

TORONTO STAFF REPORT

January 30, 2004

To: Toronto South Community Council

From: Director, Community Planning, South District

Subject: Final Report
Application to amend the Official Plan and Zoning By-law 438-86, as amended
169 John Street
One Six Nine Inc. (Core Architects Inc.)
File No. 203007, TE CMB 20030012
Trinity-Spadina, Ward 20

Purpose:

This report reviews and recommends approval of an application to amend the Official Plan and the Zoning By-law to permit a 10-storey residential building containing 46 units at 169 John Street.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that City Council:

- (1) amend the Official Plan for the former City of Toronto substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 1;
- (2) amend Zoning By-law 438-86 for the former City of Toronto substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 2;



- (3) authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and draft Zoning By-law Amendment as may be required;
- (4) require that the Official Plan Amendment and Zoning By-law Amendment stipulate that the owner enter into an agreement pursuant to Section 37 of the Planning Act to implement the matters set out in Condition (5) of this report;
- (5) require the owner to:
 - (a) submit to the Commissioner of Works and Emergency Services, at least three weeks prior to the introduction of bills in Council final drawings of the development as approved by Toronto South Community Council with sufficient horizontal and vertical dimensions of the exterior walls of the proposed building to enable the preparation of building envelope plans;
 - (b) submit, prior to the issuance of a below-grade building permit, all environmental site assessment reports describing the current site conditions and the proposed remedial action plans to the Commissioner of Works and Emergency Services;
 - (c) pay all costs associated with the City retaining a third-party environmental peer reviewer and submit, prior to the issuance of a below grade building permit, a certified cheque payable to the City of Toronto in the amount of \$3,000.00 to cover the cost of a peer review;
 - (d) submit to the Commissioner of Works and Emergency Services for review and acceptance, at least three weeks prior to the introduction of bills in Council, a site servicing assessment to determine the stormwater runoff, sanitary flow and water supply demand resulting from this development and demonstrate how this site is to be serviced;
 - (e) pay for any improvements to the municipal infrastructure in connection with Recommendation 5(d) above, should it be determined that upgrades are required to the infrastructure to support this development, according to the site servicing assessment accepted by the Commissioner of Works and Emergency Services;
 - (f) protect at all times the City-owned tree identified as a White Ash in the Arborist Report prepared by Bras d'Or Forestry Services, dated 27 March 2003, in accordance with the City of Toronto's Tree Protection Policy and Specifications for Construction Near Trees and to the satisfaction of the Commissioner of Economic Development, Culture and Tourism as directed in a subsequent Site Plan Agreement for this development;
 - (g) provide, prior to Site Plan Approval, a tree protection security deposit in the form of an irrevocable Letter of Credit or certified cheque payable to Treasurer, City of Toronto, in the amount of \$ 8,200.00 to cover the appraised tree value, removal and replacement costs of City owned trees, such deposit to be drawn upon to

cover all costs incurred by the City of Toronto if the City owned trees require maintenance or removal and replacement as a result of construction activities associated with this project;

- (h) provide, prior to the issuance of a building permit, a 5% cash-in-lieu of parkland dedication payment as required under Chapter 165 of the former City of Toronto Municipal Code;
- (i) include the following warning clause in any agreement of purchase and sale and/or condominium declaration:

“The owners of residential units on the south side of the building acknowledge that their views may be blocked or partially blocked by a structure or building which may be built on the lands to the south by the adjoining owner of the lands on the south side of the condominium.”

Background:

Proposal

The applicant requests permission to demolish the existing vacant house on the lot and to erect a 10-storey plus penthouse residential building containing 46 dwelling units and 24 parking spaces. The penthouse unit is proposed to wrap around three sides of the mechanical unit above the tenth storey. The proposed building would have a total height of 35.1 metres and 3,786 m² gross floor area, at a density of 7.7 times the area of the lot.

Site and Surrounding Area

The site is located on the east side of John Street, north of Queen Street West. It has an area of 491.07 m² with a frontage of approximately 14 metres along John Street. There is an existing two-storey vacant house on the lot and one tree located on City-owned property adjacent to the site.

The following uses surround the site:

- North: a five-storey industrial building, a seven-storey commercial/industrial building, a 2 ½-storey office building, and Grange Park;
- South: a three-storey restaurant building and a one- to three- storey commercial building;
- East: two to three-storey residential dwellings facing St. Patrick’s Market Square Park;
- West: a seven-storey residential building with grade-related retail, a parking lot, four to five-storey commercial/industrial buildings and a four-storey residential building.

Official Plan

The in-force Official Plan for the former City of Toronto designates this site as a Mixed Industrial-Residential Area. This designation permits a range of residential uses, including buildings containing exclusively residential uses and having a total residential gross floor area of up to 2.0 times the lot area.

The South East Spadina Part II Plan designates this site as a Special Residence Area. This designation permits residential buildings with a gross floor area of up to 1.0 times the area of the lot as-of-right, and upon application by the owner of a lot, buildings containing exclusively residential uses having a gross floor area of up to 2.0 times the area of the lot.

At its meeting of November 26, 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. The Minister's decision has been appealed in its entirety. The Official Plan is now before the Ontario Municipal Board. No hearing date has been set. Once the Plan comes into full force and effect, it will designate the property as Mixed Use Area, within the City's Downtown.

Zoning

The site is zoned R3 Z1.0 with a maximum permitted height of 18 metres. The zoning by-law permits residential densities of up to 1.0 times the lot area.

Site Plan Control

An application for Site Plan Approval has been filed concurrently. Planning staff have received comments from departments and agencies and will incorporate them in a subsequent Site Plan Agreement, should Council approve this application.

Tree Preservation

The applicant has filed an Arborist's Report detailing measures to be undertaken to protect the mature City-owned tree on John Street during construction. Economic Development, Culture and Tourism staff have reviewed the Arborist's Report and advise that the plans are acceptable, subject to certain conditions to be fulfilled through Site Plan Approval.

Reasons for the Application

The proposed density, at 7.7 times the lot area, exceeds the 1.0 times permitted by the Zoning By-law and the 2.0 times permitted by the Official Plan and Part II Plan. The height of the proposal does not comply with the City's Zoning By-law, as the 35.1-metre total height (including the mechanical equipment) exceeds the 18-metre limit by 17.1 metres.

Community Consultation

A Community Consultation was held on October 7, 2003. Approximately 20 residents and neighbouring business owners were in attendance. Attendees voiced their concerns about the building height, the view of the rear of the building facing the park; parking and its operations; vehicular use of the rear lane (St. Patrick's Market); and the noise from building mechanics. These concerns will be addressed later in this report.

Agency Circulation

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

Comments:

Height

The height of the proposed tower was considered within the context of the neighbourhood. It is comparable to the seven-storey industrial building just to the north of the site, and to the apartment building on McCaul Street visible from the opposite side of St. Patrick's Market Square Park. In its broader context, it falls within the family of heights of mid-rise residential buildings within this area of the Downtown and is acceptable for this site.

Sun, Shadow, Wind

The applicant submitted shadow studies as part of the application. The proposed building would introduce some additional shadows within a portion of St. Patrick's Market Square park in the late afternoon, however this shadow is minor beyond that which would be cast by a building at the current 18 metre height limit. Urban Design staff have raised no further concerns.

Traffic Impact, Access, Parking

Vehicular access to the site is provided from the rear, via St. Patrick's Market Lane. Works and Emergency Services (WES) staff are satisfied that no lane widening will be required as a result of this proposal. The building provides for a garbage storage room within the basement, with waste to be placed on an outdoor storage pad on collection days for pick-up. Waste would therefore not be stored outside, facing the park, except on collection days. WES staff have reviewed this condition and find it acceptable.

The applicant proposes to provide 24 vehicular parking spaces in a three-level mechanical parking stacker, the access and operations of which occupy most of the ground floor area. The parking stacker would be hydraulic and its operation would not pose a noise problem to neighbouring buildings. WES staff are satisfied that the site, which is well-served by public transit, provides sufficient parking.

Setbacks

The building is proposed to have no setbacks from the north and south lot lines, and would immediately abut the existing three-storey building to the south at 165 John Street. The proposal has been designed with a blank south-facing wall for the first four storeys; the remaining storeys above feature south-facing windows. The window wall is bowed outward so that only a small portion is against the property line, and its setback increases toward the east and west ends of the building. The applicant has indicated that this design is in anticipation of the potential for an as-of-right four-storey development on the adjacent site to the south.

The building design maximizes the efficiency of the lot and its window articulation meets an urban design objective to avoid a large blank wall facing Queen Street. However, staff expressed concerns that this situation may preclude the development potential of the site to the south, since future residents of this building may object to their loss of view should the development exceed four storeys. Staff have reviewed the proposed unit design against the City's light, view and privacy guidelines and observe that the principal windows of the south-side units face east and west; the windows facing directly south are to secondary rooms. In the instance that a development may block the south windows, the units would continue to enjoy adequate light penetration.

The applicant proposes to include a warning clause on title for each of the affected units. To further reduce the expectation of view to the south, staff have required that the amount of window transparency be minimized at the centre of the south wall, allowing for gradually increasing transparency moving to the outer edges of the building. An agreement under Section 37 of the Planning Act will stipulate certain maximum percentages of the south building face which can include transparent glazing. The applicant will be required to meet all provisions of the Ontario Building Code with respect to fire protection at the time of building permit application.

Section 37

Together with the Ward Councillor, City Staff have been in discussions with the applicant with respect to providing certain services, matters and facilities pursuant to Section 37 of the Planning Act in exchange for increased height and density. The applicant has agreed to contribute \$100,000.00, to be applied toward improvements to Grange Park and/or streetscape improvements on McCaul Street.

Conclusions:

The application to construct an apartment building containing 46 residential units at this location, near several public transit lines within the city's Downtown area, is an appropriate intensification of the site. The applicant has addressed staff concerns with respect to height, garbage storage, vehicular access and views. Staff recommend approval of this application, conditional upon the contribution of funds toward public benefits pursuant to Section 37 of the Planning Act.

Contact:

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Ted Tyndorf

Director, Community Planning, South District

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List of Attachments:

- Attachment 1: Application Data Sheet
- Attachment 2: Site Plan
- Attachment 3: North Elevation
- Attachment 4: South Elevation
- Attachment 5: East Elevation
- Attachment 6: West Elevation
- Attachment 7: Official Plan
- Attachment 8: Zoning
- Attachment 9: Draft Official Plan Amendment
- Attachment 10: Draft Zoning By-law Amendment

Attachment 1 – Application Data Sheet

Combination

Site Plan Approval:	Yes	File Number:	203007
Rezoning:	Yes	Application Number:	TE CMB 2003 0012
O.P.A.:	Yes	Application Date:	04/22/2003
Municipal Address:	169 John Street		
Nearest Intersection:	John Street and Queen Street West		
Project Description:	Residential apartment		

Architect:

Core Architects Inc.
317 Adelaide Street West
Toronto, Ontario, M5V 1P9

Applicant:

Khurana Associates
148 Glendale Avenue
Toronto, Ontario, M6R 2T2

PLANNING CONTROLS (For verification refer to Chief Building Official)

Official Plan Designation:	MIR/Special Residence Area	Site Specific Provision:	333-02
Zoning District:	R3 Z1.0	Historical Status:	No
Height Limit (m):	18	Site Plan Control Area:	Yes

PROJECT INFORMATION

Site Area:	491.07	Height:	Storeys:	11
Frontage:	14.128		Metres:	35.1
Depth:	34.972			
Ground Floor GFA:	459	Parking Spaces:		24
Residential GFA:	3786	Loading Docks:		0
Non-Residential GFA:	0			
Total GFA:	3786			

DWELLING UNITS

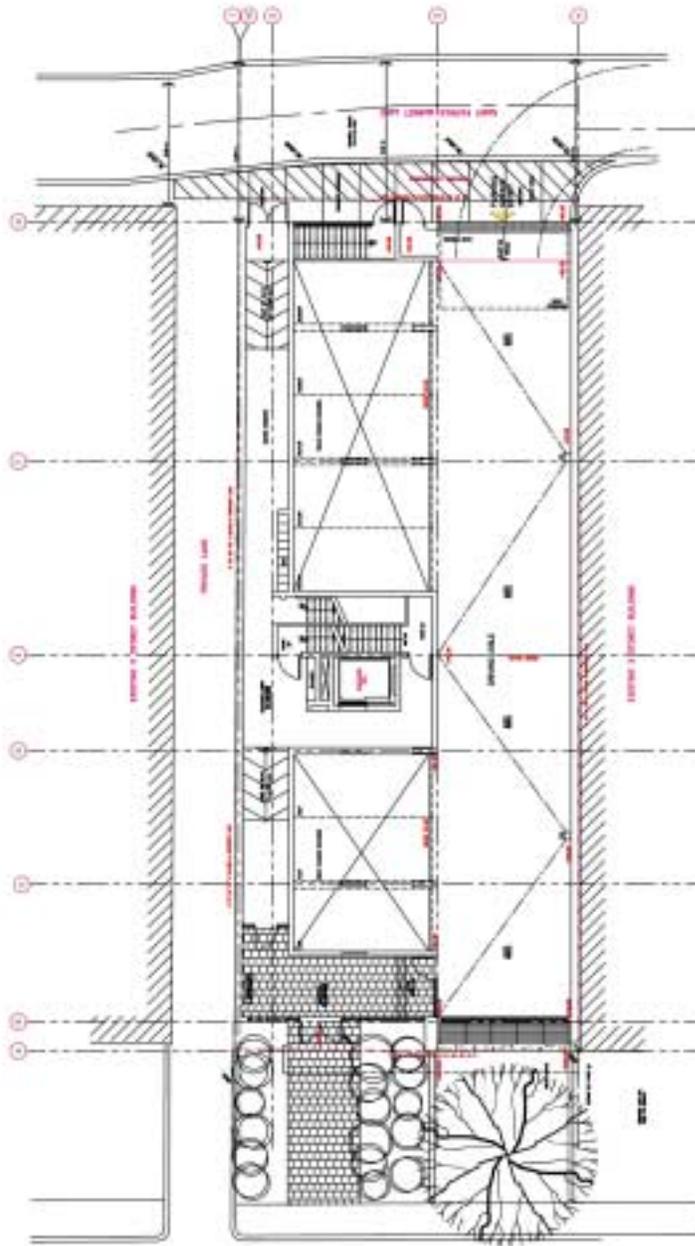
Tenure Type:	Rental
Rooms:	0
Bachelor:	18
1 Bedroom:	22
2 Bedroom:	6
3+ Bedroom:	0
Total Units:	46
Total Proposed Density:	7.7

FLOOR AREA BREAKDOWN

	Above Grade
Residential GFA:	3786
Retail GFA:	0
Office GFA:	0
Industrial GFA:	0
Industrial/Other GFA:	0

Planner: Melanie Melnyk Phone: (416) 392-7349

Attachment 2: Site Plan



Site Plan

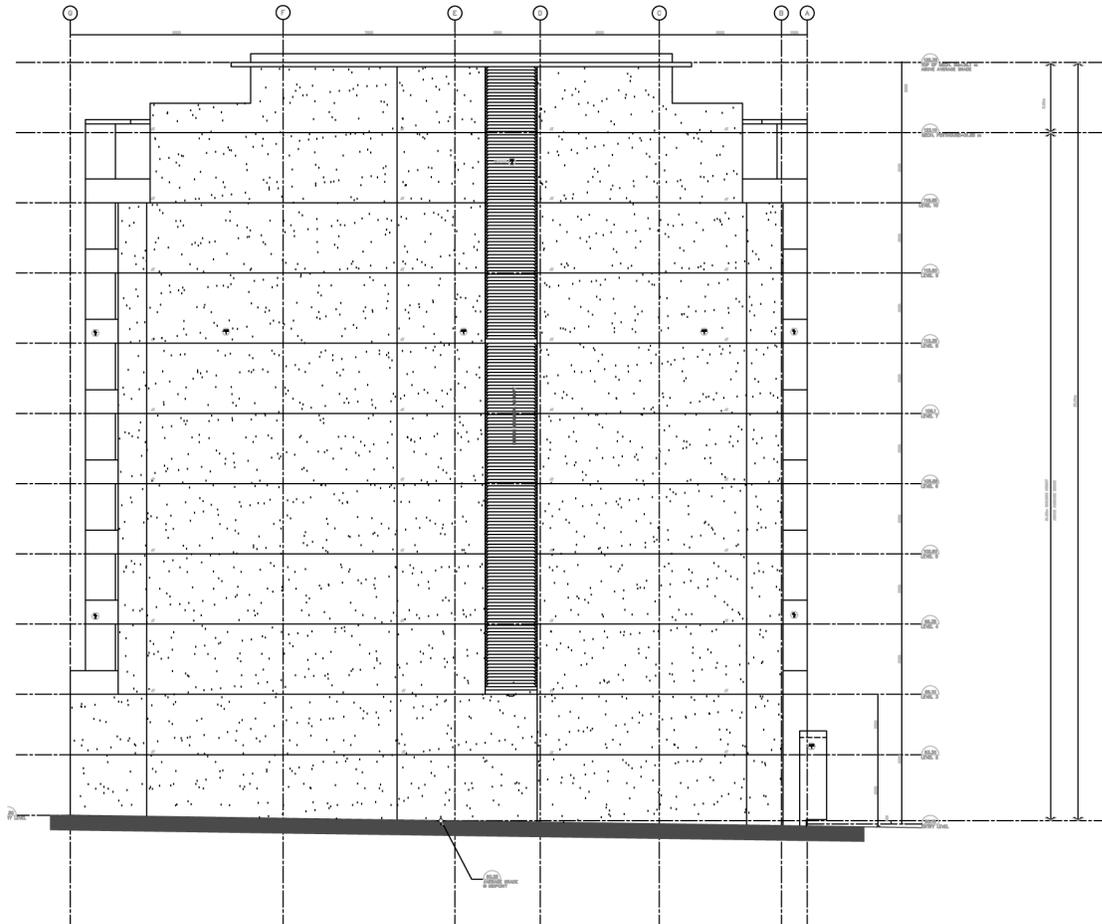
Applicant's Submitted Drawing

Not to Scale
1:201 (00) 

169 John Street

File # TECMB 20030012

Attachment 3: Elevation 1



North Elevation

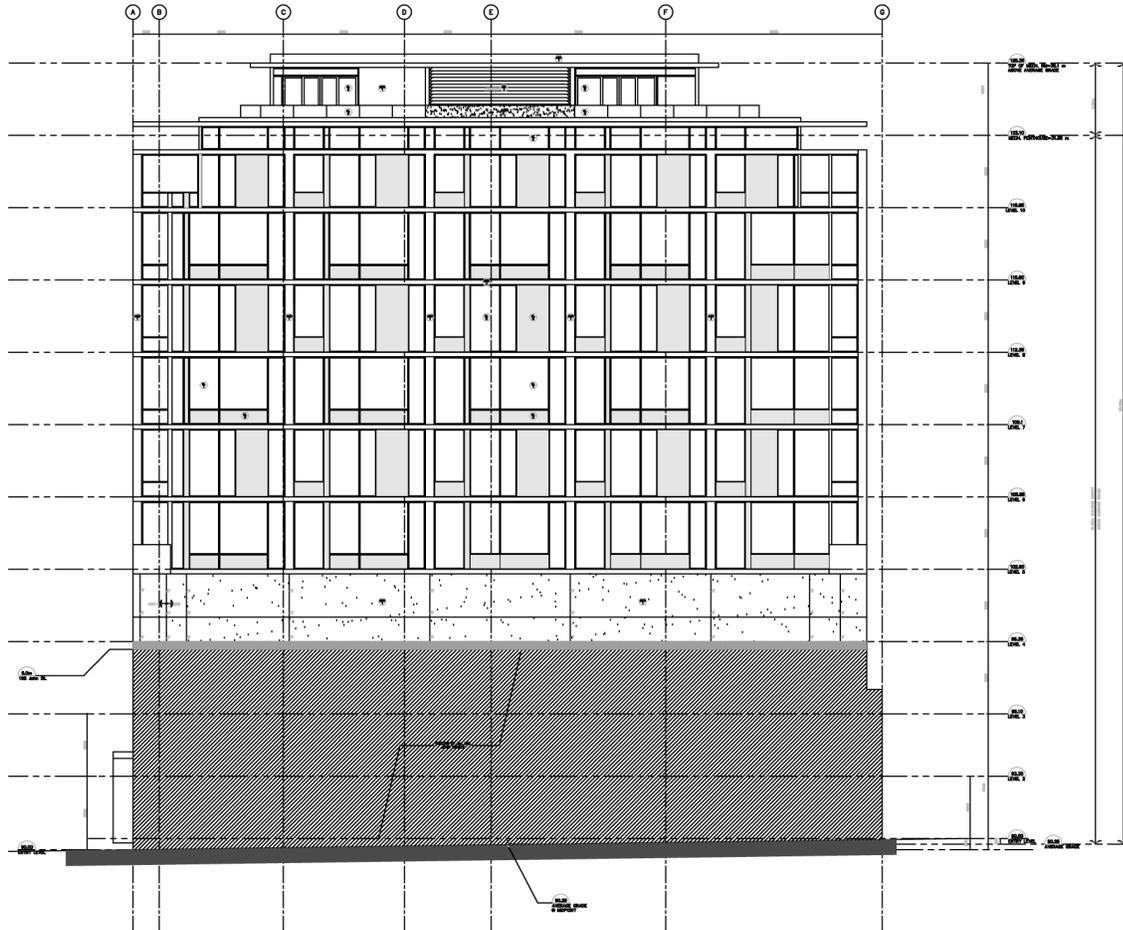
Applicant's Submitted Drawing

Not to Scale
112/11/03

169 John Street

File # TECMB 20030012

Attachment 4: Elevation 2



South Elevation

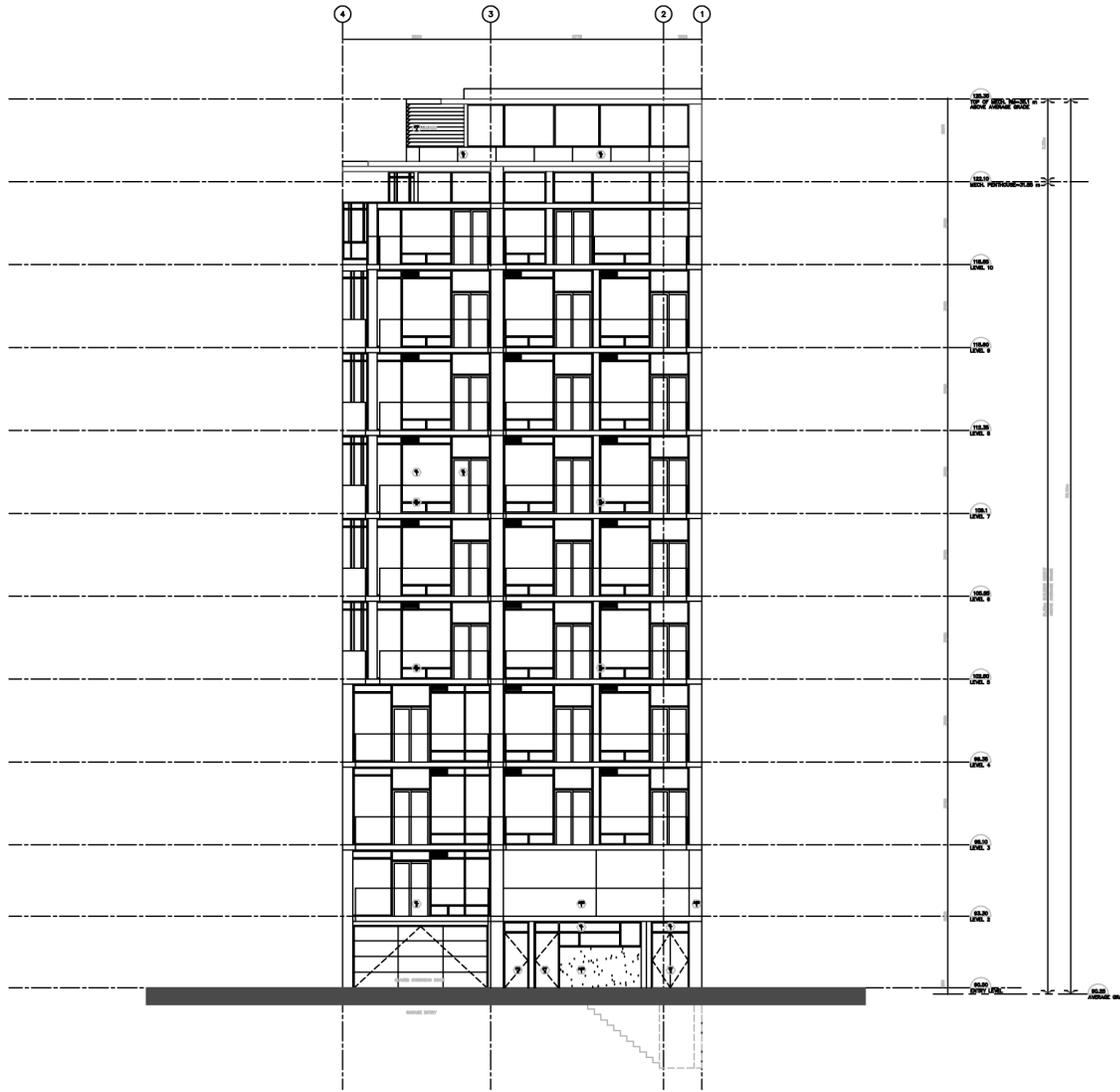
Applicant's Submitted Drawing

Not to Scale
11/21/03

169 John Street

File # TECMB 20030012

Attachment 5: Elevation 3



East Elevation

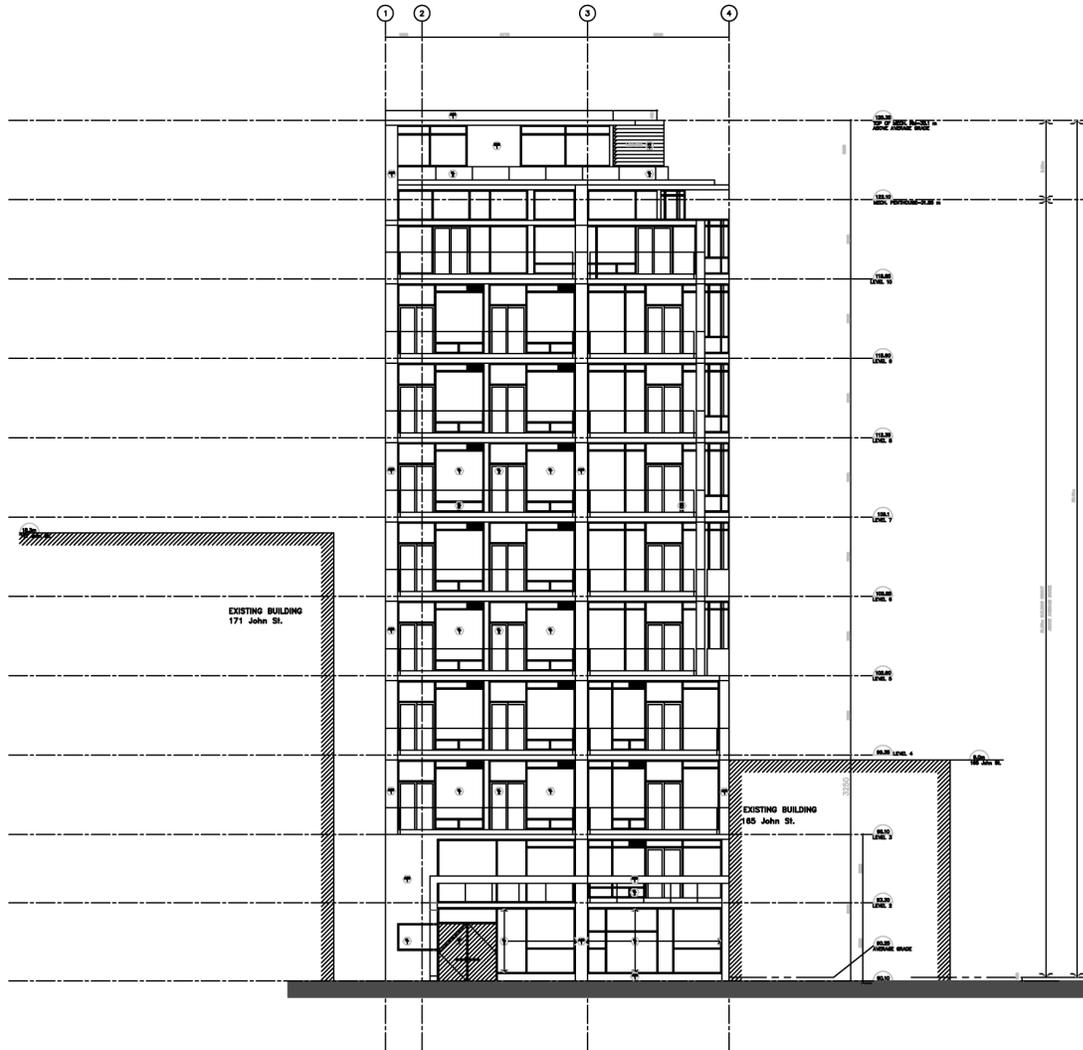
Applicant's Submitted Drawing

Not to Scale
112/11/03

169 John Street

File # TECMB 20030012

Attachment 6: Elevation 4



West Elevation

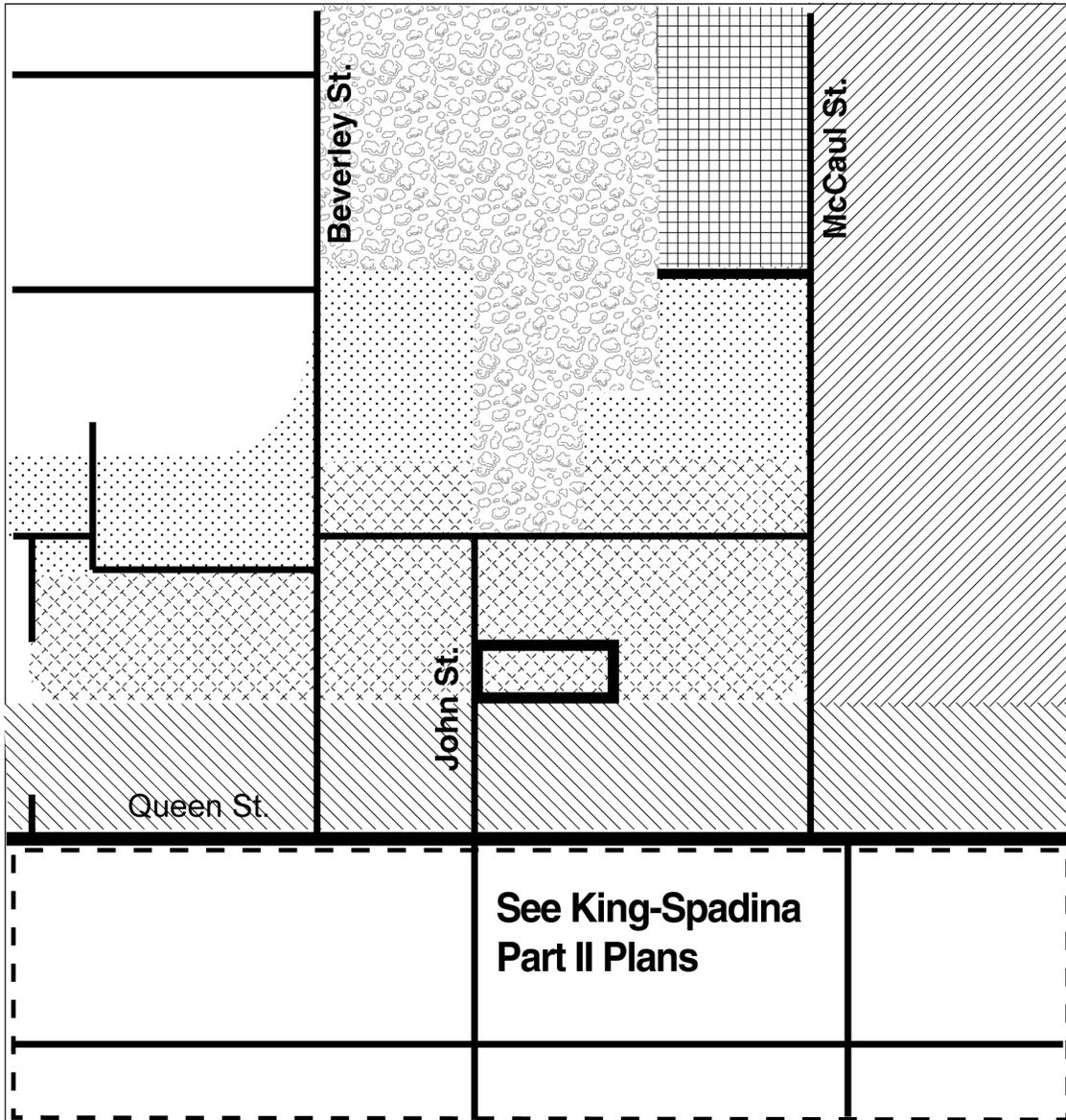
Applicant's Submitted Drawing

Not to Scale
112/11/03

169 John Street

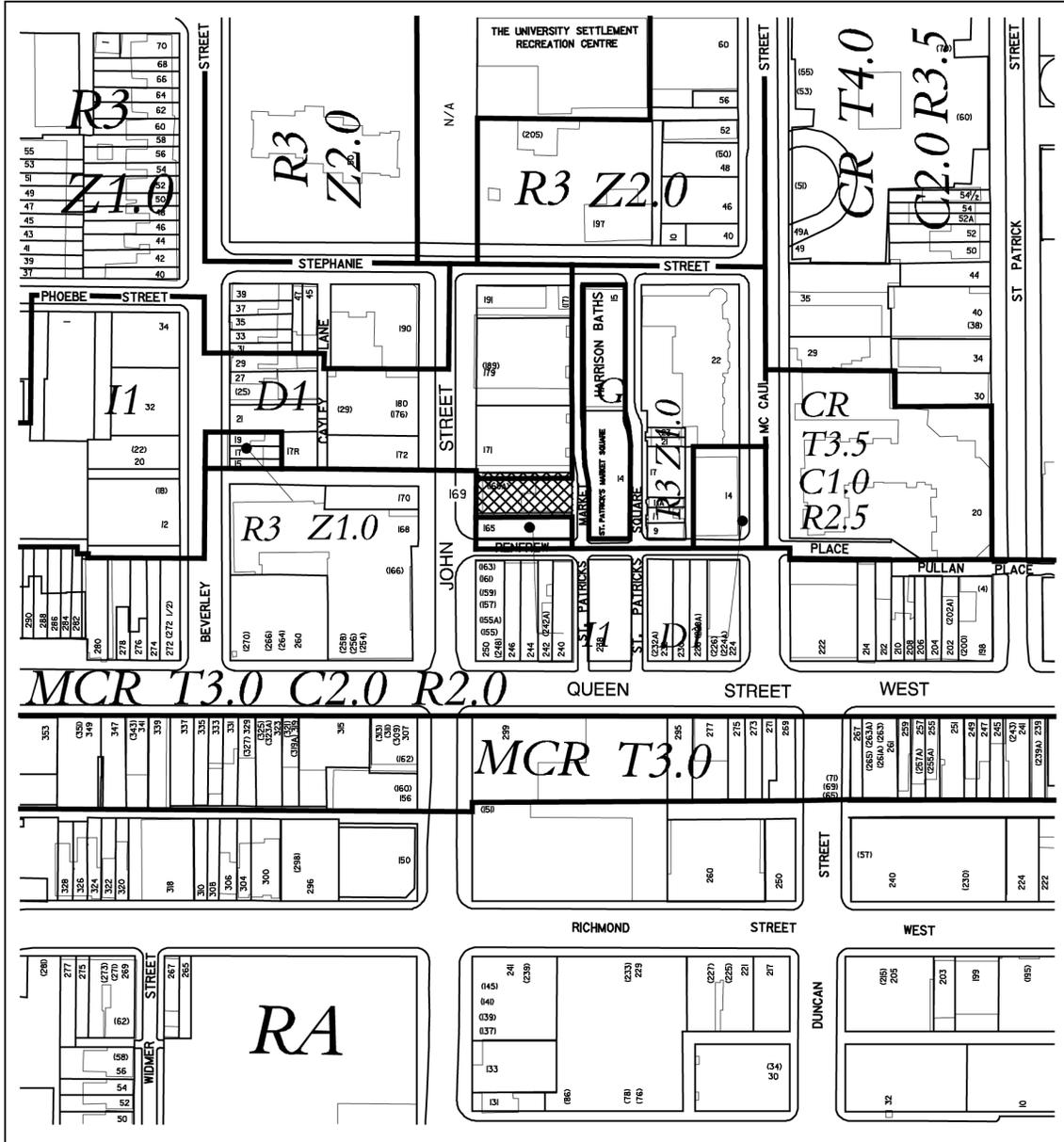
File # TECMB 20030012

Attachment 7: Official Plan (Map)



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|--|---|--|
|  Site |  Low Density Mixed Commercial-Residential Areas |  Queen's Park Government Area |
|  Low Density Residence Areas |  Medium Density Mixed Commercial-Residential Areas |  Open Space |
|  Medium Density Residence Areas |  Mixed Industrial-Residential Areas | |

Attachment 8: Zoning (Map)



169 John Street
File # TE CMB 2003 0012

- G Parks District
- R3 Residential District
- CR Mixed-Use District
- MCR Mixed-Use District
- RA Mixed-Use District
- I1 Industrial District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 05/08/03 - rz

Attachment 9: Draft Official Plan Amendment

CITY OF TORONTO

BY-LAW No. -2004

To adopt an amendment to the Official Plan for the former City of Toronto respecting lands known as No.
169 John Street

WHEREAS...

THEREFORE the Official Plan of the former City of Toronto is amended as follows:

1. The text and map annexed hereto as Schedule "A" are hereby adopted as an amendment to the Official Plan for the former City of Toronto.
2. This is Official Plan Amendment No.

SCHEDULE "A"

1. *Section 18 of the Official Plan for the former City of Toronto is hereby amended by adding the following Section 18. , and the attached Map 18. , as follows:*

“18. Lands known as 169 John Street

1. Despite any of the provisions of this Plan, Council may pass by-laws with respect to the lands shown on Map 18. (the “Lands”) to permit the erection and use of an *apartment building* having a maximum *residential gross floor area* not exceeding 3786 square metres provided such *apartment building* contains not more than 46 *dwelling units*.”

2. For the purpose of this Amendment, all italicized words or expressions have the same meaning as the definitions contained in By-law No. 438-86, as amended, of the former City of Toronto.

Attachment 10: Draft Zoning By-law Amendment

CITY OF TORONTO

BY-LAW No. -2004

To amend By-law No. 438-86 of the former City of Toronto as amended, respecting lands known as 169 John Street

WHEREAS pursuant to Section 37 of the *Planning Act*, a By-law passed under Section 34 of the *Planning Act* may authorize increases in the height or density of development beyond that otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

WHEREAS subsection 37 (3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, a municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

WHEREAS the increase in height and residential density of development permitted under this By-law beyond that otherwise permitted on the lot by By-law No. 438-86, as amended is to be permitted in return for the provision of the facilities, services and matters set out in this By-law and to be secured by one or more agreements between the Owner and the City of Toronto;

1. None of the provisions of Sections 2(1) with respect to the definition of “height”, 4(2)(a), 4 (5)(h), 4(10), 4(12), 4(13)(c), 6(1)(a), and 6(3) Parts I, II, III of the aforesaid By-law No. 438-86, being “A By-law to regulate the use of the land and the erection, use, bulk, height, spacing of and other matters related to buildings and structures and to prohibit certain uses on land and the erection and use of certain buildings and structures in various areas of the City of Toronto”, as amended, shall apply to prevent the erection and use of an *apartment building* on the *lot* containing not more than 46 *dwelling units* and which may include a *parking stacker*, subject to the following:

- (a) the *lot* consists of the lands shown within the heavy lines on the attached Map 1;
- (b) the total *residential gross floor area* erected and used on the *lot* does not exceed 3786 square metres;
- (c) the uses otherwise permitted in Section 6(1) of By-law No. 438-86 continue to be permitted on the *lot* subject to the other applicable provisions of By-law No. 438-86;
- (d) the *height* of the building and structures within the heavy lines on the attached Map 2 shall not exceed the *height* limits indicated thereon;

- (e) no part of any building or structure erected on the *lot*, above *grade*, is located otherwise than wholly within the areas delineated by the heavy lines on Map 2, with the exception of permanent fixed landscape planters and seating areas;
- (f) a minimum of 2.3% of the area of the *lot* shown on Map 1 shall be provided as *landscaped open space*;
- (g) the owner of the *lot*, at its expense, in accordance with and subject to the agreement referred to in paragraph 1(h) herein:
 - (i) pays to the City of Toronto over and above any contributions made pursuant to Section 42 of the Planning Act, the sum of \$100,000.00 for streetscape improvements on McCaul Street prior to the issuance of the first building permit for the Lands or any portion thereof;
 - (ii) the following maximum standards pertaining to windows on the south side of any building or structure erected on the Lands are complied with:
 - A. no portion of the building face located between a point measured 13.5 m from the west property line and 15.1 m from the east property line, both as shown on Map 18. , at the each of the fifth floor to the tenth floor of the building inclusive, shall contain greater than 25% transparent window glazing;
 - B. no portion of the building face located between the two points measured 7.1 m and 13.5 m from the west property line, both as shown on Map 18. , at each of the the fifth floor to the tenth floor of the building inclusive, shall contain greater than 50% transparent window glazing;
 - C. no portion of the building face located between the two points measured 8.7 m and 15.1 m from the east property line, both as shown on Map 18. , at each of the fifth floor to the tenth floor of the building inclusive, shall contain greater than 50% transparent window glazing;
 - D. no portion of the building face located between the two points measured 0.2 m and 7.1 m from the west property line, both as shown on Map 18. , at each of the fifth floor to the tenth floor of the building inclusive, shall contain greater than 70% transparent window glazing; and
 - E. no portion of the building face between two points measured 1.8 m and 8.7 m from the east property line, both as shown on Map 18. , from the fifth floor to the tenth

floor of the building inclusive, shall contain greater than 70% transparent window glazing;

- (iii) enters into an agreement with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters required in paragraph (ii) herein, such agreement to be registered on title to the Lands as a first priority subject only to the fee simple interest in the Lands prior to this Amendment and the Official Plan Amendment coming into full force and effect.

2. For the purpose of this By-law,

- (1) “*height*” means the vertical distance between *grade* and the highest point of the roof, building or structure, including any mechanical equipment or structure; and
- (2) each word or expression which is italicized herein shall have the same meaning as such word or expression as defined in the aforesaid By-law 438-86, as amended, unless otherwise defined herein.