

56 Blue Jays Way Zoning By-law Application – Refusal

Date:	June 3, 2009
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	08 209949 STE 20 OZ

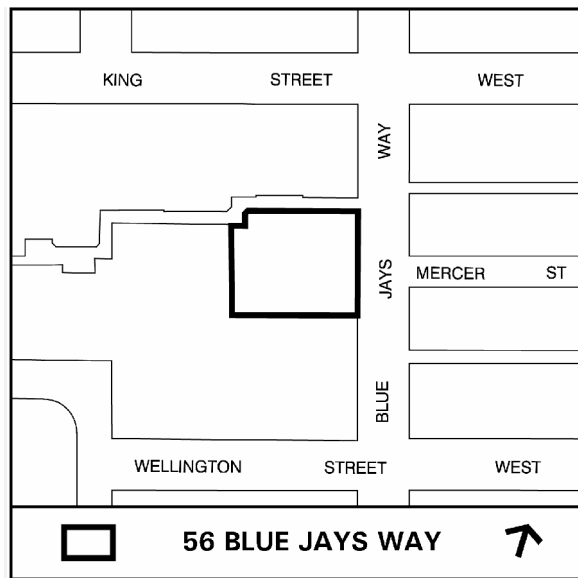
SUMMARY

This application was made after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

This application proposed a 41-storey mixed use building with a five-storey podium incorporating the east facing heritage façade, and a 36-storey tower containing hotel and residential units at 56 Blue Jays Way.

This report reviews the application and recommends refusal of the proposal in its current form.

Staff worked closely with the previous owner of this site and approved a 62 m height in 2007, a doubling of the previous height permission. The previous approval fit well into its context and had no significant shadow impacts on King Street West. The current proposal has merit in that it provides a good condition at street level, incorporates the heritage façade, and provides some architectural and functional improvements over the previously approved development. However, its current massing is inappropriate and the report recommends that the Zoning By-law Amendment application be refused in its current form for the following reasons:



- It requests a height permission (142 m) close to twice its recently built context (with the exception of the OMB-approved M5V development at 371-379 King Street West, at 119.5 m);
- The site is located mid-block on a street that has been identified in Council-approved policy as a smaller neighbourhood street, and as such does not warrant the requested height;
- The massing of the proposal overwhelms the streetscape, particularly given its proximity to the heritage scale and character of King Street West’s “Restaurant Row”, and contributes to loss of sky view and increased shadow on King Street West;
- The proposed 896 sq. m tower floor plate and inadequate tower separation compromise the Tall Buildings Guidelines and quality of life for future residents.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application in its current form, for the following reasons:
 - (a) The proposed height of 142 m is inappropriate.
 - (b) The proposed bulk of the floor plate and lack of adequate rear setback create inadequate separation between adjacent towers, impacting sky views, light and privacy.
 - (c) The proposed massing is incompatible with the majority of the recently built and approved context surrounding the proposal, particularly to the south.
 - (d) The proposed massing overwhelms the Blue Jays Way streetscape and is detrimental to the heritage character of King Street.
 - (e) The height and bulk of the proposal, if approved, have the potential to set a negative precedent for other applications within the King-Spadina East Precinct area.
 - (f) Approval could create negative implications for not only King-Spadina’s East Precinct, but City-wide, as Council-approved policies protecting sunlight, sky view and distinctive street character, as well as the City’s Tall Building Guidelines, will not be met.
2. City Council direct the City Solicitor and appropriate City staff to attend at the Ontario Municipal Board in opposition to the proposal, should the applicant appeal Council’s decision.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

In 2005, a review of the King-Spadina Secondary Plan was initiated by Council to evaluate specific matters related to entertainment uses in the area, community infrastructure, built form policies and the policies related to the public realm. In September 2006, City Council enacted amendments to the King-Spadina Secondary Plan and RA zoning to update the planning framework for the Plan area (Official Plan Amendment 921-2006 and Zoning By-law Amendment 922-2006).

The amendments represent Council's current position on the planning framework for the King-Spadina Plan Area. The amendments to the Secondary Plan refined certain policies and updated maps to reinforce the original intent of the Plan to protect and enhance the area's unique physical attributes and heritage warehouse character. A new policy 3.7 provides criteria for considering tall buildings in certain parts of the East Precinct, which include setbacks above the base building and a requirement to not export facing distance constraints onto adjacent sites. The Zoning By-law Amendment includes a provision that permits an additional 5 metres of building height, including mechanicals, subject to the mechanicals being wrapped and falling within a 45 degree angular plane from the street.

The amendments are currently under appeal to the Ontario Municipal Board by some area owners and developers. A series of pre-hearing conferences have resulted in many appeals being withdrawn or settled. The hearing has been deferred with the consent of all parties, until November 2009.

The subject lands were rezoned in 2007 (By-law 1067-2007) after undergoing an extensive and comprehensive review, to permit an 18-storey building (62 metres) with 220 units and 18,330 square metres of gross floor area. The height was deemed acceptable because it was compatible with the height of the Soho Metropolitan to the immediate south of the site (16 storeys and 50 metres) and the development application for 99 Blue Jays Way (20 storeys and 61.5 metres) recommended for approval at the time. The approved height resulted in acceptable shadow impacts on King Street. This rezoning led to the withdrawal of the appeal to Official Plan Amendment 921-2006 and Zoning By-law Amendment 922-2006 by the applicant at the time. Since the site-specific Zoning By-law Amendment in 2007, there have been several development applications in the immediate area that have also proposed more height and density. The subject site was subsequently sold and the current proposal for additional height and floor area has been submitted by a new applicant.

In April 2008, Council directed staff to undertake a further study of the built form in the East Precinct of the King Spadina Secondary Plan Area, in response to the large number of applications that continued to challenge the planning framework of the area. This study is currently underway and has identified areas within the East Precinct that can accommodate more height than permitted as-of-right, subject to the current context of

each area. The subject site is within an area where staff have identified the potential for some additional height, although not the extent requested by this applicant. Further work will provide specific recommendations with respect to height, built form and performance criteria for proposals seeking additional height. It is intended that a Progress Report be presented to Toronto and East York Community Council in June 2009.

PRE-APPLICATION CONSULTATION

The applicant met with staff prior to submitting an application. Issues discussed included a 12-15 m wide proposed curb cut on Blue Jays Way to provide for the hotel drop-off. After discussion with staff, the proposed curb cut was removed from the proposal.

A number of other development applications have been submitted within the vicinity of the subject application, including 355 King Street West/ 119 Blue Jays Way, 99 Blue Jays Way, and 60 John Street / 12-18 Mercer Street. A Design Charette for these Mercer Street area applications was held in August 2008, to bring together stakeholders including the Ward Councillor, City Staff, the developers and their architects. The proponents for this development participated in this City-initiated exercise. At the time of the charette, the height of the proposal for 56 Blue Jays Way was not determined. Issues discussed during the charette included the relationship of the four proposals with each other; podium design, materials and articulation; pedestrian connections and open space; integration with heritage buildings; and streetscape. The charrette did not and was not intended to address the issue of the height of the individual proposals, but focused on the lower levels of the buildings, as the height was still under review.

The application for rezoning was subsequently submitted in October 2008, with a height of approximately 142 m to the top of the elevator mechanical room.

ISSUE BACKGROUND

Proposal

This application proposed the development of a 41 storey mixed-use building (142 metres, including mechanical penthouse). The first five floors (approximately 22 m high) would comprise the podium or base component, consistent with the height of the podium of the adjacent Soho condominium / hotel to the south. The podium incorporated the façade of the heritage building that exists on the site, and was stepped back to provide prominence to the heritage façade, visibility to the Soho development and additional pedestrian space.

The development proposed restaurant uses and a residential lobby on the ground floor, accessed through the public laneway to the north of the site; hotel functions and guest rooms on the second to tenth floors, accessed via a ground floor lobby on the Blue Jays Way frontage and from a public lane that abuts the site to the north; and residential dwelling units on floors 12 to 39. Fitness and spa space was proposed on the 11th floor for hotel guests (it is unclear whether residential units would have access to this space),

and a lounge and pool space was provided on the 41st floor, which appeared to be accessible to both residents and hotel guests. Mechanical uses comprised floor 40 and part of floors 11 and 41.

The proposed total gross floor area of the development was 33,799 square metres, (22,710 square metres of residential floor area and 11,089 square metres of hotel floor area), resulting in a floor space index of 17.1. The proposed unit breakdown consisted of 127 hotel suites and 264 residential units (120 one-bedroom units, 120 two-bedroom units, and 24 three bedroom units). A total of 228 vehicle parking spaces (30 hotel, 16 visitor, and 179 resident) and 198 bicycle parking spaces were proposed in five below-grade levels. (Refer to Attachment 1 - Application Data Sheet)

Parking, loading, and a drop-off area to the residential lobby were accessed from the public lane that abuts the site to the north. (Refer to Attachment 3 - Site Plan).

Site and Surrounding Area

The site is located on the west side of Blue Jays Way, between King Street West and Wellington Street West. The site has a frontage of 40.69 metres and a depth of approximately 49.12 metres, for an overall site area of 1,979 square metres. There is a public lane that runs along the north edge of the site.

The site is occupied by a three-storey designated heritage building currently used as the Diesel Playhouse. The Blue Jays Way façade of the existing building, which is set back approximately 3 metres from the property line, was proposed to be retained and is currently secured through a previous registered Heritage Easement Agreement.

The site is surrounded by the following uses:

North: to the north is a public lane and a series of low-rise buildings containing retail uses. To the immediate north-west is an OMB approved development on the lands municipally known as 371-379 King Street West for a 119 metre (35 storey) building.

East: Directly opposite at 99 Blue Jays Way on the south side of Mercer Street is a restaurant (Gretzky's), which was rezoned (By-law 574-2007) to permit a 20 storey (64m) residential condominium with commercial uses on the lower level. The site owner has submitted a new application for 99 Blue Jays Way, for a building approximately 40 storeys (131 m) tall.

At the northeast corner of Blue Jays Way and Mercer Street is a commercial parking lot municipally known as 119 Blue Jays Way, north of which is the 6-storey (approximately 24 metres) Westinghouse building at 355 King Street West. The Westinghouse building is designated under the Ontario Heritage Act and currently contains commercial uses. A combined Official Plan and Zoning By-law Amendment application for two towers and a podium is under review for these lands.

To the southeast of the site, on the east side of Blue Jays Way at Wellington Street West is the Icon condominium, ranging in height from 12 storeys (approximately 35 metres) at Blue Jays Way, to 17 storeys (approximately 50 metres) mid-block, to 21 storeys (approximately 64 metres) at John Street.

South: to the immediate south of the site is the Soho residential condominium and hotel which has a maximum height of 16 storeys (approximately 50 metres).

West: to the west of the proposed building is a 7 storey residential condominium building, developed in conjunction with the 16-storey Soho hotel project.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

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

Official Plan

The Official Plan locates the subject site within the *Downtown*. Chapter Two – Shaping the City identifies that the downtown area offers opportunities for substantial employment and residential growth, but that this growth is not anticipated to be uniform. Rather, it is expected that the physical setting of many areas will remain unchanged and that design guidelines specific to districts of historic or distinct character will be implemented to ensure new development fits into the context of existing built form, streets, setbacks, heights and relationship to landmark buildings.

Chapter Three – Building a Successful City identifies that most of the City's future development will be infill and redevelopment and, as such, will need to fit in, respect and improve the character of the surrounding area. Development will be located, organized and massed to fit harmoniously with its existing and/or planned context. Development will limit its impacts on neighbouring properties and the public realm by respecting street proportions, creating appropriate transitions in scale, providing for adequate light and privacy, and limiting shadow and wind impacts. This section of the Plan also contains specific policies on tall buildings and built form principles to be applied to the location and design of tall buildings, including locating buildings parallel to the street, with clearly visible entrances and ground floor uses with views to the street; locating and

organizing parking and servicing to minimize impacts; providing an appropriate scale for adjacent streets; minimizing shadowing, loss of sky view and wind impacts; contribution to the skyline character; and fit within the local context.

The site is designated as a Regeneration Area, which permits the proposed residential, hotel and commercial uses.

King-Spadina Secondary Plan

The subject site is located within the King-Spadina Secondary Plan area. The King-Spadina Secondary Plan (Chapter 6.16 of the Official Plan) provides a framework for reinvestment and development, the fundamental intent of which is to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to the historic building stock and the pattern of streets, lanes and parks.

In particular the policies of Section 3 – Built Form specify that new buildings will achieve a compatible relationship with their built form context through consideration of such matters of building height, massing, scale, setbacks, stepbacks, roof line and profile and architectural character and expression. The policies encourage buildings to be located along the street edge with lower levels providing public uses accessed from the street; encourage servicing and parking to be accessed from rear lanes; site new buildings for adequate light, view and privacy; compatibility with the built form context; provide appropriate proportional relationships to streets and open spaces; and minimize wind and shadow impacts on streets and open spaces.

The Urban Structure Plan identifies a number of north-south “Significant Streets”. Blue Jays Way/Peter Street (along with Duncan Street), is identified as a smaller neighbourhood street with a distinctive character.

By-law 921-2006, which is under appeal to the Ontario Municipal Board, proposed amendments to the King-Spadina Secondary Plan that are intended to further clarify and reinforce the fundamental intent of the Plan, re-emphasizing that new development should respond to the unique physical character of the area.

King-Spadina Urban Design Guidelines

The King-Spadina Urban Design Guidelines (2004) support the implementation of the King-Spadina Secondary Plan. The Guidelines identify Blue Jays Way / Peter Street as a “Special Street”. New buildings are to permit a 3-hour sunlight standard at mid-day between March and September to support the role of the street as a pedestrian route and a location for outdoor cafes and restaurants. The Guidelines also state that height and massing are to be based on prevailing building types in the area. Building articulation and fenestration is to be based on the articulation of historic buildings.

Updated King-Spadina Urban Design Guidelines were endorsed by Council in September 2006. The updated Guidelines uphold the previous characterization of Blue Jays Way as a smaller neighbourhood street with a distinctive character. The updated Guidelines also seek to evaluate tall buildings in terms of massing and height, and impacts on light, view,

privacy, sunlight access and wind conditions, as well as ensuring that the potential for other sites appropriate for tall buildings to develop in a similar manner is maintained. The Guidelines also note that the Zoning-By-law's angular plane provisions to preserve sunlight on certain streets, including King Street, should be upheld. In addition, setbacks between 3 and 9 m are encouraged so that tall portions of buildings do not overwhelm the street wall. In addition to these Guidelines, tall buildings are to be assessed in accordance with the City's Tall Building Design Guidelines, including guidelines for tower separation and sky view and shadow impacts.

City of Toronto Tall Building Guidelines

The Tall Building Guidelines provide direction on matters including the scale of buildings, building floor plates and spatial separation. Key criteria in the Guidelines are minimum facing distances of 25 metres between towers in order to achieve appropriate light and privacy, minimum side and rear yard tower setbacks of 12.5 metres, and articulation of tower floorplates that are larger than 743 sq. m to break down the mass of the building.

Zoning

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended. The RA zoning permits a range of uses and a maximum building height of 30 metres for this site. An additional 5 metres is permitted for rooftop mechanical elements. The Zoning By-law permits development to the front lot line and to the side lot lines to a depth of 25 metres. Beyond a depth of 25 metres, a 7.5 metre setback is required. A 7.5 metre setback to the rear lot line is also required. Section 12(2)246 of the Zoning By-law requires a 3-metre setback above 20 metres on all street frontages.

By-law 922-2006, implementing the zoning by-law amendments arising from the 2006 King-Spadina Secondary Plan review, added provisions that included requirements for windows of dwelling units to maintain a minimum separation of 15 m, and 7.5 m to a lot line that is not a public street. By-law 922-2006 is under appeal to the Ontario Municipal Board.

The site-specific By-law 1067-2007 (www.toronto.ca/legdocs/bylaws/2007/law1067.pdf) permits a maximum building height of 62 metres and lower height restrictions on other portions of the lands. The site-specific By-law also regulates a maximum amount of gross floor area (18,330 sq. m), and Section 37 requirements.

Site Plan Control

The proposed development would be subject to site plan approval. An application for site plan approval was not submitted.

Reasons for Application

The Zoning By-law Amendment application proposed a building that exceeded the permitted maximum building height by 80 metres, for a height of approximately 142 m

including the mechanical penthouse. The proposal also exceeded the maximum permitted gross floor area cited in By-law 1067-2007.

A number of other variances were required for the proposal, including the following:

- rear and side yard setbacks
- amount of indoor and outdoor residential amenity space
- number of bicycle parking spaces
- dimensions of obstructed parking spaces

In some cases adequate information was not provided and it was difficult for staff to determine the extent of the variances.

Community Consultation

A community consultation meeting was held January 20, 2009. Representatives from the SoHo condominium to the south of the subject site expressed concern about the height, loss of north-easterly views, and the capacity of the lane to accommodate the proposed development as well as the existing SoHo development and the OMB-approved M5V development at 371-379 King Street West. Residents also expressed concern that the applicant was seeking a significant change to the zoning so soon after By-law 1067-2007 was passed.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. These comments were considered in evaluating this application.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal was consistent with the PPS by proposing intensification within a built-up urban area near higher-order transportation.

The proposal conformed and did not conflict with the Growth Plan for the Greater Golden Horseshoe by proposing intensification within the Downtown, which is identified as an Urban Growth Area.

Land Use

The proposed mix of residential, hotel, and restaurant uses was consistent with the land use permissions of the Official Plan, Secondary Plan and Zoning By-law.

Height

The proposed 142 m height did not provide an appropriate scale for either Blue Jays Way or as it would have been seen from King Street West (Refer to Attachment 8 – Massing Model). According to the applicant, the financial impact of adding hotel uses to the

development (as compared to the site-specific approval) had driven the increase in height and floor area. The applicant also noted that should the hotel prove to be unfeasible, the height related to the hotel development could be subtracted from the height provisions in the by-law.

The preliminary findings of the King-Spadina East Precinct Built Form Study include the principle that heights decrease from east to west (University Avenue to Spadina Avenue) (refer to Attachment 9), and from south to north (Front Street to Queen Street), to acknowledge the particular context of this area. The study also acknowledges that additional height south of King Street to Front Street could be contemplated subject to mitigating the shadow impacts, and the visual effects of height on the character of King Street West, particularly on the north side (the “Restaurant Row” area) between Blue Jays Way and John Street.

Staff acknowledge that the local context of this proposal has changed with the recent OMB approval of the 35-storey (119.5 m) development at 371-379 King Street West, which was opposed by the City, and recognize that the applicant was seeking to achieve new objectives by including a hotel in the proposal. However, to the south of the proposal are recently built or approved condominiums in the 60-80 m height range. The 142 m proposed on this site would have been inappropriate in this context and needed to be reduced significantly.

Massing

The proposal had merit in that it provided an improved condition at the street and podium level, and improved servicing as compared to the previously approved development, and provided a positive showcasing of the heritage façade as secured in the previous rezoning. Staff did not have any significant issues with the base portion of the proposal.

However, the application proposed a large tower floor plate of 896 square metres above the 11th floor. This would have resulted in a large mass facing King Street West, contributing to a loss of sky view as experienced by pedestrians on King Street. Furthermore, the tower floor plate would have resulted in a small rear setback (less than 2 m), creating inadequate separation distance from adjacent tall development. (Refer to Attachment 8).

The City’s Tall Building Guidelines suggest articulation of floorplates greater than 743 sq. m and distances of 25 m between tall building elements in order to provide adequate tower separation and sky views, and minimize shadow and wind impacts. The proposal did not meet the tall building criteria of Section 3.1.2(4) of the Official Plan with respect to sky view, the criteria of the Tall Building Guidelines, or the amended policies of the King-Spadina Secondary Plan (under appeal), which includes a requirement to not export facing distance constraints onto adjacent sites. While the OMB-approved development at 371-379 King Street West precludes a separation of 25 m, a rear yard setback of 12.5 m would have allowed this application to achieve its “share” of the separation and would increase the access to sky view from King Street. (Refer to Attachment 8). It should be

noted that if the proposal had achieved this setback, it would have reduced the floor plate to staff's satisfaction.

There are strategies that the applicant could explore to reduce the floor plate of the tower portion of the proposal. According to the applicant, the large floor plate was required to accommodate the number of elevators provided to service the first 10 floors (the hotel use), and hotel guest access to the pool amenity space on the 41st floor. Fewer elevators from the hotel portion of the development to the upper floors could decrease the floor plate and improve the separation between the proposal and adjacent development, and potentially improve the efficiency of the floor plate. The applicant could also consider a reconfiguration and relocation of the pool amenity space to a lower floor, contiguous with the hotel floors, to decrease the need for some of the elevators.

Shadow Impacts

The site is directly south of King Street West, which has a height limit of 30 metres and a 44 degree angular plane from the street line at the 16 metre height level. The purpose of the angular plane is to minimize shadow impacts and ensure sky views at pedestrian level on King Street West. The previous approval for 62 m of height on the subject site was based on limiting shadow impacts on King Street West, mid-day between March and September.

The proposed building began to produce impacts on King Street West after 11:00 am in March and September, including impacts on Restaurant Row between approximately 3:30 and 4:30 in the afternoon. The east-west orientation of the proposed building created a relatively wide shadow on King Street, particularly in the morning and early to mid afternoon hours. In June, approximately half of Mercer Street would have been shaded in late afternoon (at approximately 4:30 pm).

The submitted shadow studies included a previous proposal for 355 King Street West, the owner of which has met with Planning staff to discuss a substantial revision. It is therefore difficult to fully determine the impact of the subject proposal's shadows in the absence of the current 355 King Street proposal.

Wind Impacts

A wind study submitted by the applicant indicated very little change from existing wind conditions and did not recommend mitigation. However, staff reviewed the study and noted that the existing wind conditions were not particularly conducive to comfortable use of the proposal's outdoor café seating area at the northeast corner of the site, a sitting area at the southeast corner of site, and the main hotel entrance on Blue Jays Way.

Winter conditions would remain uncomfortable at the hotel entrance, exhibiting very little change from existing conditions. In spring, wind conditions around the entire building would be comfortable for walking only, representing no change from existing conditions. In summer, wind conditions at the hotel lobby would be comfortable for walking only, and for standing at the outdoor café area, sitting area, residential access area and on outdoor terraces. The summer conditions would be slightly worse than

existing conditions, resulting in more points around the building and in the near vicinity becoming comfortable for walking only. In fall, all points around the building would be comfortable for walking only, representing no change from existing conditions.

Traffic Impact, Access, Parking

The proposal satisfied the parking requirements of the Zoning By-law by providing 228 parking spaces in five levels below grade. Proposed loading arrangements required refinement in order to comply with Zoning By-law requirements. Alternately, the applicant would be required to provide justification for the proposed loading arrangement. Loading and access to below-grade parking would have occurred at the west end of the property via the east-west laneway to the north of property. Residential drop-off would also have been accessed via the lane. This arrangement was satisfactory to Technical Services staff. A Traffic Impact Study submitted by the applicant was also satisfactory to Technical Services staff.

Section 2.4 Policy 12 of the Official Plan requires that hotels make provision for a taxi stand on private property. This was not provided in the proposal.

Servicing

The Functional Servicing Report provided by the applicant required revision in accordance with comments sent directly to the Servicing consultant. A revised study was not received.

Amenity Space

The proposal was unclear regarding the amount of common outdoor space available to residents. It appears that the amount of space provided as part of the pool deck did not meet the requirements of the Zoning By-law.

Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.43 to 0.78 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposed 264 residential units on a total site area of .1979 hectares (1,979 sq. m). At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would have been 0.352 hectares (3,520 sq. m). However, a cap of 10% applies and hence the parkland dedication for the development would have been .01979 hectares (197.9 sq. m). The non residential component of the development would have been subject to a 2% parkland dedication requirement under Chapter 165 of the former City of Toronto Municipal Code.

The applicant proposed to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of .01979 hectares (197.9 sq. m) would not be of a useable size and the site would have been encumbered with below grade parking. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit, should there be an approval of a revised proposal.

Streetscape

The existing heritage building is set back 3.1 metres from the property line. Additional proposed building setbacks would have provided some additional sitting/open space and an outdoor café area along the Blue Jays Way frontage. Tree planting was proposed in both the public boulevard as well as in the area between the property line and the existing heritage façade.

Heritage

A Heritage Easement Agreement is registered on the property which protects the heritage character of the front (east) façade and includes the side walls going back approximately 5.8 metres. The proposal retained and restored the existing façade, with some modifications to windows and changes to the main entrance and large window above. These changes were satisfactory to Heritage Preservation Services.

Toronto Green Standard

The applicant proposed to meet a number of the minimum recommended measures in the Toronto Green Standard.

Section 37

Section 37 benefits were not discussed in the absence of an agreement on height and massing, beyond an indication that the City intended to use this tool should the aforementioned issues be resolved.

Development Charges

It is estimated that the development charges for this project would have been \$ 2,854,360. This is an estimate. The actual charge would be assessed and collected upon issuance of a building permit, should the proposal be revised to address staff comments.

Conclusion

Staff have been analyzing the proposal in the context of the previous approval on the subject site, the Ontario Municipal Board's approval of the 35-storey M5V development at 371-379 King Street immediately northwest of the proposal, the King-Spadina Built Form Study, and other applications for tall buildings in the area. The previous approval for 56 Blue Jays Way, at 18 storeys (62 m), was the tallest possible height supportable without shadowing King Street West during mid day, the most commonly protected time on important retail streets. Furthermore, all studies completed by Planning staff have concluded that King Street's "Restaurant Row" on the south side west of John Street, and "Theatre Row" on the north side between Simcoe and John Streets should be protected in

terms of sunlight access, sky view, visual character and scale. Preliminary work done as part of the East Precinct Built Form Study, which attempts to accommodate some of the pressure for tall building development while maintaining the important characteristics that contribute to the area's success, has acknowledged that there should be a downward height transition westward from University Avenue to Spadina Avenue (refer to Attachment 9), and northward from Front Street to Queen Street. This height transition is not a continuous plane, and will vary depending on immediate context (e.g., the strong warehouse character of Duncan Street, Richmond and Adelaide Streets), and the impacts of new development (e.g., shadowing of parks and streets).

Staff have reviewed the application to identify opportunities for some increase in height and floor plate beyond existing permissions and guidelines, recognizing both the applicant's objective to include a hotel in the project and the approved context of the area. Staff have determined that a revised proposal comprising the proposed 10 floors of hotel uses, plus the existing 62 m approval, would result in a building height of approximately 97 m. Subject to detailed review of shadow, sky view and pedestrian realm impacts, this height would be generally acceptable, provided the applicant agrees to a reduction in floor plate above the hotel uses, and a rear setback of 12.5 m in accordance with the Tall Building Guidelines. It is important to note that the site is located mid-block on a relatively minor street that has been identified in Council-approved policy as a smaller neighbourhood street, and as such does not warrant the height that was sought by the applicant. While the site provides a terminus for Mercer Street, the planning framework does not identify it as prominent terminus location, and the proposal would have required only an attractive podium, and not excessive height, in order to adequately terminate Mercer Street.

Staff have been working with a number of other applicants in the King-Spadina area in a constructive dialogue on the issues of height, floor plate and tower spacing, and have been successful in achieving development that meets the goals of both the City and the developers. Discussions with this applicant with respect to revising the height, floor plate and rear setback of the proposal were not successful, and the applicant did not demonstrate flexibility in addressing planning concerns and considering reductions to the proposed height and floor plate, or increases in the rear setback, which would have allowed the building to fit within a height transition from west to east, and would have improved tower separation, sky view, and shadows.

In the opinion of staff, the height and bulk of the proposal created a negative precedent for other applications within the King-Spadina East Precinct area, and for achieving the balance of interests sought by the King-Spadina East Precinct Built Form Study. Approval of this proposal in its current form could set a precedent that results in a concentration of excessively tall, inadequately separated towers on King Street and immediately to the south. This could cast King Street into shadow for the majority of the day, across Restaurant Row and Theatre Row, with significant impacts on sky views and on the character of the street, as well as uncomfortable wind conditions, and pressure to demolish heritage buildings or preserve facades only in order to accommodate taller development. These negative implications apply not only to King-Spadina's East

Precinct, but potentially City-wide, as Council-approved policies protecting sunlight access, sky view and distinctive street character, as well as the City's Tall Building Guidelines, could be further challenged.

CONTACT

Judy Josefowicz, Senior Planner

Tel. No. 416-392-1306

Fax No. 416-392-1330

E-mail: jjosefo@toronto.ca

SIGNATURE

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

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ATTACHMENTS

- Attachment 1: Application Data Sheet
- Attachment 2: Zoning
- Attachment 3: Site Plan
- Attachment 4: East Elevation
- Attachment 5: South Elevation
- Attachment 6: West Elevation
- Attachment 7: North Elevation
- Attachment 8: Massing Model
- Attachment 9: East-West Angular Plane

Attachment 1: Application Data Sheet

Application Type	Rezoning	Application Number:	08 209949 STE 20 OZ
Details	Rezoning, Standard	Application Date:	October 3, 2008

Municipal Address: 56 BLUE JAYS WAY
 Location Description: PL D263 LTS 18 & 19 RP 64R15263 PT 1 **GRID S2015
 Project Description: New rezoning application to permit the construction of a 41 storey point storey tower on the lands - refer to previous by law 1067-2007.

Applicant:	Agent:	Architect:	Owner:
SHERMAN BROWN DRYER KAROL		WALLMAN ARCHITECTS	LIFETIME 56 BLUE JAYS WAY INC

PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	1067-02
Zoning:	RA	Historical Status:	Y
Height Limit (m):	30	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1979	Height:	Storeys:	41
Frontage (m):	40.7		Metres:	142
Depth (m):	49.12			
Total Ground Floor Area (sq. m):	1133			Total
Total Residential GFA (sq. m):	22710		Parking Spaces:	228
Total Non-Residential GFA (sq. m):	11089		Loading Docks	4
Total GFA (sq. m):	33799			
Lot Coverage Ratio (%):	57			
Floor Space Index:	17.1			

DWELLING UNITS

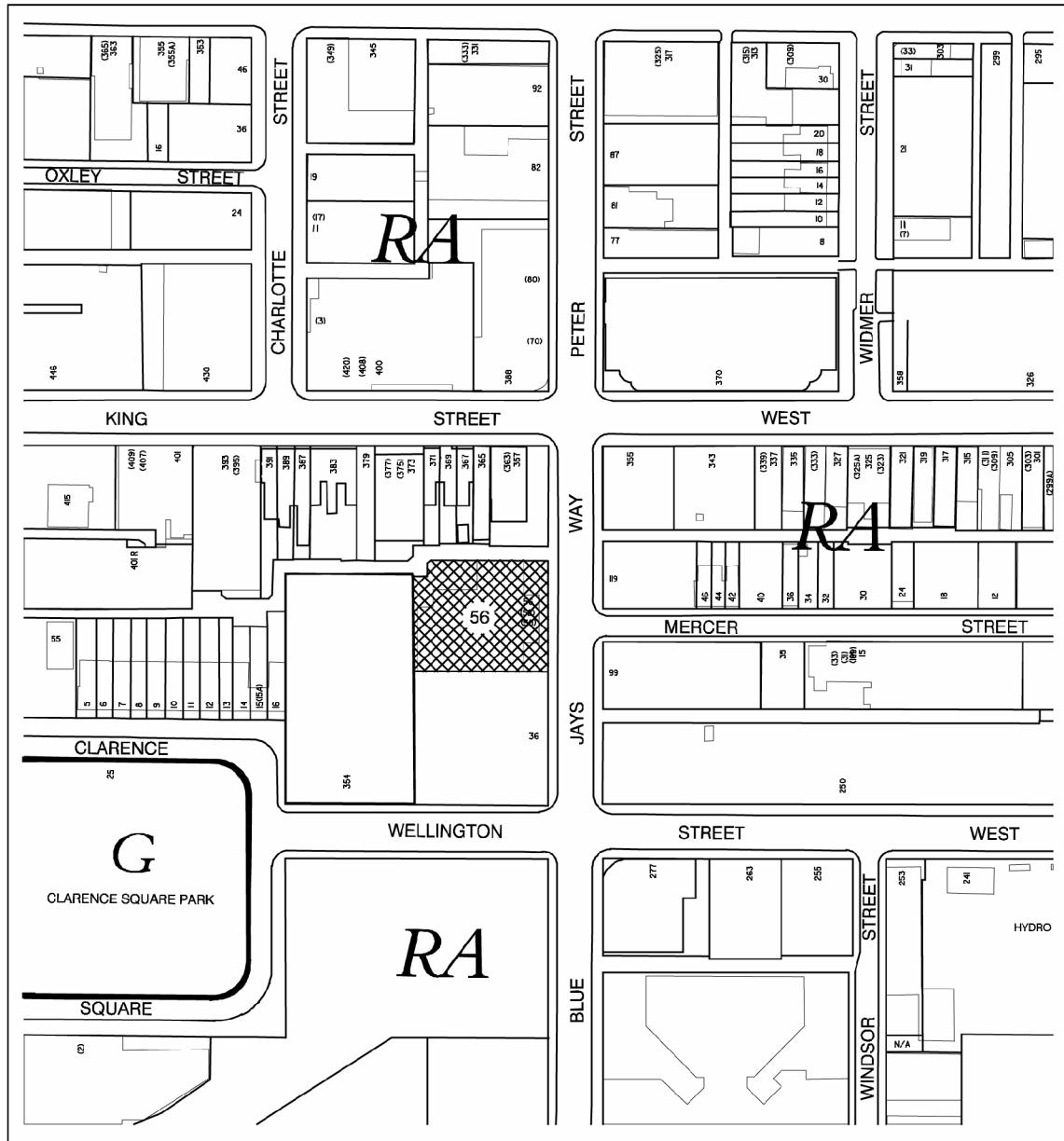
Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	120
2 Bedroom:	120
3 + Bedroom:	24
Total Units:	264

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	22710		0
Retail GFA (sq. m):	0		0
Office GFA (sq. m):	0		0
Industrial GFA (sq. m):	0		0
Institutional/Other GFA (sq. m):	11089		0

CONTACT: **PLANNER NAME:** **Judy Josefowicz, Senior Planner**
TELEPHONE: **(416) 392-1306**

Attachment 2: Zoning



Toronto City Planning
Division
Zoning

56 Blue Jays Way

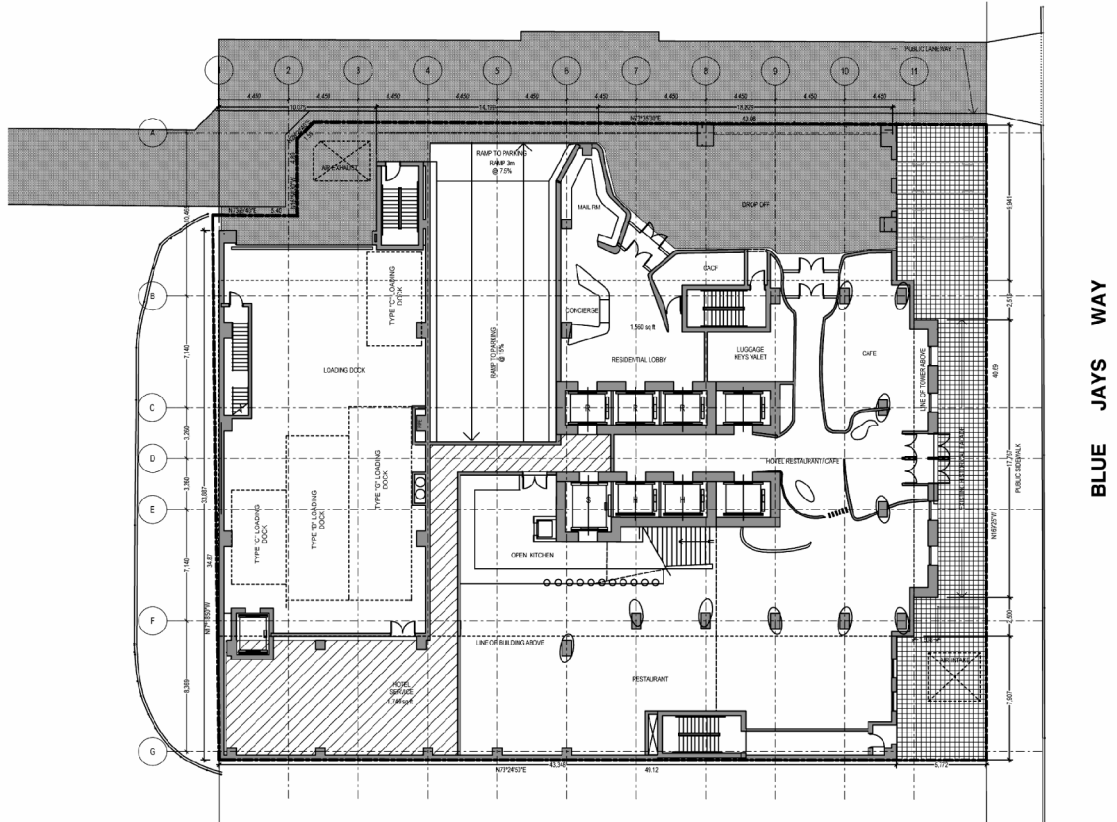
File # 08_209949

G Parks District
RA Mixed-Use District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 12/01/08 - DR

Attachment 3: Site Plan



Ground Floor Plan

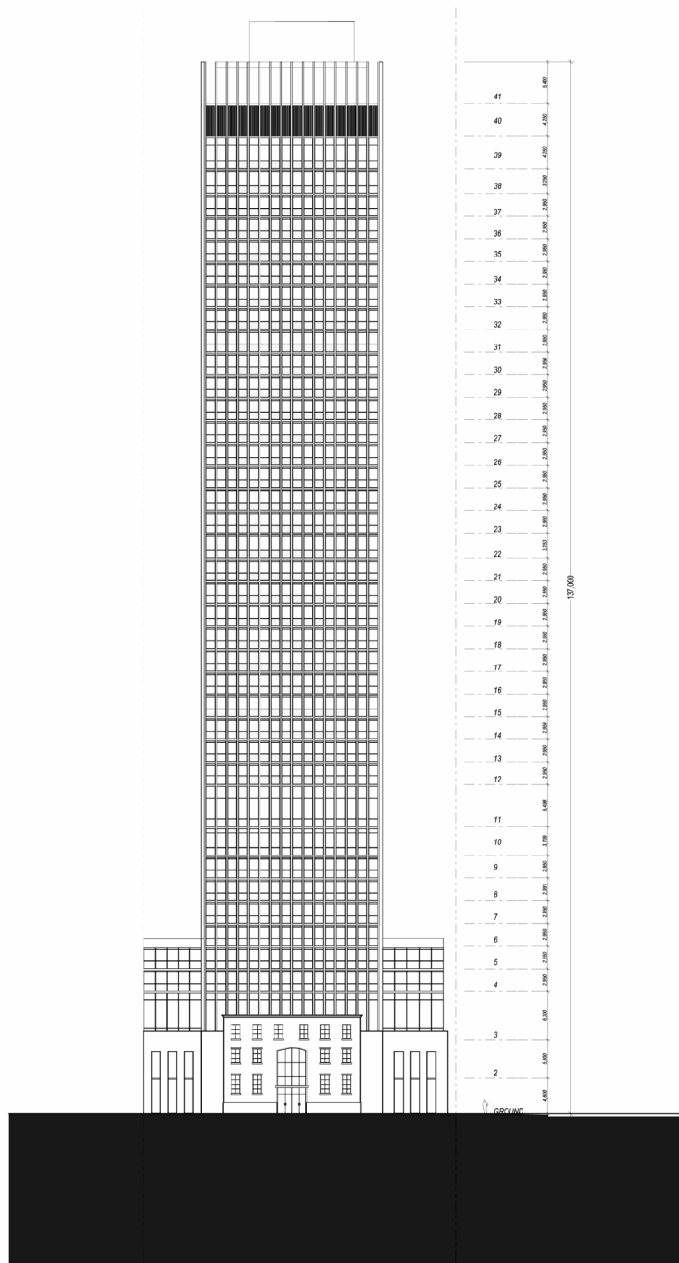
Applicant's Submitted Drawing

Not to Scale

56 Blue Jays Way

File # 08_209949

Attachment 4: East Elevation



East Elevation

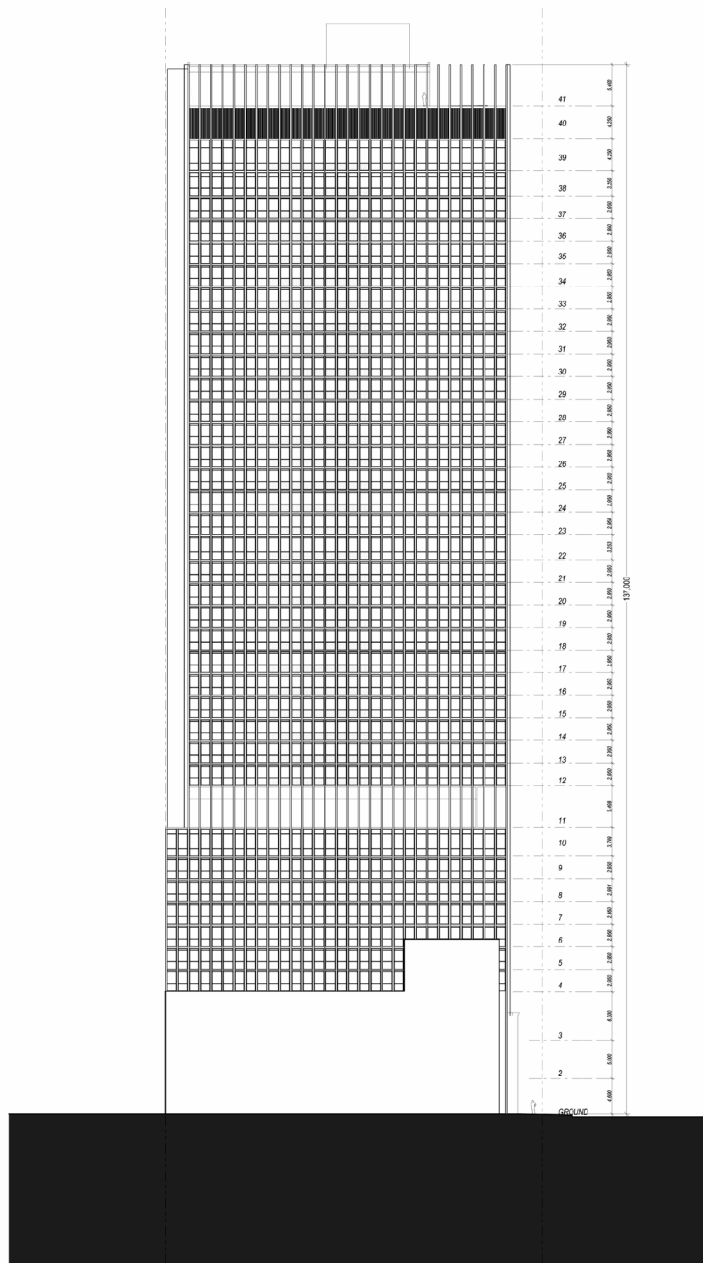
Applicant's Submitted Drawing

Not to Scale
12/01/08

56 Blue Jays Way

File # 08_209949

Attachment 5: South Elevation



South Elevation

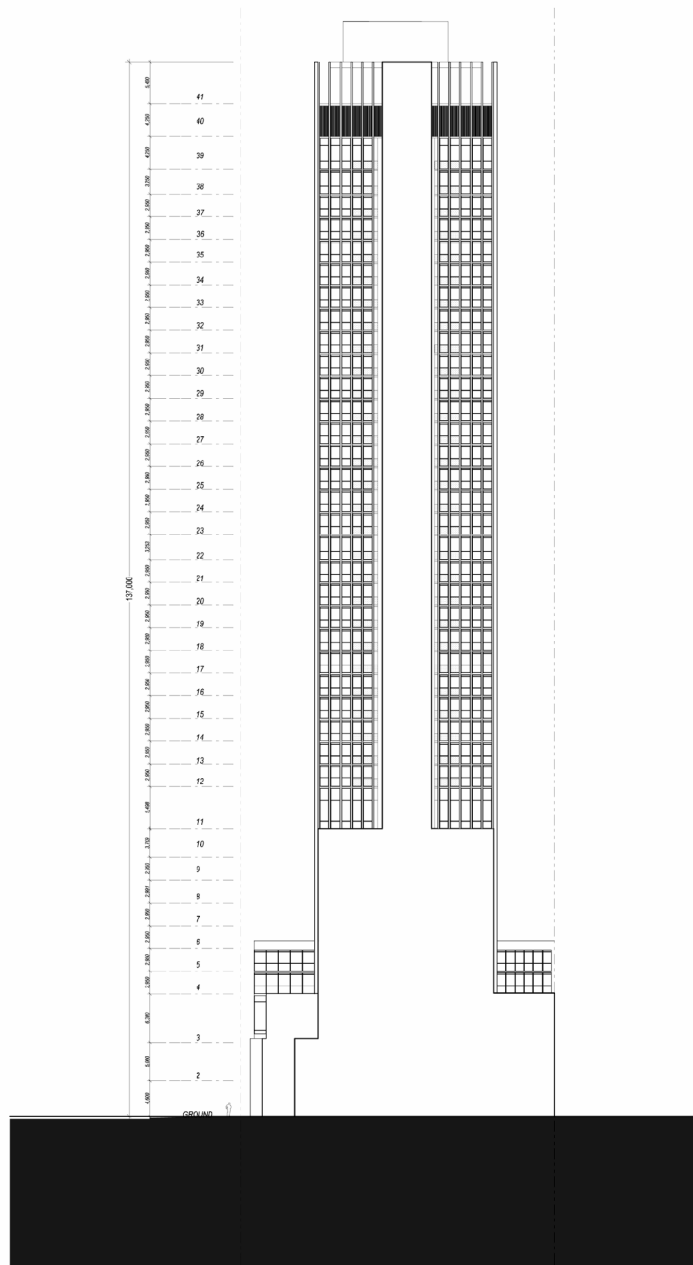
Applicant's Submitted Drawing

Not to Scale
12/01/08

56 Blue Jays Way

File # 08_209949

Attachment 6: West Elevation



West Elevation

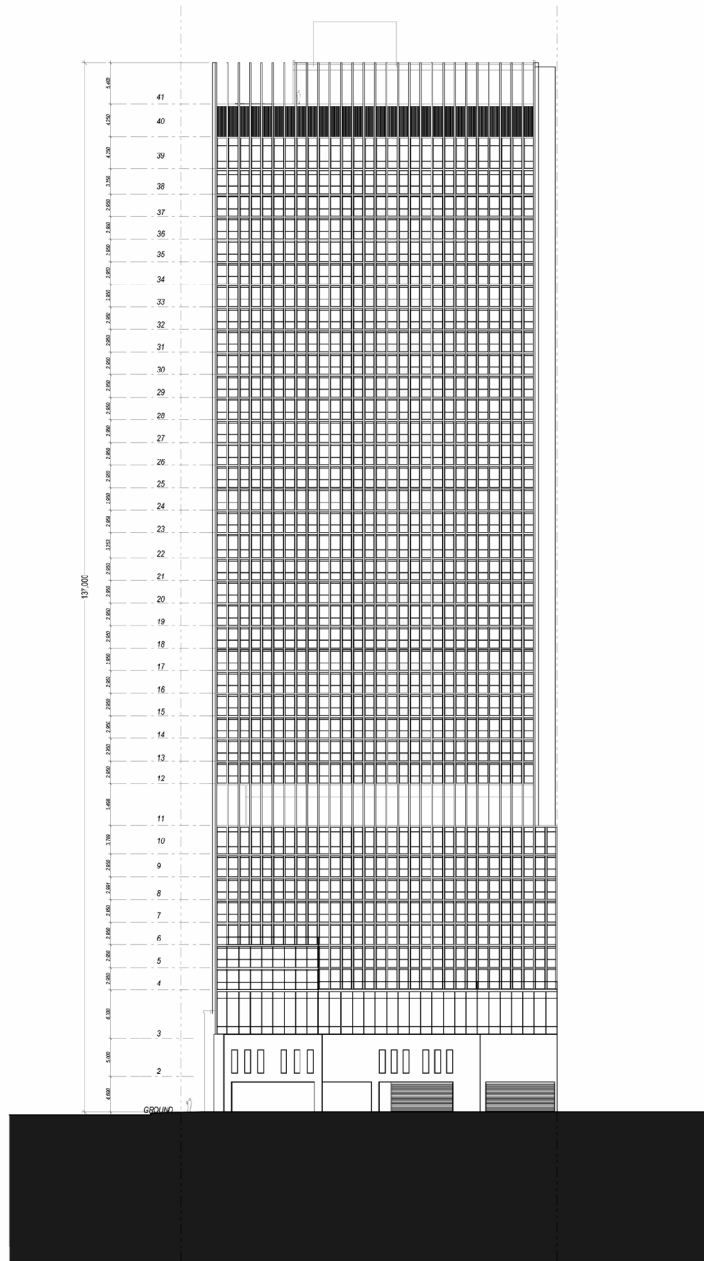
Applicant's Submitted Drawing

Not to Scale
12/01/08

56 Blue Jays Way

File # 08_209949

Attachment 7: North Elevation



North Elevation

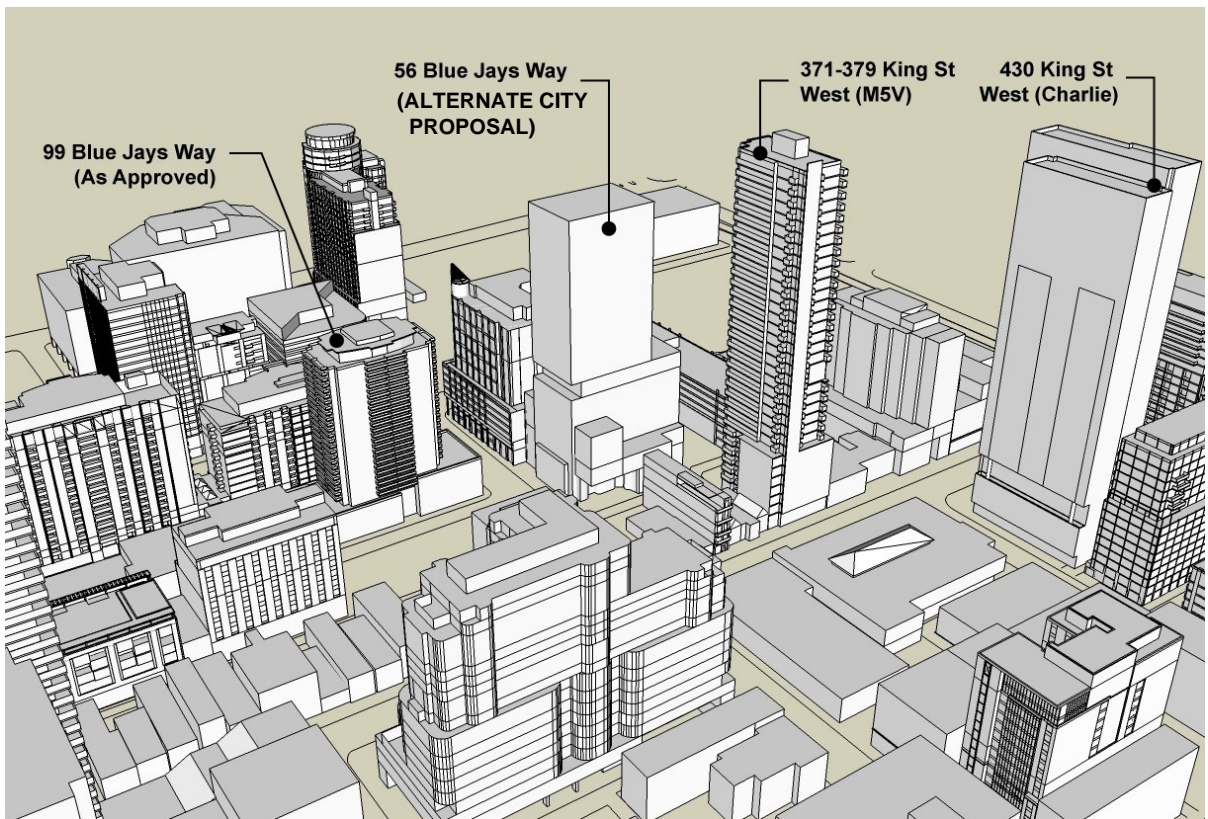
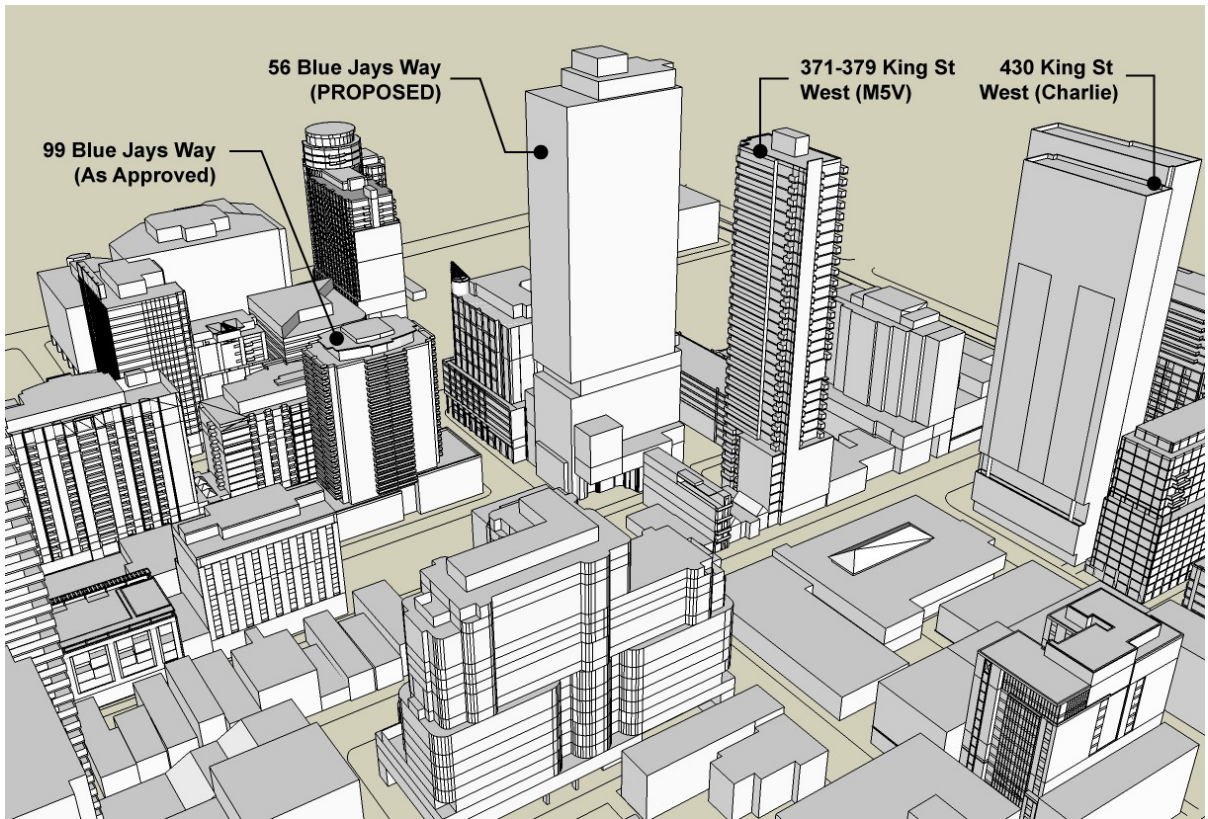
Applicant's Submitted Drawing

Not to Scale
12/01/08

56 Blue Jays Way

File # 08_209949

Attachment 8: Massing Model



Attachment 9: East-West Angular Plane

