

**1443, 1445 & 1451 Bathurst St - Zoning Amendment  
Application - Request for Direction Report**

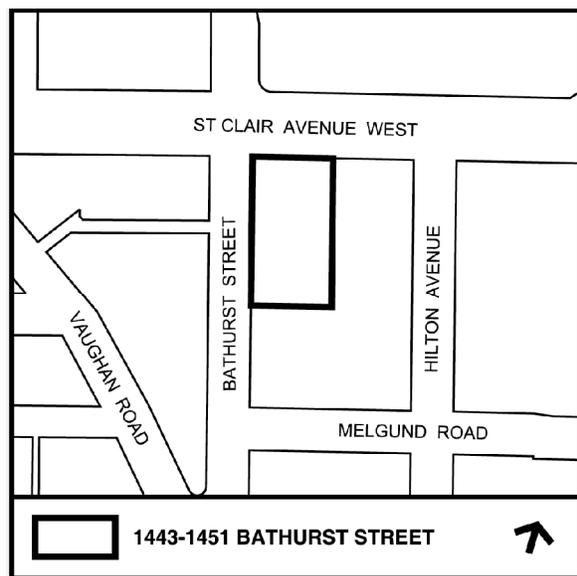
<b>Date:</b>	October 11, 2012
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 21 – St. Paul's
<b>Reference Number:</b>	11 292997 STE 21 OZ

**SUMMARY**

This application proposes to re-develop the lands at 1443, 1445 and 1451 Bathurst Street for a new 25-storey mixed-use building with a 6-storey podium, containing 324 dwelling units, including 7 rental replacement units, and 283 parking spaces in a below grade parking structure, 42 of which will be operated by the Toronto Parking Authority. A Site Plan application and a Rental Housing Demolition application under Section 111 of the *City of Toronto Act* for the 7 residential rental units proposed for demolition were also submitted.

This proposal represents an overdevelopment of the site. The proposed building does not provide adequate transition to the low-rise neighbourhood and park/ravine to the east. The proposal's height significantly exceeds the zoning by-law permissions and its scale and massing do not achieve an adequate transitional relationship with the surrounding built form context. It also creates significant issues regarding overlook and privacy for the low-rise dwellings in the area, especially those abutting the site, without adequate mitigation measures.

The approval of the proposed project would set a negative precedent for future



development that undermines the policies of the Official Plan and does not implement Council approved guidelines such as the Mid-Rise Building Guidelines.

The application was appealed to the Ontario Municipal Board on August 7, 2012. A pre-hearing date has been set for January 7, 2013. The purpose of this report is to seek City Council's direction for the City Solicitor to oppose the proposal in its current form at the OMB and to advise the OMB of Council's position regarding the appropriate form of development on the site.

## **RECOMMENDATIONS**

---

### **The City Planning Division recommends that:**

1. City Council direct the City Solicitor and appropriate staff to attend the Ontario Municipal Board (OMB) hearing to oppose the owner's zoning appeals and site plan referral.
2. City Council direct the City Solicitor to also advise the OMB that City Council's position is that any redevelopment of the site, if approved by the OMB, should:
  - a. secure services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner and Executive Director;
  - b. satisfy the Chief Planner and Executive Director with respect to site plan matters, including the approval of plans and drawings and site plan conditions;
3. City Council authorize the City Solicitor and City staff to take any necessary steps to implement the foregoing.

### **Financial Impact**

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

### **DECISION HISTORY**

On October 27, 2009, Toronto City Council adopted Official Plan Amendment No. 84 by By-law 1102-2009 and passed Zoning By-law No. 1103-2009 to implement the findings and recommendations of the St. Clair Avenue West Study. The Study examined the mixed-use corridor along St Clair Avenue West between Bathurst Street and Glenholme Avenue. These By-laws are in full force and effect (excluding two appealed sites).

<http://www.toronto.ca/legdocs/bylaws/2009/law1102.pdf>;

<http://www.toronto.ca/legdocs/bylaws/2009/law1103.pdf>.

The subject development site is adjacent to, but outside of the study's boundary area, which ends on the west side of Bathurst Street.

### **ISSUE BACKGROUND**

The proposal is to demolish the existing buildings at 1443, 1445, and 1451 Bathurst Street, which includes 7 residential rental units, and replace them with a new 25-storey

mixed-use building. The proposed development consists of 22,605 square metres of residential gross floor area, containing 324 residential units, including 7 rental replacement units. There is a proposed unit mix of 81 two-bedroom units (2 being rental units), and 214 one-bedroom units (5 being rental units), and 29 bachelor units. The proposal includes the replacement of all 7 rental units in the new building, with the same unit mix, the right for tenants of the existing rental units to return to the replacement units, and tenant assistance with relocation. The existing rental housing comprises 2 two-bedroom apartments and 5 one-bedroom apartments, all of which are generously-sized. All 7 units have affordable rents.

Residential and commercial parking is proposed in a 5-level underground parking garage, comprised of 241 residential parking spaces and 42 Toronto Parking Authority (TPA) commercial parking spaces. Visitors to the residential condominium are proposed to use the TPA lot and replacement rental units.

The proposed building has a maximum height of 25 storeys (88 metres including penthouse). It includes a 6-storey podium portion which extends along the Bathurst frontage. The podium has no stepbacks on the south façade. The proposed Floor Space Index is 9.14.

The proposal contains 675 square metres of indoor amenity space on the 7<sup>th</sup> floor, and 880 square metres of outdoor amenity space located on the roof of the 6-storey podium.

The ground floor will contain 1426 square metres of retail/commercial uses at the pedestrian level, with entry from both the Bathurst Street and St. Clair Avenue West frontages. The residential entry will be located on the St. Clair Avenue West frontage on the east side. It is proposed that the site will be accessed from a vehicular driveway from Bathurst Street along the southern property line. The driveway will provide access to: the underground parking garage, containing residential vehicular and bicycle parking; a TPA commercial parking lot; and loading facilities. Pedestrian access to the TPA lot will be from Bathurst Street, immediately north of the driveway to the underground garage.

The Site Plan and Elevations are included in Attachments 1-5. Additional project information is included in Attachment 7 of this report (Application Data Sheet).

## **Site and Surrounding Area**

The subject site is rectangular in shape and approximately 2,630 square metres (28,320 square feet) in size, with frontages on St. Clair Avenue West, and Bathurst Street. The proposed development will be located on three lots.

The first lot contains an existing 2-storey mixed-use building on the corner of St. Clair Avenue West and Bathurst Street (1451 Bathurst St.) which includes various retail and commercial uses on the ground floor and seven (7) residential rental units on the second storey. The second lot is a surface parking lot owned by the City and operated by Toronto Parking Authority (1445-1449 Bathurst St.). The third lot contains a 3-storey brick building used as a place of worship (1443 Bathurst St.).

The following uses about the property:

North: A gas station and carwash are located on the northeast corner of St. Clair Ave W and Bathurst St. A 7-storey mid-rise building on the corner and two 25-storey towers above the subway entrance further east are permitted on these lands pursuant to a 1992 OMB approval, but they have not been built. The lands further north are occupied by St. Michael's College School. The lands further east are occupied by a grocery store and the St. Clair Avenue West subway station entrance. On the northwest corner are two new condominium buildings which are 23 storeys and 19 storeys in height, with commercial uses at grade.

South: A 3-storey apartment building is adjacent to the site. Further south is the Wychwood library, the Wells Hill Lawn Bowling Club and a low-rise residential neighbourhood. South of Melgrud Rd along Bathurst St are a combination of low-rise mixed-use, residential, and commercial buildings 2-3 storeys in height.

East: A mix of low-rise residential buildings including both apartment and house form buildings about the site. Further east is Wells Hill Park, and then the Nordheimer Ravine.

West: There is a 4-storey medical office building on the southwest corner of St. Clair Ave W and Bathurst St, followed by traditional main street 1-2 storey buildings. An older 24-storey rental apartment building is located on a triangular lot between Bathurst St and Vaughan Rd.

In addition to the above, the recently completed St. Clair Avenue dedicated TTC streetcar line has an eastbound transit stop, containing a transit shelter, in front of the site. There is another transit stop at Vaughan Rd.

### **Planning Act, 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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

## **Official Plan**

The City of Toronto's Official Plan contains a number of policies that affect the proposed development. Pursuant to Section 24 of the Planning Act, no by-law shall be passed that does not conform with the Official Plan. Relevant Official Plan Policies include:

### **Chapter 2 – Shaping the City**

#### **Section 2.2.3 Avenues: Reurbanizing Arterial Corridors**

The portion of the site fronting onto St Clair Avenue West is identified by the Official Plan as being on an *Avenue*.

The Official Plan recognizes that each *Avenue* is different in terms of lot sizes and configuration, street width, existing uses, neighbouring uses, transit service and streetscape potential. Since there is "no size that fits all", a framework for change will be tailored through a local Avenue Study. The Official Plan calls for any application to be evaluated against the Avenue criteria that apply to lands in Mixed Use Areas and the Urban Design Built Form policies, among others. It also states that "Development requiring a rezoning will not be allowed to proceed prior to completion of an Avenue Study unless the review demonstrates to council's satisfaction that subsequent development of the entire Avenue segment will have no adverse impacts within the context and parameters of the review".

The Official Plan specifies that development in *Mixed Use Areas* on an *Avenue* must satisfy all policies in the Official Plan, including in particular the neighbourhood protection policies, in addition to policies located in 2.2.3.3(c).

The Avenues section of the Official Plan also specifies that where a portion of an Avenue is designated Parks and Open Space Areas the development criteria and policies will prevail to ensure that any new development respects and reinforces the general physical character of established neighbourhoods, and that parks and open spaces are protected and enhanced (policy 2.2.3.4).

#### **Section 2.3.1 Healthy Neighbourhoods**

This section of the Official Plan contains policies that specifically address the relationship between *Neighbourhoods* and areas with other Official Plan designations in order to ensure development is sensitive to the physically stable areas within the *Neighbourhoods* designation.

Policy 2.3.1.2 states the following:

Developments in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* will:

- a) be compatible with those *Neighbourhoods*;
- b) provide a gradual transition of scale and density, as necessary to achieve the objectives of this Plan through the stepping down of buildings towards and setbacks from those *Neighbourhoods*;

- c) maintain adequate light and privacy for residents in those *Neighbourhoods*; and
- d) attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.

Policy 2.3.1.3 states the following:

Intensification of land adjacent to neighbourhoods will be carefully controlled so that neighbourhoods are protected from negative impact. Where significant intensification of land adjacent to a *Neighbourhood* or *Apartment Neighbourhood* is proposed, Council will determine, at the earliest point in the process, whether or not a Secondary Plan, area specific zoning by-law or area specific policy will be created in consultation with the local community following an *Avenue Study*, or area based study.

### **Chapter 3 – Built Form**

#### **Section 3.1.2 Built Form**

The Official Plan recognizes that most of the City’s future development will be infill and as such will need to fit in, respect and improve the character of the surrounding area. As a result, the built form policies of Section 3.1.2.3 seek to ensure that new development is massed and designed to fit harmoniously into its existing and/or planned context and will limit its impacts on neighbouring streets, parks, open spaces and properties. Among other things, this harmony is achieved by: massing new buildings to frame adjacent streets in a way that respects the existing and/or planned street proportion; creating appropriate transitions in scale to neighbouring existing or planned buildings; providing for adequate light and privacy; and adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets and properties. Ensuring adequate access to sky view for the proposed and future use of adjacent streets is a requirement within Policy 3.1.2.4 for all new development. Policy 3.1.2.5 requires new development to provide amenity for adjacent streets to make these areas attractive, interesting, comfortable and functional for pedestrians by providing landscaped open space within development sites.

The applicants are proposing a tall building on their site. Due to the larger civic responsibility and obligations associated with tall buildings, the built form policies of Section 3.1.3 provide additional direction on how they fit into the existing and planned context and how they are designed. The Plan states that although tall buildings are desirable in the right places they don’t belong everywhere and are only one form of intensification. It states that when tall buildings are poorly located and designed they can physically and visually overwhelm adjacent streets, parks and neighbourhoods. Negative impacts include blocking sunlight and views of the sky and creating uncomfortable wind conditions. The Official Plan states that most of the proposed intensification in the Plan is anticipated to be achieved with street oriented, grade related or mid-rise building types that define and support weather comfortable and vital streets, parks and open spaces. Tall buildings will only be permitted in other areas on the basis of appropriate planning justification consistent with the policies of the Plan.

Policy 3.1.3.1 indicates that where a tall building is appropriate; that it should have a base at an appropriate scale for the street that integrates with adjacent buildings, a middle with a floor plate size and shape having appropriate dimensions for the site in relationship to the base and adjacent buildings, and a top that contributes to the skyline character. Policy 3.1.3.2 requires new tall development to address key urban design considerations, including:

- meeting the built form principles of the Official Plan;
- demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
- demonstrating how the proposed building and site design relate to the existing and planned context;
- taking into account the relationship of the site to other tall buildings;
- providing high quality, comfortable and usable publicly accessible open spaces; and,
- meeting the other goals and objectives of the Official Plan.

### **Section 3.2.1 Housing Policy**

The Official Plan's Housing policies require a full range of housing (in terms of form, tenure and affordability, across the City and within neighbourhoods) to be provided and maintained to meet the current and future needs of residents. The existing stock of housing will be maintained and replenished. New housing supply will be encouraged through intensification and infill that is consistent with the Official Plan.

With respect to proposals involving the demolition of 6 or more units of rental housing, Section 3.2.1.6 requires that unless all of the rental housing units have rents that exceed mid-range rents at the time of application, approvals should provide for their replacement with at least the same number, size and type of rental housing units. The rental housing is to be maintained as rental housing with rents similar to those in effect at the time the redevelopment application is made, for a period of at least 10 years. An acceptable tenant relocation and assistance plan is required, addressing: the right to return to occupy one of the replacement units at similar rents; the provision of alternative accommodation; and other assistance to lessen hardship.

## **Chapter 4 – Land Use Designations**

### **Section 4.5 Mixed Use Areas**

The subject site is designated *Mixed Use Areas* on Map 17 – Land Use Plan. The *Mixed Use Areas* designation permits a broad range of commercial, residential and institutional uses, in single or mixed use buildings, as well as parks and open spaces. *Mixed Use Areas* will absorb most of the anticipated increase in retail, office and service employment in the coming decades and provide much of the new housing.

Development proposals in *Mixed Use Areas* are evaluated to ensure they: provide a transition between areas of different development intensity and scale through means such as providing appropriate setbacks and/or stepping down of height, particularly toward lower scale *Neighbourhoods*; locate and mass buildings so as to adequately limit shadow

impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes; locate and mass new buildings to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces; provide an attractive and safe pedestrian environment; have access to schools, parks, community centres, libraries and childcare; take advantage of nearby transit services; locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and, provide indoor and outdoor recreation space for building residents.

### **Site and Area Specific Policies & Urban Design Guidelines**

The site is included in Site and Area Specific Policy 264 which generally indicates that development should have a scale that protects and maintains the views to and from the Nordheimer Ravine and the Lake Iroquois Escarpment.

The Bathurst-St. Clair Urban Design Guidelines correspond to this site specific policy.

In particular, the guidelines specify that the height of buildings in Bathurst – St. Clair will generally be limited in order to:

- Maintain the predominately low-rise scale of stable residential areas;
- Ensure visual coherence of both the commercial retail area and the high-rise residential area and of their compatibility in scale with the adjacent low-rise residential areas; and
- Secure a low-to moderate-scale in the transitional area south of the escarpment which respects the views and character of Casa Loma and the escarpment to the north.

### **Mid-Rise Building Guidelines**

Toronto City Council, on July 8, 2010, adopted the recommendations contained in the staff report titled, *Avenues and Mid-Rise Building Study and Action Plan*, prepared by City Planning with modifications and directed staff to use the Performance Standards for Mid-Rise Buildings in reviewing proposals for a two year monitoring period.

The subject site is identified as being located on an *Avenue*, is identified as an *Avenue* where the Mid-Rise Buildings Guidelines applies on the Avenues and Mid-Rise Study Map as adopted by Council, and is therefore subject to the Mid-Rise Buildings Guidelines and performance standards.

A Mid-Rise building is generally no taller than the width of the street right-of-way. St. Clair Ave W is 30 m wide in this location. The performance standards are guided by the objective to create healthy, liveable and vibrant main streets while protecting the stability and integrity of adjacent neighbourhoods. Key provisions are as follows:

- Buildings are moderate in height with step backs– no taller than the ROW is wide;
- Buildings provide an appropriate transition in scale to adjacent neighbourhoods;
- Sidewalks are wide enough to include and support trees, generate a lively pedestrian culture and ensure accessibility for all;

- Sidewalks on the Avenues enjoy a minimum of five hours of sunlight from the spring through to the fall;
- The ground floor of buildings provide uses that enliven sidewalks and create safe pedestrian conditions;
- The public realm should be protected and enhanced by limiting access from the Avenue, encouraging shared access, and creating a public laneway system that is accessed from side streets; and,
- Streetscape and building design reflects excellence in sustainability, urban design and architecture, recognizing the important public role of the Avenue in defining the quality of the life for the City and its neighbourhoods.

## **Zoning**

The property is currently zoned Mixed Commercial Residential – MCR T3.0 C2.0 R2.0 – which permits a mix of commercial and residential uses up to a total density of 3.0 times the area of the lot. The maximum height limit is 16.0 metres.

The Zoning By-law also requires that no building penetrate the angular plane of 45 degrees above 13 metres from average grade along the street line and requires the building to be contained within a 45 degree angular plane above 10 m from the east lot line abutting lots within a Residential District.

Transportation Services staff have determined that the use of the resident parking ratios for Policy Area 3 of the repealed Zoning By-law 1156-2010 are appropriate for this site, as these parking standards are based on more recent data when compared to Zoning By-law 438-86.

Based on the proposed unit number and mix, a minimum of 283 parking spaces should be provided.

## **Site Plan Control**

A Site Plan application is required and was submitted by the applicant at the same time as the Rezoning application.

## **Tree Preservation**

The applicant has submitted an arborist report and a tree preservation plan. The report identified eight trees surrounding the site that would be affected by this proposal.

## **Rental Housing Demolition and Conversion By-law**

The Rental Housing Demolition and Conversion By-law (885-2007), contained in Chapter 667 of the City's Municipal Code, implements the City's Official Plan policies protecting rental housing. The City's Official Plan protects groups of six or more rental units from demolition. The By-law prohibits demolition or conversion of rental housing units without obtaining a permit from the City issued under Section 111 of the City of Toronto Act. Proposals involving the loss of six or more residential units, wherein one or more of the units are rental; require the submission of a Section 111 application. Council

may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued under the Building Code Act.

A related application such as an Official Plan amendment or rezoning triggers the requirement for an application under Chapter 667 for rental demolition or conversion, and typically City Council decides on both applications at the same time. Unlike Planning Act applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB.

A demolition and conversion application was submitted by the applicant at the same time as the Rezoning application.

### **Toronto Green Standard**

The Toronto Green Standard (TGS) is a tool to implement the broader environmental policies of the Official Plan. Several of the natural environment policies of the Official Plan encourage green development. These policies are geared to reduce the negative impacts of development on the natural environment through practices such as improved stormwater management, water and energy efficiency, and waste reduction and recycling. These policies also promote development that enhances the natural environment and support green industry.

The TGS Checklist was submitted by the applicant and reviewed by City staff for compliance with the Tier 1 performance measures.

### **Reasons for the Application**

The proposed development requires an application to amend the former City of Toronto's Zoning By-law to permit the proposed 88 metres in height, 324 unit mixed-use building and establish the appropriate development standards. Increases in height and density and the elimination of the provisions requiring angular planes along the St Clair Avenue West frontage and the east lot line abutting the Residential District are among the more significant changes to the Zoning By-law being requested by the applicant. Also, relief from parking requirements under By-law 438-86 is required.

### **Community Consultation**

A community consultation meeting for the original application was held on March 20, 2011. Approximately 40 members of the public that attended the meeting along with the Ward Councillor, City Planning staff and the applicant's development team. Issues raised at the meeting and submitted on the comments sheets distributed at the meeting include:

1. Concern about the height, density, building mass and the shadow this building would cast on the low-rise buildings in the area and Wells Hill Park;
2. The lack of transition from the tower to the low-rise neighbourhood;
3. Privacy and overlook from the new development to surrounding properties;
4. The increase in traffic as a result of this development;
5. The low number of larger family sized (2-3 bedroom) units;

6. Concern about the high height of the tower podium;
7. The building material at the podium level; and
8. Uniqueness of the block with regard to its proximity to the park, ravine and low-rise neighbourhood.

More favourable comments for the development included:

1. Affordability of smaller units for younger people in a great area;
2. Intensification of the site is good for local retailers;
3. Design is a nice contemporary look; and
4. Support for the increase in public parking proposed by the development.

The majority of comments voiced at the meeting and received by Planning staff have been in support of a mid-rise building and in opposition to the proposed tall building.

A community consultation meeting for the tenants of the 7 affected rental units was held June 13, 2012. Tenants from all of the occupied units attended. Concerns included, among many matters discussed, the adequacy of the size and facilities of the replacement units compared to the current sizes and storage of the existing units, and the potential of having to temporarily relocate away from their community while the new development was under construction. The tenants expressed a strong attachment to the community, and the benefits of their current location with immediate access to the subway, surface transit, retail and other services and the amenities of the neighbourhood.

### **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

## **COMMENTS**

### **Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement (PPS) promotes the appropriate intensification and efficient use of land, recognizing that land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns. Part V, Policy 1.0 Building Strong Communities provides that Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns.

The Provincial Policy Statement also states, in Section 4.5, that the Official Plan is the most important vehicle for implementing the Provincial Policy Statement. Furthermore, Section 4.5 directs municipalities to provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.

The Growth Plan for the Greater Golden Horseshoe (the Growth Plan) strives, among other things, to direct growth to areas of urban intensification. It also requires municipalities to set clear targets for population and employment growth. The entire City of Toronto has been designated a growth area in the Growth Plan and has set population and employment growth targets as required by the Plan. The City has set a Growth Plan population target of 3.08 million by 2031. City Planning data indicates that the City's population has been growing an average of 27,500 people per year between 2006 and 2010. (See June 2011 'Profile Toronto' report at: [http://www.toronto.ca/planning/pdf/grow\\_jun2011.pdf](http://www.toronto.ca/planning/pdf/grow_jun2011.pdf)).

Based on these historical patterns, the City is well on its way to exceeding its population targets under current growth patterns. The applicant's claim, in the submitted Planning Rationale, that intensification of the site conforms to the Growth Plan, cannot be used as rationale to justify a development proposal well beyond the as-of-right permissions because of the reasons contained within this report.

### **Official Plan**

While Planning staff stated in the preliminary report that an Avenue Study was not required from the applicant for such a small remaining portion of the Avenue, Council requested further review of the segment and directed staff to conduct an Avenue Study, as per Official Plan policy 2.2.3. Planning staff suggest, by way of its refusal recommendation to Council, that the redevelopment proposed for this portion of the remaining segment of the *Avenue* on St Clair Avenue West will have adverse impacts, especially on the adjacent *Neighbourhoods*.

### **Built Form**

In reviewing this development proposal, staff evaluated whether there is an appropriate planning justification, consistent with the policies of the Official Plan, for a tall building on this site. As well, staff assessed whether the site, which is currently subject to the City's Mid-Rise Building Guidelines, could accommodate a tall building, and achieve the necessary tall building performance measures and development criteria in order to address key urban design considerations.

Toronto City Council approved the use of the document, "Design Criteria for Review of Tall Building Proposals" (Tall Building Guidelines) in June, 2006 and in April, 2010 extended authorization of its use. A tall building is generally defined as a building that is taller than the road right-of-way adjacent to the site. In this case, the right-of way for St Clair Avenue West is 30 metres (ROW for Bathurst St is 27 metres) and as such, the proposed building at 88 metres in height is considered a tall building.

The Tall Buildings Design Criteria provide policy recommendations for tall buildings on issues of transition, building placement and orientation, entrances, massing of base buildings, tower floorplates, separation distances, pedestrian realm considerations and sustainable design. Tall Buildings Design Guidelines do not determine the appropriate location for towers.

Based on analysis conducted as a part of the review of this application, staff have determined that the site is not appropriate for a tall building and cannot accommodate a tall building while remaining consistent with the policies of the Official Plan. In addition, when evaluated with Tall Buildings Guidelines, the proposed does not achieve those performance standards.

The proposal also does not achieve Midrise Guideline standards. The height, massing and transition of the proposed development are inappropriate for the site and the area context. Other issues have also been identified.

## Height

The proposed building, which is 25-storeys (81.5 metres plus a 6.5 metre mechanical penthouse) and has a density of 9.14, does not provide adequate transition to the lower scale low-rise *Neighbourhoods*, Wells Hill Park and Nordheimer Ravine. The proposed height is the equivalent of 26-27 storeys tall due to high floor-to-ceiling heights. This exceeds all heights in the area, even those on the north side of St Clair Avenue West which are adjacent to *Apartment Neighbourhoods* and not *Neighbourhoods*.

There are existing 23 and 19-storey buildings on the north-west corner of St Clair Avenue West and Bathurst Street. Also, the south-west corner is approved for 68 and 48 metres buildings (not exceeding 22 storeys and 15 storeys, respectively). These sites have been considered appropriate sites for tall buildings due to their adjacency to *Apartment Neighbourhood* or *Mixed Use* designated sites where the Official Plan affords a greater degree of intensity.

The St Clair Avenue West By-law 1103-2009 applied lower heights and densities to properties, west of Bathurst Street, which are located on the *Avenue*, designated *Mixed Use*, within the *Height Transition Zone*, and abut *Neighbourhood* designated properties. In comparison, the By-law allows higher heights and densities on properties which abut *Apartment Neighbourhood* or *Mixed Use* designated sites. The clear intent of applying lower heights and densities to these properties was to conform to the Official Plan policies which call for all new developments in *Mixed Use* areas to provide a transition in height and massing between sites of different development intensity and to be compatible with lower-scale built form in *Neighbourhoods*. The proposal does not provide such a transition or achieve compatibility with the abutting *Neighbourhood* sites.

The base building of the proposed tower which extends down Bathurst Street has a proposed height of approximately 22.2 metres which is 6.2 metres above the permitted overall height of 16 metres on Bathurst Street.

Bathurst Street is not identified as an *Avenue* in the Official Plan. Staff believe that a base building which achieves a 1:1 ratio with the right-of-way width of Bathurst street (20 metres) and does not penetrate the required angular planes with any part of the building, including balconies, is appropriate for this portion of the subject site. The proposed podium is above 20 metres and penetrates the required angular planes. The result is that a compatibility with and transition to the adjacent *Neighbourhoods* is not

achieved and the impact to the abutting rear low-rise houses, such as overlook issues, is not mitigated.

### **Massing and Transition**

The proposed building exhibits overwhelming massing in relation to a relatively small site and the low-rise *Neighbourhood* to the east. Current MCR zoning requires compliance with a 45 degree angular plane at the rear abutting R zones. As well, approximately 37% of the rear frontage of the tower directly backs onto low-rise *Neighbourhoods* lot lines. The tower overhangs the podium on the east side and is set back only 6.5 metres from the main wall to the *Neighbourhoods* lot line. The proposal's balconies protrude in this area by a further 1.5 metres, making the actual setback from the *Neighbourhoods* lot line to building or structure 4.0 metres, which is unacceptable. The Zoning By-law and Mid-Rise Guidelines require a 7.5 metre rear yard setback and compliance with the angular planes. When the proposal is evaluated against Tall Buildings Guidelines, a 20 metre setback to the east side lot line would be required.

The proposed does not have adequate setbacks to the south and east lot lines to adjacent properties. It does not setback adequately from the street to provide an adequate public realm. This massing results in a very imposing tower in relation to the low-rise buildings to the east designated *Neighbourhoods* in the Official Plan. The setback of the proposed tower from the property to the east does not conform to or maintain the intent of the Official Plan as the setback is significantly small for such a tall building and there is no stepping down of heights toward the lower-scale *Neighbourhood* to the east.

The proposed building does not have a sufficient transition to the abutting low-rise neighbourhood, park, and ravine. Transition to lower scale *Neighbourhoods* is important in achieving compatibility and mitigating issues that may arise from locating tall buildings adjacent to low-rise *Neighbourhoods*. The 6.5 metre tower setback from the east property line, combined with the proposed height and massing of the tower, impact the views from the existing house-form buildings and their respective private amenity space. In combination with the proposed buildings height, it also creates substantial overlook issues from the tower into the yards of the low-rise houses. The balconies on the proposed building worsens the poor transition from the proposed tall building to the *Neighbourhood* by encroaching into the east elevation tower setback from the neighbourhood an additional 1.5 metres. The podium portion of the tower does not achieve the required angular planes.

### **Sun/Shadow**

The applicant submitted a sun/shadow study for the proposed development. A Sun/Shadow study is required in order to assess whether a proposed development will achieve the goals of Official Plan policy 3.1.2.3 which states that "new development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by:

e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and

f) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility."

The sun/shadow study shows the shadowing effect of the proposed development on the surrounding area on March 21<sup>st</sup> /September 21<sup>st</sup>. The proposed building has late afternoon shadow impacts on Wells Hill Park, as well as, the low-rise residential houses to the east on Wells Hill Rd. In this respect, the proposal does not conform to, or maintain the intent of the Official Plan.

### **Pedestrian Amenity (wind & sidewalks)**

The applicant has submitted a pedestrian level wind study for the proposed development. The windy study indicated a number of unacceptable wind conditions such as:

- The wind conditions at the public transit shelter in front of the proposed site on St Clair Ave do not achieve the target comfort criteria for standing during the spring, autumn and winter periods.
- The desired comfort class for all private open spaces is "Sitting" not "Standing". The study indicates that some of the private backyards on Hilton Avenue are acceptable for standing. It is not clear if they are also acceptable for "Sitting".

The Built Form Policies in Section 3.1.2 of the Official Plan, require new development to provide new high quality streetscapes which are comfortable for pedestrians and include trees, and weather protection. The proposal does not include adequate widening of the sidewalk on St Clair Avenue West or Bathurst Street. Proposed sidewalk dimensions on St Clair Avenue West are 2.8 metres except for the corner, and on Bathurst Street range from a minimum of 1.9 metres to 3.75 metres. Also the proposal does not include the planting of street trees along either street. The proposal also does not include pedestrian weather protection on either street.

Staff recommends a minimum sidewalk width of 4.5 metres from curb to building face along both St Clair Avenue West and Bathurst Street to accommodate street trees and pedestrian traffic. This sidewalk width was achieved on the north-west side of Bathurst and St. Clair Avenue West and is also part of the Urban Design Guidelines for the St Clair Avenue West Avenue Study as adopted by Council. It is also recommended that weather protection with a minimum depth of 3 metres be achieved along St Clair Avenue West.

Technical Services staff also require that the landscaping for the project be designed to be consistent with the City's Vibrant Street design guidelines. These guidelines recommend, among other things, the following:

- A 0.6 metre wide buffer strip along the curb edge
- A furnished/planting zone between 1.0 and 2.2 metres wide (minimum 1.2 metres required for tree planting)
- A 2.1 metres wide Pedestrian Clearway within the public right-of-way, which is aligned with the pedestrian clearways along the respective street; and
- Additional setback area for a marketing zone, if desired.

## **Traffic Impact, Access, Parking**

### **Traffic Impact**

A Transportation Impact Study, prepared by BA Group, dated September 2011, has been submitted and reviewed by Technical Services Division staff. A number of issues were identified in the study relating to, among other things, the appropriateness of the existing traffic volumes that were adopted in the study, the projected operation of some intersections in the study area and the suitability of some of the assumptions that were used in the capacity analyses. Staff requested additional information prior to accepting the traffic impacts of the proposal, which has not been submitted to date.

### **Parking/Loading**

The applicant is proposing a total of 283 parking spaces, consisting of 241 residents spaces located on parking levels P2-P5, and 42 public spaces within a Toronto Parking Authority garage on the P1 level of the underground garage. Transportation Services staff have determined that the use of the resident parking ratios for Policy Area 3 of the repealed Zoning By-law 1156-2010 are appropriate for this site, as these parking standards are based on more recent data when compared to Zoning By-law 438-86.

Based on the proposed unit number and mix, 283 parking spaces should be provided. Should this development be approved in some form by the Ontario Municipal Board the applicant should meet the following parking requirements.

Resident parking:

Bachelor units: 0.6 Spaces Per Unit

1-bedroom units: 0.7 Spaces Per Unit

2-bedroom units: 0.9 Spaces Per Unit

With respect to the visitor parking supply, the applicant proposes that the residential visitor parking demand be satisfied in the proposed Toronto Parking Authority lot. Staff have no objection to this. If for some reason a Toronto Parking Authority lot is not provided, 33 visitor spaces are required.

The applicant is proposing 268 bicycle parking spaces with 208 for residents and 52 for visitors, which is consistent with the By-law 438-86 and the Toronto Green Development Standard. Should this development be approved by the Ontario Municipal Board, the applicant should continue to meet the existing bicycle parking requirements.

The entrance to the parking and loading area is proposed via a 7.5 metres wide access ramp extending easterly off of Bathurst Street along the south limit of the site. Staff find this location acceptable.

The applicant has proposed a Type G loading space, and public garbage collection. While generally acceptable, a number of revisions to the Type G loading space, access driveway, and garbage room are required by Solid Waste staff. They have not been submitted to date. If the application is approved by the Ontario Municipal board, the applicant should be required to provide the required revised plans through a site plan review process.

### **Servicing**

The functional servicing report submitted with the application was reviewed by Technical Services. Staff identified a number of issues including the following: a storm connection conflict due to a gas main; potential inadequate capacity of the existing St Clair Avenue West storm sewer; and staff's refusal to allow the storm outlet of the site drain into the existing combined sewer (except as a last resort). Other stormwater management and site servicing and grading issues were also identified.

The applicant's consultant is required to address these issues through a revised functional servicing report, revised stormwater management report and site servicing and grading plans. They have not been submitted to date. If the application is approved by the Ontario Municipal board, the applicant should be required to provide the required revised reports and plans.

### **Amenity Space**

There are 324 residential units proposed of which 7 are rental replacement units. By-law 438-86 requires 2 square meters of indoor amenity space for each unit and 2 square metres of outdoor amenity space for each unit. This results in a requirement of 648 square metres of indoor amenity space and 648 square metres of outdoor amenity space. The applicant is proposing 675 square metres of indoor amenity space and 880 square metres of outdoor amenity space. The proposed development meets the By-law requirements.

### **Tree Removal/Preservation**

The applicant has submitted an arborist report and a tree preservation plan which have been reviewed by Urban Forestry staff. The report identified eight trees surrounding the site that would be affected by this proposal. Urban Forestry staff identified an additional three trees on adjacent sites, not identified in the report, that may also be protected under the provisions of the City's Private Tree By-law.

Five of the trees are subject to the City Public Street Tree By-law. They are proposed to be removed to accommodate the proposed development. The development as proposed does not indicate the planting of any new trees within the Bathurst Street, not the St Clair Avenue West City road allowance. Urban Forestry Staff have requested that the plans be revised to provide a greater building setback from both the Bathurst Street and St Clair

Avenue West curbs in order to widen the sidewalk so that tree planting within a continuous soil trench can occur.

Five of the six trees, which are located on adjacent private properties, are subject to the City's Private Tree By-law. All require removal due to their proximity to the excavation for the underground parking structure.

The applicant was advised by Forestry staff that the determination of ownership of any subject tree(s) is the responsibility of the applicant and any civil or common-law issues which may exist between owners with respect to trees must be resolved by the applicant. Given the numerous trees situated on adjacent private properties require removal with the development as proposed, the applicant must obtain written authorization from the adjacent property owners to permit the removal of the necessary trees.

Should the proposal be approved at the OMB, the applicant should be required to submit an application requesting permission to injure or destroy the trees in question to Urban Forestry prior to zoning amendments going into force.

### **Open Space/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 0.78 to 1.55 hectares of local parkland per 1,000 people.

The site is in the middle quintile of current provision of parkland. The site is on an *Avenue* and is in a Mixed Use Area as identified in the Official Plan and is therefore subject to the Alternate Rate Provision, as per City Wide Parkland dedication By-law 1020-2010.

The application proposes 324 residential units and 1,426 square metres of non-residential uses on a site with a net area of 2,630 square metres. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.432 hectare or 164% of the site. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use, while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 251 square metres.

The applicant proposes to satisfy this parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 251 square metres would not be of a useable size and the entire site is to be encumbered by an underground garage.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

## **Rental Housing**

The proposal for the replacement of the 7 affordable rental housing units is still under discussion with Planning Staff, and revisions are being made by the owner to the floor plans for the rental units. There has been good progress made in attempting to meet the City's requirements, but there is not yet a final plan acceptable to staff, as revisions to the key terms and floor plans were still in progress just prior to the filing of the appeal to the OMB. Concerns include the comparability of the units to the existing rental units in the areas of storage, floor area and the proposed number of units containing interior bedrooms without windows, among other matters.

The details of the proposed elements of the Tenant Relocation and Assistance Plan are also under discussion, but generally the owner is agreeing to meet the City's standard practices, including the right of tenants to return at similar rents, and the provision of financial assistance with the extra costs associated with the temporary relocation.

Unlike Planning Act applications, decisions made by the City under By-law 885-2007 are not appealable to the OMB. If the outcome of the OMB appeal process results in an approved redevelopment involving the demolition of the 7 existing rental units, City staff will request that the approved zoning by-law provide for the replacement of the units and tenant assistance. Nonetheless, it will still be necessary for the owner of the lands to obtain a s.111 permit for demolition under the City's by-law on Rental Housing Demolition and Conversion. City Council will have the final decision on the proposed demolition, and is able to impose conditions if approval is granted. At that time, the final details on the replacement of the units, the rents to be charged and financial compensation for tenant relocation will be the subject of recommendations to City Council.

## **Toronto Green Standards**

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. Outstanding issues identified by circulated divisions include: tree planting along street frontages, green roof details, and glass and other design features for migratory birds.

Should the application be approved at the OMB, the applicant should be required to submit a site plan that brings their proposal into compliance with these standards.

## **Section 37**

Section 37 of the *Planning Act* allows the City to authorize increased density and/or height in return for the provision of services, facilities or matters. The Official Plan contains provisions authorizing these Section 37 matters, provided the density and/or height increase are consistent with the objectives of the Official Plan regarding building

form and physical environment. Section 5.1.1.4 of the Plan allows Section 37 to be used for development with more than 10,000 square metres of gross floor area where the zoning by-law amendment increases the permitted density by at least 1,500 square metres and/or significantly increases the permitted height.

Given the increase in proposed height, the Official Plan would require the provision of Section 37 benefits. Discussions regarding Section 37 benefits between the applicant and the City did not occur as there was not an agreement on appropriate development for the site. However, as this matter has been appealed to the OMB, the City Solicitor would need to address Section 37 matters in the event the OMB approved development on this site. This report therefore recommends that the City Solicitor secure such services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner if a development is approved for the site.

A Section 37 Agreement should also secure for at least 20 years the replacement of the 7 rental housing units at similar rents, and the provisions of the Tenant Relocation and Assistance Plan.

## **Conclusion**

The issues outlined in this report were unable to be resolved and the Zoning By-law Amendment was appealed to the Ontario Municipal Board by the applicant as the City did not make a decision within 120 days from the submission of an Application for a Zoning By-law Amendment.

The application fail to meet the policies in Official Plan including Section 2.3.1 – Healthy Neighbourhoods, Section 3.1.3 – Tall Buildings and the development criteria for proposals in *Mixed Use Areas* adjacent to *Neighbourhoods*. In addition, the application does not meet the Council endorsed Design Criteria for Review of Tall Building Proposals. The lack of compatibility and transition, as well as, the inappropriateness of a tower on the proposed site, inadequate setbacks, and the inappropriate height, all contribute to the proposal failing to meet these policies.

As such, Planning staff are recommending refusal of the Zoning Bylaw Amendment application.

However, if the OMB were to approve a redevelopment of the subject lands, City staff will request that the zoning by-law and the Section 37 Agreement include provisions, together with benefits, that provide for the replacement of the 7 affordable rental housing units, and tenant relocation assistance, based on the Official Plan policy and the City's standard practices. The OMB will also be informed that City Council has the authority to make the final decision on the demolition of the 7 rental units and to impose conditions that deal with the replacement of the units, the rents to be charged, and tenant relocation assistance.

## **CONTACT**

Sipo Maphangoh, Planner  
Tel. No. 416-338-5747  
Fax No. 416-392-1330  
E-mail: smaphan@toronto.ca

## **SIGNATURE**

---

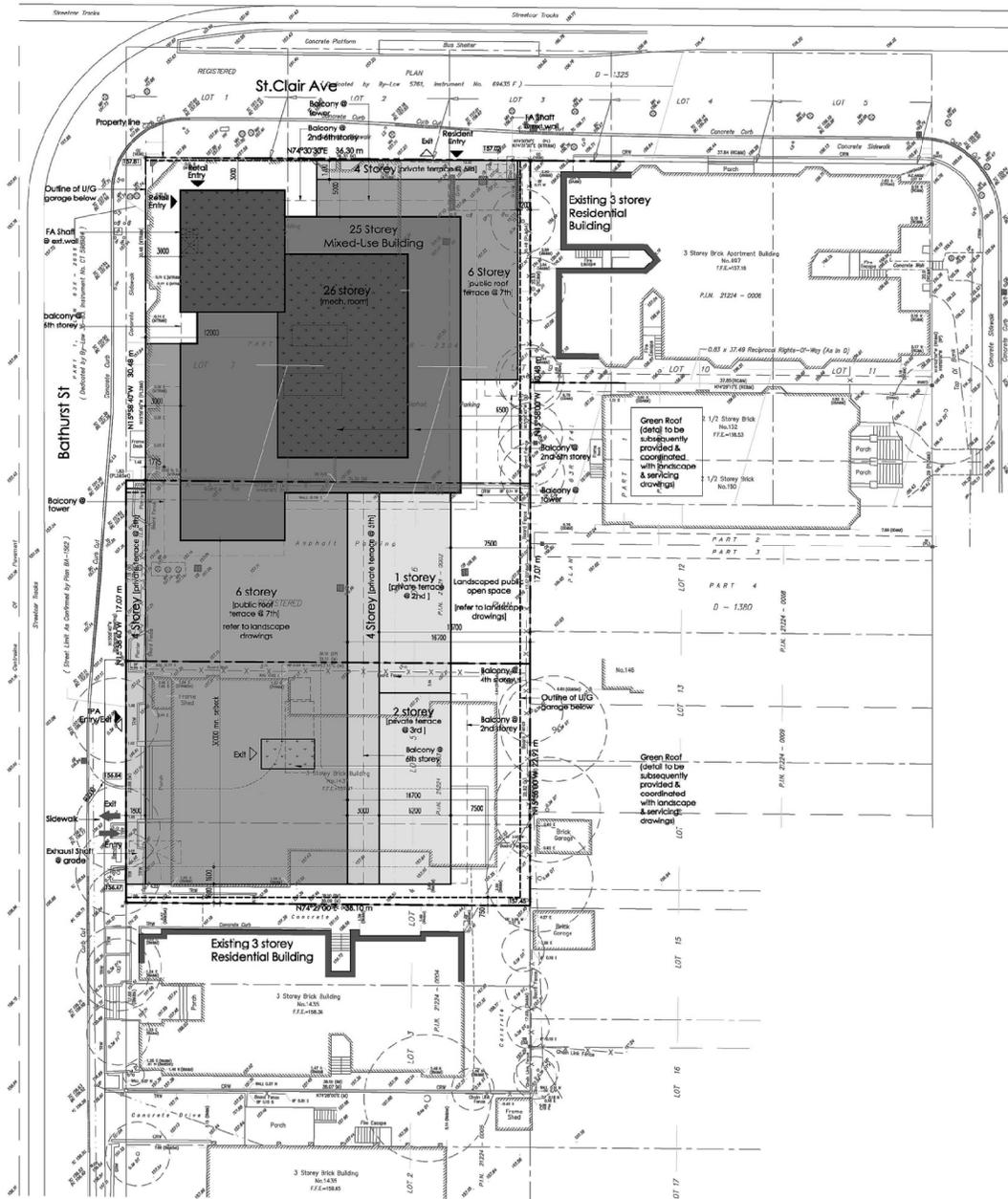
Gregg Lintern, MCIP, RRP  
Director, Community Planning  
Toronto and East York District

(p:\2012\Cluster B\pln\teycc25628131021.doc) - es

## **ATTACHMENTS**

Attachment 1: Site Plan  
Attachment 2: North Elevation  
Attachment 3: West Elevation  
Attachment 4: East Elevation  
Attachment 5: South Elevation  
Attachment 6: Zoning  
Attachment 7: Application Data Sheet

# Attachment 1: Site Plan



**Site Plans**

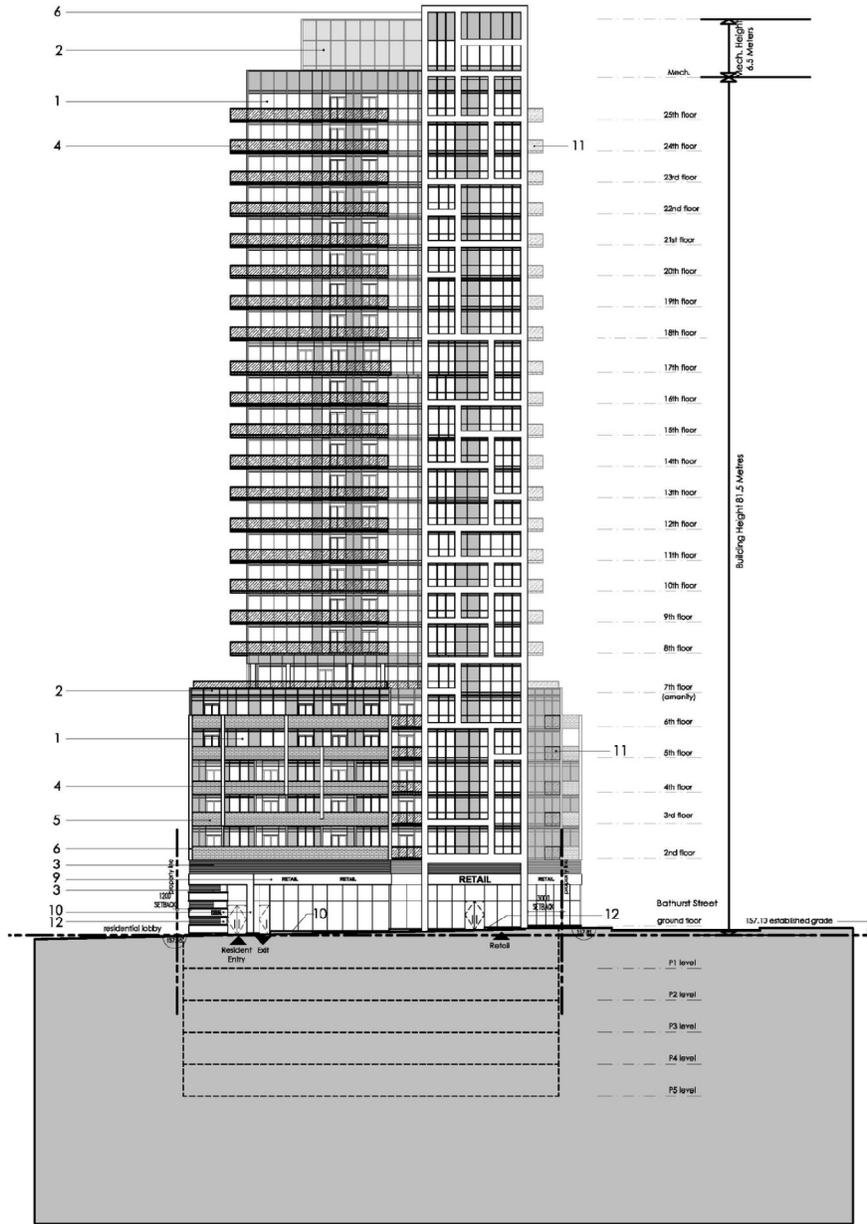
**1443-1451 Bathurst Street**

Applicant's Submitted Drawing

Not to Scale   
01/09/2012

File # 11 292997 0Z

## Attachment 2: North Elevation



North Elevation

### Elevations

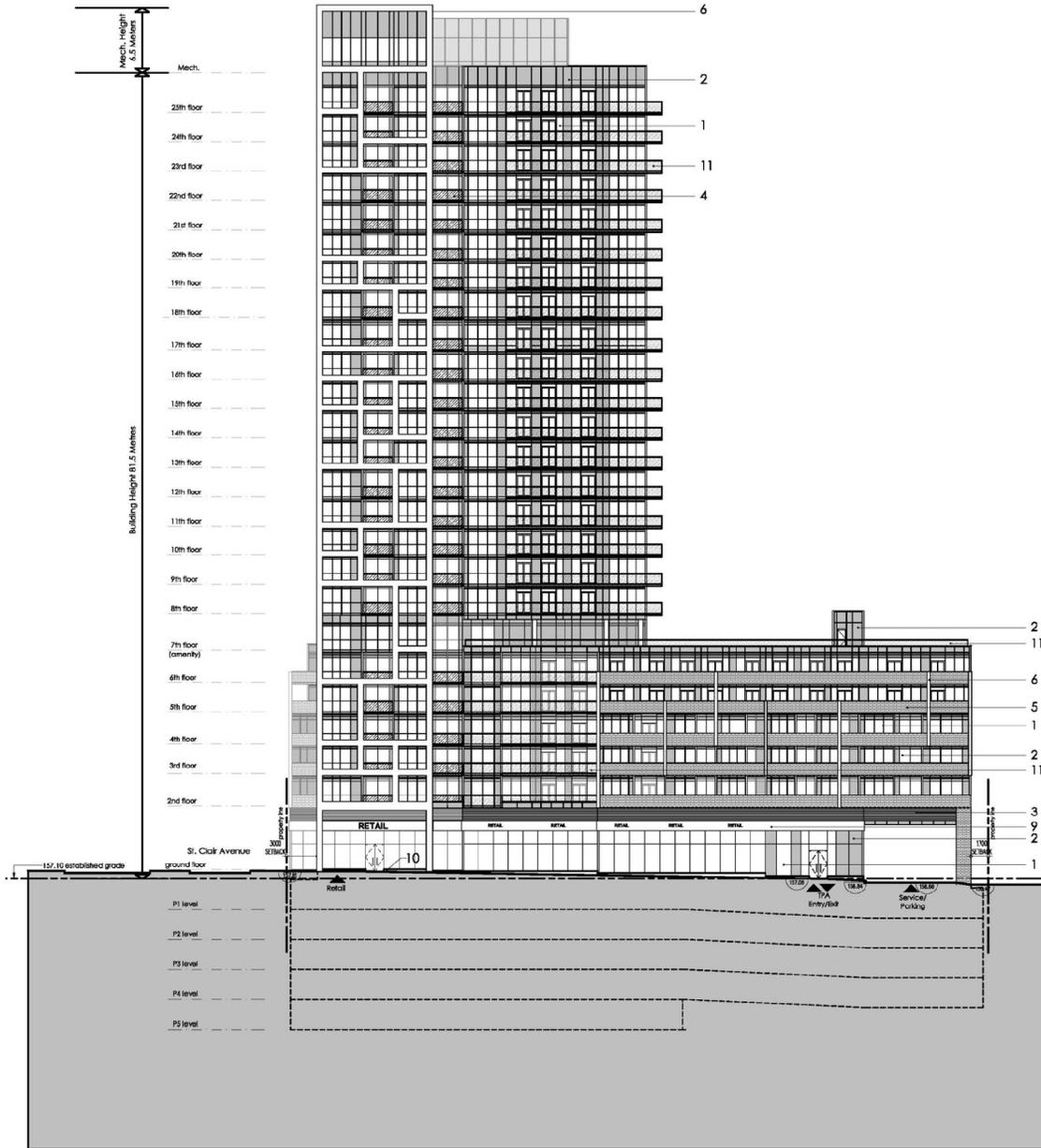
Applicant's Submitted Drawing

Not to Scale  
01/09/2012

1443-1451 Bathurst Street

File # 11 292997 02

### Attachment 3: West Elevation



West Elevation

## Elevations

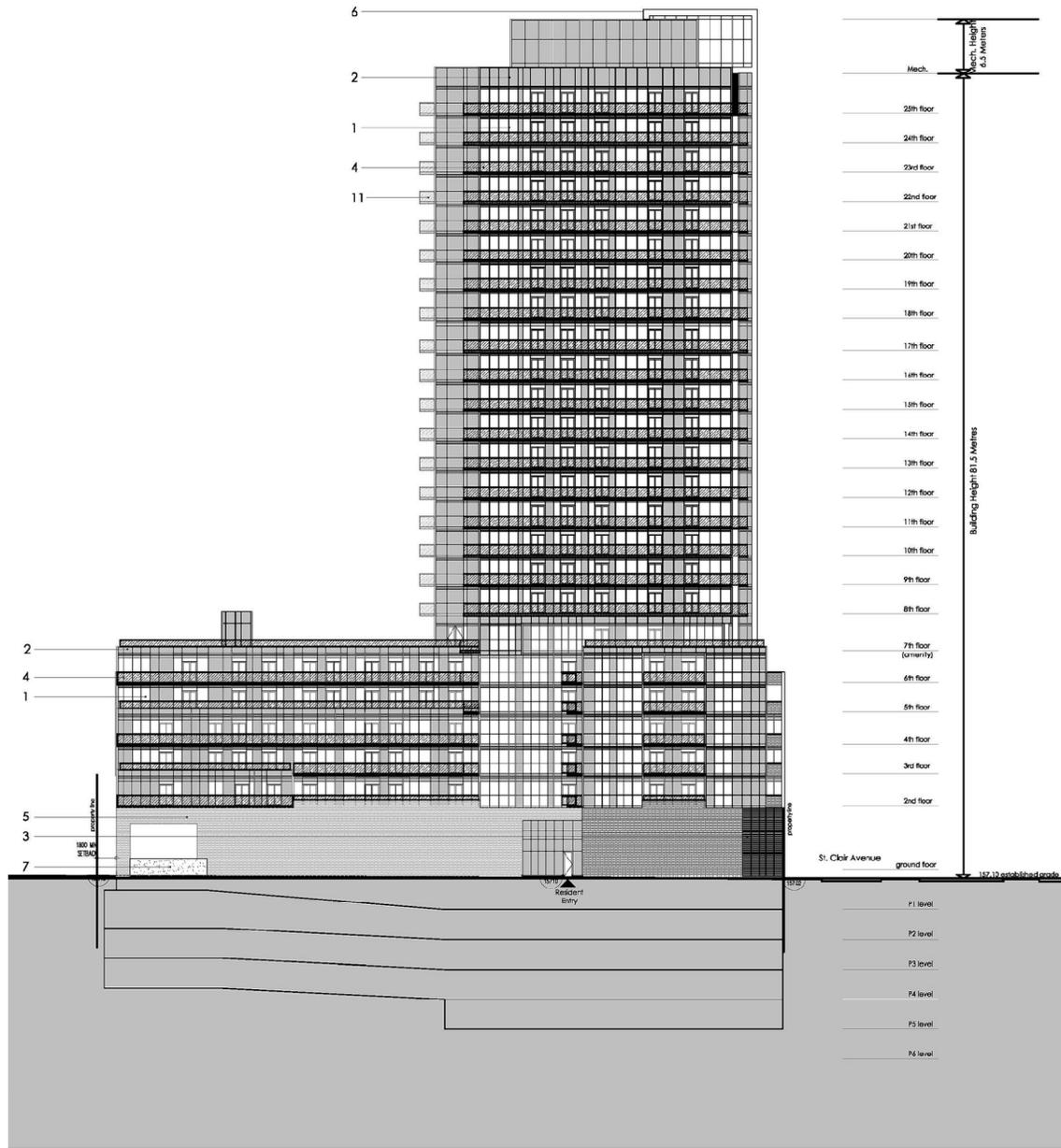
Applicant's Submitted Drawing

Not to Scale  
01/09/2012

1443-1451 Bathurst Street

File # 11 292997 02

# Attachment 4: East Elevation



East Elevation

## Elevations

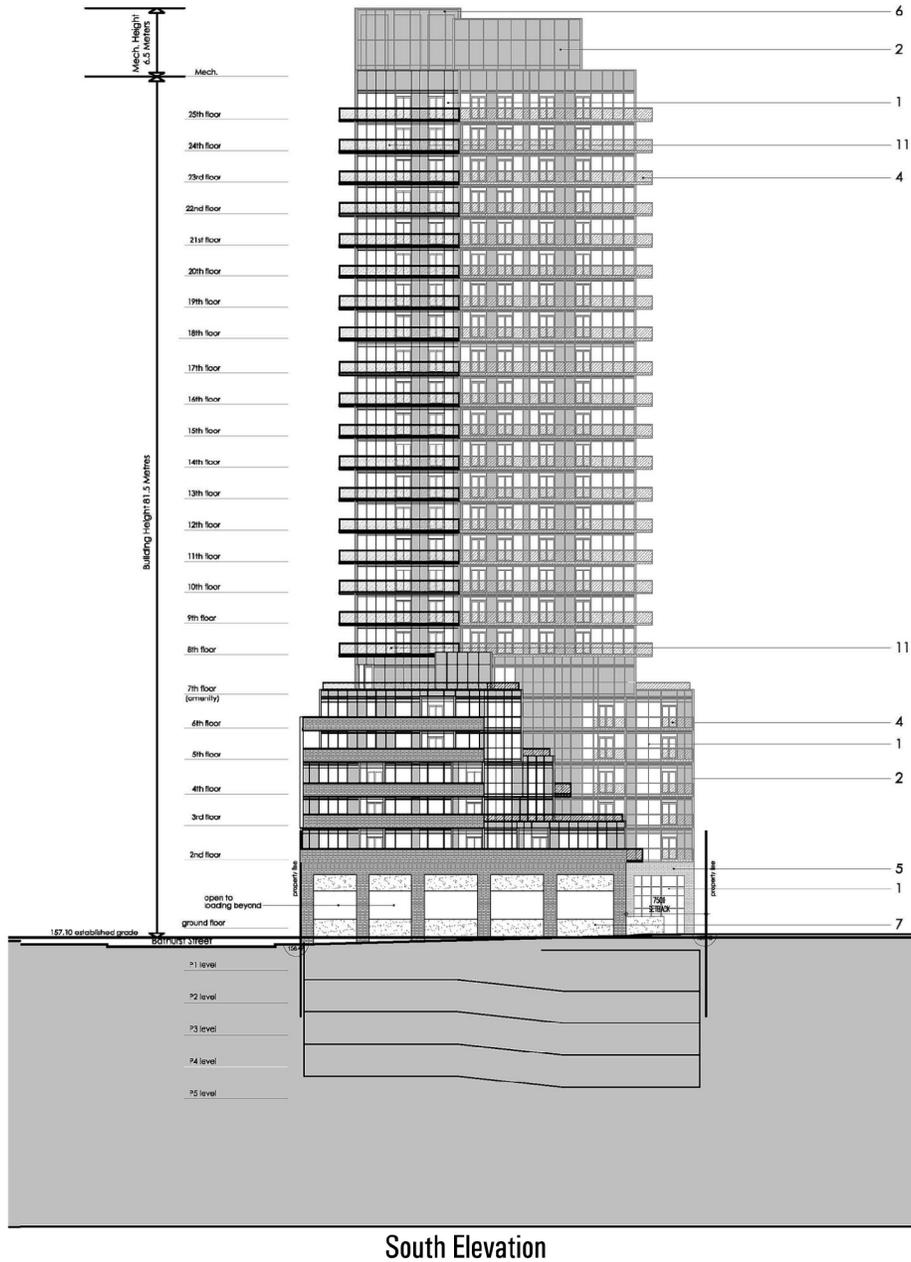
Applicant's Submitted Drawing

Not to Scale  
01/09/2012

1443-1451 Bathurst Street

File # 11 292997 02

## Attachment 5: South Elevation



### Elevations

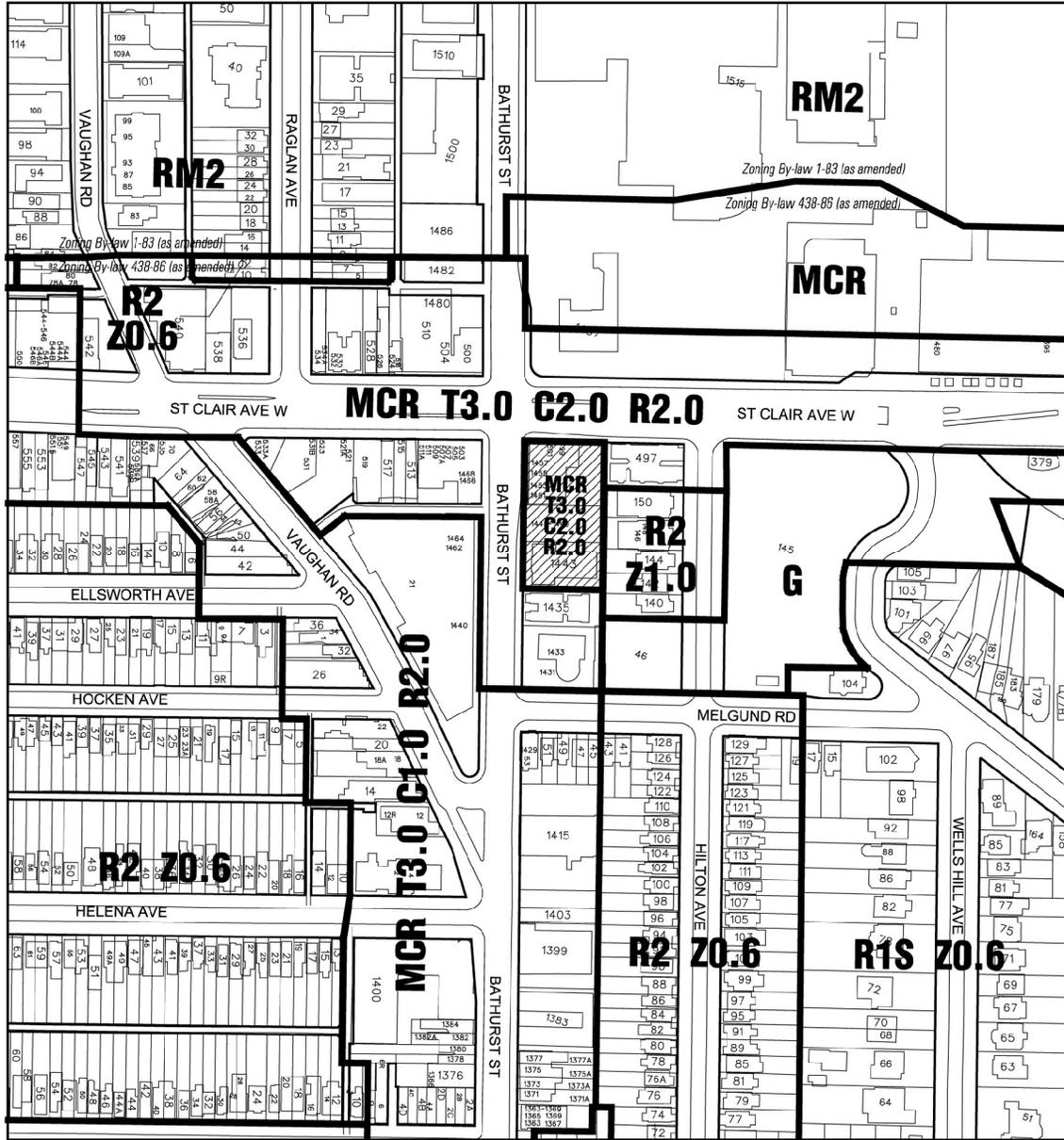
Applicant's Submitted Drawing

Not to Scale  
01/09/2012

1443-1451 Bathurst Street

File # 11 292997 02

# Attachment 6: Zoning



1443-1451 Bathurst Street

File # 11 292997 0Z

Zoning By-law 438-86 (as amended)  
 G Parks District  
 R1S Residential District  
 R2 Residential District  
 MCR Mixed-Use District

Zoning By-law 1-83 (as amended)  
 MCR Mixed Commercial Zone  
 RM2 Residential Multiple Zone



Extracted 01/09/2012

## Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	11 292997 STE 21 OZ
Details	Rezoning, Standard	Application Date:	October 14, 2011

Municipal Address: 1443 BATHURST ST  
 Location Description: PLAN D1380 PT LOT 4 PT LOT 5 \*\*GRID S2109  
 Project Description: Rezoning application to permit the re-development of the lands for a new 25 storey mixed use building containing 324 dwelling units complete with commercial at grade and 283 parking spaces in a below grade parking structure, a portion of which would be operated by the Toronto Parkign Authority.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
CRAIG HUNTER			1451 BATHURST STREET LTD.

### PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:
Zoning:	MCR T3.0 C2.0 R2.0	Historical Status:
Height Limit (m):	16	Site Plan Control Area: Y

### PROJECT INFORMATION

Site Area (sq. m):	2630.58	Height:	Storeys:	25
Frontage (m):	36.3		Metres:	81.5
Depth (m):	70.47			
Total Ground Floor Area (sq. m):	1426			<b>Total</b>
Total Residential GFA (sq. m):	22605		Parking Spaces:	283
Total Non-Residential GFA (sq. m):	1426		Loading Docks	1
Total GFA (sq. m):	24031			
Lot Coverage Ratio (%):	54.2			
Floor Space Index:	9.14			

### DWELLING UNITS

Tenure Type:	Rental, Condo
Rooms:	0
Bachelor:	29
1 Bedroom:	214
2 Bedroom:	81
3 + Bedroom:	0
Total Units:	324

### FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	22605	0	0
Retail GFA (sq. m):	1426	0	0
Office GFA (sq. m):	0	0	0
Industrial GFA (sq. m):	0	0	0
Institutional/Other GFA (sq. m):	0	0	0

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	<b>Sipo Maphangoh, Planner</b>
	<b>TELEPHONE:</b>	<b>416-338-5747</b>