

**Further Report: Commercial Floorspace Requirements
in Mixed Use Areas**

Date:	May 4, 2010
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	All
Reference Number:	Pg10027

SUMMARY

This report responds to the Planning and Growth Management Committee's request for further consideration and report on a proposed Official Plan Amendment that would address instances where redevelopment proposals involving the reduction or elimination of existing commercial space in areas designated as Mixed Use Areas may have a relatively large local impact.

The Committee members' main concern was that the policy should specify a minimum percentage of the existing space that should be replaced or retained. There is no defensible basis for setting a city-wide level for the amount of retail- commercial space that should be retained or replaced. But it would clearly be reasonable to require that retaining or replacing such space be seriously considered. The policy before Committee in November 2009 could be strengthened to indicate this.

Committee members were also concerned that the 3,000 sq.m. threshold size of existing floorspace at which the policy would apply was too great. It would be reasonable to eliminate this threshold, but the policy would need to recognize that not all space should be replaced.

The report recommends that a public meeting be held at the August meeting of Planning and Growth Management Committee to consider a revised policy.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning Division recommends that:

1. Notice for a public meeting under the Planning Act be given in accordance with the regulations under the Planning Act with the public meeting targeted for the August meeting of Planning and Growth Management Committee; and
2. the proposed Official Plan Amendment be substantially the same as that in Attachment 1;

Financial Impact

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

DECISION HISTORY

On June 11, 2007, when it considered the Long Term Employment Lands Strategy, Council directed the Chief Planner and Executive Director, City Planning, to:

- re-examine the interpretation of the Mixed Use Areas designation and assess the need for replacement of all existing commercial/employment space, and in the absence thereof assign a minimum percentage of commercial/employment space to be built on the lands and review:
 - a. the feasibility of requiring that all applications to demolish and rebuild, for proposed residential use, on lands previously used for retail commercial purposes, provide that the previous total square footage of commercial retail space remain used only for commercial retail purposes; and
 - b. the feasibility of establishing a maximum residential portion for mixed use properties, with specific criteria, as well as the guidelines and rationale for those criteria;
- consult with interested Members of Council as part of these reviews; and
- report to the Planning and Growth Management Committee on the status of these reviews by the end of the third quarter of 2007.

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-06-11-cc09-dd.pdf>
at page 6.

The Chief Planner presented a status report to Planning and Growth Management Committee in November 2007. The report indicated that staff had begun the analysis needed to respond to Council's direction, but that it would take some time to complete.
<http://www.toronto.ca/legdocs/mmis/2007/pg/bgrd/backgroundfile-7552.pdf>.

On November 13, 2008, Planning and Growth Management Committee considered a request from Councillor Feldman, 'that staff be directed to write a report on making the replacement of existing commercial space mandatory under the Mixed Use zoning

designation.’ The Committee referred the request to the Chief Planner for consideration and a report back as soon as possible.

<http://www.toronto.ca/legdocs/mmis/2008/pg/decisions/2008-11-13-pg20-dd.pdf>.

at page 15

On June 4, 2009 Planning and Growth Management Committee considered a report from the Chief Planner that proposed an Official Plan policy to address the previous requests and directions. The Committee directed that staff undertake consultation on the proposal and bring it to a public meeting in the Fall of 2009.

<http://www.toronto.ca/legdocs/mmis/2009/pg/bgrd/backgroundfile-21318.pdf>;

<http://www.toronto.ca/legdocs/mmis/2009/pg/decisions/2009-06-04-pg26-dd.htm>

(Item PG26.7).

In September and October 2009 staff undertook public consultation on the proposed policy, including a meeting with members of BILD. On November 4, 2009 Planning and Growth Management Committee held the public meeting to consider the proposed policy. The Committee referred the report back to the Chief Planner and Executive Director, City Planning for further consideration and report, as soon as possible, having regard for concerns expressed during the consideration of the item by the Committee.

<http://www.toronto.ca/legdocs/mmis/2009/pg/bgrd/backgroundfile-24364.pdf>

<http://www.toronto.ca/legdocs/mmis/2009/pg/decisions/2009-11-04-pg33-dd.htm> (Item PG33.2).

ISSUE BACKGROUND

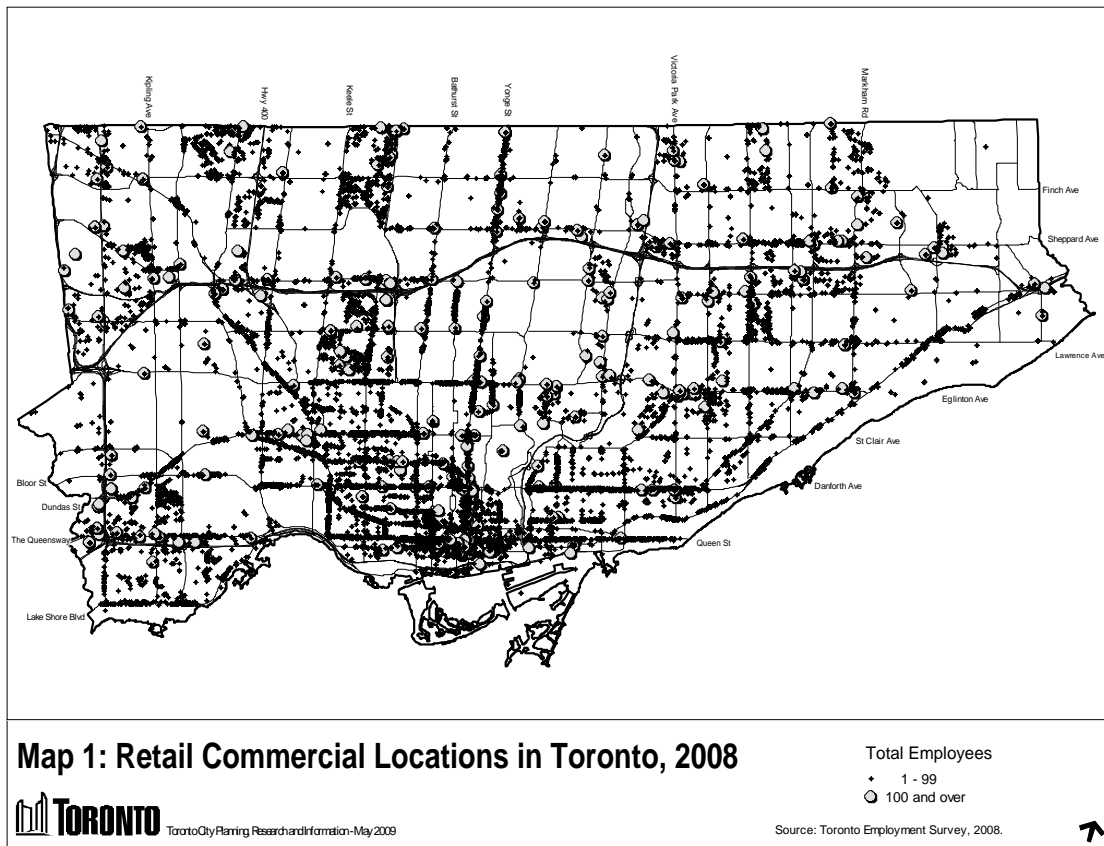
An appreciation of how retail – commercial services are provided in Toronto and how the Official Plan deals with them provides the context for the discussion and analysis of the concerns expressed at Committee.

Retail commercial services are provided in the city in a wide range of locations across the City, as shown in Map 1. The major types of locations include:

- the Downtown and its distinctive sub areas,
- the traditional shopping streets and pedestrian strips in the older parts of the City,
- the shopping centres and plazas that proliferated to serve the post-war City, many of which were planned for as part of the new neighbourhoods and communities; and
- more recently, power centres and big box stores (‘power retail’)

Retailing and the retail commercial structure are always changing. New elements are added to the system, but older forms persist, and they accommodate, and are modified by, the later forms: they provide the framework for the continuing evolution of the system.

The pedestrian strips accommodated the City’s growth in the age of the streetcar, but then had to adjust to the shopping centre system that accompanied post war suburban development. Now the traditional shopping streets and the shopping centres are both responding to power retailing.



The Official Plan recognizes that the retail system will continue to change and specifically envisages how the Mixed Use Areas designation will accommodate this change:

“Retailing will continue to be an important part of the economy, however, the retail patterns that exist today are very different from those of 15 to 20 years ago and there is every reason to expect that those patterns will continue to evolve over the next 30 years. The Plan therefore provides the flexibility for owners of retail properties to adapt to changing circumstances. Most existing and proposed major retail areas, shopping malls and commercial districts are within designated *Mixed Use Areas*. Many plazas, malls and arterial roads which previously had permissions for only commercial uses, are designated as *Mixed Use Areas* to permit residential uses as an alternative to or to support existing retail space that is not faring well and to implement the reurbanization goals of the Plan. Major shopping centres can continue to expand for retail purposes or develop as areas of mixed use. New shopping streets will emerge as *Avenues* develop and mature.”
 (Official Plan, Page 3-33)

In general terms, therefore, the Official Plan provides for an evolving retail system that seeks to match the interests of the deliverers of retail-commercial services and the needs of consumers:

- The Plan provides for a multitude of locations and opportunities for retail commercial activities in the City. Whether it is economically feasible to operate the space can only be decided by each store owner. What the Official Plan does is provide ample opportunities for them to find the right location.
- Eventually, however, from an investment point of view some of the centres and other retail locations do not make economic sense any longer. The Official Plan provides for a range of alternative uses, including residential uses.

The proposed OPA that was before Planning and Growth Management Committee in November 2009 recognized that an owner's decision to close down retail space may be keenly felt by the local residents. The loss of a shopping centre may mean longer trips, loss of walkable shopping options, and disruption of established shopping patterns. Of course, in other cases, a centre may not be missed – indeed its underperformance may be caused by changes in shopping patterns and demographics in its local market. The impact of closing a centre or losing local retail space is difficult to assess – it will depend on the local market area and on the changing habits of local consumers.

COMMENTS

The Committee referred the report back for further consideration of the concerns expressed during the consideration of the item by the Committee. Staff have given Committee's concerns further consideration, and are proposing a revised policy that places greater emphasis on the intent to replace or retain floorspace wherever appropriate.

The Committee had four major concerns with the proposal:

1. The Policy should require some retention or replacement of space;
2. There should be no minimum floorspace threshold for the policy to be applied (a threshold of 3,000 sq.m. loss was proposed)
3. Not all redevelopment would be subject to the policy;
4. "Mixed Use" should mean mixing uses within a building or development.

Require replacement or retention of some space

The Committee's main concern was that the policy should specify a percentage of the commercial floorspace that must be retained, whereas the proposed policy did not require that any retail commercial space be provided in the new development. Some members of Committee felt the policy should require that all the space being demolished should be replaced. Others asked if retaining or replacing a minimum percentage, such as 10% or 20% would suffice.

Requiring a percentage of the floorspace to be retained would mean setting a percentage that would be reasonable for every situation or application. Such precision is out of our reach, since the impact of losing space varies from location to location across the City and over the years as the retail system continues to evolve.. While retaining some space may make sense in some places it would make no sense in others. Each situation or application should be treated in its own local context, based on:

- the amount of retail space available in the area to meet local needs, especially for food,
- opportunities to provide more space and sustain the local provision of space,
- the desirability to retain options for walking to shop, and
- the role of the retail area as a meeting place or community focal point.

Retaining space may make more sense in some areas than others:

- The pre-war pedestrian strips are characterized by numerous small properties and large numbers of owners; so that one owner's decision to close space has relatively little overall impact on the availability of retail space on the strip. A few stores closing may create opportunities for new stores to move in. On the other hand, many owners closing at once would clearly indicate major problems with the local market for the strip's goods and services.
- The post-war shopping centres and plazas usually have one owner (or a few) who can make a single decision to close many stores. Consequently, the decision to close and redevelop retail space can have a much larger impact on the availability of space in the local market. This is particularly so for more 'isolated' centres which are not very close to other retail space and which may be a local community focal point.
- But this is much less the case for the areas of the post-war suburbs where the retail commercial space is found along arterial ribbons – with small and large centres interspersed with stand-alone stores and services as well as various institutional and higher density residential uses. These ribbons will often be identified as Avenues, and closing a centre or plaza may be more akin to a closure on the pedestrian strips, with relatively little impact on the availability of space in the local market.
- Many of the retail service locations, such as car dealerships and gas stations serve a 'regional' rather than local market. If they close, their customers will easily find alternative locations. It would not be appropriate to require such space to be retained.
- Power retail is still evolving and continues to draw customers away from older shopping areas. When customers go to the big box store they may use other stores in the power centre rather than those in their 'local' plaza that they have traditionally used. Indeed, if centres are proposed for redevelopment that may mean that its customers are now shopping elsewhere, drawn away by the new modes of retail such as large supermarkets, big box stores, power centres and the like.
- The constantly evolving system results in differing levels of retail provision across the City. Some parts of the City such as Central Etobicoke, Central North York south of the 401 and east of Yonge, and Eastern Scarborough, have

relatively small amounts of retail space, but they also have lower population densities and relatively higher incomes and greater reliance on cars to go shopping. In contrast, most of the older city south of Eglinton has higher levels of retail provision, as well as higher population density and commensurately greater potential to walk to local stores and services.

The difficulty of establishing a minimum percentage is also borne out in the variations in the amount of retail space retained in redevelopments over the past few years (see Table 1). Some proposals have not included replacement retail space. Other proposals have included retention or replacement of retail space, indicating that it is reasonable that replacement / retention should be seriously considered when the application is evaluated.

Table 1: Retention of Retail Space in Redevelopment of Commercial Locations

Location and Redevelopment Proposal	Existing retail GFA (sq.m.)	Proposed retail GFA (sq.m.)	Percent Retained or Replaced
Elane Plaza (on Eglinton at Danforth Rd) – townhouses	13,800	0	0
Warden Woods Mall (at Warden and St Clair) - semis, townhouses and walk-up apartments	28,400	0	0
Berry Road Plaza (Berry and Prince Edward) ¹ - redeveloped for 16 townhouses	1,100	0	0
Glen Agar Plaza (Firwood and Lloyd Manor) ¹ - proposed for residential	2,000	0	0
1945 Lawrence West – car dealership - 153 stacked townhouses	n/a	0	0
University Colony Centre (at Hucknall and Sentinel) - proposed for residential	4,000	1,000	25
Bathurst Manor (at Wilmington and Overbrook) - proposed for apartments and a small retail commercial component	9,100	1,000	11
Markington Square (at Markham and Eglinton) - proposed for housing and some retail with retention of the supermarket	11,000	5,500	50
1221 Markham Rd, north of Ellesmere - proposed for housing and retail	2,600 est	1,900	73
25 Fontenay Ct, at Scarlett Rd ² - proposed for housing with a commercial component	1,800	1,400	78
Swansea Plaza (34-50 Southport) - proposed for housing and retail	4,000	4,700 ³	118
Dufferin and Lawrence, n.e.corner - proposed for housing and retail ⁴	2,700	7,500	278

¹ Preliminary proposals (no planning applications) on sites designated Neighbourhood Areas

² Site designated Apartment Neighbourhood

³ The retail requirement was imposed by the OMB in 2003; no development has occurred, partly because the owner does not see a market for the retail space.

⁴ Existing development includes 6,600 sq.m. industrial space.

The Official Plan and zoning may permit retail space but they cannot require that it be built, much less that it be occupied. Vacant or underutilized space is an eyesore and has negative impacts on the surrounding area. Implementing a policy should lead to a reasonable outcome in each individual case: occupied, economically viable retail - commercial space.

Overall, then, there is no defensible basis for setting a pre-determined percentage or amount of retail- commercial space that should be retained or replaced. However, it would be reasonable to require that retaining or replacing space be seriously considered. The policy could be strengthened to indicate this by moving this consideration to the first part of the policy.

Some Committee members suggested that if the developer wanted a lower amount than the required percentage, then the developer could apply for an OPA to have the requirement lowered. In the absence of a clear objective justification for a minimum percentage, this would be unnecessary. The City wouldn't be 'catching' the developer, since a rezoning would be required, and an OPA would not add anything to the evaluative process. The OP policy could clearly indicate that retention / replacement should be considered and there would be a planning evaluation through the zoning application. The OP policy would provide criteria for the evaluation.

Remove the 3,000 sq. m. threshold

The proposed policy required consideration of replacement or retention of retail space only when the redevelopment would result in the loss of more than 3,000 sq. m. of space. Committee members were concerned that the policy should apply to all redevelopment. The threshold was included in order to restrict the policy to existing retail that would be large enough to have a noticeable impact on local service levels if it were closed. There is no empirical basis for a particular number for this threshold. The 3,000 sq.m. threshold was used because the Centre for the Study of Commercial Activity at Ryerson University considers it to be the lower end of the range for smaller neighbourhood centres that may have been developed with a food store and a pharmacy. Most neighbourhood centres that clearly serve a local community and might be expected to have a noticeable impact on service levels if they were to close, are larger than 3,000 sq.m. Examples include:

Guildwood Plaza – 5,200 sq.m.

Bathurst Manor – 9,100 sq.m.

York Mills Shopping Centre – 6,000 sq.m.

Westway Plaza – 7,000 sq.m.

If the policy were to apply to all floorspace, it would affect all stand-alone uses such as gas stations and car dealerships that are not really local services. It would also affect a large number of very small stores on separate parcels, especially in the older parts of the City. The impact on local service levels of the loss of such small amounts of floorspace would be difficult to gauge, especially in areas where there are many other small stores; for example the retail strips or some of the older arterial ribbons. To address this, the policy would need to clearly recognize that not all space should be retained or replaced.

Nevertheless, a continuous retail façade is an important element of successful retail strips on some of the Avenues, and at-grade retail may be an important component of redevelopment. This issue will be partly addressed through the Mid-rise Typology Study which will identify areas on the Avenues where the zoning for new mixed use buildings will require ground floor retail. The proposed Official Plan policy should also recognize the importance of providing continuous ground floor retail space for the amenity and attractiveness of pedestrian shopping strips, as one of the criteria to be used when assessing the redevelopment of existing retail commercial uses.

All redevelopment subject to the policy

Committee seemed concerned that not all redevelopment would be subject to the policy as the wording says ‘may require’ replacement or retention of the space.

The Official Plan provides guidance and sets the rules for zoning. The proposed policy would be in the Official Plan, not the zoning. Therefore, all rezoning applications for redevelopment proposals that involve the loss of retail commercial space in a Mixed Use Area – would be subject to the policy.

Most such redevelopment proposals will be subject to a rezoning application, unless the existing zoning allows 100% residential development, as it does on some of the pedestrian retail strips in the City. Generally, these areas are well-supplied with retail commercial floorspace, so that the loss of small amounts of space will have little impact on the overall level of service in the area. In most of the City, however, the zoning permits only the existing retail – commercial development, and redevelopment for housing without replacing the commercial space would require an amendment to the zoning by-law. This is particularly so in the post-war suburban areas where some of the shopping centres and retail plazas are being redeveloped.

“Mixed Use” should mean mixing uses within a building or development

In the Official Plan at present, the Mixed Use Areas designation provides for both ‘vertical’ and ‘horizontal’ mixing. It allows ‘vertical’ mixing of uses in a single development (e.g. a combination of residential, retail and offices). It also provides a ‘menu’ of options for single use developments on individual sites that may add up to ‘horizontal’ mixing of uses in a local area or that may result in a single use in a local area.

Some Committee members felt that only the ‘vertical’ mixing should apply on Mixed Use Areas sites, and that multiple uses (e.g. residential and commercial) should be required in each mixed use development. The present approach provides flexibility and adaptability to changing conditions for property owners while recognizing that generally the permitted uses are compatible with each other. A more restrictive approach would constrain potential redevelopment by requiring uses that may not be feasible in some circumstances. This may deter residential development if the ‘required’ commercial uses are not feasible. Given the importance of the Mixed Use Areas designation in the Official Plan’s overall approach to intensification and accommodating population growth, it would be premature to restrict the meaning of “Mixed Use” without a more detailed

review that would be appropriate during the required review of the Plan 5 years after its adoption. This review will start in 2011.

Nevertheless, it would be reasonable for the zoning to permit commercial space even if it doesn't require that it be built, so that existing space may be converted to commercial use sometime after the original development, if a stronger market for retail uses emerges. The policy could encourage this. It would also make sense that the actual space constructed on the ground floor be encouraged to be capable of conversion; for example that ground floor ceiling heights be those usually required for retail rather than residential uses. This approach is being taken in the Mid-rise buildings typology study and in Commercial Residential zones in the proposed new Zoning By-law.

Proposed policy

Staff propose revising the proposed policy to place stronger emphasis on the need to consider retaining retail space, eliminating the threshold amount of retail floorspace being redeveloped, and encouraging the zoning and building design to provide for retail space should it be desired / warranted in the future. The revised policy would read:

“When retail commercial uses in Mixed Use Areas are redeveloped, the following considerations will be used either to determine the amount of retail commercial space that must be provided in the new development in order to alleviate the impact of the loss of the retail commercial space on the local neighbourhood, or to justify not retaining or replacing any of the existing space:

- a) the availability of other stores to meet the convenience needs of residents of the local neighbourhood, particularly supermarkets, grocery stores and drug stores;
- b) the desirability of retaining options for walking and other alternatives to the private automobile;
- c) other opportunities for retail commercial development in Mixed Use Areas to meet the convenience needs of residents of the local neighbourhood, particularly opportunities on nearby Avenues;
- d) the role of the shopping area being considered for redevelopment as a community meeting place and focal point for the local neighbourhood;
- e) the importance of providing continuous ground floor retail commercial space for the amenity and attractiveness of pedestrian shopping strips.

To allow for flexibility in future occupancy of the redeveloped site, the zoning should permit ground floor space to be occupied by retail commercial uses and grade related space should be designed so that it could be occupied by either residential or retail commercial uses.”

Next steps

A further public meeting and notification under the Planning Act will be required in order for the Official Plan to be amended to include the proposed policy. Staff recommend that this meeting be scheduled for the August meeting of Planning and Growth Management Committee.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Proposed Official Plan Amendment

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ATTACHMENT 1: PROPOSED OFFICIAL PLAN AMENDMENT

City of Toronto Official Plan Amendment No. 94

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 4, Section 4.5, Mixed Use Areas, is amended by adding the following new policy 3 and renumbering policies 3 and 4 to 4 and 5 respectively:
 - “3. When retail commercial uses in Mixed Use Areas are redeveloped, the following considerations will be used either to determine the amount of retail commercial space that must be provided in the new development in order to alleviate the impact of the loss of the retail commercial space on the local neighbourhood, or to justify not retaining or replacing any of the existing space:
 - a) the availability of other stores to meet the convenience needs of residents of the local neighbourhood, particularly supermarkets, grocery stores and drug stores;
 - b) the desirability of retaining options for walking and other alternatives to the private automobile;
 - c) other opportunities for retail commercial development in Mixed Use Areas to meet the convenience needs of residents of the local neighbourhood, particularly opportunities on nearby Avenues;
 - d) the role of the shopping area being considered for demolition as a community meeting place and focal point for the local neighbourhood;
 - e) the importance of providing continuous ground floor retail commercial space for the amenity and attractiveness of pedestrian shopping strips.

To allow for flexibility in future occupancy of the redeveloped site, the zoning should permit ground floor space to be occupied by retail commercial uses and grade related space should be designed so that it could be occupied by either residential or retail commercial uses.”

2. Chapter 4, Section 4.5, Mixed Use Areas, is amended by adding the following sidebar adjacent to the new policy 3 proposed above:

“The Local Neighbourhood

When considering the impacts of the loss of commercial space, the size of the local neighbourhood should be based on residents having good access to shopping to meet their convenience needs. In areas where lower densities still require extensive auto use to shop for convenience needs, such as the post-war suburbs, the local neighbourhood may be considered to be an area generally within about 2 km of the space being lost. This is based on the observation that most residents within the City live within 2 km of a supermarket larger than 20,000 sq.ft.

In areas where walking is a viable or necessary means to shop for convenience needs, the neighbourhood will be smaller. For example, walking to shop may be more viable in high density neighbourhoods or those with pedestrian shopping streets; while in areas with higher proportions of seniors or low income residents walking to shop may be more necessary.”