

260-270 and 274-322 King Street West Extension of Part Lot Control Exemption Application – Final Report

Date: January 18, 2022

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: Ward 10 - Spadina-Fort York

Planning Application Number: 21 244217 STE 10 PL

SUMMARY

On June 13, 2016 an application was submitted to permit an exemption from Part Lot Control for the lands known as 260-270 and 274-322 King Street West to facilitate the implementation of a mixed-use development on the subject properties. The properties are located on two blocks between King Street West to the south and Pearl Street to the north including all properties between John Street and Ed Mirvish Way (West Block), and two properties east of Ed Mirvish Way (East Block). The development includes two tall buildings of 84 and 74 storeys on the West and East Blocks respectively designed by renowned architect Frank Gehry.

The Part Lot Control exemption was requested to facilitate the division of the lands into a number of parcels to enable the owner to transfer portions of the lands along with easements and rights-of way needed to facilitate the implementation of the proposed development. On January 31, 2017 Council approved the Part Lot Control Exemption application and on April 28, 2017 enacted By-law No. 424-2017 exempting these lands from the Part Lot Control provisions of the Planning Act for a period of 5 years.

This report recommends that exemption from Part Lot Control be extended for an additional 5 years to allow for the completion of the project and associated transactions.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend By-law 424-2017 to extend Part Lot Control Exemption, for the lands municipally known as 260-270 and 274-322 King Street West for an additional 5 year period from the date of the enactment of the by-law in accordance with the draft by-law in Attachment 6 to the report dated January 18, 2022 from the Director, Community Planning, Toronto and East York District.

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft by-law as may be required.
3. City Council authorize and direct appropriate City Officials to register the by-law on title to the lands.
4. City Council require the owner to provide proof of payment of all current property taxes for the subject lands to the satisfaction of the City Solicitor, prior to enactment of the Part Lot Control Exemption By-law.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

At its meeting of July 8, 9, 10 and 11, 2014 City Council approved City-initiated Official Plan Amendment (OPA No. 272) to permit two tall buildings at 260-270 and 274-322 King Street West and established criteria for the development of the lands, including among other matters, the retention of heritage resources and criteria to guide development. Council also directed that City staff attend the Ontario Municipal Board (OMB) hearing in support of a zoning by-law amendment application for the proposed mixed-use development. Council's decision is available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE33.8>

At its meeting of August 25, 26 and 27, 2014 Council enacted a by-law to designate the property at 300 King Street West (Princess of Wales Theatre) under Part IV, Section 29 of the Ontario Heritage Act, and a by-law providing for the City to enter into Heritage Agreements with the owner of the properties at 260 (Royal Alexandra Theatre), 284 (Anderson Building) and 322 (Eclipse Whitewear Building) King Street West. Council's decision is available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.41>

On October 2, 2014, the OMB deemed OPA 272 to be in force as of September 23, 2014 and approved a zoning by-law amendment for the lands subject to conditions. Among other matters, the conditions included that the final form of the zoning by-law be acceptable to the City Solicitor and Chief Planner. On July 28, 2017 the OMB issued its final order on the Zoning By-law Amendment application bringing the Zoning By-law (1480-2017) into full force and effect.

At its meeting on January 31, 2017, Council approved a Part Lot Control Exemption application and, on April 28, 2017, enacted Part Lot Control Exemption By-law 424-2017 for the lands. Council's decision is available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE21.2>

At its meeting on September 29, 2021, the Committee of Adjustment approved a Minor Variance application providing for variances to the zoning by-law to address minor design changes to the proposal. The decision of the Committee of Adjustment is available on the City's website at:

<http://app.toronto.ca/AIC/index.do?folderRsn=hrDBPaJQyScY2n2bVNy2Dw%3D%3D>

PROPOSAL

The applicant is requesting an extension to Part Lot Control Exemption By-law 424-2017, enacted by Council on April 28, 2017, to facilitate the mixed-use development proposed on the lands. The subject properties are situated on two blocks between King Street West to the south and Pearl Street to the north including all properties between John Street and Ed Mirvish Way (West Block), and two properties east of Ed Mirvish Way (East Block) (Attachment 1).

On the West Block the development includes the retention of the historic Eclipse Whitewear building, Princess of Wales Theatre and the Anderson Building façade along with a new 84-storey building with retail, office and residential uses. The Eclipse Whitewear building has been restored and includes a new art gallery provided as a part of the Section 37 community benefits for the overall project. On the East Block the development includes the retention of the Royal Alexandra Theatre and a new 74-storey building with retail and residential uses as well as space for OCAD University. Both buildings are designed by the renowned architect Frank Gehry.

It is anticipated that due to the complexity and number of existing and new buildings with various distinct uses and obligations under the planning approvals, the development will be built in phases with several ownerships and various easements and rights-of-ways needed to facilitate implementation of the overall plan. This will result in more than one owner within each Block and easements and rights-of-ways over portions of the Blocks.

Attachments 2, 3, 4 and 5, include level 1 floor plans and building section drawings for the East and West Blocks respectively, that illustrate the anticipated parcels within each Block. The East Block is anticipated to consist of 6 Parts and three owners of parcels within the Block. The West Block is anticipated to consist of 36 Parts and two owners of parcels within the Block.

Reasons for Application

The extension to Part Lot Control exemption is requested as the existing Part Lot Control Exemption By-law (424-2017) will expire on April 28, 2022 and does not provide sufficient time for the completion of the project and the associated transactions. An extension to the Part Lot Control Exemption would facilitate the implementation of the development proposal including the creation of the separate parcels as well as easements and rights-of-ways needed for the development.

APPLICATION BACKGROUND

Application Submission Requirements

Survey plans, East and West Block floor plans and sections illustrating anticipated parcels, and ownerships, anticipated easements, and a Planning Rationale letter were submitted in support of the application. This information is available on the City's Application Information Centre (AIC) at:
<https://www.toronto.ca/city-government/planning-development/application-information-centre>.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

The Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by directing development away from natural or human-made hazards.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the Planning Act and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) came into effect on August 28, 2020. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part.

The Growth Plan (2020), builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020), take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. In accordance with Section 3 of the Planning Act all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

Toronto Official Plan

The site is located in the Downtown and is designated Regeneration Areas in the Official Plan. A broad mix of residential and non-residential uses are permitted within Regeneration Areas. The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

King Spadina Secondary Plan

The site is located within the King-Spadina Secondary Plan area and is subject to Site and Area Specific Policy No. 2 (SASP No. 2) of the Secondary Plan approved by Council in 2014. The policies of the SASP are intended to ensure that the redevelopment of the site recognizes and continues the historic commitment and dedication to the performing arts and the cultural evolution of this portion of King Street West and the broader area. The SASP also provides that the development be of a unique and high quality architectural design. The King Spadina Secondary Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Zoning

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended. The RA zone permits a range of residential uses, as well as commercial, institutional and limited industrial uses. A zoning by-law amendment application was approved by the OMB in 2014 with the final form of the by-law approved by the OMB in 2017. The amending by-law established the standards for the development in relation to height setbacks, gross floor area and other matters. A holding symbol was also placed on the lands until such time as a site plan agreement between the owner and the City is finalized. In September of 2021, the Committee of Adjustment approved an application for variances to the by-law to address changes in the design of the development determined through the review of the proposal through the site plan application process.

Site Plan Control

A site plan application (File # 16 134596 STE 20 SA) has been submitted and is under review by City staff. It is anticipated that the site plan application will be finalized in the second quarter of 2022.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2020) and the Growth Plan (2020). Staff have determined that the proposal is consistent with the PPS and conforms with the Growth Plan (2020).

Land Division

Section 50(7) of the Planning Act, R.S.O. 1990, as amended, authorizes Council to adopt a by-law exempting lands within a registered plan of subdivision from Part Lot Control. The site is situated within a registered plan of subdivision. Section 50(7.4) of the Planning Act, R.S.O. 1990, as amended, authorizes Council to amend a Part Lot Control Exemption by-law to extend the time period specified for the exemption at any time prior to the expiration of the by-law.

To ensure that Part Lot Control Exemption By-law 424-2017 did not remain open indefinitely, it was to expire on April 28, 2022, five years from the date of enactment. The applicant has advised that due to the size of the development that the time period did not provide sufficient time for the completion of the project and the associated transactions. As a result, the applicant is requesting that the exemption from Part Lot Control be extended.

A Section 118 Restriction is currently registered on title for the lands that are the subject of the the Part Lot Control exemption request. In accordance with the Land Titles Act, a Section 118 Restriction prohibits the transfer or charge of any of the lands without prior written consent of the Chief Planner or their designate. This restriction enables the City to ensure that the Part Lot Control exemption is not unlimited and that appropriate mechanisms are secured to support the development.

Conclusion

Planning staff consider the request for the extension of the Part Lot Control Exemption appropriate for the orderly development of the land. Staff recommend that Council extend the term of the Part Lot Control Exemption by-law for an additional five year period. This time frame is expected to provide sufficient time for the completion of the proposed development and associated transactions.

CONTACT

Susan McAlpine, Senior Planner
Tel. No. (416) 392-7622
E-mail: Susan.Mcalpine@toronto.ca

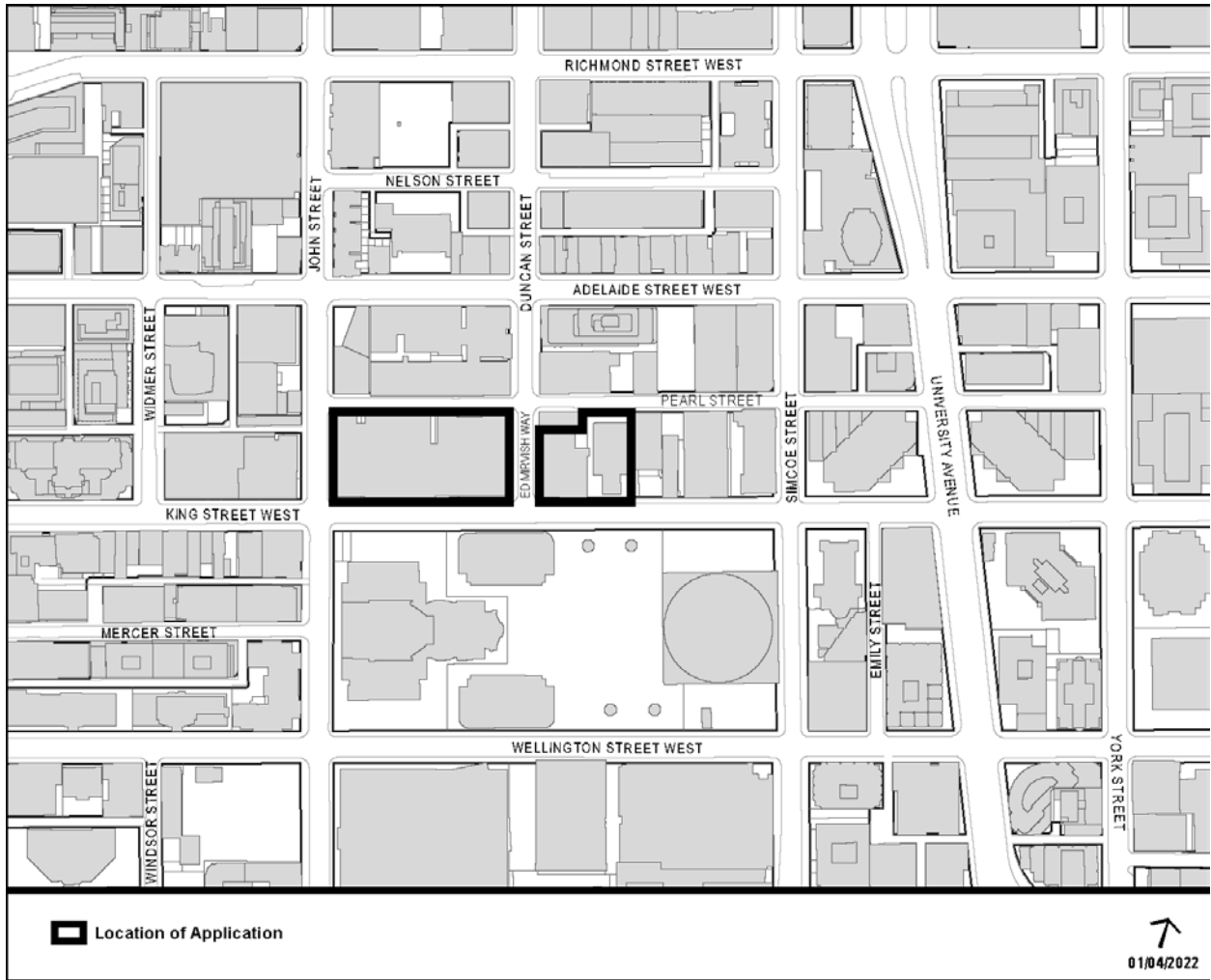
SIGNATURE

Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA,
Director, Community Planning, Toronto and East York District

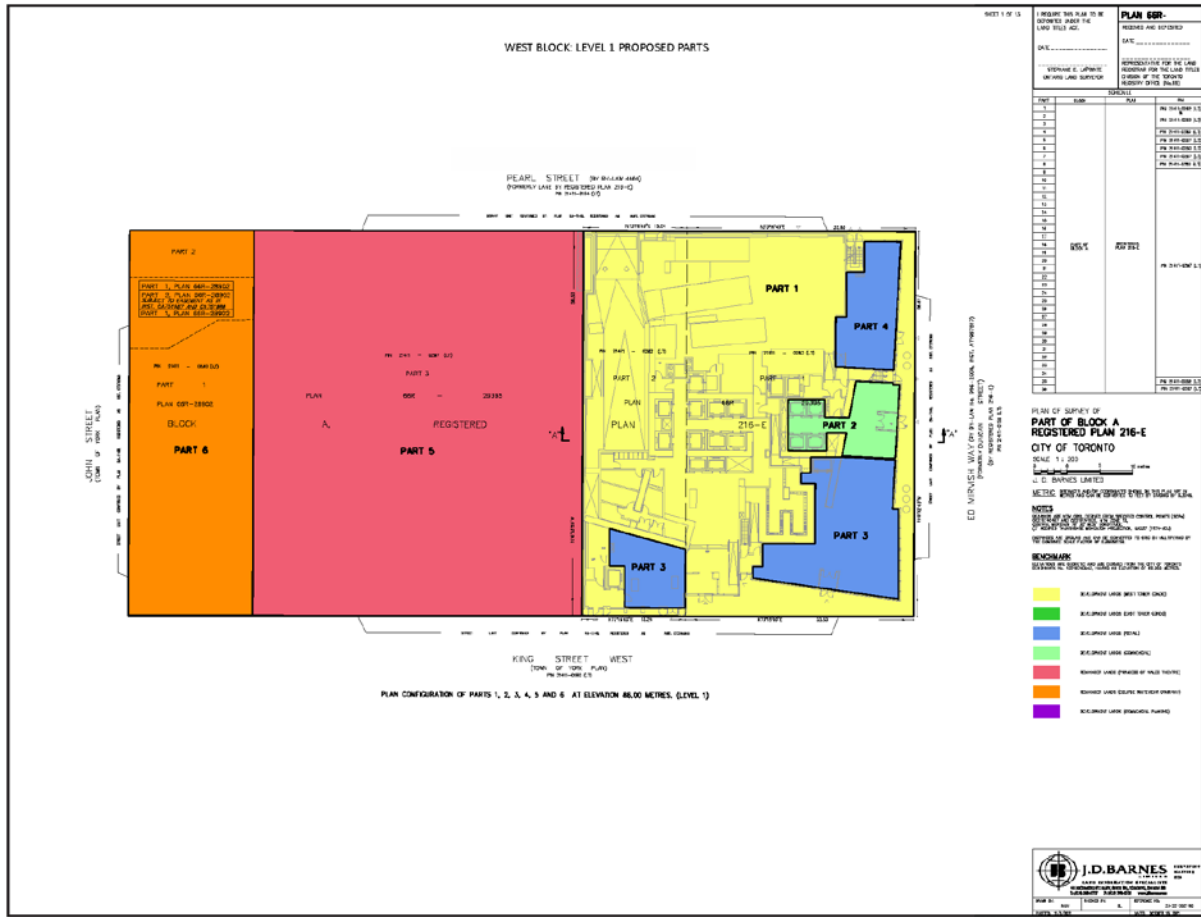
ATTACHMENTS

Attachment 1: Location Map
Attachment 2: East Block Level 1: Anticipated Parcels
Attachment 3: East Block Building Section with Anticipated Parcels
Attachment 4: West Block Level 1: Anticipated Parcels
Attachment 5: West Block Building Section with Anticipated Parcels
Attachment 6: Draft Part Lot Control Exemption By-law

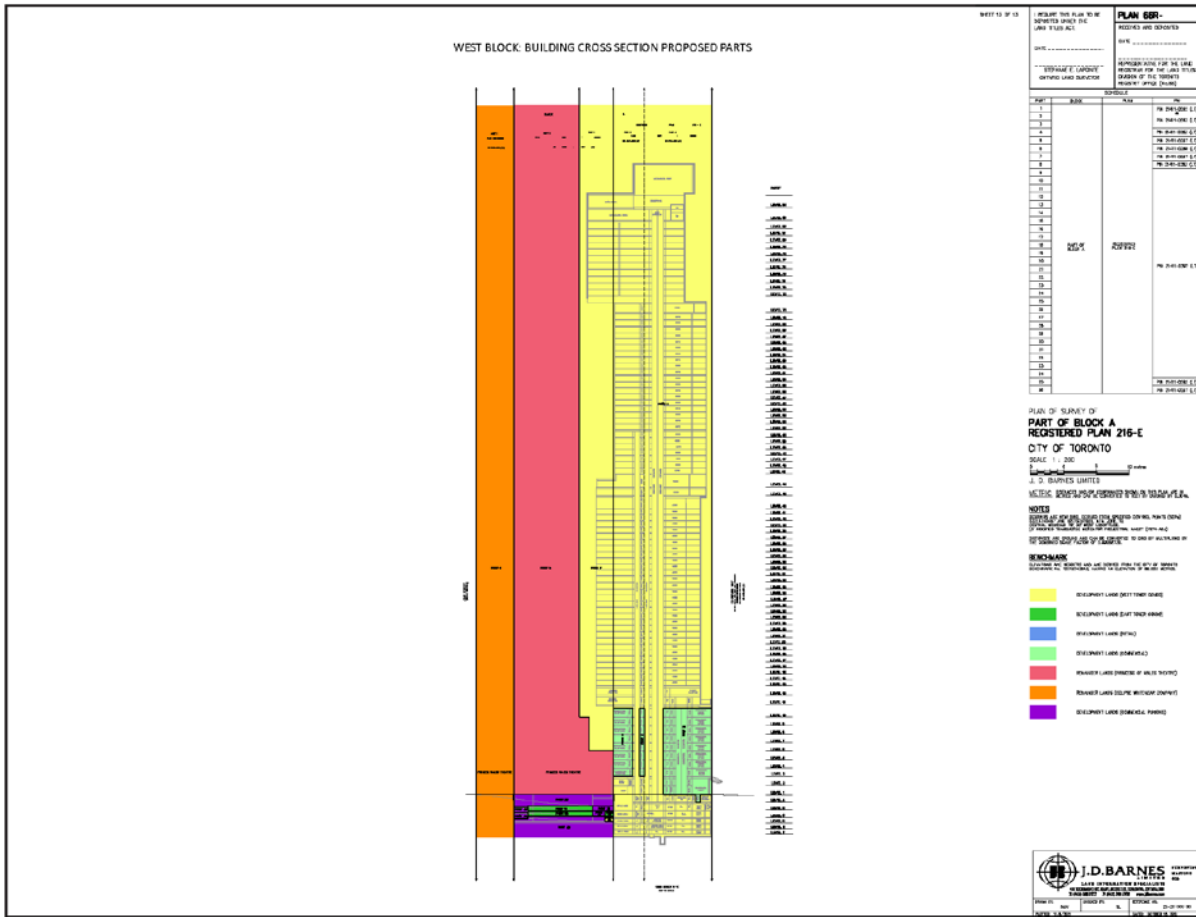
Attachment 1: Location Map



Attachment 4: West Block Level 1: Anticipated Parcels



Attachment 5: West Block Building Section with Anticipated Parcels



Attachment 6: Draft Part Lot Control Exemption By-law

Authority: Toronto and East York Community Council Item adopted by City of Toronto Council on March 9, 2022

CITY OF TORONTO
Bill
BY-LAW - 2022

To amend By-law No. 424-2017 to extend the expiration of part lot control exemption for the lands known as 260-270 and 274-322 King Street West

Whereas City Council on April 28, 2017 enacted By-law 424-2017 to exempt lands municipally known as 260-270 and 274-322 King Street West from part lot control with an expiry of April 28, 2022;

Whereas authority is given to Council by Section 50(7.4) of the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law:

The Council of the City of Toronto hereby enacts as follows:

1. Section 2 of By-law No. 424-2017 is deleted and the following is substituted for it:

This By-law expires ten years from the date of its enactment by Council.

2. This By-law applies to the lands described in the attached Schedule "A".

Enacted and passed on March , 2022.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)

Schedule "A"

LEGAL DESCRIPTION:

260-270 and 274-322 KING STREET WEST

In the City of Toronto and Province of Ontario, being composed of Block A Registered Plan 216E and Part of Block D Registered Plan 223E, more particularly described as follows:

1. 260 King Street West

PIN 21411-0295(LT)

PART BLOCK D PLAN 223E TORONTO PART 4 66R29208; TOGETHER WITH AN EASEMENT OVER PART 1 ON 66R-29693 AS IN AT4761771; CITY OF TORONTO

PIN 21411-0296(LT)

PART BLOCK D PLAN 223E TORONTO PART 2 66R29208; BOUNDARIES CONFIRMED BY 63BA1148 REGISTERED AS CT278360; SUBJECT TO AN EASEMENT OVER PART 1 ON 66R-29693 IN FAVOUR OF PART 1 ON 66R-28995 AS IN AT4761771; SUBJECT TO AN EASEMENT OVER PART 1 ON 66R-29693 IN FAVOUR OF PART 4 ON 66R-29208 AS IN AT4761771; CITY OF TORONTO

2. 266-270 King Street West

PIN 21411-0284(LT)

PT BLK D PL 223E TORONTO PT 1 66R28995; BOUNDARIES CONFIRMED BY 63BA1148 REG'D AS CT278360; TOGETHER WITH AN EASEMENT OVER PT BLK D PLAN 223E PART 3 ON 66R28995 AS IN CA751984; TOGETHER WITH AN EASEMENT OVER PART 1 ON 66R-29693 AS IN AT4761771; CITY OF TORONTO

3. 274-276 King Street West

PIN 21411-0283(LT)

PART OF BLOCK A ON PLAN 216E DESIGNATED AS PART 1 ON PLAN 66R28904; TOGETHER WITH AN EASEMENT OVER PART 1 ON 66R-29694 AS IN AT4761772; CITY OF TORONTO

4. 284-286 King Street West

PIN 21411-0282(LT)

PART OF BLOCK A ON PLAN 216E DESIGNATED AS PART 4 ON PLAN 66R28902;
TOGETHER WITH AN EASEMENT OVER PART 1 ON 66R-29694 AS IN AT4761772;
CITY OF TORONTO

5. 300 King Street West

PIN 21411-0297(LT)

PT BLK A, PL 216E, PT 3 66R29395; TOGETHER WITH AN EASEMENT OVER PT 2
66R28902 AS IN CA751986; SUBJECT TO AN EASEMENT OVER PART 1 ON
66R29694 IN FAVOUR OF PART 4 ON 66R-28904 AS IN AT4761772; SUBJECT TO
AN EASEMENT OVER PART 1 ON 66R-29694 IN FAVOUR OF PART 1 ON 66R-
28902 AS IN AT4761772; SUBJECT TO AN EASEMENT OVER PART 1 ON 66R-
29694 IN FAVOUR OF PART 4 ON 66R29395 AS IN AT4761772; CITY OF TORONTO

PIN 214411-0298(LT)

PT BLK A, PL 216E, PT 4 66R29395; TOGETHER WITH AN EASEMENT OVER PART
1 ON 66R-29694 AS IN AT4761772; CITY OF TORONTO

6. 322 King Street West

PIN 21411-0280(LT)

PART OF BLOCK A ON PLAN 216E DESIGNATED AS PARTS 1 AND 2 ON PLAN
66R28902; SUBJECT TO AN EASEMENT OVER PART 2 66R28902 IN FAVOUR OF
PART OF BLOCK A PL 216E AS IN CA751987 AS PARTIALLY RELEASED AS TO
PART 4 66R29395 AS IN AT4710050; CITY OF TORONTO