

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: October 23, 2020

CASE NO(S): PL180387

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Charlotte King Residences Corp.
Subject:	Application to amend Zoning By-law No. 438-86 - Refusal or neglect of the City of Toronto to make a decision
Existing Zoning:	Reinvestment Area (RA)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the development of a 47-storey residential mixed use building with an 11 storey podium
Property Address/Description:	400-420 King Street West
Municipality:	City of Toronto
Municipality File No.:	17 190839 STE 20 OZ
OMB Case No.:	PL180387
OMB File No.:	PL180387
OMB Case Name:	Charlotte King Residences Corp v. Toronto (City)

Heard: October 16, 2020 by telephone conference call (“TCC”)

APPEARANCES:

Parties

Counsel

Charlotte King Residences Corp.
 (“Applicant”)

D. Bronskill

City of Toronto (“City”)

L. Bisset/C. Iltan

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON
OCTOBER 16, 2020 AND INTERIM ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] The Applicant filed a development proposal seeking site specific zoning by-law amendments (“ZBA or ZBAs”) to amend the City’s currently in force Zoning By-law No. 438-86 (“ZB 438”) and the adopted but not yet in force and effect Zoning By-law 569-2013 (“ZB 569”) for the property known municipally as 400-420 King Street West (“Subject Lands”) proposing a 47 storey mixed-use building.

[2] The Subject Lands: are located at the northeast corner of King Street West and Charlotte Street; have about 61 metres (“m”) of frontage on King Street West and about 41 m on Charlotte Drive; are rectangular in shape; have an area of about 2,611 square metres; have a 5.5 m public laneway at the rear; and are currently developed with a 2 storey commercial building occupied by retail users.

[3] The Subject Lands are in the King-Spadina area and more specifically the King-Spadina East Precinct. To the north there is a 32 storey mixed-use building; to the east there is a 2 storey building with taller buildings further east; to the south there is a 34 storey condominium building; and to the west there is a 36 storey mixed-use building.

[4] The Subject Lands are within 650 m of the entrance to the St. Andrew subway station and they are 135 m east of the King Street West stop for the Spadina streetcar. Additionally, Metrolinx has approved a new GO train station at Spadina and Front Street, and more recently announced the “Ontario Line” a new subway line/hybrid light rail transit with a proposed stop at King/Bathurst.

[5] The City’s Official Plan designated the Subject Lands: as being within the “Downtown”, an area for which growth and intensification are directed; and as being designated Regeneration Areas, which are areas intended to provide opportunities for redevelopment of large/underutilized sites that are well serviced by transit.

[6] ZB 438 zones the Subject Lands as Reinvestment Area with a maximum height of 30 m whereas ZB 569 would zone the Subject Lands as Commercial Residential Employment also with a maximum height of 30 m.

[7] While there are approved 92 and 82 storey tower developments for the King-Spadina East Precinct, there are 12 other existing and approved buildings with heights in the 130-150 m range.

[8] The initial development proposal was made as of June 2017 with the 47 storey height (with penthouse mechanical 157 m), on an 11 storey podium, with 530 residential units, 3 levels of below grade parking, and retail on the first two floors. This initial proposal was revised in March 2018 in response to public and agency comments and appealed to the Tribunal.

[9] In July 2019 the Applicant made a settlement proposal to the City which was accepted by the City which included parking spaces for the Toronto Parking Authority. Subsequently this settlement was altered in the July 2020 revisions to *inter alia* eliminate the parking spaces for the Toronto Parking Authority, and a revised site plan was submitted to the City to implement the revised settlement.

[10] Thus, this matter came to the Tribunal as a settlement proposal supported by the City, but the Applicant and the City requested that the Tribunal provide an approval in principle and an Interim Order so that a number of conditions might be satisfied.

[11] At the TCC the Tribunal heard *viva voce* evidence from land use planner David Huynh, heard the submissions of counsel and gave an oral decision allowing the appeal in part, approving the draft ZBAs in principle as found in Exhibit 1, but would withhold its Final Order subject to the satisfaction of the six conditions of approval found in Exhibit 1, all for the reasons set out below.

DECISION

[12] For the TCC, the Applicant had provided the (revised) affidavit of land use planner Mr. Huynh, marked as Exhibit 1, and the Applicant's Visual Document Book marked as Exhibit 2.

[13] The Tribunal examined Mr. Huynh who confirmed his opinion evidence as found in Exhibit 1 that: the settlement proposal before the Tribunal satisfied the Provincial Interests as found in s. 2 of the *Planning Act*, was consistent with the Provincial Policy Statement; conformed to A Place to Grow: the Growth Plan for the Greater Golden Horseshoe 2019; and conformed to the City's Official Plan as being an appropriate intensification of an underutilized site in the Downtown area that is well served by public transit and that the built form will be a high quality development that fits within the context of adjacent buildings and the overall King Spadina area.

[14] The Tribunal heard submissions from counsel requesting that the Tribunal: allow the appeal in part; approve in principle the ZBAs as found in Exhibit 1; and withhold its Final Order subject to the satisfaction of the six conditions as found in Exhibit 1.

[15] The Tribunal asked counsel to provide a time line for a status update on the progress for the completion of the conditions and was advised that the parties anticipated the satisfaction of the conditions in the near future and that a written status update could be provided in 60 days.

[16] Based on the uncontroverted expert land use planning evidence of Mr. Huynh supplemented by his *viva voce* evidence, and based on the submissions of counsel the Tribunal will:

- a. Allow the appeal in part;
- b. Approve in principle the ZBAs as found in Exhibit 1;

- c. Withhold its Final Order subject to notification by the parties that the following conditions have been satisfied:
- i. The draft ZBAs are in a final form that is satisfactory to the City;
 - ii. The Applicant has submitted a revised Functional Servicing Report (“FSR”) to the City for review;
 - iii. Should it be determined that upgrades to the municipal infrastructure are required by the FSR accepted by Engineering and Construction Services, the owner shall enter into a financially secured agreement for the construction of any such improvements;
 - iv. The Applicant withdraws its appeal of OPA 352 and By-law Nos. 1106-2016 and 1107-2016;
 - v. The Applicant has submitted a revised Noise Impact Study; and
 - vi. The Applicant has entered into a Section 37 Agreement.
- d. Direct the parties to provide a written status update to the Case Coordinator within 60 days of the issuance date of this decision.

[17] I am not seized of this matter.

[18] Scheduling permitting, I may be available for case management purposes.

[19] This is the Interim Order of the Tribunal.

“Blair S. Taylor”

BLAIR S. TAYLOR
MEMBER

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Local Planning Appeal Tribunal

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