

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

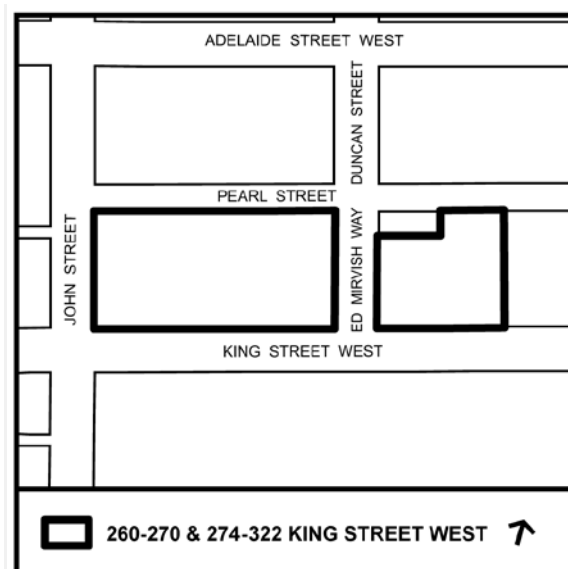
Date:	December 16, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	16 172771 STE 20 PL

SUMMARY

This application requests exemption from the Part Lot Control provisions of the *Planning Act* for 260 - 270 and 274 – 322 King Street West. The proposal is for a large-scale mixed use development on two parcels of land situated on the north side of King Street West separated by Ed Mirvish Way. The development has been designed by the renowned architect Frank Gehry, and includes two tall buildings of 82 and 92 storeys on the east and west parcels respectively.

An exemption from the Part Lot Control provisions of the *Planning Act* has been requested by the owner to permit the division of the lands into a number of parcels to enable the applicant to transfer or mortgage title for portions of the lands along with easements and rights-of-ways to facilitate the implementation of the project.

This report reviews and recommends approval of Part Lot Control Exemption and that the owner of the lands be required to register a Section 118 Restriction under the *Land Titles Act* agreeing not to convey or mortgage any part of the lands without prior consent of the Chief Planner.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council enact a Part Lot Control Exemption By-law with respect to the subject lands at 260 – 270 and 274 – 322 King Street West as generally illustrated on Attachments 1 and 2 and substantially in accordance with the Draft Part Lot Control Exemption By-law attached as Attachment No. 3 to the report (December 16, 2016) from the Director Community Planning, Toronto and East York District, to expire five (5) years following enactment by City Council.
2. Prior to the introduction of the Part Lot Control Exemption Bill, City Council require the owner:
 - i. to provide proof of payment of all current property taxes for the subject lands to the satisfaction of the City Solicitor; and
 - ii. to register, to the satisfaction of the City Solicitor, a Section 118 Restriction under the *Land Titles Act* agreeing not to transfer or charge any part of the lands without the written consent of the Chief Planner or her designate.
3. City Council authorize and direct the City Solicitor to register the Part Lot Control Exemption By-law on title to the lands or any portion thereof against which the Section 118 Restriction under the *Land Titles Act* has been registered.
4. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Part Lot Control Exemption By-law as may be required.
5. City Council authorize City officials to take necessary steps, including the execution of agreements and documents which set out the implementation of the Part Lot Control Exemption By-law to give effect to the above-noted recommendations.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of July 8, 9, 10 and 11, 2014 City Council approved an Official Plan Amendment (OPA No. 272) to permit two tall buildings at 260-270 and 274-322 King Street West, and established criteria for the development of the lands including among other matters, the retention of some heritage resources and criteria to guide development. Council also directed that City staff attend the Ontario Municipal Board (OMB) hearing in support of a zoning by-law amendment application for the proposed mixed-use development including a holding symbol on the lands until such time as a site plan agreement between the City and owner to secure the details, design and materials of the

development had been executed. Council's decision is available on the City's website at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE33.8>

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

On October 2, 2014 the OMB deemed OPA 272 to be in force as of September 23, 2014, and approved a zoning by-law amendment for the lands subject to conditions. The conditions included that the final form of the zoning by-law be acceptable to the City Solicitor and Chief Planner, that the owner had entered into the associated Section 37 Agreement and Heritage Easement Agreements for 260, 322 and 284 King Street West, and that the owner had agreed in the Section 37 Agreement to not oppose the designation of 300 King Street West (Princess of Wales Theatre) under Part IV of the *Ontario Heritage Act*.

ISSUE BACKGROUND

Proposal

The proposal is for a large scale mixed-use development on two parcels of land situated on the north side of King Street West separated by a public street, Ed Mirvish Way. The project is designed by renowned architect Frank Gehry.

On the west parcel, the project includes the retention of the historically significant Eclipse Whitewear building, Princess of Wales Theatre and the front portion of the Anderson Building and the introduction of a new 92-storey building with retail and residential uses. The theatre along with retail, arts and cultural uses and a new art gallery are proposed within the existing buildings on the west parcel.

On the east parcel, the project includes the retention of the historically significant Royal Alexandra Theatre and the introduction of an 82-storey building with retail and residential uses as well as space for OCAD University. The theatre use will also continue.

The applicant has advised that due to the scale, complexity and number of existing and new buildings with various distinct uses and obligations under planning approvals, it is anticipated that the development will be built in phases with several ownerships and various easements will be needed to facilitate implementation of the overall plan. This will result in more than one owner within each parcel and easements and rights-of-ways needed to secure matters such as pedestrian, servicing and vehicular accesses between the different ownerships over portions of the east and west parcels. The proposed exemption from the Part Lot Control provisions of the *Planning Act* would permit the creation of the

separate ownerships and the easements and rights-of-ways as needed for the development.

Although not finally determined, the applicant has provided a general overview of the anticipated ownership patterns prior to the condominium approval, and easements and rights-of-ways that will be needed to implement the project and these are summarized below.

West Parcel

The West parcel is anticipated to include three owners and 51 easements or rights-of-ways prior to condominium approval. The separate ownerships proposed include:

1. Eclipse Whitewear Building
2. Princess of Wales Theatre
3. New West Tower Building

Parking

Each of the three owners are proposed to own a portion of the parking garage and the new west tower building is proposed to have ownership of a portion of the existing underground garage for the Princess of Wales Theatre. The final ownership boundaries in relation to the parking garage will be determined through the site plan review in consultation with Transportation Services staff.

Podium Levels – Easements

A number of easements between the three owners will be required for access to the parking garage, stairwells, vestibules and elevators. The final locations and extent of the easements and rights-of-ways will be determined through the review of the site plan application.

Tower Components

The upper floors (8th level and above) of the west tower building are proposed to cantilever over the Princess of Wales Theatre which will be under separate ownership.

East Parcel

The East parcel is anticipated to include 2 owners and 4 easements and rights-of-ways prior to condominium approval. The separate ownerships proposed include:

1. Royal Alexandra Theatre
2. New East Tower Building (OCAD University will have ownership of space within this building)

Parking

Each of the two owners will own a portion of the parking garage. The final ownership boundaries in relation to the parking garage will be determined through the site plan review in consultation with Transportation Services staff.

Podium Levels – Easements

Easements and rights-of-ways between the two owners will be required for access to the parking garage, stairwells, vestibules and elevators. The final locations and extent of the easements and rights-of-ways will be determined through the review of the site plan application.

Tower Components

The upper floors (8th level and above) of the east tower building are proposed to cantilever over the Royal Alexandra Theatre which will be under separate ownership.

Site and Surrounding Area

The site includes two parcels of land situated on the north side of King Street West on the east and west sides of Ed Mirvish Way that separates the two parcels. The east parcel has frontage on Ed Mirvish Way and King Street West and includes two properties currently occupied by the Reid Building at 260 King Street West and the Royal Alexandra Theatre at 270 King Street West. Both properties are designated under the *Ontario Heritage Act*.

The west parcel includes four properties and encompasses the full block bounded by John Street to the west, Ed Mirvish Way to the east, King Street West to the south and Pearl Street to the north. There are four buildings currently on this parcel each designated under the *Ontario Heritage Act*. These include the E.W. Gillett Building at 274-276 King Street West, the Anderson Building at 284 King Street West, The Princess of Wales Theatre at 300 King Street West and the Eclipse Whitewear Company building at 322 King Street West.

Surrounding uses include:

North: There are 3 to 4-storey buildings with retail and commercial uses and an approved 40-storey mixed-use building opposite the site on the north side of Pearl Street.

South: Metro Hall including the Metro Hall office complex (27 storeys), David Pecaut Square and Roy Thomson Hall are on the south side of King Street West.

West: The Festival Tower, a 57-storey mixed-use residential and commercial building including the Toronto International Film Festival (TIFF) headquarters is opposite the site on the west side of John Street.

East: Adjacent to the east is a 47-storey mixed-use building with retail and residential uses. Further east are 5 to 6-storey heritage character warehouse buildings occupied with retail and commercial uses.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. 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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Staff have reviewed the proposal for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is located in the *Downtown* and in the King-Spadina Secondary Plan Area. The site is designated *Regeneration Areas* in the Official Plan.

A broad mix of commercial, residential, light industrial, parks and open space, institutional, live/work and utility uses are permitted within *Regeneration Areas* to promote reinvestment and revitalization. The framework for new development within *Regeneration Areas* is set out in a Secondary Plan intended to promote the desired type and form of physical development for an area.

The policies of Section 4.7.1 provide for the restoration, re-use and retention of existing buildings that are economically adaptable for re-use, particularly heritage building and structures in *Regeneration Areas*. Section 4.7.2 sets out the intent of Secondary Plans for *Regeneration Areas* and provides that they will guide the revitalization of the area through among other matters;

- urban design guidelines related to the unique character of the area;
- strategies to promote greening and community improvements; and
- a heritage strategy identifying important heritage resources, conserving them and ensure new buildings are compatible with adjacent heritage resources.

Official Plan Amendment No. 272

Official Plan Amendment No. 272 (OPA 272) was adopted by Council at its meeting of July 8, 9, 10, and 11, 2014 and was deemed in force and effect by the OMB as of September 23, 2014. OPA 272 introduced a Site and Area Specific Policy for the subject lands intended to guide development, redevelopment and private investment of the lands to ensure the continued commitment and dedication to the performing arts and cultural evolution of the portion of King Street West and the broader area. In addition to permitting the development of two tall buildings of 82 and 92 storeys on the east and west parcels respectively, policies were put in place in relation to the conservation of some heritage resources, architectural design, density, public realm improvements and priorities for community benefits including providing space for OCADU and an art gallery to be open to the public. OPA 272 also provides for the use of a holding symbol in the zoning by-law with conditions for the removal of the holding symbol including the registration of a Section 37 agreement, heritage easement agreements and a site plan agreement for the proposed development.

King-Spadina Secondary Plan

The site is situated in the King-Spadina Secondary Plan area. The King-Spadina Secondary Plan provides a framework for reinvestment and development intended to encourage reinvestment for a wide range of uses in the context of a consistent built form that relates to its historic building stock and pattern of streets, lanes and parks. Major objectives of the King-Spadina Secondary Plan include:

- New investment is to be attracted to the King-Spadina Area;
- The King-Spadina Area will provide for a mixture of compatible land uses with the flexibility to evolve as the neighbourhood matures;
- The King-Spadina Area is an important employment area. Accordingly, the retention and promotion of commercial and light industrial uses including media, design and fashion businesses within the area is a priority;
- Commercial activity, including the retail service industry, which supports the changing demands of the King-Spadina Area will be provided for, to ensure the necessary services for the new residents and businesses of the area; and
- Heritage buildings and other important buildings within the King-Spadina Area, will be retained, restored, and re-used.

Zoning

The site is zoned Reinvestment Area (RA) by Zoning By-law 438-86, as amended. The RA Zone permits a range of residential uses, as well as commercial, institutional and limited industrial uses.

A portion of the east parcel (Royal Alexandra Theatre) site is also subject to the new City-wide comprehensive Zoning By-law 569-2013. The By-law was passed by City Council on May 5, 2013 and is subject to numerous appeals and is not yet in force. By-law 569-2013 zones this portion of the site as CRE (Commercial Residential Employment) (x74). The CRE (Commercial Residential Employment) Zone permits a

range of retail, service commercial, office, residential and limited industrial uses in single use buildings and mixed use buildings. Exception 74 (x74) indicates that certain site-specific zoning by-laws will prevail on individual sites within the exception area. The site is not subject to any prevailing site-specific zoning by-laws.

The OMB approved an amendment to the Zoning By-law for the lands to permit the proposed development of the site for two tall buildings on the east and west parcels having heights of 82 and 92 storeys respectively, subject to conditions. The amending Zoning By-law also established standards for the development in relation to setbacks, parking, loading, amenity space, gross floor area, bicycle parking and Section 37 community benefits. A holding symbol was also placed on the lands until such time as a site plan agreement between the City and owner to secure the details, design and materials of the development has been executed.

The zoning by-law amendment approved by the OMB is not yet in full force and effect as the OMB approved the amendment subject to conditions. These conditions include that the final form of the Zoning By-law amendment is acceptable to the City Solicitor and Chief Planner, that the owner has entered into the associated Section 37 Agreement and Heritage Easement Agreements for 260, 322 and 284 King Street West, and that the owner has agreed in the Section 37 Agreement to not oppose the designation of 300 King Street West under Part IV of the *Ontario Heritage Act*. Staff are working with the applicant to finalize the approval documents as outlined by the OMB, and it is anticipated that a final form of the Zoning By-law amendment will be presented for consideration by the OMB in the first quarter of 2017.

Site Plan Control

A Site Plan application (File # 16 134596 STE 20 SA) has been submitted and is under review by City staff. The final locations of the easements and rights-of-ways, as well as the parking garage ownership, will be determined through the site plan review in consultation with Transportation Services staff. It is anticipated that the site plan application will be finalized in the first quarter of 2017.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the PPS and conforms to and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Division

Section 50(7) of the Planning Act, R.S.O. 1990, as amended, authorizes City Council to adopt a by-law exempting lands within a registered plan of subdivision from Part Lot Control. The subject lands are within a registered plan of subdivision. The lifting of Part Lot Control on the subject lands is considered appropriate for the orderly development of the lands, subject to the Section 118 Restriction under the *Land Titles Act*. The Part Lot Control Exemption will facilitate the development of the site including the creation of lots and multiple ownerships, and the establishment of easements and rights-of-ways to ensure appropriate pedestrian, servicing and vehicular access between properties.

Prior to enactment of the Part Lot Control Exemption By-law it is recommended that the owner register a Section 118 Restriction under the *Land Titles Act*. The restriction requires the owner to agree not to convey or mortgage any part of the lands without the prior written consent of the Chief Planner. This enables the City to ensure that the Part Lot Control exemption is not unlimited and that appropriate mechanisms are secured to support the development.

To ensure that the Part Lot Control Exemption does not remain open indefinitely, it is recommended that the By-law contain an expiration date. In this case, given the scale of the project, it is recommended that the By-law expire five years following enactment by City Council. This time frame is expected to provide sufficient time for the completion of the proposed development.

CONTACT

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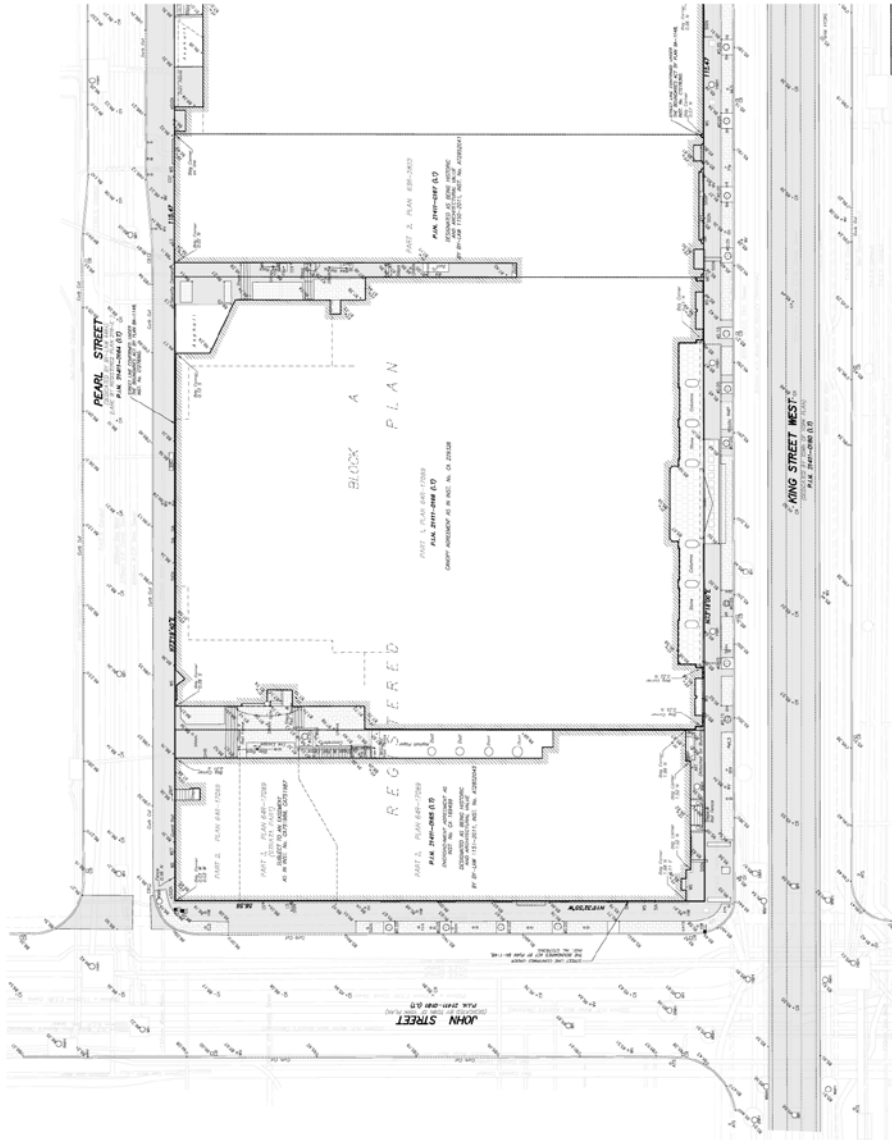
Gregg Lintern MCIP RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Survey Portion of West Development Parcel
Attachment 2: Survey East Development Parcel and Portion of West Development Parcel
Attachment 3: Draft Part Lot Control Exemption By-law

Attachment 1: Survey – Portion of West Development Parcel



260-270 & 274-322 King Street West

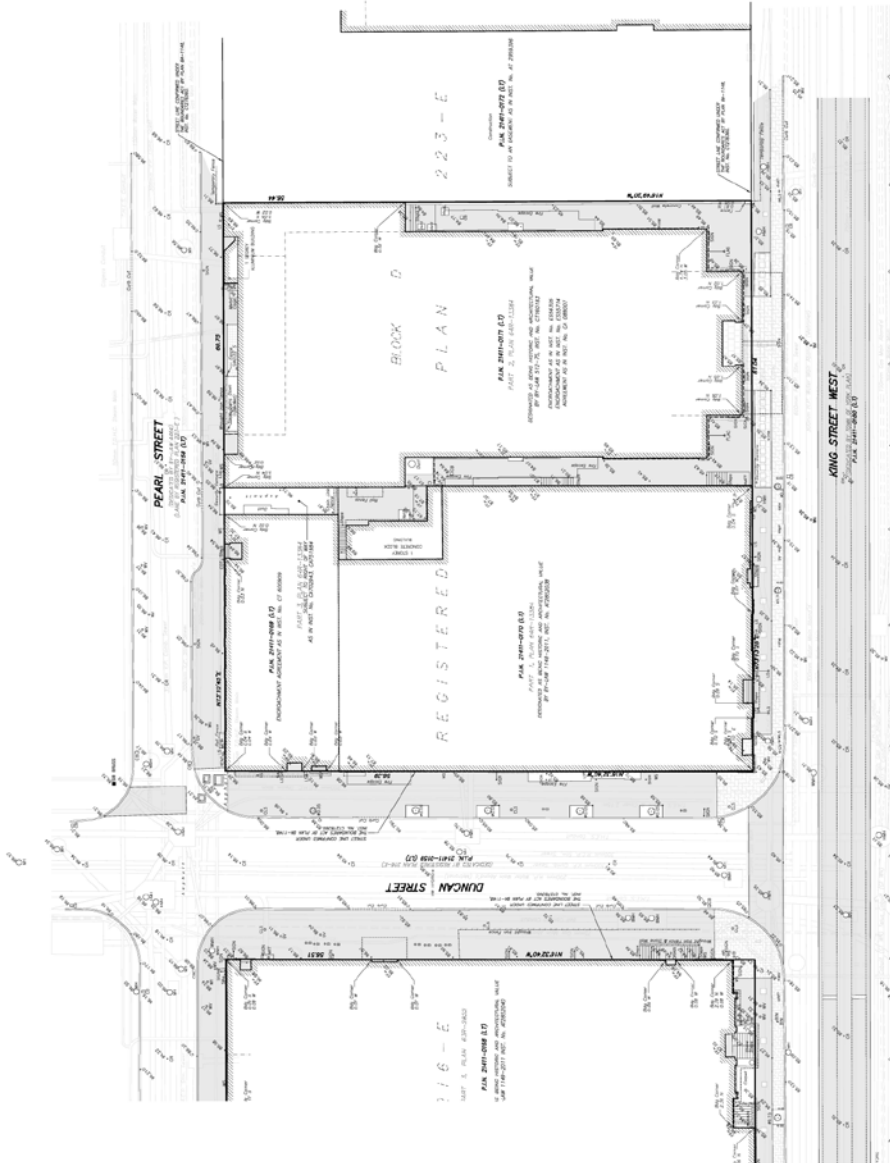
Portion of West Development Block

Applicant's Submitted Drawing

Not to Scale
12/16/2016

File # 16 172771 STE 20 PL

Attachment 2: Survey – East Development Parcel and Portion of West Development Parcel



East Development Block & Portion of West Development Block 260-270 & 274-322 King Street West

Applicant's Submitted Drawing

Not to Scale
12/16/2016

File # 16 172771 STE 20 PL

Attachment 3: Draft Part Lot Control By-law

Authority: Toronto and East York Community Council Report No., as adopted by City of Toronto Council on , 201-

Enacted by Council:

CITY OF TORONTO

BY-LAW No. -201-

To exempt lands municipally known as 260-270 and 274 – 322 King Street West from Part Lot Control.

WHEREAS authority is given to Council by subsection 50(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to pass this By-law;

The Council of the City of Toronto **HEREBY ENACTS** as follows:

1. Subsection 50(5) of the *Planning Act* does not apply to the lands described in the attached Schedule “A”.
2. This By-law expires five years from the date of its enactment by Council.

ENACTED AND PASSED this day of , 201-

FRANCES NUNZIATA,
Speaker

ULLI S. WATISS,
City Clerk

(Corporate Seal)

Schedule "A"

LEGAL DESCRIPTION OF

260 - 270 and 274 – 322 KING STREET WEST

In the City of Toronto and the Province of Ontario, being composed of Block A Registered Plan 216-E and Part of Block D Registered Plan 223-E