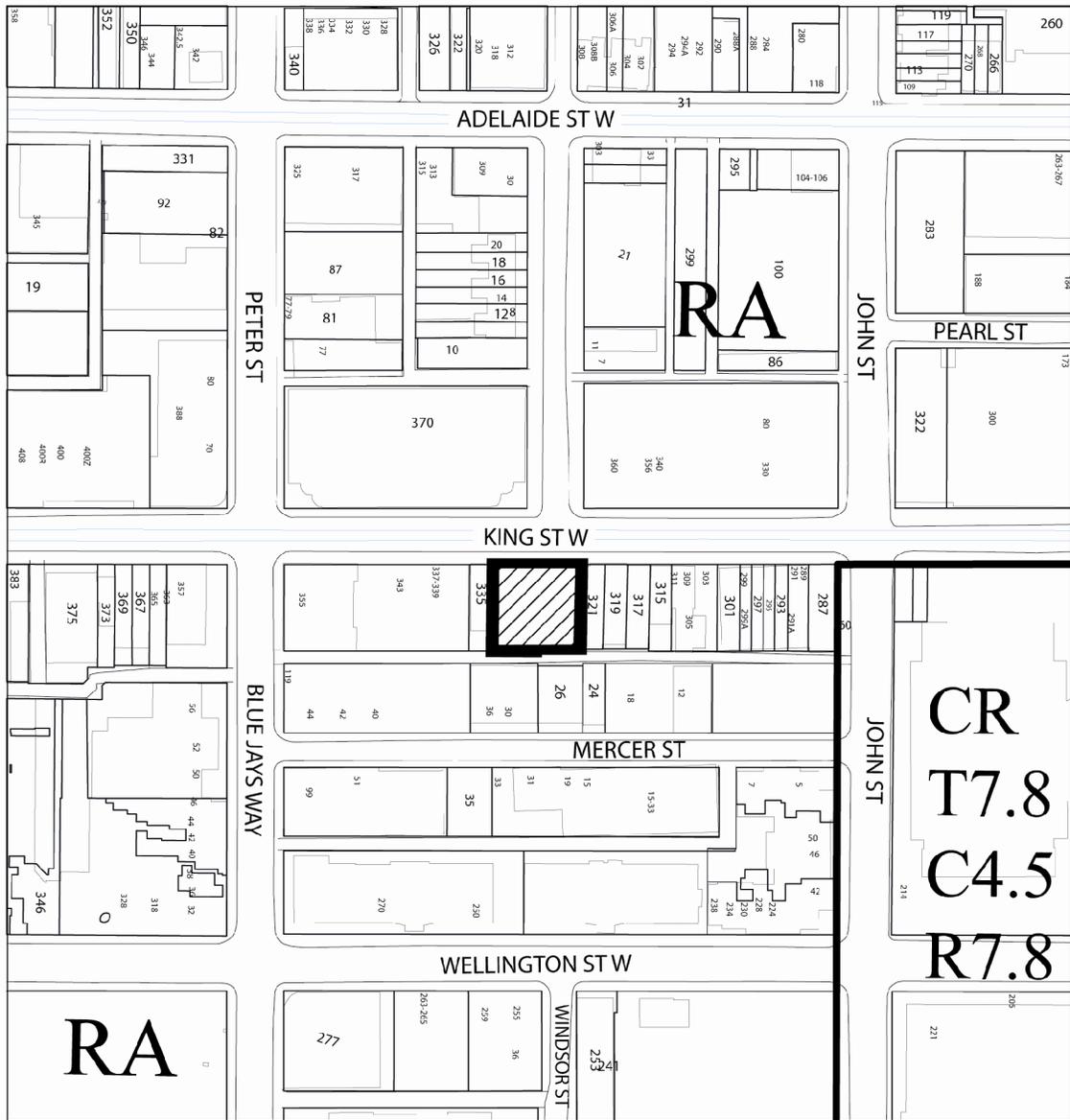
Applicant's Submitted Drawing

Not to Scale  
05/10/2012

## 323-333 King Street West

File # 10 182677 0Z

Attachment 10: Zoning (By-law No. 483-86)



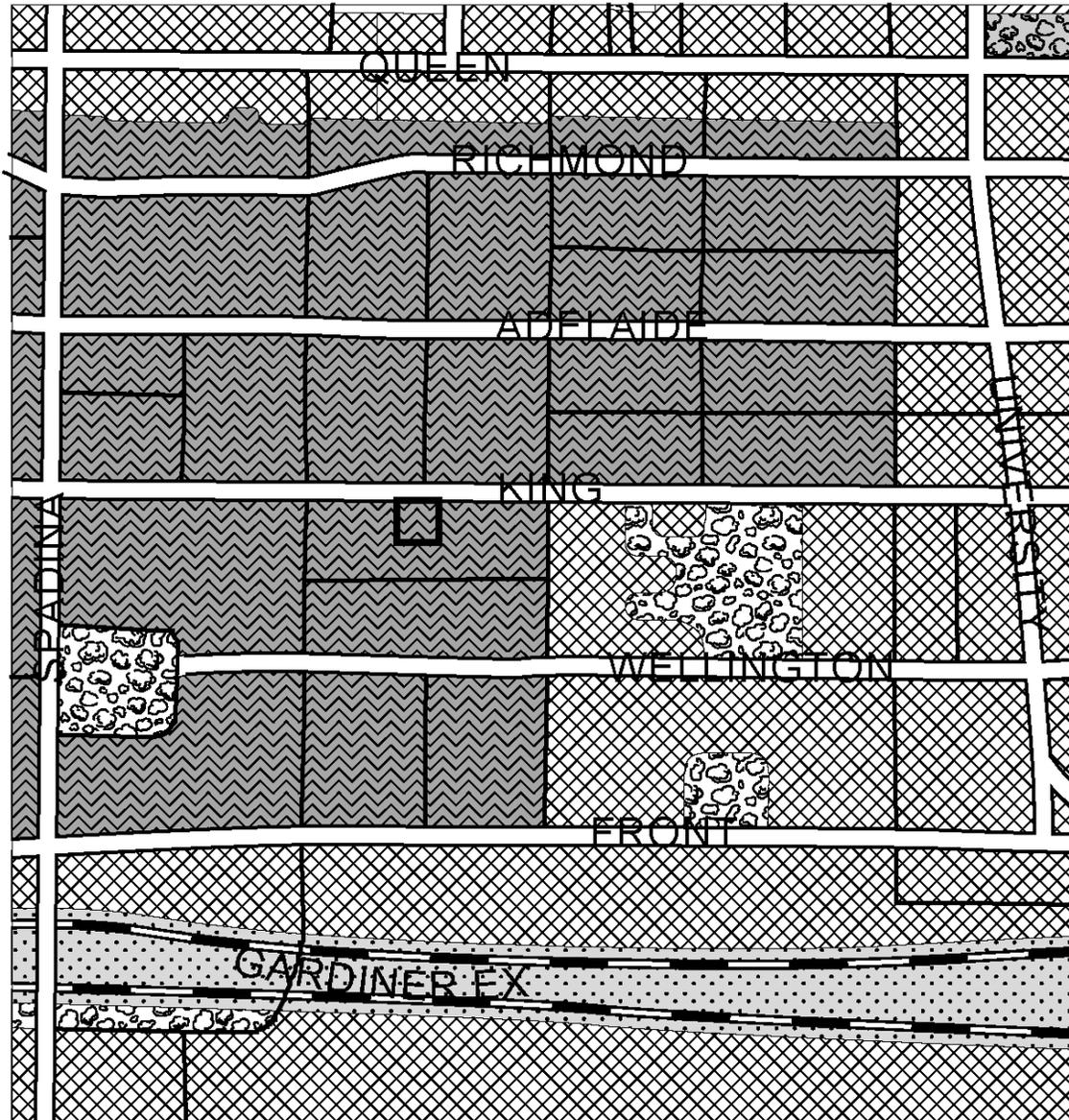
327 King Street West

File # 10\_182677

-  Site Location
- CR** Mixed-Use District
- RA** Mixed-Use District

Not to Scale  
Zoning By-law 438-86 as amended  
10/27/10 - MH

# Attachment 11: Official Plan



**TORONTO** City Planning  
**Official Plan**

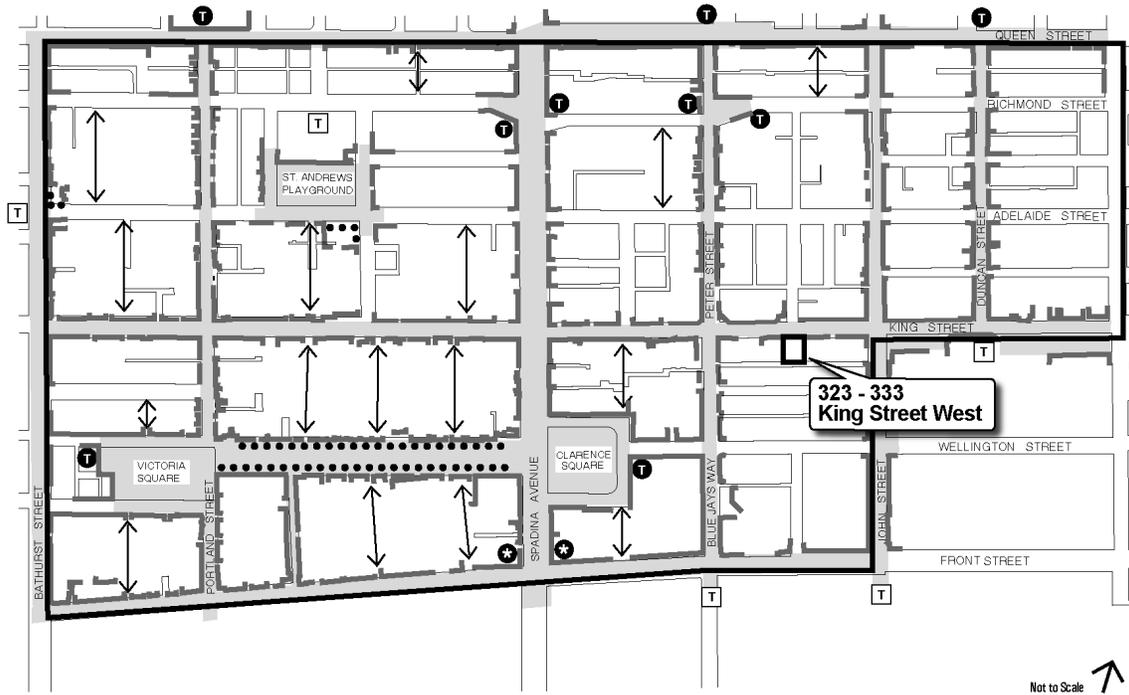
323 - 333 King Street West

File # 10\_182677\_OZ



↑  
 Not to Scale  
 03/05/11

## Attachment 12: 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

