

# TORONTO STAFF REPORT

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May 17, 2005

To: Toronto and East York Community Council

From: Director, Community Planning, South District

Subject: Settlement Report  
Application to amend the Zoning By-law 438-86, as amended  
Diamond and Schmitt Architects Incorporated  
430 King Street West  
04-115402 STE 20  
Trinity-Spadina, Ward 20

Purpose:

To report seeks direction from Council regarding an Ontario Municipal Board hearing scheduled to commence July 13, 2005 on the Zoning By-law Amendment application for 430 King Street West. The second pre-hearing is scheduled for June 17, 2005. This report contemplates approval of a 30-storey mixed use building containing retail at grade and a residential condominium above at the north-west corner of King Street and Charlotte Street.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) Council authorize the City Solicitor, and necessary City staff to attend at the OMB pre-hearing on June 17, 2005 and the hearing commencing July 13, 2005 in support of the proposal for 430 King Street West as outlined in this report;



- (2) Council request the OMB to withhold its order approving the Zoning By-law until the owner has entered into a Site Plan Agreement/Undertaking under Section 41 of the Planning Act and the Section 37 agreement is executed by the parties and registered on title; and
- (3) Council adopt the Works and Emergency Services conditions contained in Attachment 7.

Proposal:

In March 2004, Great Gulf (King Street) Limited submitted an application for a mixed use building with retail uses at grade on the King Street West and Charlotte Street frontages, and residential condominiums above. Parking access was from Charlotte Street. Access to the at-grade loading space was proposed to be from the public lane at the north end of the site.

In November, 2004 a revised application was submitted for a taller building containing the same uses and a similar gross floor area. Below is a comparison of the original and revised applications.

<b>Application</b>	<b>Height in metres (Storeys)</b>	<b>Units</b>	<b>GFA (m<sup>2</sup>)</b>	<b>Parking Spaces</b>	<b>Floor Plate (sq.m.)</b>
Original (Mar.2004)	77.2 m (25) Podium: 39m (12)	290	26,012	167	830
Revised (Nov. 2004)	96. 5 m (30) Podium: 18m (6)	306	26,065	203	790
Revised (April 2005)	94 m (30) Podium: 21.6m(6)	323	26,419	236	790

The site is currently vacant and is surrounded by the following uses:

North: a commercial parking lot, a 12-storey mixed commercial/residential building and a 6-storey office building;

South: a car rental lot with a one-storey building, a 4/6-storey commercial building, and a 9-storey commercial building;

East: a 2-storey commercial building containing the Mountain Equipment Co-operative;

West: the construction site of an approved 21-storey mixed commercial/residential building.

**Official Plan and Zoning By-law Permissions**

This site is designated in the King-Spadina Part II Plan and the Zoning By-law as a 'Re-investment Area' (RA). This designation permits a wide range of uses including those proposed in this application. An amendment to the Official Plan will not be required.

As part of the zoning controls introduced by the RA zoning, density standards were replaced by a package of built form objectives expressed through setbacks and height. The Zoning By-law permits a height of 30 metres. Zoning By-law 438-86 S.12 (2)246 requires a three metre setback

above 20 metres on all street frontages. If this setback is not provided, the current by-law limits the height to 20 metres.

At its meeting of November 26, 27, 28, 2002, City Council adopted the new Official Plan for the City of Toronto. The Minister of Municipal Affairs and Housing approved the new plan, in part, with modifications. Once the Plan comes into full force and effect, it will designate the area as a 'Regeneration Area' which also permits the proposed uses. The Plan calls for each 'Regeneration Area' to have a framework for new development that will be set out in a Secondary Plan. Chapter 6.16 of the new Official Plan contains the revised King-Spadina Secondary Plan with area specific policies that were considered when reviewing this application. An amendment to the new plan will not be required.

#### Reasons for the Application

The applicant has submitted a Zoning By-law Amendment application to permit a 96.8 metre building. This application exceeds the height limit permitted in Zoning By-law 438-86, as amended, by 66.8 metres. The following variances are also created:

- the width of the proposed driveway does not comply with the minimum width of 5.5 metres;
- a setback requirement of 7.5 metres from the side and rear lot lines is not met as the setback is 0 in both cases;
- the setback requirement of at least 3 metres above 20 metres in height is not met;

#### Site Plan Approval

The application for Site Plan Approval has been filed. Requirements for site plan approval received to date are included as Attachment 7. Other conditions and requirements may be identified through processing the site plan application.

#### Background:

At the same time, Council approved a proposal for 326 –328 King Street West, (two blocks to the east of this application), for a mixed use building housing the Toronto International Film Festival (TIFF) offices and related uses in the first six floors, and a 37-storey condominium above. The total height of the building, not including the decorative element, was approved for 143.7 metres. As part of the approval, the applicant provided a contribution towards a planning study of the impact of this height on the surrounding area.

In November 2004, the applicant for 430 King Street West appealed the application to the Ontario Municipal Board on the basis that the municipality failed to address it within the required period of time. The first Pre-hearing was held on March 30, 2005. The second pre-hearing is scheduled for June 17, 2005 with the hearing itself scheduled for eight days commencing July 13, 2005.

In light of the increasing number of pre-application proposals for buildings significantly in excess of the permitted height of 30 metres, City staff accessed the TIFF contribution to conduct a one day Discussion Session and Workshop for the area bounded by Richmond Street West, Front Street West, Spadina Avenue, and Simcoe Street. This workshop was held on December 17, 2004 and was attended by architects, urban designers, area owners, developers and City Staff.

The workshop consisted of two built form groups and one public realm improvement group whose tasks were to comment and create a vision for the area. The participants were asked to focus on options for the section of King Street in which this application is located. The results of the workshop were reported to City Council in a report dated February 15, 2005 that provided planning review principles for area proposals. Among the conclusions of this session was that the north side of King Street West could be intensified. These proceedings are to be considered as part of the area planning framework review that has been approved for study by City Council and is scheduled to be completed in 2005.

### Community Consultation

Two community meetings were held in June and July, 2004. Approximately 10 residents attended each meeting, the majority from a condominium at 36 Charlotte Street located to the north of the proposal. The primary issues were built form, and parking and traffic. In particular, concerns were raised with respect to the impact of the width of the building on views and the incompatibility of a twelve-storey podium within the area context.

### Comments:

#### Resolution of Issues:

##### 1. Built Form

The original proposal was for a 25-storey (26,012 m<sup>2</sup>) building with a 12-storey podium and 830 m<sup>2</sup> tower in an east-west orientation located centrally on the site.

At the first public meeting residents expressed concerns about the potential impact of the height of the podium, and the location, configuration and orientation of the tower on the views from the condominium at 36 Charlotte Street. As a result, the residents suggested that the applicant lower the podium, relocate the tower to the east portion of the site and orient the tower in a north-south direction.

In response to these suggestions, the applicant submitted revised drawings that:

- lowered the podium from twelve storeys to six storeys;
- located the tower on the east portion of the site;
- oriented the tower in a north-south direction;
- reduced the tower floorplate from 830 m<sup>2</sup> to 790 m<sup>2</sup>;

- increased the building height from 25 storeys to 30 storeys to reflect the same gfa as the original application;
- further articulated the tower floorplate by dividing it into 2 sections; and
- set back the tower a minimum of 3 metres from King Street in conformity with the Zoning By-law requirement and a minimum of 2 metres from Charlotte Street.

The effect of these changes is to bring the building design more into conformity with the area planning framework and the principles set out in the February 16, 2005 staff report in the following ways:

- the six-storey (21.6 metre) podium will result in a streetwall condition that is consistent with the historic character of the area that is to be reinforced in new development;
- the reduction in the size of the tower floorplate combined with the north-south reorientation of the tower minimizes the mass of the tower on King Street West, resulting in increased light on King Street and improved views from residential buildings directly north of the proposal; and
- sculpting of the tower and variable setbacks help to mitigate the visual impact of the tower.

## 2. Traffic/Parking/Circulation

During the proposal review, the staff of Works and Emergency Services Department expressed concern with respect to the queuing of streetcars at the King Street West/Charlotte Street intersection during the AM and PM peak periods. In response, the applicant's consultant conducted a survey. Based on the results of the survey, it appears that the southbound streetcar queues may temporarily obstruct access to and from the public lane that is on the north side of the site during the PM and less during the AM peak periods. Given that there do not appear to be any viable alternatives to this situation, Works and Emergency Services staff has indicated that the proposed access to the site from Charlotte Street is acceptable.

Staff has advised that future residents should be told that their access to and from the site may be affected by the temporary stoppage of streetcars along the site's Charlotte Street frontage. It is intended that the City will monitor this situation and may require turn prohibitions in the future.

Access to the underground parking garage is provided by a two-way ramp, extending south off the public lane. Staff has advised that since the City's current winter maintenance policies assign a lower priority to public lanes residents may experience periodic difficulty in accessing and egressing the parking garage during the winter months.

Staff has advised that the proposed parking, loading and site circulation are acceptable.

The applicant is required to conform to the requirements contained in Attachment 7 and any other requirements that may be identified.

3. Section 37 Benefits

The Official Plan contains provisions pertaining to the exchange of public benefits for increases in height and/or density pursuant to Section 37 of the Planning Act. The proposal exceeds 20,000m<sup>2</sup> and is therefore subject to a public art contribution. Discussions between the applicant and staff have led to a commitment by the applicant to enter into a Section 37 agreement in order to provide the following public benefits:

- (i) the amount of \$400,000 payable to the City of Toronto to be used for park and public realm improvements, particularly for Clarence Square;
- (ii) the provision and maintenance of public art works pursuant to a public programme, to be located on publicly accessible portions of the lot, of a value not less than one per cent of the gross construction costs of all buildings and structures to be erected on the lot;
- (iii) the incorporation in the construction of the building, exterior materials to the satisfaction of the Chief Planner and Executive Director; and
- (iv) the incorporation of upgraded STC Classification on all windows on lower residential floors to provide for improved noise mitigation. The specification of which floors and the required STC Classification shall be determined to the satisfaction of the Chief Planner and Executive Director in consultation with the project architect.

Conclusions:

Staff has determined that the issues related to this proposal are resolved and are therefore recommending that Council approve the proposal and instruct the City Solicitor, and staff as required, to appear at the Ontario Municipal Board pre-hearing and hearing in support of the application.

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Gary Wright, MCIP, RPP  
Director  
Community Planning, South District

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List of Attachments:

Attachment 1: Zoning

Attachment 2: Site Plan

Attachment 3: North Elevation

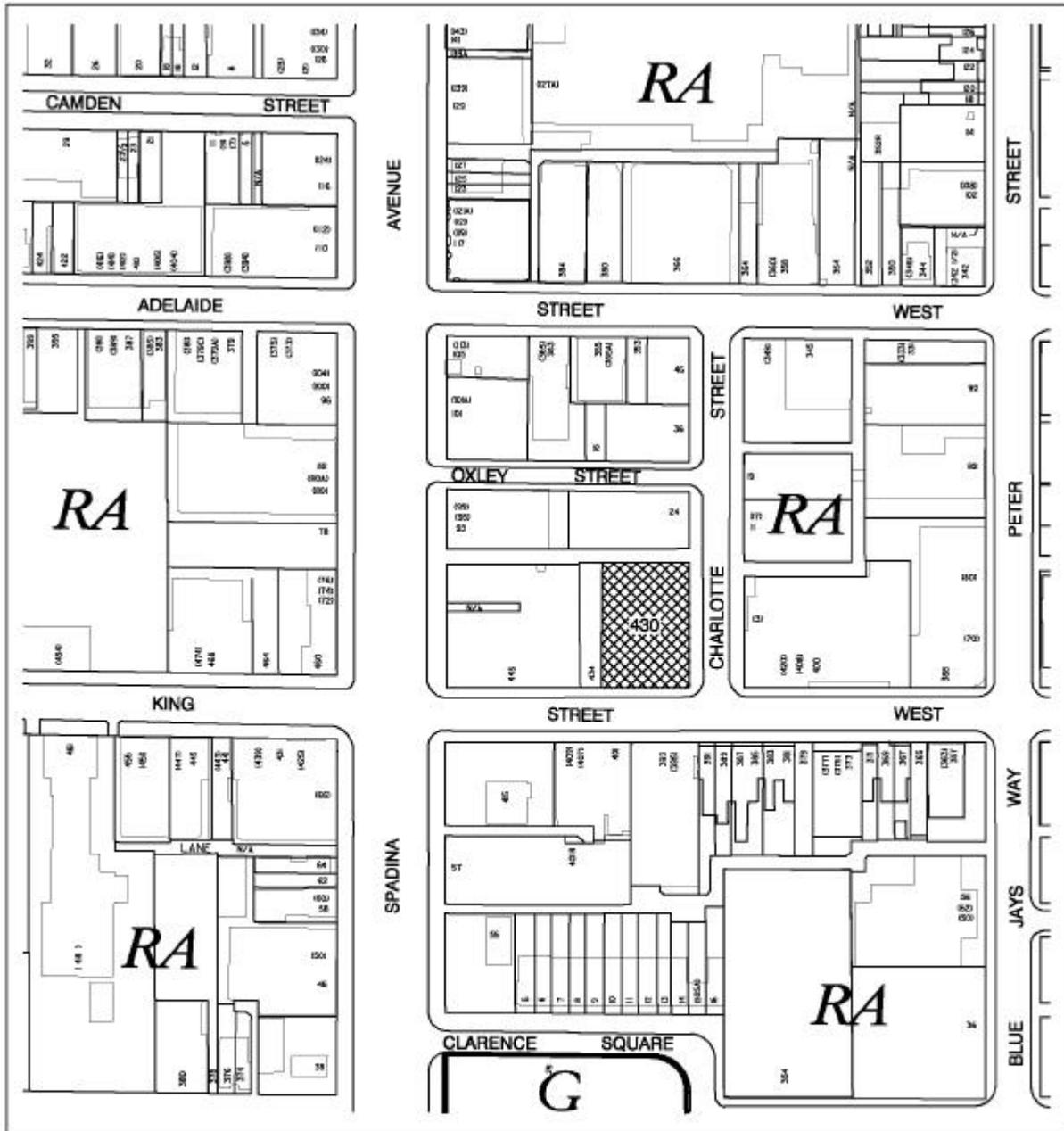
Attachment 4: South Elevation

Attachment 5: East Elevation

Attachment 6: West Elevation

Attachment 7: Works and Emergency Services Conditions

Attachment 1: Zoning



**TORONTO** Urban Development Services  
**Zoning**

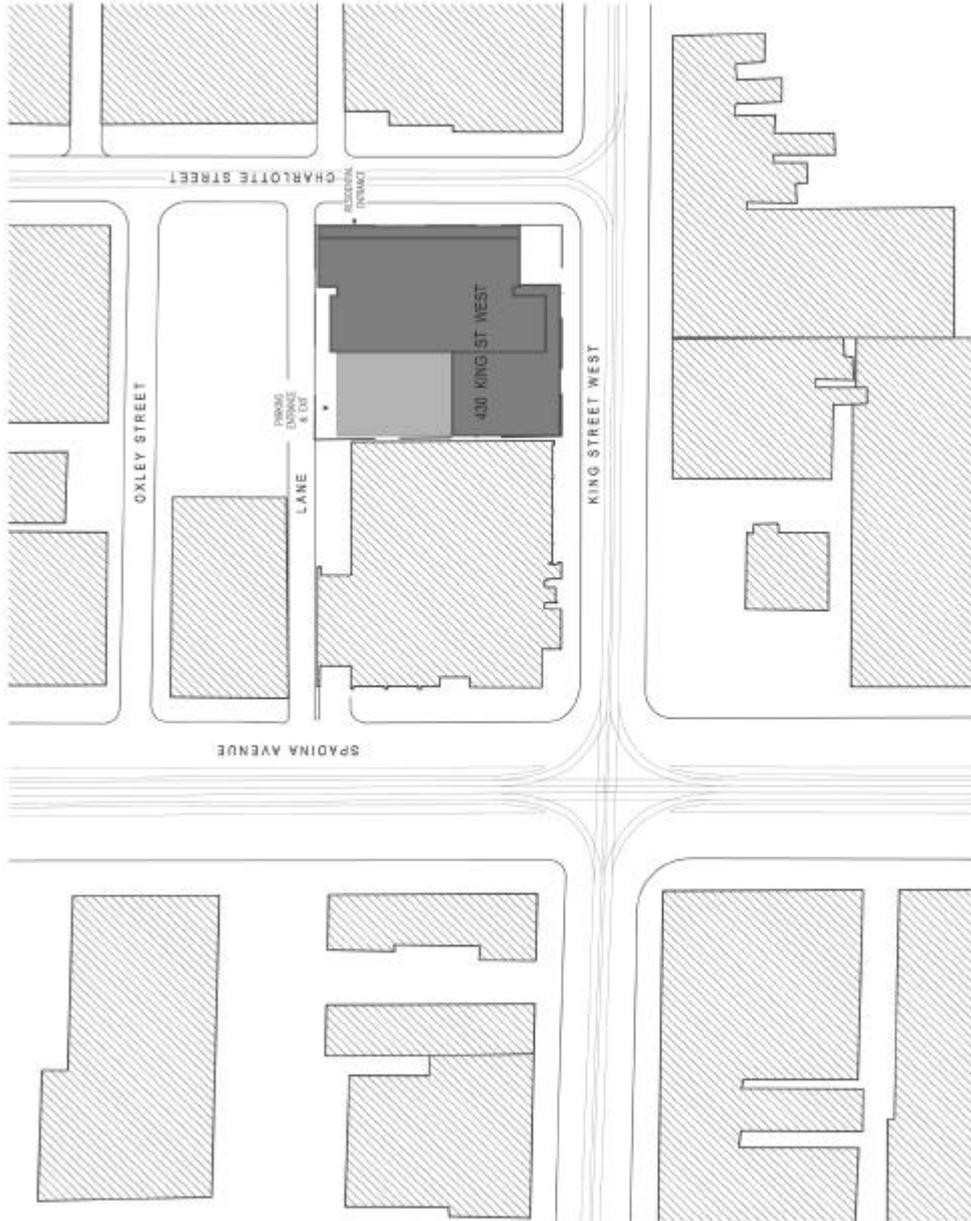
**430 King Street West**  
 File # 04\_115402

G Parks District  
 RA Mixed-Use District



Not to Scale  
 Zoning By-law 438-86 as amended  
 Extracted 04/25/05 - DR

Attachment 2: Site Plan



430 King Street West

File # 04\_115402

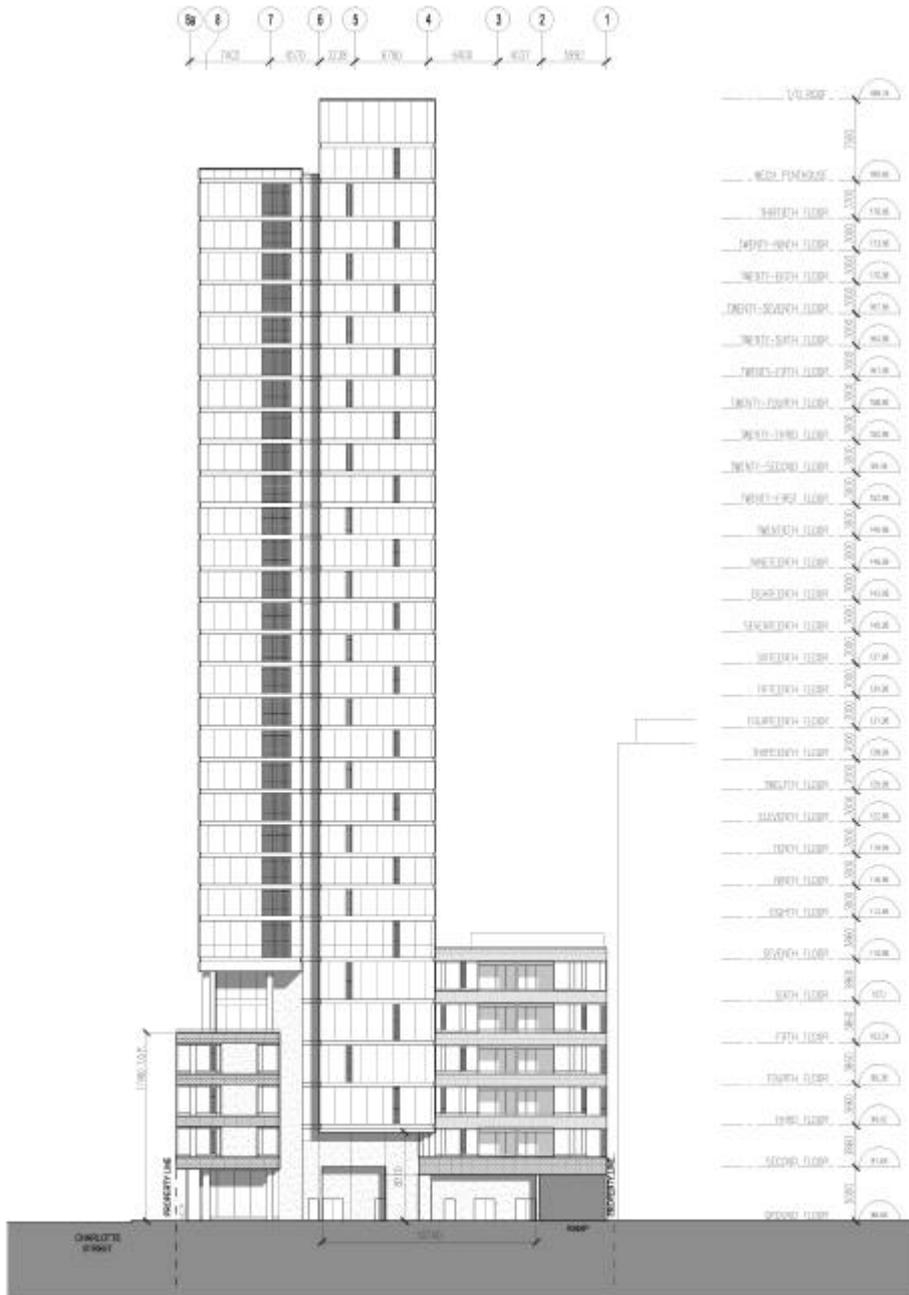
Site Plan

Applicant's Submitted Drawing

Not to Scale  
05/13/05



**Attachment 3: North Elevation**



**North Elevation**

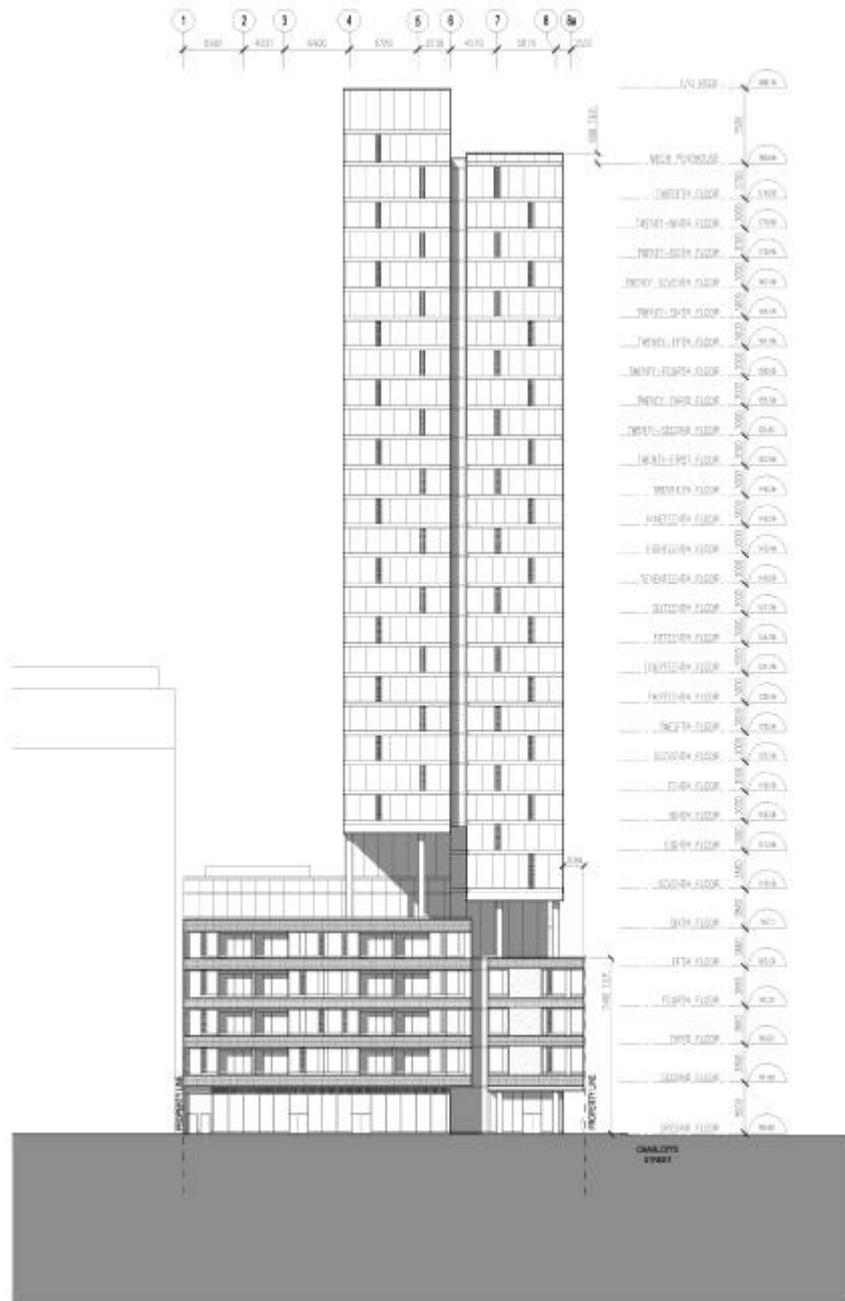
Applicant's Submitted Drawing

Not to Scale  
05/13/05

**430 King Street West**

File # 04\_115402

### Attachment 4: South Elevation



## South Elevation

Applicant's Submitted Drawing

Not to Scale  
05/13/05

## 430 King Street West

File # 04\_115402

Attachment 5: East Elevation



East Elevation

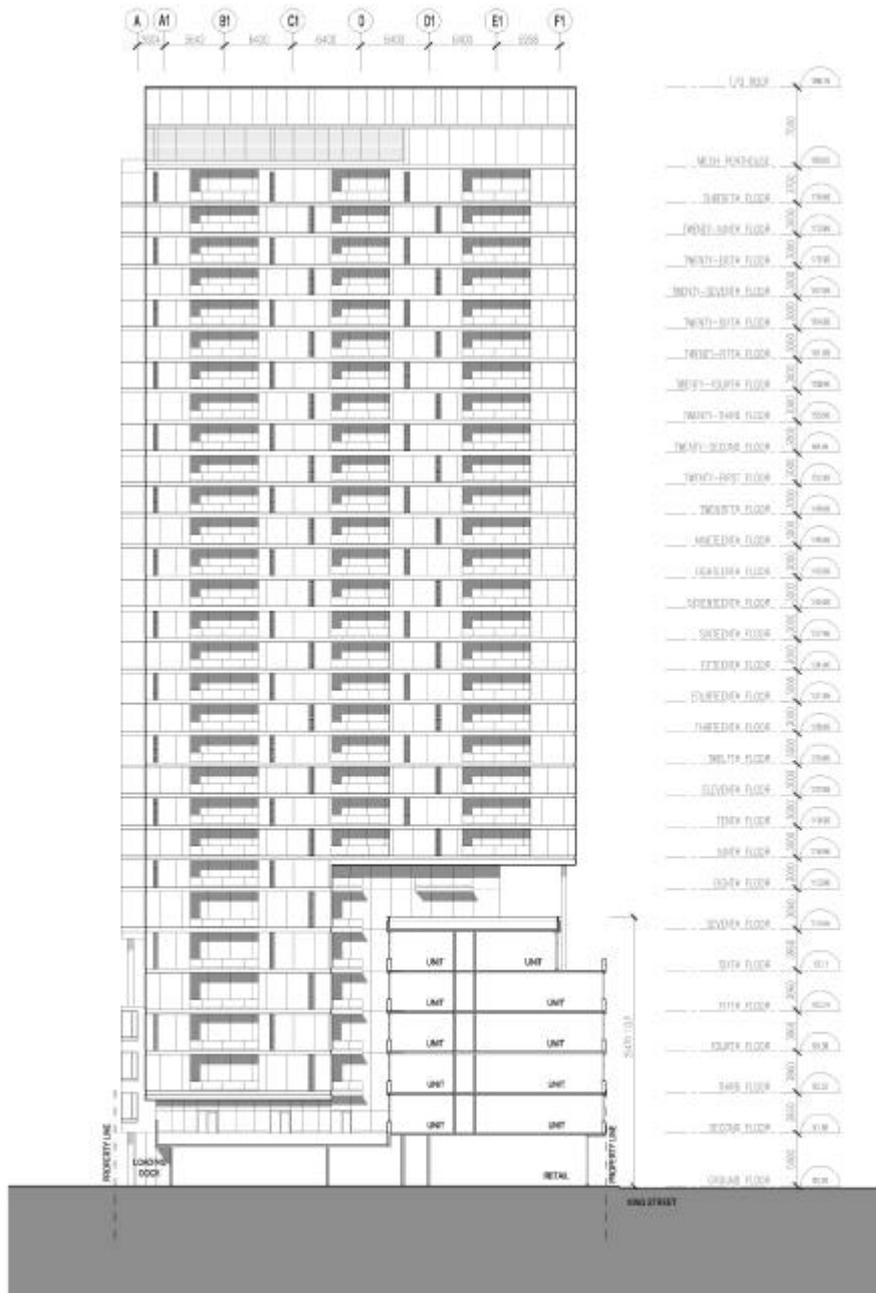
Applicant's Submitted Drawing

Not to Scale  
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430 King Street West

File # 04\_115402

### Attachment 6: West Elevation



## West Elevation

Applicant's Submitted Drawing

Not to Scale  
05/13/05

## 430 King Street West

File # 04\_115402

### **Attachment 7: Works and Emergency Services Conditions**

1. The owner be required, prior to approval of the requested amendments to the zoning by-law and Official Plan, to:
  - (a) Submit revised drawings eliminating the above-grade building encroachment from within the public lane right-of-way (as widened);
  - (b) Submit, to the Commissioner of Works and Emergency Services final approved drawings of the development with sufficient horizontal and vertical dimensions of the exterior walls of the proposed buildings to enable the preparation of building envelope plans, such plans should be submitted at least three weeks prior to the introduction of Bills in Council;
  - (c) Submit to the Commissioner of Works and Emergency Services, for review and acceptance, an assessment of the street lighting system on the abutting public right-of-ways to determine the adequacy of the existing street/lane lighting and the need for any improvements that may be required; and
  - (d) Submit, to the Commissioner of Works and Emergency Services, for review and acceptance, a site servicing review to determine the storm water runoff, sanitary flow and water supply demand resulting from this development and demonstrate how this site can be serviced and whether the existing municipal infrastructure is adequate.
  
2. That, as a condition as a condition for approval of the requested amendments to the zoning by-law and Official Plan, the owner be required to:
  - (a) Construct the ramps contained within the parking garage with a slope not exceeding 5 % when providing direct access to a parking space;
  - (b) Provide space within the development for the construction of any transformer vaults, Hydro and Bell maintenance holes and sewer maintenance holes required in connection with this development; and
  - (c) Pay, prior to site plan approval, for any improvements to the municipal infrastructure should it be determined that upgrades to the infrastructure are required to support this development, according to the site servicing review and street lighting assessment accepted by the Commissioner of Works and Emergency Services.

3. The owner be required, as a condition of approval of the plans and drawings for the project, to:
  - (a) Convey to the City at nominal cost, prior to the issuance of an above grade building permit, a 0.52 metre wide strip of land abutting the south limit of the east-west public lane, to a minimum depth of 0.5 m from the finished grade, such lands to be free and clear of all encumbrances, save and except for utility poles, and subject to a right-of-way in favour of the Grantor until such time as said lands have been laid out and dedicated for public highway purposes;
  - (b) Submit, to the Commissioner of Works and Emergency Services for review and approval prior to depositing in the Land Registry Office, a draft Strata Reference Plan of Survey in metric units and integrated into the Ontario Coordinate System showing the co-ordinate values at the main corners of the subject lands and delineating thereon by separate PARTS the lands to be conveyed to the City, any appurtenant rights-of-way and the remainder of the site;
  - (c) In the event the underground parking garage encroaches beneath the public lane right-of-way (as widened), execute an agreement, binding on successors on title, to:
    - (i) Indemnify the City from and against all actions, suite, claims, or demands from all loss, costs damages, charges, and expenses that may result from the construction of the parking garage structure beneath the public highway;
    - (ii) Maintain the parking garage structure in proper repair and a condition satisfactory to the Commissioner of Works and Emergency Services;
    - (iii) Indemnify the City from and against any loss or damage to the parking garage waterproofing and structure resulting from the maintenance and reconstruction of the lane pavement, unless such loss or damage is caused by negligence of the City; and
    - (iv) Include additional conditions as the City Solicitor and Commissioner of Works and Emergency Services may deem necessary in the interests of the Corporation;
  - (d) Individually designate, by means of clearly visible signs, the residential visitor and retail parking spaces;
  - (e) Provide and maintain a physical separation between the resident and non-resident portions of the underground parking garage;
  - (f) Provide and maintain a suitable turnaround facility for motorists using the non-resident portions of the underground parking garage;

- (g) Construct the access ramp to the underground parking garage with a slope not exceeding 5 % within 6 metres of the public lane right-of-way (as widened), and not exceeding 15 % along the remaining portions;
- (h) Install and maintain convex mirrors at the base of the access ramp, at all right-angled turns within the parking garage, positioned in such a manner as to provide drivers with clear views of oncoming traffic;
- (i) Include a clause in all offers of purchase and sale advising the future owners that multiple streetcars may be stopped along the Charlotte Street frontage of the site during the AM and PM peak periods, and that as a result of these activities, access to and from the subject site may be affected;
- (j) Construct the Type G loading space with a generally level surface, a minimum vertical clearance of 6.1 metres, measured over the first 8 metres of the loading space, and a minimum of 4.3 metres over the balance of the loading space and along all driveways and passageways providing access to and egress from the Type G loading space;
- (k) Construct the Type G loading space and all driveways and passageways providing access thereto to the requirements of the Ontario Building Code, including allowance for City of Toronto bulk lift with impacts factors where they are to be built as supported structures;
- (l) Provide and maintain interior corridor connections between the individual retail units and the Type G loading space;
- (m) Provide and designate a fully trained maintenance person to assist garbage trucks and/or large vehicles when reversing to/from the Type G loading;
- (n) Provide and maintain clearly visible 'No Parking' signs adjacent to the Type G loading space;
- (o) Eliminate any existing curb cuts on King Street West and Charlotte Street that are no longer required, and restore the respective public boulevards to City of Toronto standards, at no cost to the City;
- (p) Provide a garbage room, preferably making use of an automated recycling and waste system; a garbage chute type system with recycling containers being used on each floor in the garbage chute rooms; or separate dedicated garbage and recycling rooms with the recycling room being readily accessible to the residents;
- (q) Provide and maintain a level (+-2%) concrete pad abutting the front of the type-G loading area where containers can be placed and manoeuvred for safe and efficient collection. This pad should be configured in such a manner as to allow efficient manoeuvring of containers during collection;

- (r) Submit, prior to the issuance of an above grade building permit, to the Commissioner of Works and Emergency Services for review and acceptance site servicing plan and a grading and drainage plan that includes details of the existing and proposed site services, service connections to municipal infrastructure, existing and proposed grades within the site and at the property line and the methods for the management of stormwater;
  - (s) Submit all environmental site assessment reports (three copies of each) describing the current site conditions and the proposed remedial action plans to the Commissioner of Works and Emergency Services for peer review and acceptance prior to the issuance of a below grade building permit;
  - (t) Pay all costs associated with the City retaining a third-party peer review consultant and submit, prior to the issuance of a below grade building permit for the development a certified cheque payable to the Treasurer, City of Toronto, in the amount of \$3,000.00, as a deposit towards the cost of peer review;
  - (u) Submit, prior to the issuance of an above-grade building permit for the development, a statement from a Professional Engineer (sealed and dated), for peer review and concurrence, that based on all the necessary supporting environmental documents:
    - (i) The Site is suitable for its intended use;
    - (ii) It is unlikely that there is any off-site contamination, resulting from the past land uses on the site, that has migrated from the site to the adjacent rights-of-way that would exceed applicable MOE guidelines, objectives, or regulations;
  - (v) Enter into an agreement with the City, prior to the issuance an above-grade building permit for the development, should it be determined that remediation of the adjacent rights-of-way is required, in which the owner, or the party responsible for the contamination, commit to carrying out a remedial work plan acceptable to the City; and
  - (w) Submit, prior to the issuance of an above grade building permit, a Record of Site Condition (RSC) acknowledged by the MOE, to the Commissioner of Works and Emergency Services, with respect to the statement from the Professional Engineer.
4. The owner be required, prior to site plan approval, to submit revised drawings/documentation with respect to Condition Nos. 2(a), 3(a), 3(d), 3(e), 3(f), 3(g), 3(j) and 3(p) for the review and approval of the Commissioner of Works and Emergency Services.

5. The owner be advised:

- (a) Of the need to submit, in conjunction with an application for a building permit, plans and documentation, detailing how the proposed building will be constructed in accordance with the Ontario Building Code relating to provisions for fire fighting;
- (b) That the public lane used to access and egress the underground parking garage and Type G loading space will be given low priority for winter maintenance by the City, and that lanes are salted only, not ploughed;
- (c) That the City will monitor the operations of the Charlotte Street intersection with the east-west public lane, abutting the site to the north, and that in the event delays to northbound through traffic on Charlotte Street, or any other operational problems are observed, turn prohibitions at this location, as deemed necessary by the Commissioner of Works and Emergency Services, may be imposed; and
- (d) Of the need to make separate applications to the Commissioner of Works and Emergency Services for permits to carry out any works involving the construction in, or occupancy of, the King Street West, Charlotte Street, and public lane right-of-way.