

141 Bay St – Zoning Amendment – Final Report

Date:	October 7, 2016
То:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 28 – Toronto Centre-Rosedale
Reference Number:	15-208844 STE 28 OZ

SUMMARY

This application proposes to permit a 53-storey (243 metre high) office development including a 7storey base building and 443 parking spaces in a 5-level underground garage. The proposed office building is the second phase of a two phased development, connected by an air rights development via a publically accessible open space above the rail corridor. The site includes 141 Bay Street and a partial overhang above the rail corridor. The proposal integrates two elevated PATH pedestrian bridges, one spanning Bay Street directly into Union Station and a second spanning Yonge Street into the Backstage condominium development on the east side of Yonge Street.

The proposal is consistent with the relevant policies of the Official Plan. The proposal represents a

new landmark and provides for a new LEED platinum office building within the financial core that is accessible to public transit, improves the public realm and provides for extentions to the PATH system.

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

This report also requests direction for the Chief Planner and Executive Director of City Planning to report back to Toronto and East York Community Council early in 2017 on amendments to the zoning on the property located at 1 Front Street West.



RECOMMENDATIONS

The City Planning Division recommends that:

- 1. City Council amend Zoning By-law 168-93, for the lands at 141 Bay Street substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 8 to the report (October 7, 2016) from the Director, Community Planning, Toronto and East York.
- 2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
- 3. Before introducing the necessary Bills to City Council for enactment, City Council shall require the Owner to enter into one or more agreements with the City pursuant to Section 37 of the Planning Act to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning. The community benefits are to be provided by and at the Owner's expense and secured through the Zoning By-law Amendment and the required Section 37 Agreement are as follows:
 - a. A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$4,000,000 towards the Jack Layton Ferry Terminal;
 - b. A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$1,500,000 towards the streetscape public realm improvements within the vicinity of the property, in addition to any improvements that have secured through the IMIT process, which may include improvements to the Bay Street underpass;
 - c. Provide a public art contribution in accordance with the City of Toronto's Percent for Public Art Program, half of which could be directed to public art within the Bay Street underpass;
 - d. In the event the cash contributions referred to in (a) and (b) above have not been used for the intended purpose within three (3) years of the date of the issuance of the above-grade building permit, the cash contribution may be directed for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
 - e. The payments required in Clause 3(a) and (b) herein, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-law for the project are appealed to the Ontario Municipal Board, from the date of the Board order approving the by-laws, to the date of submission of the funds by the owner to the City.

- f. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - i. the Owner shall at its expense construct and maintain two above-grade publicly accessible pedestrian bridges from the site to Union Station and from the site to the Backstage condominium at 1-7 the Esplanade, for use by members of the general public;
 - ii. the Owner shall at its expense provide and maintain a publicly accessible weather protected route through the building and PATH connection referred to in (i), for use by members of the general public, and shall, for nominal consideration, provide an easement for public access to the City or agree through an equally binding legal mechanism to terms regarding public access, with the legal mechanism to be to the satisfaction of the City Solicitor, prior to the issuance of any site plan approval for the site, to accommodate linkages between the 2 pedestrian bridges referred to in i., above to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - iii the Owner shall at its expense provide and maintain access to the privatelyowned publically-accessible open space above the rail corridor on the both the east and west side of the office tower, for use of members of the general public, and;
 - iv. for nominal consideration, shall provide an easement to the City for public access or agree by way of an equally binding legal mechanism to terms regarding public access, with the mechanism to be to the satisfaction of the City Solicitor, prior to the issuance of Site Plan Approval for Phase 1 of the development at 45 and 141 Bay Street;
 - v. the owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.
- 4. City Council request the Chief Planner and Executive Director of City Planning to report back to Toronto and East York Community Council early in 2017 on amendments to the approved zoning on the property located at 1 Front Street West.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

This proposal is the second phase of a two phase, two-tower office development that includes the properties at 45 Bay Street and 141 Bay Street as well as a connecting privately-owned publicly-accessible elevated open space over the rail corridor that connects to both buildings. The first phase of the development at 45 Bay Street is a 48-storey office building which includes a new GO bus terminal proposed at the podium level to replace the existing GO bus terminal currently located at

141 Bay Street. The proposed developments, in addition to the connecting publicly accessible open space include new PATH connections and an area below grade for a potential LRT station for the future East Bayfront LRT.

At its meeting of January 28, 2015, the Committee of Adjustment granted the necessary variances to permit the construction of the proposed office building at 45 Bay Street, an overbuild to permit publicly accessible open space above the rail corridor and a small building at 141 Bay Street that will give access to the publicly accessible open space from the north side of the rail corridor (file Nos. A1039/14TEY and A1040/14/TEY). The Committee of Adjustment decision included the requirement for the applicant to enter into an agreement with the City pursuant to Section 45 of the Planning Act to secure the platform for a potential LRT station below grade for the future East Bayfront LRT. There were no appeals to the decisions.

At its meeting on June 10-12, 2015, City Council approved an application to remove the Holding Symbol (h) from a portion of the lands at 45 Bay Street to permit the development. This proposal is currently the subject of a site plan application (file No. 14 229173 STE 28 SA).

At its meeting of July 12 to 15, 2016, City Council approved an application submitted by Ivanhoe Cambridge and Metrolinx for Imagination, Manufacturing, Innovation, Technology (IMIT) Development Grants and Brownfield Remediation Tax Assistance as a Transformative Project for the buildings at 45 Bay Street and 141 Bay Street. The approval included a number of conditions, which will also be secured in the Site Plan Approval for 45 Bay Street and the Zoning By-law and Section 37 Agreement for 141 Bay Street. The IMIT approval requires that the first building at 45 Bay Street be occupied and constructed within 5 years of acquiring Site Plan approval and the building at 141 Bay Street be constructed within 15 years of City Council approval of the IMIT application, provided that the Holding symbol (H) has been removed from the Zoning for the site.

ISSUE BACKGROUND

Proposal

The proposal at 141 Bay Street is for a 53-storey office building with a 7-storey base building. The building will have a total gross floor area of 134,397 square metres, with 132,796 square metres of office space and 1,401 square metres of retail space. This is the second phase of a 2 phase project. The first phase is a 48-storey office building located at 45 Bay Street, on the south side of the rail corridor. The two buildings will be connected by a privately-owned publically-accessible open space (POPS) over the rail corridor at the 4th floor level of both buildings.

The gross floor area of the tower floor plate is 2,440 square metres at the lower levels of the tower up to 2,675 square metres at the upper levels. The tower is setback approximately 19 metres from Bay Street, 77 metres from Yonge Street, and 6 metres from the north property line. The proposal overhangs the rail corridor south of 141 Bay Street by approximately 7-10 metres. The applicant has entered into an agreement with Metrolinx for ownership of the air rights above the rail corridor.

The main pedestrian access to the office building is proposed along Bay Street. A stairway and elevator access to the elevated publically accessible open space is proposed along Bay Street on the 141 Bay Street property, which will be completed as part of the first phase of the Bay Park Centre

development at 45 Bay Street. Pedestrian access to 5 retail units proposed on the east portion of the site would be accessed from the north side of the base building through the office lobby and a walkway adjacent to the adjacent private laneway between 141 Bay Street and 1 Front Street West. Access to the parking and loading access is proposed on the eastern portion of the site from Yonge Street.

The proposal includes two new privately-owned publicly-accessible spaces at ground-level located at opposite ends of the site. The open space at the west end of the site along Bay Street is located outside the main lobby of the office building and is proposed to include a canopy at the 5th floor that ties in to the design of the 45 Bay Street building (phase 1). The open space proposed at the east end of the site would be located along Yonge Street, east of the proposed retail uses along the laneway.

Two new PATH connections are proposed: one across Bay Street to Union Station and the second across Yonge Street to the Backstage Condominium at 1-7 The Esplanade. The connections are located on the second floor of the proposal. The interior portion of the PATH connection through the Backstage Condominium has been completed as part of that development approval. It extends through the base building eastward from Yonge Street to allow for a future connection to the municipal public parking garage at 2 Church Street and potentially south to the waterfront.

There are 443 car parking spaces proposed in 5 levels of underground parking. In addition, the applicant is proposing 9 loading spaces located on the second floor of the underground garage. The parking and loading is proposed to be accessed from Yonge Street. There is a shared private laneway between 141 Bay Street and 1 Front Street West which is proposed to be used for emergency access to 141 Bay Street and for pick-up and drop-off activities. The application also includes 524 bicycle parking spaces of which 257 will be for occupants of the building and 267 for visitors.

Site and Surrounding Area

The property at 141 Bay Street is located between Yonge Street and Bay Street, south of the Dominion Public Building at 1 Front Street West and north of the CNR Rail corridor. The GO bus terminal is currently located at 141 Bay Street. A portion of the office tower as well as an extension of the approved elevated open space will cantilever over the rail corridor.

The 141 Bay Street portion of the site is rectangular and relatively flat. It has an area of 6,936 square metres with a frontage of 39 metres on Bay Street and 44 metres on Yonge Street. The length of the site between Yonge Street and Bay Street is approximately 171 metres. The portion of the site within the rail corridor begins at a height of approximately 10 metres above track level. The air rights cover an area of 15,584 square metres.

North: The Dominion Public Building is located north of the site at 1 Front Street West. There is a shared 6 metre wide private laneway between 141 Bay Street and 1 Front Street West.

- South: The CNR Rail corridor is located to the south of the 141 Bay Street portion of the site. Beyond the rail corridor is the related proposal at 45 Bay Street (phase 1) for a 48-storey office building including a railway overbuild to create publicly accessible open space above the rail corridor. A residential condominium is located at 18 Yonge Street, which is just east of the proposed office building.
- East: There are two new developments on the east side of Yonge Street. The L-Tower on the northeast corner of Yonge Street and The Esplanade is a 57-storey residential condominium and The Backstage is a 36-storey residential condominium project on the southeast corner of Yonge Street and The Esplanade.
- West: Bay Street is located to the west of the site. Union Station is located on the west side of Bay Street.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important and that the Official Plan is the most important vehicle for implementing the PPS. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required, by the *Planning Act*, to be consistent with the PPS.

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

Staff reviewed the proposed development for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The subject site is located within the *Downtown and Central Waterfront* area on Map 2 – Urban Structure in the Official Plan and within the *Financial District* area on Map 6 – Downtown and Central Waterfront Boundaries. The site is designated *Mixed Use Areas* and *Utility Corridors* on Map 18 – Land Use Plan. The site is also located in within the Railway Lands East Secondary Plan.

Chapter Two of the Official Plan – Shaping the City, states that the *Downtown* area offers opportunities for substantial employment and residential growth. It is the most accessible business location in the GTA and the largest employment centre in the region. The Official Plan states that the *Downtown* will accommodate development that builds on the strength of the *Downtown* as the premier employment centre in the GTA and focuses on the *Financial District* as the prime location for the development of prestige commercial office buildings and landmark buildings that shape the skyline.

The *Mixed Use Areas* designation permits a range of land uses including retail, offices, institutions and parks and open space. Development in *Mixed Use Areas* is required to: create a balance of high quality commercial, residential, institutional and open spaces that reduce the need for automobile dependency; provide new jobs and homes for Toronto's growing population on underutilized lands and the *Downtown*; create and sustain well paid, stable, safe and fulfilling employment opportunities; take advantage of nearby transit; and provide an attractive, comfortable and safe pedestrian environment.

The *Utility Corridor* designation states that rail corridors are primarily used for the movement of people and goods. Development or redevelopment of lands nearby or adjacent to *Utility Corridors* will protect for access to potential bicycle and pedestrian trails or parks and open spaces and screen and secure the property edge through such measures and setbacks, fencing, site grading, berms, landscaping, building treatment and construction techniques.

The proposed development is subject to the City's Official Plan Heritage Policies, including Official Plan Amendment 199 which was enacted by City Council in April 2013 and approved by the Ontario Municipal Board in May 2015 to strengthen the City's heritage policies. Section 3.1.5 of the Official Plan states that development adjacent to properties on the City's Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate the visual and physical impact on it. The proposed development is located adjacent to the heritage building known as the Dominion Building located at 1 Front Street West and across from Union Station and is located within the Union Station heritage Conservation District. The impact of the proposed development on adjacent heritage properties was taken into consideration when reviewing this application.

The site is also located in the Railway Lands East Secondary Plan area which covers the eastern segment of the downtown railway lands, generally from John Street to Yonge Street and Front Street West south to Lakeshore Boulevard. The Secondary Plan identifies area-specific policies and objectives regarding Building Form, Housing, Open Spaces, Community Facilities, Heritage, Transportation and Environment. The 141 Bay Street site is located within *Mixed Use Area A* and *Precinct 1* on Maps 17-2 – Land Use Map, and Map 17-5 – Precincts Plan. The Secondary Plan states that the *Mixed Use Areas 'A'* designation permits commercial office uses and will be regarded as a commercial extension of the Financial District.

The Secondary Plan states that proposals for decking and/or building over the rail tracks in the areas designated Utility Corridors not including Utility Corridor 'A' (Union Station) will be considered and by-laws may be passed to permit development over the rail tracks in this area provided that: the capacity and safety of train operations is not reduced; future flexibility for improvements to the track system is not reduced; environmental concerns have been addressed; and the primary objective of the rail corridor and Union Station, which is the effective, safe and efficient provision of rail transportation services, will not be compromised.

TOcore

On December 9, 2015, City Council adopted a staff report entitled 'TOcore: Planning Toronto's Downtown – Phase 1 – Summary Report and Phase 2 Directions'. The report outlined the deliverables of TOcore which will be a renewed planning framework through a Downtown Secondary Plan and a series of infrastructure strategies. The work for TOcore began on May 13, 2014, when Toronto and East York Community Council adopted a staff report regarding 'TOcore: Planning Toronto's Downtown', along with a related background document entitled 'Trends and Issues in the Intensification of Downtown'.

TOcore is looking at how Toronto's Downtown should grow, with both a renewed planning framework and the necessary physical and social infrastructure to remain a great place to live, work, learn, play and invest. TOcore is in its second phase, which involves drafting policies, plans and strategies. Reports to Toronto and East York Community Council are targeted by the end 2016 on the results of the second phase and the next steps of implementation.

City Council on October 6, 2016 approved an Official Plan Amendment (OPA) 352 – Downtown Tall Building Setback Area. The purpose of OPA 352 is to establish the policy context for tall building setbacks and separation distances between tower portions of a tall building in the Downtown which would be implemented through an area specific Zoning By-law. The intent is that these policies would ensure that future growth positively contributes to the liveability, sustainability and health of Toronto's Downtown. More specifically policies establish the reasoning for tower setbacks, recognize that not all sites can accommodate tall buildings and addresses base building heights. The property at 141 Bay Street was exempted from OPA 352 for the reasons cited in this report.

Zoning

The site is located within the Railway Lands East Area 'A' Zoning By-law No. 168-93. The 141 Bay Street portion of the site is designated as h (CR Block 1). This zoning designation permits a wide variety of uses including office and retail uses. The zoning by-law allows for a maximum height of 137 metres and a maximum density of 8 times the site area. Due to the Holding Symbol ('h'), the uses permitted at141 Bay Street are temporarily limited to railway, public facility, transportation, and temporary construction uses. The Railway Lands East Area Secondary Plan includes a number of conditions that must be met in order to remove the holding symbol including the submission of a precinct plan, environmental report, and a development concept plan as well as entering into an environmental agreement and a precinct agreement with the City.

The rail corridor portion of the site is zoned T which permits only railway and public uses. Public uses are identified as a waterworks plant, pumping station, transit line, train station, and pedestrian walkway.

Site Plan Control

The proposed development is subject to Site Plan Control. An application has not been submitted.

Heritage Conservation

The site is located in the Union Station Heritage Conservation District (HCD) and is adjacent to significant heritage buildings including Union Station and the Canada Dominion Building. The proposal includes a PATH connection from the proposed development directly into the east elevation of Union Station over Bay Street and in front of the Union Station train shed. The alteration to Union Station requires approval through a Parks Canada Heritage process. In addition a PATH connection is proposed over Yonge Street on an overpass that is part of the Toronto Viaduct. This PATH connection requires approvals through the Metrolinx heritage process. In the case of both the Parks Canada and Metrolinx processes, the applicant has commenced obtaining these approvals, which will be completed as part of Site Plan Approval.

Union Station Heritage Conservation District

The Union Station Heritage Conservation District was approved by City Council July 27, 2006 as By-Law 634-2006. The Union Station Heritage Conservation District study was a component of the broader Union Station District Urban Design Study, which was initiated by the City Planning Division as a part of the Union Station Master Plan. The resulting Union Station Heritage Conservation District Plan includes an examination of heritage character, provides district guidelines and identifies those properties that contribute to the heritage value of the Plan area. It is used by the City and property owners as a tool to strengthen and protect the significant heritage character of the Union Station Precinct.

The subject site is within the Union Station Heritage Conservation District Plan. The provincially owned Metrolinx transportation hub building on the site is identified as a "contributing building" because of its associative value related to the history of transportation in the area. There is no information in the HCD Plan about its architectural value. The regional transportation function of the building is being replaced by a new indoor bus terminal as part of the 45 Bay Street development. Demolition of a building in an HCD is subject to City of Toronto Heritage Preservation Services review and approval by City Council. As long as the property is owned by Metrolinx, a provincial agency, this approval is not necessary, because provincially owned properties cannot be municipally designated.

City-Wide Tall Building Design Guidelines

In May 2013, Toronto City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use these Guidelines in the evaluation of all new and current tall building development applications. The guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure that they fit within their context and minimize their local impacts. The city-wide Guidelines are available at http://www.toronto.ca/planning/tallbuildingdesign.htm

Policy 1 in Section 5.3.2 Implementation Plans and Strategies for City-Building, the Official Plan states that Guidelines will be adopted to advance the vision, objectives, and policies of the Plan. Urban Design guidelines specifically are intended "to provide a more detailed framework for built form and public improvements in growth areas." The Tall Building Design Guidelines serve this policy intent, helping to implement Chapter 3.1. The Built Environment and other policies within the Plan related to the design and development of tall buildings in Toronto.

This project is subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the city-wide Tall Building Design Guidelines May 2013) as it is located within the Railway Lands East Secondary Plan Area.

Tree Preservation

The applicant has submitted a tree preservation plan in support of the application. There are 33 trees located on the 141 Bay Street site. None of these trees are large enough to be protected under the City of Toronto Private Tree By-law and are proposed to be removed to accommodate the proposed development. There are three trees located in the public right-of-way adjacent to the south west portion of the site. All are proposed to be removed. Urban Forestry staff are reviewing the request to remove the trees and have advised that the owner will be required to obtain the necessary permits and submit a satisfactory replanting plan prior to the removal of any protected trees. This will be included as part of a future Site Plan Approval application for the development.

Reasons for the Application

The zoning by-law amendment application is required to permit the proposed 53-storey mixed-use development and establish the appropriate development standards. Significant changes to the zoning by-law include allowing commercial uses in the utility corridor, increasing the permitted height from 137 metres to 243 metres, and increasing the maximum permitted density from 8 times lot coverage on the northern portion of the site to 13.7 times lot coverage on this portion and from no permitted density to 1.7 times density on the portion over the rail corridor. The zoning by-law amendment application is also required to remove the Holding Symbol ('h').

Community Consultation

A Community Consultation meeting was held on January 11, 2015. Approximately 30 member of the public attended the meeting. The only significant area of concern related to potential traffic impacts of the proposed development on The Esplanade. There was discussion relating to: the continued need for the private laneway between the proposed building and the 1 Front Street building; the desire to convert this to a pedestrian only area; potential shadowing on Berczy Park; and general questions relating to how the Publically Accessible Park would be accessed from the east. The few written submissions received all supported the proposal but expressed concern with potential traffic in the future.

Staff have consulted with Canada Lands Corporation who have interest in the property to the north at 1 Front Street West.

Agency Circulation

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

COMMENTS

Provincial Policy Statement and Provincial Plans

The 2014 PPS promotes new development through intensification, where such intensification recognizes the development's local context, and has a well-designed built form. This application provides a built form that fits within its local context and is consistent with the PPS 2014.

The Growth Plan for the Greater Golden Horseshoe designates the site within the urban growth centre. The Growth Plan recognizes urban growth centres as areas for development to accommodate intensification, to provide for a range of housing options, to provide for appropriate transition of built form to adjacent areas, to accommodate and support major transit infrastructure, and to serve as high density major employment centres that will attract provincially, nationally, or internationally significant employment uses. The Growth Plan identifies that major office and appropriate major institutional development should be located in urban growth centres, major transit station areas, or areas with existing frequent transit service, or existing or planned higher order transit service. This application, for a major office within the urban growth centre, close to both local and regional transit, accommodates intensification, provides an acceptable transition of built form to adjacent areas, and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

Section 2.2.1.1 of the *Downtown* policies of the Plan will shape the City's future by accommodating development that: builds on the strength of *Downtown* as the premier employment centre in the GTA; and provides a full range of housing opportunities for *Downtown* workers and reduces the demand for in-bound commuting. The Plan identifies that the *Financial District* is the location where commercial activity is most intense, with a concentration of large, architecturally-significant landmark buildings that define the skyline. Jobs are concentrated in large office buildings tightly clustered within walking distance of Union Station and the subway. Policy 2.2.1.1(c) of the Plan identifies that the *Downtown* policies of the Plan will shape the City's future by accommodating development that focuses on the *Financial District* as the prime location for the development of prestige commercial office.

The Official Plan identifies that *Mixed Use Areas* are intended to achieve a multitude of planning objectives by combining a broad array of residential, office, retail and service uses. The development criteria contained within Section 4.5.2 of the Official Plan seeks to ensure that, among other matters, development in *Mixed Use Areas* creates a balance of high quality commercial, residential, institutional uses that reduce automobile dependency while meeting the needs of the local community. The Plan also seeks to create and sustain well paid, stable, safe and fulfilling employment opportunities on lands designated *Mixed Use Areas*.

The site is currently occupied by the GO bus terminal which is being replaced with a new facility as part of Phase 1 of the overall development. The proposed office development, within the *Financial District*, immediately adjacent to all forms of both local and regional transportation, meets the City's planning objectives for the area. The proposed land use is appropriate for this site and complies with Policies contained within the Official Plan and the development will create a high

quality office space that reduces automobile dependency as anticipated in the Official Plan for *Mixed Use Areas*.

Height and Density

The Official Plan identifies that tall buildings are desirable in the right places, but also acknowledges that they are not appropriate in all locations. The highest buildings and greatest intensity will occur in parts of the *Downtown*, with decreased intensity and scale in the *Centres* and along *Avenues*. The subject site is located within the *Downtown*, on a major arterial road in the City.

The proposal is for a 53-storey office building with a building height of 243 metres. The building is of a similar height to other office buildings within the Financial Core, including First Canadian Place (298 metres), Scotia Plaza (275 metres), the approved height at 171 Front Street West (238 metres) and 156-174 Front Street West (265 metres) as well as the approved first phase of the subject development at 45 Bay Street (238 metres).

Zoning By-law 168-93 permits a maximum density of 8.0 times the area on the northern portion of the property (15.7 times the area of the lot proposed) and no density on the southern portion of the lot (1.6 times the area of the lot proposed). The overall density on the whole property is 6.0 times the area of the lot. The proposed density of the north portion is in keeping with the net density of other buildings in the area.

Staff have reviewed the applicant's proposal, as well as the surrounding context and conclude that a building of this height and density is acceptable on the subject site given its location, and the introduction of a significant amount of office space within the *Financial District*. It is in keeping with the intent of the Official Plan.

Comprehensive Block/context

The Dominion Public Building, located at 1 Front Street West, has played a historic role in the City of Toronto as the location where the federal government administered, inspected, stored and taxed imported and exported goods in Toronto. The property continues to be owned by the federal government and is managed by the Public Works and Government Services Canada's (PWGSC) Real Property Branch. PWGSC has declared the property surplus and will be proceeding with its sale.

The Dominion Public Building was listed on the inaugural City of Toronto Inventory of Heritage Properties in 1973. It is also currently protected as a Classified Federal Heritage Building. At its meeting of February 3 and 4, 2016, City Council stated its intention to designate the property, effective upon the transfer of the property by the federal government.

In 1996, an Ontario Municipal Board settlement was approved, permitting a tower with a height of 137 metres on the Dominion Public Building at 1 Front Street West which is located immediately north of the subject site. The proposed addition, which could be either for residential or office use, is centred on the projecting portico located approximately at the midpoint of the building between Bay Street and Yonge Street. The approved settlement provides for a building envelope, but also contains provisions for a maximum amount of gross floor area and that 60 parking spaces be

provided in what is currently the basement level of the building. Within the 20 years since this approval, the federal government has not applied to the City for the required Site Plan approval and have not expressed any interest in construction of the permitted tower.

If both the proposed 141 Bay Street tower and the proposed tower at 1 Front Street West were built, they would have a separation distance of 12 metres, which is significantly less than the minimum of 25 metres that is required by the City's Tall Building Guidelines. This direct building-to-building relationship would be for approximately 40 percent of the building below the height of 137 metres and approximately 60 percent of the building below the height of 74 metres. The top 106 metres of the proposed building exceed the height of the approved building envelope on 1 Front Street West.

Staff are of the opinion that the permitted zoning envelope for 1 Front Street West is contrary to Parks Canada's Standards and Guidelines which require that development "conserve the heritage values and character-defining elements when creating and new additions to an historic place or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place."

Both City staff and the applicant have had discussions with representatives of the federal government and with Canada Lands respecting development potential on the 1 Front Street West lands. It is staff's opinion that should there be any additional development, there would be a better comprehensive outcome if the approved zoning envelope were shifted to the east towards the Yonge Street portion of the building. At this location, 1 Front Street West is substantially deeper and there would be greater opportunity to provide increased setback from the edge of the existing heritage building than what is afforded in the OMB approved development, no matter where it is located on the building given the important external and internal heritage features and the difficulty in meeting the current requirements for parking and loading on the property, among other considerations.

Heritage staff had concern with respect to the massing of the 7-storey base building for 141 Bay Street which is 10 metres higher than the Dominion building. The new building would be most visible for pedestrians travelling along Yonge Street. Heritage Preservation Services staff were initially concerned that the base building would visually subordinate the Dominion building when viewed from Yonge Street and would be visible above the silhouette of the Dominion building when viewed from Front Street. The massing was revised to incorporate a 2.6 metres step back corresponding to the height of the Dominion building cornice line. The articulation, which is present on all sides of the base building, introduces a shift in the volume and breaks up the massing. Due to the position of the base building set back 20 metres from Yonge Street, a pedestrian advancing to the south towards the waterfront on the east side of Yonge Street would not perceive the difference in scale between the Dominion building and the base building is not visible from many prominent view points along Front Street. The owner has agreed to reduce the height of the roof parapet to a maximum of 1 metre to further mitigate the height.

The development at 45 and 141 Bay Street is a significant employment project, which contributes to the City's goal of creating jobs within the financial core in close proximity to transit, expanding the Union Station transit hub with the creation of a new bus terminal, the expansion of the PATH

system to the south and east and the creation of a significant Publically Accessible Open Space, staff believe that a City initiated rezoning would be appropriate at this time to address concerns related to both heritage conservation and facing distances between the proposal at 141 Bay Street and 1 Front Street West. Staff will report back to Toronto and East York Community Council in early 2017 upon further study and consultation with the federal government and area stakeholders.

City-Wide Tall Building Design Guidelines

The proposed building supports the guiding principles of the Tall Buildings Guidelines, which are as followings:

- promote architectural and urban design excellence, sustainability, innovation, longevity and creative expression and visionary design, high-quality materials, and leading edge construction methods;
- promote harmonious fit and compatibility with the existing and planned context, emphasizing relationships to lower-scale buildings, parks and open space;
- conserve and integrate adjacent and on-site heritage properties so that new tall buildings are sympathetic to and compatible with, the heritage property;
- consider relationships to other tall buildings, including the cumulative effect of multiple towers on sunlight, comfort, and quality in the public realm;
- create safe, comfortable, accessible, vibrant, and attractive public realm and pedestrian environment;
- minimize shadowing and wind impacts, and protect sunlight and sky view, for streets, parks, public and private open space, and neighbouring properties;
- respond appropriately to prominent sites, important views from the public realm, and the shape of the skyline to reinforce the structure and image of the city; and
- ensure high-quality living and working conditions, including access to public and private open space, interior day lighting, natural ventilation, and privacy for building occupants.

This project is not located within an area that is subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the city-wide Tall Building Design Guidelines May 2013) as it is located within the Railway Lands East Secondary Plan Area. These guidelines apply to the area to the north. For the property immediately to the north at 1 Front Street West, the guidelines envision heights ranging from 45-storeys to an unlimited number of stories (137 metres and up) along Bay Street and heights between 62 metres and 107 metres (20 to 35 stories) along the Yonge Street frontage. The guidelines state that there are three mitigating factors that take precedence over heights that overrides the ability to place a tall building on a particular site; they are: heritage properties located on or adjacent to the

site; sunlight on parks and open spaces; and views of prominent and heritage properties, structures and landscapes.

The height of the proposed building at 243 metres does not shadow Berczy Park which is a Tier One park (consistent with Supplementary Design Guideline #2 that requires no shadow on signature Parks between 10:00 am and 4:00 pm on September 21st). The form of the building and scale of the base building, along with the incorporation of landscaped pedestrian forecourts on both the Bay Street and Yonge Street frontages acknowledge the importance of the adjacent heritage buildings (1 Front Street West and Union Station) and provide for much needed pedestrian space within high pedestrian traffic area.

Massing and Siting

Section 4.5 of the Official Plan sets out criteria used to evaluate development within the *Mixed Use Areas* designation. All new development within *Mixed Use Areas* is required to locate and mass new buildings to frame the edge of the streets, maintain sunlight and comfortable wind conditions, and locate and mass new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives contained within the Plan. The objectives of the Official Plan are to be addressed by ensuring that developments provide appropriate setbacks and/or stepping down of heights, between areas of different development intensity and scale, and by locating and massing new buildings in a manner that is sensitive and limits shadow impacts during the spring and fall equinoxes.

The Tall Buildings Guidelines are an evaluation tool, which seek to achieve optimal building siting and design that enhance the adjacent public realm, and reinforce the surrounding built environment, context, and desired character of development in the *Downtown*. The Guidelines contain performance standards which are used to assist staff when evaluating and reviewing new tall building applications. The proposal complies with the performance standards contained within the guidelines including, but not limited to: tower placement; base building location; transparency at street level; and pedestrian scale façade articulation. The large floor plate size is not atypical for buildings within the financial core and compares in size to the recently constructed Bay Adelaide and One York buildings.

While the minimum separation distance to the adjacent building at 1 Front Street West is not being met at the current time, the building has been shifted as far south as possible and is cantilevered over the rail corridor to provide for the maximum separation distance from the existing Dominion Public Building. Staff are seeking direction to initiate a rezoning process for 1 Front Street west that would assist in improving this separation distance. In addition the overall height of the podium level of the building adjacent to Yonge Street has been lowered and sculpted to fit more harmoniously with the heritage building.

The proposed siting, and massing of the proposed development is in keeping with the built form policies and the development criteria contained within the "*Mixed Use Areas*" designation.

Sun, Shadow

The shadow impact resulting from the application is acceptable. The Downtown Tall Buildings Design Guidelines state that every effort will be made to design and orient tall buildings to minimize their shadow impact on all publicly accessible parks, open spaces, natural areas and other shadow sensitive areas. The shadows are typical for a building in a downtown location. The original submission resulted in a shadow on the south-west corner of Berczy Park. The building has been reduced by one storey to eliminate any shadow on the park. In addition, by noon on June 21st, there are no negative impacts on Front Street adjacent to Union Station.

Design Review Panel

The project was presented to the City of Toronto design review panel on February 18, 2016. While the panel cited a few areas that they felt needed some further consideration, the panel commended the proponent team for "an exemplar project with a clear and elegantly stated ambition for design excellence" and stated that "the bold move to create a civic link across the rail corridor is particularly appreciated".

Pedestrian and Public Realm Improvements

The proposed development includes a number of public realm improvements that will both create places where people can gather as well as provide for increased pedestrian flow through in this extremely busy area of the City. The proposed improvements include:

- A new east/west linkages between Bay and Yonge, through the building and along the private laneway, between 141 Bay Street and 1 Front Street West. This linkage will help alleviate some of the pedestrian pressure at the Bay and Front Intersection;
- The extension of the elevated Publically Accessible Open Space built as part of phase 1 to provide access to users entering from Yonge Street with the creation of an new stairway access adjacent to the east side of the new office tower;
- Two new PATH extensions consistent with the PATH Master Plan.

Traffic Impact Assessment

The project is estimated to generate approximately 140, 175 and 160 two-way trips during the weekday AM and PM and Saturday peak hours, respectively. BA Consulting Group Ltd. concluded that the project will have minimal traffic impact at all of the intersections surrounding the development site. Transportation Services staff reviewed the documentation provided by the consultant and concurred with the conclusion.

Parking and Loading

The Railway Lands East Zoning By-law requires a minimum of 409 and a maximum of 452 parking spaces to support the proposed development. The provision of 443 parking spaces complies with the requirement and is sufficient to meet the anticipated demand. A portion of the parking will be dedicated to carpooling, car sharing and electronic vehicle charging. Parking spaces will be

required to comply with the more recent parking space dimension requirements of the Harmonized Zoning By-law for the City, Bylaw 569-2013.

The development will include underground bicycle parking for tenants and visitors to the building as well as at-grade spaces for public use. Bicycle parking will be provided in accordance with the City of Toronto Green Standards and the development will include shower and change facilities for building occupants.

A total of nine loading spaces will be provided for the project in the P2 level of the building with access off of Yonge Street. Through the Site Plan Approval process, Transportation Services staff will secure addition detail for the loading, including ensuring that all retail spaces and office uses are provided with internal service connections to the loading area.

Access and Site Circulation

Vehicular access to the property is proposed by means of a driveway off of Yonge Street, opposite the terminus of the Esplanade. This intersection is proposed to be signalized in conjunction with the 5 to 7 The Esplanade development located on the east side of Yonge Street.

Impact on Rail Corridor Operations

The Railway Lands East Secondary Plan permits by-laws to be passed for development over the rail corridor provided that:

- The capacity and safety of train operations will not be impaired;
- Future flexibility for improvements to the track system will not be reduced;
- All environmental and development concerns associated with such development, including, among other things, noise, vibration, air quality, parking, servicing, pedestrian access and capacity of the transportation system serving such development have been satisfactorily addressed, and any related requirements have been secured, where appropriate, in legal agreements; and
- The primary objective for the Rail Corridor and Union Station, which is the effective, safe and efficient provision of rail transportation services, will not be compromised.

The proposed development is a partnership between Metrolinx and Ivanhoe Cambridge. The development application has been circulated to Metrolinx staff for review and comment.

The proposed development is cantilevered over the rail corridor which is the CN Principal Main Line. The building is set back 30 metres from the active rail corridor and incorporates a crash wall into the design.

In addition to the cantilevering of the building, the 1st phase of the development at 45 Bay Street includes the construction of the large publically accessible open space over the rail corridor. The application included, amongst other documents and studies, a snow drift study, noise impact study, rail corridor exhaust and ventilation study and vibration study. Both applications have been

reviewed by Metrolinx staff who have expressed no concern with any negative impact on rail operations. Conditions of approval relating to the above noted studies, amongst other things, will be secured as part of the Site Plan Approval.

Holding Provision

Under the Planning Act, Council can pass a "holding" zoning by-law that places an "H" over the zoning. The by-law must state what uses are permitted while the holding symbol is in place and set out conditions that must be met before the "H" symbol is removed and the lands can be developed. Once the conditions for removal of the "H" are met, the property owner may apply to Council to lift the "H" symbol. Under the Planning Act, there is no requirement for a public meeting prior to lifting of the "H" and no right of appeal to the Ontario Municipal Board, except by the owner.

The Official Plan, Section 5.1.2 includes policies with respect to Holding By-laws. Where the intended use and zoning is known for lands but development should not take place until specific facilities are in place or conditions are met, the Official Plan allows Council to pass a "holding" zoning by-law that list the conditions that must be met prior to the removal of the "H". Policy 5.1.2.1 (a), states that the conditions to be met prior to the removal of the holding provision may include servicing improvements.

The zoning for the subject property currently includes a holding symbol (H). The Railway Lands East Area Secondary Plan includes the conditions that must be met in order to remove the H and they include the submission of a precinct plan, environmental report, and a development concept plan as well as entering into an environmental agreement and a precinct agreement with the City. The submission of the complete Zoning Application has been deemed to be sufficient to meet the conditions for the removal of the H as the assessment of the proposal has considered the block completely.

Servicing

Toronto Water is nearing completion of an update to the 2012 Toronto Waterfront Servicing Master Plan Environmental Assessment. They are reviewing options to address development pressures on the Scott Street sewage pumping station. This project, led by Toronto Water and supported by Development Engineering and City Planning, will develop an infrastructure strategy going forward in light of the significant residential and non-residential density increases being sought in the southeast Downtown within the Scott Street pumping station catchment area. While options are being reviewed and a final strategy developed, it may be necessary to place a holding provision on any Zoning By-law amendment approved by City Council in relation to any residential or nonresidential density increase above zoned as-of-right density. This holding provision would be subject to removal when a servicing plan for the proposal is approved and there is sufficient capacity to service the development. As such, the proposed Zoning By-law will continue to include a holding provision, but the conditions for removal are now related only to servicing.

Toronto Green Standard

In 2013, City Council updated the two-tiered Toronto Green Standard (TGS) that was adopted by City Council on October 27, 2009. The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. It is the applicant's intent to achieve a LEED Platinum designation and therefore the intention is to target Tier 2 compliance.

Parkland Dedication

As the site is located within the Railway Lands East Secondary Plan area, the site is exempt from the provisions of Section 42 of the Planning Act respecting park land dedication. Section 6.9 of the Railway Lands East Secondary Plan specifically states " No additional land for park and other recreational purposes, or money in lieu thereof, beyond the land for park or other recreation purposes required by Section 6.1 as shown on Map 17-3, will be required to be conveyed or contributed in connection with any development in the Railway Lands East." Map 17-3 outlines all of the locations where parks and publically accessible open spaces are to be provided and none are located on the subject property.

Section 37

The Official Plan contains policies pertaining to the provision of community benefits for increases in height and/or density pursuant to Section 37 of the *Planning Act*. While the proposed development exceeds the height and density limits of the Zoning By-law, the application is consistent with the objectives and policies of the Official Plan, and thus constitutes good planning.

Section 5.1.1.4 of the Official Plan allows Section 37 of the Planning Act to be used for all developments with a gross floor area of more than 10,000 square metres and when the zoning by-law amendment increases the permitted gross floor area by at least 1,500 square metres and/or increases the height significantly or where the applicant agrees to provide such benefits.

Staff met with the applicant, and upon consultation with the Ward Councillor are recommending the following community benefits under Section 37 of the Planning Act:

- a. A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$4,000,000 towards the Jack Layton Ferry Terminal;
- b. A cash contribution to the City, prior to the issuance of the first above-grade building permit, of \$1,500,000 towards the streetscape public realm improvements within the vicinity of the property, in addition to any improvements that have secured through the IMIT process, which may include improvements to the Bay Street underpass;
- c. Provide a public art contribution in accordance with the City of Toronto's Percent for Public Art Program, half of which could be directed to public art within the Bay Street underpass;

- d. In the event the cash contributions referred to in (a) and (b) above have not been used for the intended purpose within three (3) years of the date of the issuance of the above-grade building permit, the cash contribution may be directed for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands;
- e. The payments required in Clause 3(a) and (b) herein, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-law for the project are appealed to the Ontario Municipal Board, from the date of the Board order approving the by-laws, to the date of submission of the funds by the owner to the City.
- f. The following matters are also recommended to be secured in the Section 37 Agreement as a legal convenience to support development:
 - i. the Owner shall at its expense construct and maintain two above-grade publicly accessible pedestrian bridges from the site to Union Station and from the site to the Backstage condominium at 1-7 the Esplanade, for use by members of the general public;
 - ii. the Owner shall at its expense provide and maintain a publicly accessible weather protected route through the building and PATH connection referred to in (i), for use by members of the general public, and shall, for nominal consideration, provide an easement for public access to the City or agree through an equally binding legal mechanism to terms regarding public access, with the legal mechanism to be to the satisfaction of the City Solicitor, prior to the issuance of any site plan approval for the site, to accommodate linkages between the 2 pedestrian bridges referred to in i., above to the satisfaction of the Chief Planner and Executive Director, City Planning Division;
 - iii the Owner shall at its expense provide and maintain access to the privatelyowned publically-accessible open space above the rail corridor on the both the east and west side of the office tower, for use of members of the general public, and;
 - iv. for nominal consideration, shall provide an easement to the City for public access or agree by way of an equally binding legal mechanism to terms regarding public access, with the mechanism to be to the satisfaction of the City Solicitor, prior to the issuance of Site Plan Approval for Phase 1 of the development at 45 and 141 Bay Street;

v. the owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.

CONTACT

Leontine Major, Senior Planner Tel. No. (416) 397-4079 E-mail: lmajor@toronto.ca

SIGNATURE

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

(P:\2016\Cluster B\pln\TEYCC\23121248017.doc) - smc

ATTACHMENTS

- Attachment 1: Site Plan
- Attachment 2: East Elevation
- Attachment 3: West Elevation
- Attachment 4: South Elevation
- Attachment 5: North Elevation
- Attachment 6: Zoning
- Attachment 7: Application Data Sheet
- Attachment 8: Draft Zoning By-law Amendment

Attachment 1: Site Plan





141 Bay Street





East Elevation

141 Bay Street

Applicant's Submitted Drawing Not to Scale 09/16/2016





West Elevation

Applicant's Submitted Drawing

Not to Scale 09/16/2016 141 Bay Street



South Elevation

Applicant's Submitted Drawing Not to Scale 09/16/2016

141 Bay Street





North Elevation

Applicant's Submitted Drawing

Not to Scale 09/16/2016 141 Bay Street





Attachment 7: Application Data Sheet										
Application Type	Rezoning	•		Application Nun				44 STE 28 OZ		
Details	Rezoning, Stand	aard	Application Date:			e: P	August 18, 2015			
Municipal Address:	141 BAY ST									
Location Description:										
Project Description:	This application proposes to amend the Zoning By-law for the lands at 141 Bay Street and a portion of the adjoining Metrolinx Downtown Rail Corridor. This proposal is the second phase of a larger redevelopment that includes a 48-storey office tower at 45 Bay Street and an elevated open space located over the railway. The proposed development at 141 Bay Street includes a 53-storey (243 metre high) office development including a 7-storey base building with retail and amenity uses on the first and fourth floors. The proposal also includes new publicly accessible plazas at Bay Street and Yonge Street, a PATH connection to Union Station over Bay Street and a possible PATH connection across Yonge Street to the Backstage condominiums at 1-7 The Esplanade. The proposal also includes 443 parking spaces in a 5 level underground garage.									
Applicant:		Architect: Own			Owner:	ner:				
Frank Lewinberg					C	Greater Toro	onto Tr	ansit Authority		
PLANNING CONTROLS										
Official Plan Designati	on: Mixed Use	e Areas	Site Specific Provision:		Ra	Railway Lands East Secondary Plan				
Zoning:	Т		Historical Status:							
Height Limit (m):	15		Site Plan Control	Plan Control Area: Y						
PROJECT INFORM	ATION									
Site Area (sq. m):		22520	Heig	ght:	Storeys:	53				
Frontage (m):		38.98		Μ		243				
Depth (m):		171.53								
Total Ground Floor Area (sq. m):309							Total			
Total Residential GFA	· • ·	0			Parking Spaces: 443					
Total Non-Residential	134397	•			Docks	9				
Total GFA (sq. m):		134397								
Lot Coverage Ratio (%	13.7									
Floor Space Index:		6								
DWELLING UNITS FLOOR AREA BREAKDOWN (upon project completion)										
Tenure Type:						Above Gr	ade	Below Grade		
Rooms:	0	Re	esidential GFA (sq.	. m):		0		0		
Bachelor: 0		Re	Retail GFA (sq. m):			1401		0		
1 Bedroom: 0		0	Office GFA (sq. m):			132996		0		
2 Bedroom:	0		Industrial GFA (sq. m):			0		0		
3 + Bedroom: 0		In	Institutional/Other GFA (sq. m):			0		0		
Total Units:	0									
CONTACT: PLANNER NAME:			Leontine Major, Senior Planner							
TF	(41	6) 397-4079								

Attachment 8: Draft Zoning By-law Amendment

To be distributed to the Toronto and East York Community Council Meeting