

**Bathurst Street – Interim Control By-law – Final Report**

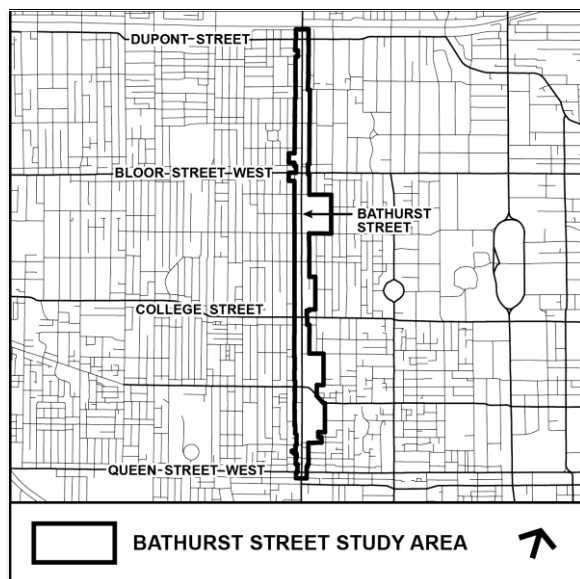
<b>Date:</b>	July 18, 2013
<b>To:</b>	City Council
<b>From:</b>	Chief Planner and Executive Director, City Planning
<b>Wards:</b>	Ward 19 and Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	P:\2013\Cluster B\PLN\City Council\CC13063

**SUMMARY**

Staff are undertaking a Council-directed planning study focussing on built form and land use on both sides of Bathurst Street from Dupont to Queen Street. One of the key objectives of the study is to better define the role Bathurst plays as a boundary between the area formally designated as "Downtown and Central Waterfront" (Official Plan Chapter 2, Map 2) and the rest of the City.

As the Study has progressed, the research shows that the street is primarily composed of small lots and has a diverse character. Although there is little retail on the street, what does exist is also generally small scale.

The Study will analyze both land use and built form in terms of the appropriate scale and performance criteria. Although the height and density permissions in the area are generally modest, there is an as-of-right permission in the By-law for relatively large retail developments. In order to preserve the existing scale and character of the street until the Study is complete, this report proposes that an Interim Control By-law be adopted to prohibit new retail and service uses and additions to existing retail and service uses for a period of one year for the lands on and flanking Bathurst Street, between Dupont Street and Queen Street West (Attachment 1).



## RECOMMENDATIONS

---

### The City Planning Division recommends that:

1. Pursuant to Section 38 of the *Planning Act*, City Council enact the Interim Control By-law, attached as Attachment 1 to the final report dated July 18, 2013 from the Chief Planner and Executive Director, City Planning Division, for a period of one year to study the retail and service permissions contained in Sections 8(1)(f)(b)(iv) and 9(1)(f)(b)(iv) and (xi) and Section 12(2) 270(a) of By-law 438-86.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Interim Control By-Law as may be required.

### Financial Impact

The recommendations in this report have no financial impact.

### DECISION HISTORY

At its meeting on July 11, 2012 City Council directed the Acting Chief Planner and Executive Director, City Planning to initiate a study focussing on built form and land use of both sides of Bathurst Street from Queen Street West to the Dupont Street train tracks.

The motion can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE17.57>

### ISSUE BACKGROUND

Bathurst Street plays a unique role as a boundary between the area formally designated as "Downtown and Central Waterfront" (Official Plan Chapter 2, Map 2) and the rest of the City. The east side of Bathurst Street is identified as being within the Downtown and Central Waterfront. The west side of Bathurst Street is outside of the Downtown and generally designated as either *Mixed Use* or *Neighbourhood* (Official Plan Map 18). The Study Area also includes areas that are identified as *Avenues* at major intersections (Official Plan Map 2). There are also large institutional uses, such as Toronto Western Hospital and Central Technical School on the east side of the street.

The purpose of the Bathurst Street Built Form and Land Use Study is to examine existing conditions and current planning applications, and to develop a planning and urban design framework that addresses land use, built form and heritage in order to develop a clear and more cohesive vision for the street. City staff will be preparing a final study report based primarily on the work of a team of consultants led by DTAH. The Study began in the spring of 2013 and is anticipated to be completed in the first quarter of 2014.

The Study recommendations may include:

- Zoning By-law and/or Official Plan amendments affecting all or part of land within the Study Area
- Land use permission changes to all or part of the Study Area
- Area-specific urban design guidelines, including built form Performance Standards
- Other area-specific planning tools
- Identification of potential heritage resources

The Study website can be found at the following link:

<http://www.toronto.ca/planning/bathurst.htm>

## **Context**

Bathurst Street is a significant north-south arterial within the Study Area between Dupont and Queen Street West. Street cars operate from the Bathurst Street subway station at Bloor Street south to the Waterfront. The study area includes a range of land uses identified in the Official Plan, including *Mixed Use Areas, Neighbourhoods, Parks and Open Space Areas, Employment Areas, and Institutional Areas*.

Bathurst Street north of Queen Street West includes a significant number of blocks where single and semi-detached homes, many of which were built between 1880 and 1919, constitute a fine-grain, built form environment. The street is also intersected by mixed-use corridors – Queen Street, Dundas Street, College Street, Bloor Street – that are characterized generally by a fine grain of buildings consistent with a mature traditional main street. Dupont Street is identified as an Employment Area. Bathurst Street bisects mature, low-scale Neighbourhoods throughout the Study Area, and is also adjacent to Kensington Market and within walking distance of China Town. A major park and a community centre are located on the east side of Bathurst Street, south of Dundas Street.

## **Official Plan**

The City of Toronto Official Plan designates various lands within the Study Area as *Mixed Use Areas, Neighbourhoods, Parks and Open Space Areas, Institutional Areas, and Employment Areas*.

Section 4.1 of the Official Plan includes policies on *Neighbourhoods*. *Neighbourhoods* are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than four storeys. Parks, low scale local institutions, home occupations, cultural and recreational facilities and small-scale retail, service and office uses are also provided for in *Neighbourhoods*. Section 2.3.1 of the Official Plan includes policies related to development sites that are adjacent or close to *Neighbourhoods*, including but not limited to policy which states that developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhoods* will be compatible with those *Neighbourhoods*.

Section 4.5 of the Official Plan contains policies on *Mixed-Use Areas* in the Official Plan. The *Mixed Use Area* designation permits a broad range of commercial, residential and institutional uses and includes policies and development criteria to guide development and its transition between areas of different development intensity and scale. Not all *Mixed Use Areas* will experience the same scale or intensity of development.

Section 4.5.3 of the Official Plan includes policies on retail stores in *Mixed Use Areas*: "Large scale, stand-alone retail stores and/or "power centres" are not permitted in *Mixed Use Areas* within the *Central Waterfront*, and *Downtown*, and are permitted only through a zoning by-law amendment in other *Mixed Use Areas*. Where permitted new large scale, stand-alone retail stores and/ or "power centres" will ensure that sufficient transportation capacity is available to accommodate the additional traffic generated by the development, resulting in an acceptable volume of traffic on adjacent and nearby streets; and the function and amenity of the area for businesses and residents and the economic health of nearby shopping districts are not adversely affected."

Section 4.3 of the Official Plan includes policies regarding *Parks and Open Space Areas*.

Section 4.6 of the Official Plan includes policies on *Employment Areas*. *Employment Areas* are places of business and economic activity. Uses that support this function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers. Within the Study Area, only sites on the north side of Dupont Street are designated *Employment Areas*. Large scale, stand-alone retail stores and "power centres" are not permitted in *Employment Areas* in the *Central Waterfront* and are only permitted in other *Employment Areas* fronting onto major streets as shown on Map 3, that also form the boundary of the *Employment Areas* through the enactment of a zoning by-law.

Section 4.8 of the Official Plan includes policies on *Institutional Areas*. *Institutional Areas* are made up of major educational, health and governmental uses with their ancillary functions. Toronto Western Hospital, located at the northeast corner of Bathurst Street and Dundas Street West, is designated as *Institutional Areas*.

## **Zoning**

Under the former City of Toronto Zoning By-law 438-86, the study area includes areas zoned mixed use (MCR and CR), residential (R), parks (G), and industrial commercial (IC). With respect to retail permission, Section 12(2) 270(a) of By-law 438-86 contains restrictive permissions for any lot in any CR, MCR, RA, I or IC district. This permission is carried forward in the new City-wide Zoning By-law 569-2013 and applies within the former City of Toronto. Section 12(2) 270(a) of By-law 438-86 states:

"270. (a) No person shall, on any *lot* in any CR, MCR, RA, I or IC district, erect or use any building or construct an addition to an existing building, for any purpose permitted in

sections 8(1)(f)(b)(iv) or 9(1)(f)(b)(iv) and (xi), where the total *non-residential gross floor area* used for such purpose is: (1994-0532) (1994-0540) (1996-0238)

- (i) greater than the amount which existed on the *lot* in July 20, 1993, plus an additional 1800 square metres; and
- (ii) provided the total *non-residential gross floor area* is not greater than the amount permitted on the *lot* by sections 8(3) PART I 2 and 9(3) PART I 2 and 3; and (1994-0540)
- (iii) provided no single retail or service use, unless existing on August 29, 1994, shall exceed a *non-residential gross floor area* of 8 000 square metres. (1994-0540)

The provisions of this paragraph, other than in respect of a *retail-warehouse*, shall not apply to *lots* located within the areas outlined by heavy lines on the following maps. (1994-0540) (425-93)

Technical amendment is required to remove the word "and".

## **COMMENTS**

Land use analysis comprises a fundamental component of the Bathurst Street Built Form and Land Use Study. A review of retail and service uses and permissions forms part of the broader land use analysis. The restrictive permissions contained in Section 12(2) 270(a) were introduced in the 1980s and 1990s, prior to the advent of large scale, urban format retail in the former City of Toronto, and based on a detailed analysis of existing and emerging retail trends. A renewed analysis of current and emerging retail trends is required in order to assess the appropriateness of these permissions for retail and service uses in the Study Area today, especially given Bathurst Street's characteristics and the need to better define its role. The objective is to provide an updated analysis and to determine whether change to the existing permissions is appropriate. More generally, the objective is to achieve an appropriate balance between the scale of retail in the Study Area and shopping areas that are within proximity of the Study Area in keeping with the intent of the Official Plan.

This detailed review of retail and service uses will be used to inform the final report on the Bathurst Street Built Form and Land Use study and may also assist in understanding the need to amend the Zoning By-law more generally across the City of Toronto where Section 12(2) 270(a) of By-law 438-86 applies, as well as assist in understanding whether there is a need to amend the Official Plan.

As the Interim Control By-law is focussed on retail and service uses, the boundary of the Interim Control By-law will include all of the commercial properties known as Honest Ed's, which extend from Markham to Bathurst Street, on the south side of Bloor Street West.

## Rationale for an Interim Control By-Law

Section 38 of the *Planning Act* authorizes City Council to pass Interim Control By-laws to temporarily restrict a land use for a period of time not exceeding one year while the City reviews the land use polices for the affected properties.

Section 12(2) 270(a) of By-law 438-86 was first adopted in the mid-1980s to protect traditional shopping streets in the former City of Toronto by restricting the gross floor area of non-residential uses to that which existed on the lot at that time plus an additional 1,800m<sup>2</sup>.

Section 12(2) 270(a)(iii) of By-law 438-86 was added in 1994 to acknowledge and introduce the term "retail warehouse" in association with large format retail of a size beyond 8,000m<sup>2</sup>, and to permit such uses in very specific locations within the former City of Toronto, such as the Stockyards at Keele and St Clair.

Adverse effects that may result from these permissions include:

- a lack of sufficient transportation capacity available to accommodate the additional traffic generated by the development, resulting in an unacceptable volume of traffic on adjacent and nearby streets (Official Plan Policy 4.5.3);
- the function and amenity of the area for businesses and residents and the economic health of nearby shopping districts may be adversely affected (Official Plan Policy 4.5.3);
- negative impact on adjacent *Neighbourhoods* that may result from Intensification of land adjacent to *Neighbourhoods* and lack of compatibility of developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhoods* (Official Plan Policy 2.3.1); and
- lack of improvement of traditional retail shopping streets as centres of community activity by not encouraging quality development of a type, density and form that is compatible with the character of the area and with adjacent uses (Official Plan Policy 3.5.3).

The analysis that supported the regulations under Section 12(2) 270(a) is no longer current. Further study is needed to determine its appropriateness today, including but not limited to:

- the appropriate floor area and scale of retail and service uses in the Study Area;
- the relationship of these uses to adjacent neighbourhoods, shopping streets, and shopping areas;
- the appropriateness of the provision that permits up to 1,800m<sup>2</sup> more retail to that which existed previously;

- whether the maximum size of any single retail unit or service use of up to 8,000m<sup>2</sup> set out in Section 12(2) 270(a)(iii) of By-law 438-86 reflects the right scale for the Study Area and recent trends in large format retail; and
- identification of any opportunities for new retail and/or service uses and development of appropriate performance standards with which to assess them.

In order to preserve the existing scale and character of the street until the Study is complete, this report proposes that an Interim Control By-law be adopted to prohibit new retail and service uses and additions to existing retail and service uses for a period of one year in the Study Area.

## **Conclusion**

The Bathurst Street Built Form and Land Use Study includes a review of land use policies in the Study Area. Section 12(2) 270(a) of By-law 438-86 sets out the permissions for non-residential land uses on any lot in any CR, MCR, RA, I or IC district. This permission is carried forward in the new City-wide Zoning By-law 569-2013 and applies to the Bathurst Street Built Form and Land Use Study Area. Given the need to study the impact of the as-of-right permissions in this area, it is appropriate to place an Interim Control By-Law on the Bathurst Street Study Area.

## **CONTACT**

Liora Freedman, Community Planner  
Tel. No. (416) 338-5747  
Fax No. (416) 392-1330  
E-mail: [lfreedm@toronto.ca](mailto:lfreedm@toronto.ca)

## **SIGNATURE**

---

Jennifer Keesmaat, MES, MCIP, RPP  
Chief Planner and Executive Director

(p:\2013\Cluster B\pln\teycc20173163021) - vc

## **ATTACHMENTS**

Attachment 1: Interim Control By-law  
Attachment 2: Section 12(2) 270(a) of By-law 438-86

**Attachment 1: Interim Control By-Law**

Authority: MM\_\_\_\_\_, moved by Councillor \_\_\_\_\_, seconded by Councillor \_\_\_\_\_, as adopted by City of Toronto Council on July 16, 17 and 18, 2013

**CITY OF TORONTO**

**Bill No.**

**BY-LAW No. -2013**

**To pass an Interim Control By-law affecting those lands generally bounded by Queen Street West to the south, the Dupont Street train tracks to the north and the properties fronting onto Bathurst Street to the east and the west as detailed in Schedule "A" attached to this By-law.**

Whereas authority is given to Council by Section 38 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass an Interim Control By-law for a period of time which shall not exceed one year from the date of passage of the By-law for such purposes as are set out in the By-law; and

Whereas the Council of the City of Toronto has, by adopting Item TE17.57 of the Toronto and East York Community Council at its meeting of July 11, 12 and 13, 2012 directed that a study be undertaken focusing on built form and land use of both sides of Bathurst Street from Queen Street West to the Dupont Street train tracks;

The Council of the City of Toronto enacts:

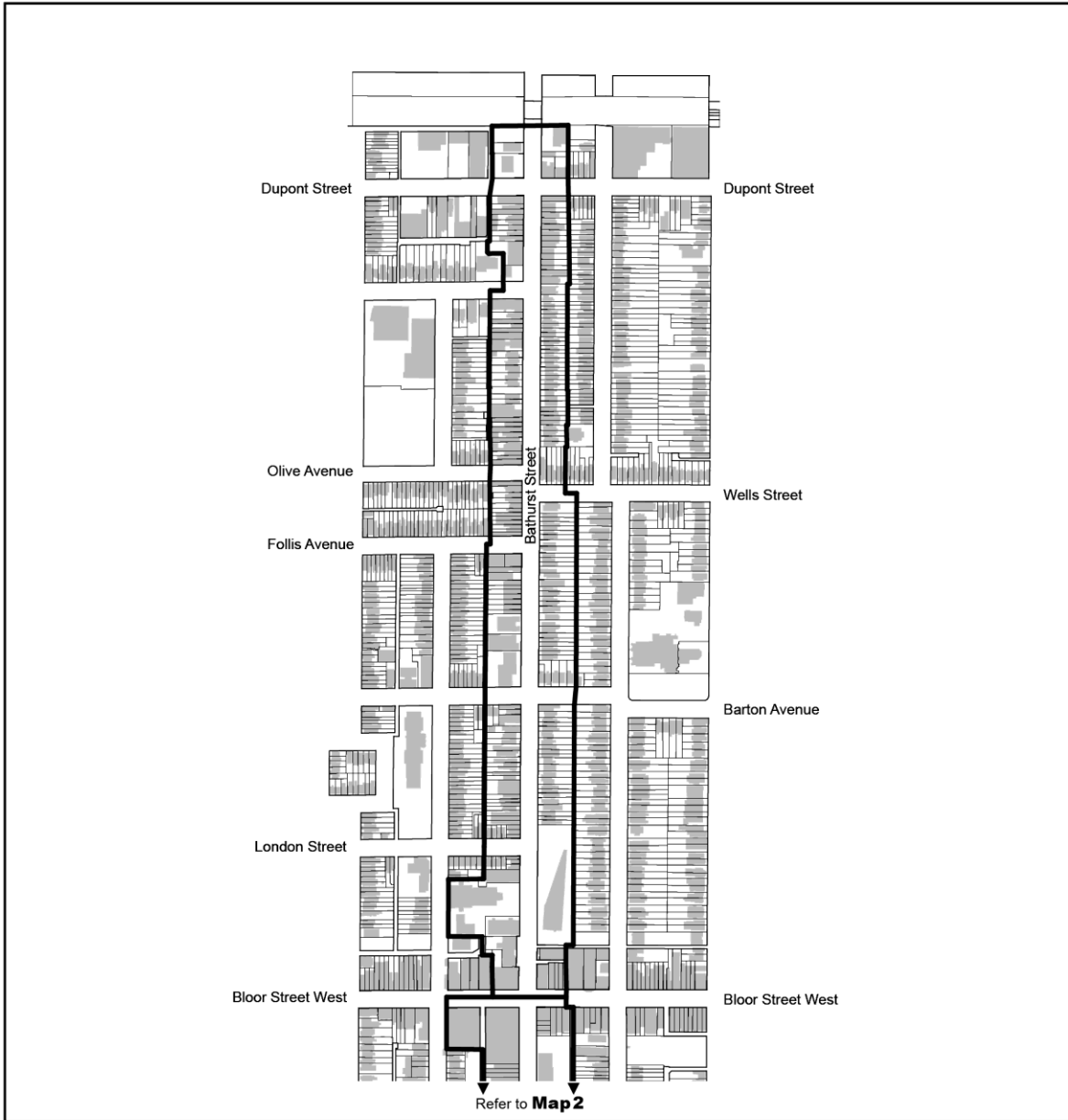
1. Any retail or service use as set out in sections 8(1)(f)(b)(iv), 9(1)(f)(b)(iv) and 9(1)(f)(b)(xi) of Zoning By-law 438-86 with a gross floor area greater than the gross floor area of such a use which lawfully existed on July 18, 2013 is prohibited on any of the lands shown within the heavy lines on Schedule "A" attached to this By-law.
2. This By-law expires one year from the date of its enactment by Council. Enacted and passed on **(clerk to insert the date)**, 2013.

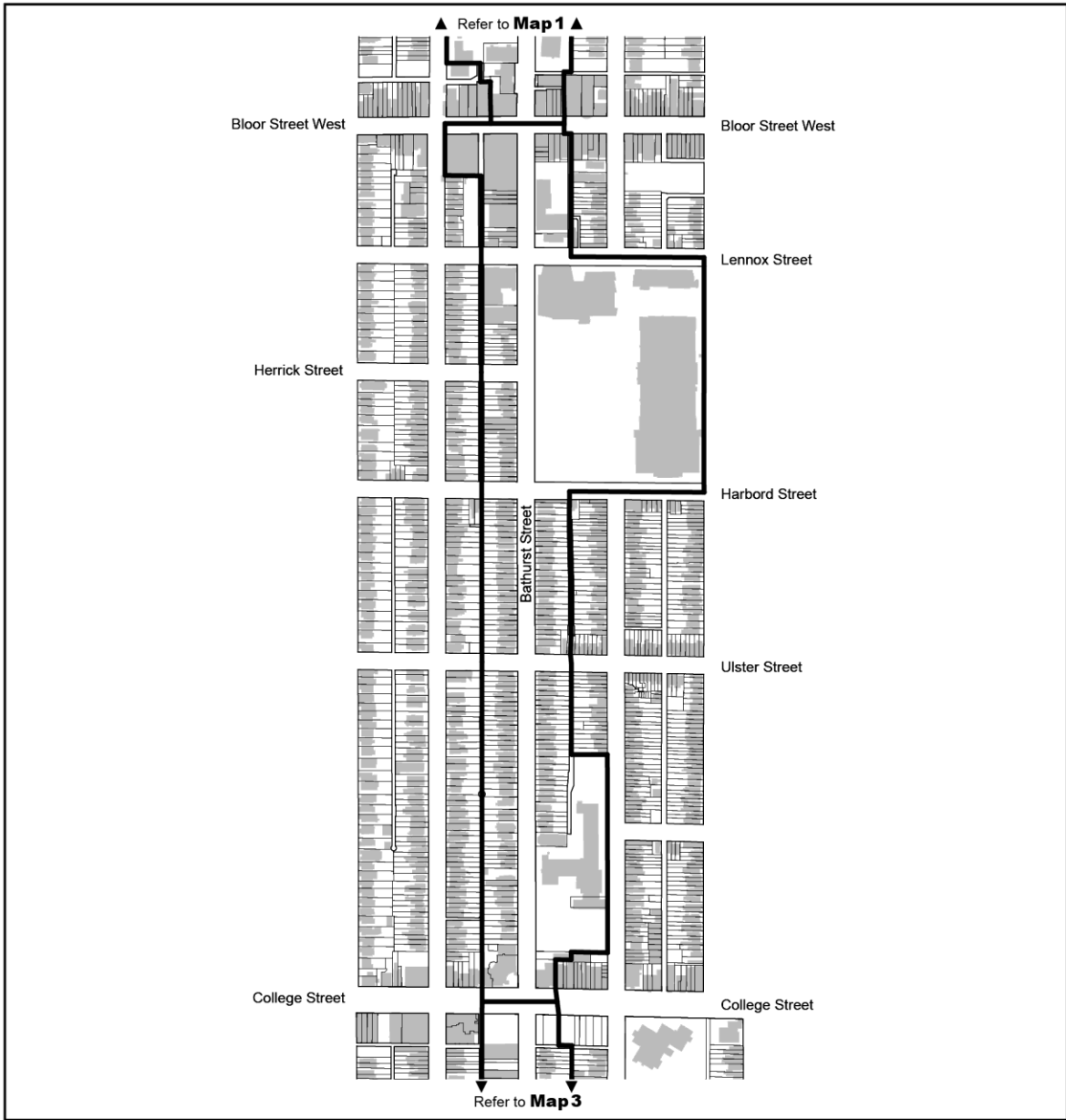
Frances Nunziata,  
Watkiss,  
Speaker City Clerk  
(Seal of the City)

Ulli S.



# Schedule "A"

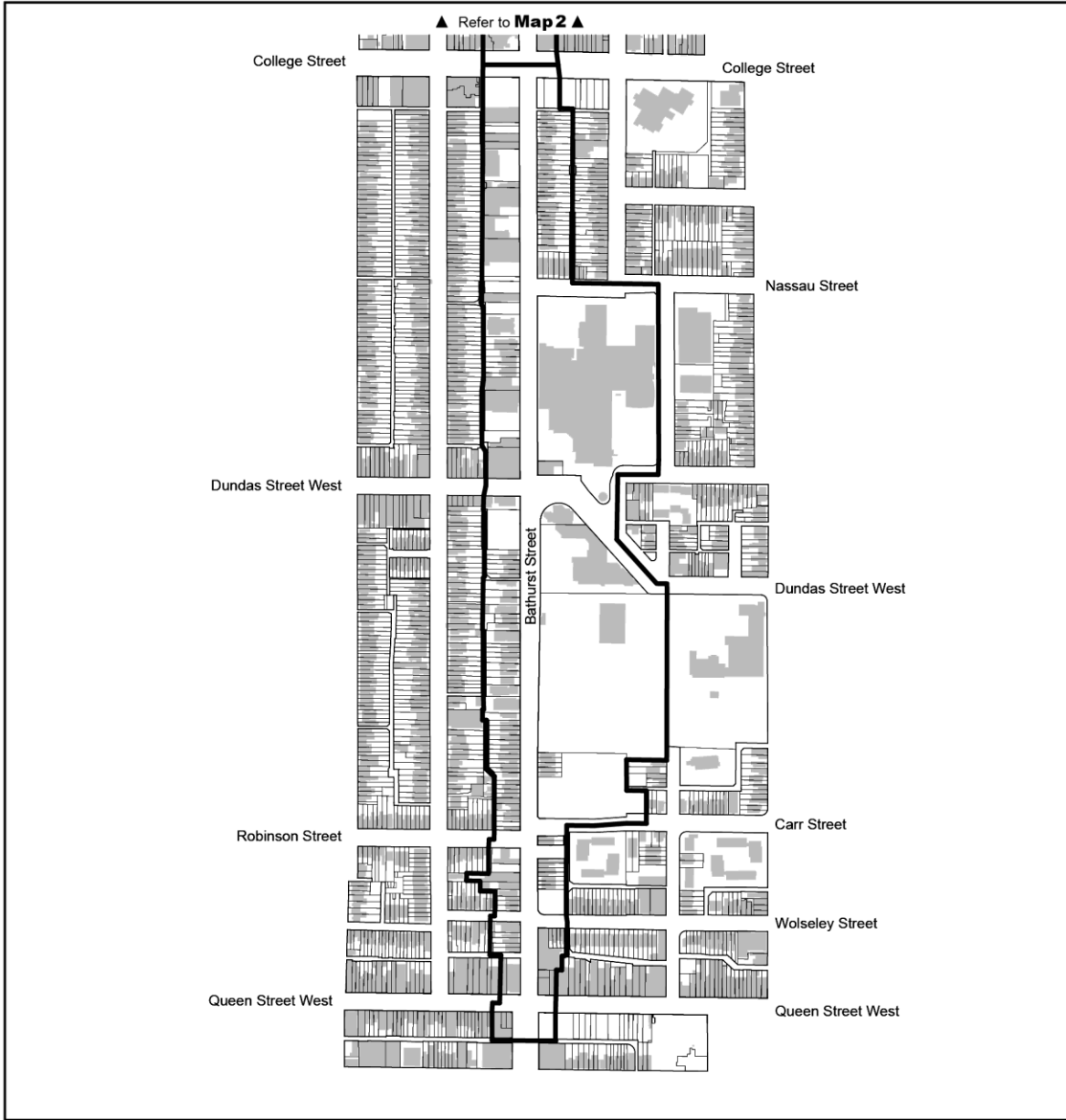




 Area Subject of Interim Control Bylaw



Not to Scale  
 07/18/2013



## Attachment 2: Section 12(2) 270(a) of By-law 438-86

270. (a) No person shall, on any *lot* in any CR, MCR, RA, I or IC district, erect or use any building or construct an addition to an existing building, for any purpose permitted in sections 8(1)(f)(b)(iv) or 9(1)(f)(b)(iv) and (xi), where the total *non-residential gross floor area* used for such purpose is: (1994-0532) (1994-0540) (1996-0238)
- (i) greater than the amount which existed on the *lot* in July 20, 1993, plus an additional 1 800 square metres; and<sup>1</sup>
  - (ii) provided the total *non-residential gross floor area* is not greater than the amount permitted on the *lot* by sections 8(3) PART 1 2 and 9(3) PART 1 2 and 3; and (1994-0540)
  - (iii) provided no single retail or service use, unless existing on August 29, 1994, shall exceed a *non-residential gross floor area* of 8 000 square metres. (1994-0540)

The provisions of this paragraph, other than in respect of a *retail-warehouse*, shall not apply to *lots* located within the areas outlined by heavy lines on the following maps. (1994-0540)

(425-93)

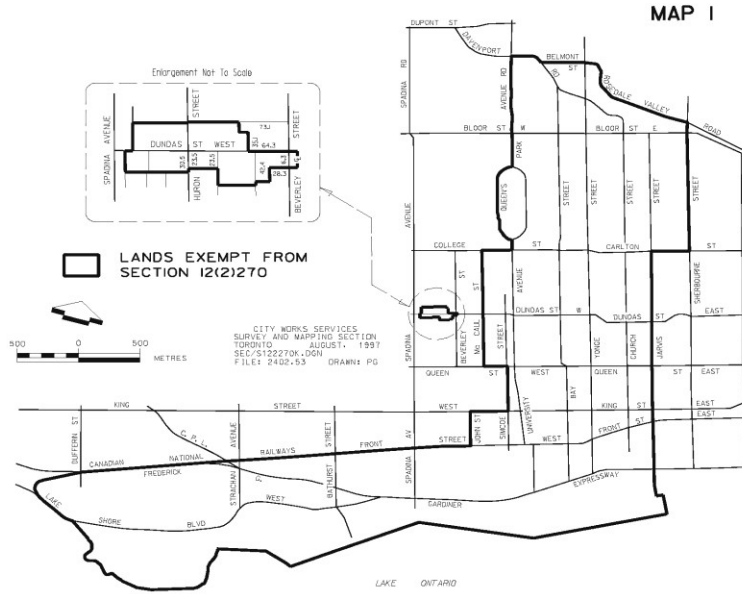
- (b) Paragraph (a) shall not apply to a *lot* within an RA district in *King-Spadina* and *King-Parliament*, provided the uses listed in paragraph (a) are located within:
- (i) a building or structure existing on April 30, 1996; or
  - (ii) a building or structure erected after that date, provided such building or structure complies with the following:
    - (a) the uses set out in paragraph (a) are located in a building that is setback less than 3 metres from any *frontage*;
    - (b) the principal public entrance to each shop or store is located in the exterior wall of the building which is directly accessible by pedestrians along a route not more than 3 metres from the *frontage* of the *lot* on which the shop or store is located;
    - (c) the level of the floor of the principal public entrance is within 0.2 metres of the level of the public sidewalk directly opposite such entrance; and
    - (d) the uses are located in a building that complies with the setback requirement set out in this paragraph, and the width of such building equals a distance that is not less than 90 percent of the aggregate length of the portion of the *frontage* of the *lot* abutting the *street*, excluding any vehicular access required by this by-law.

For the purposes of this paragraph, the expression "*frontage*" shall not include the limit of a *public park*.

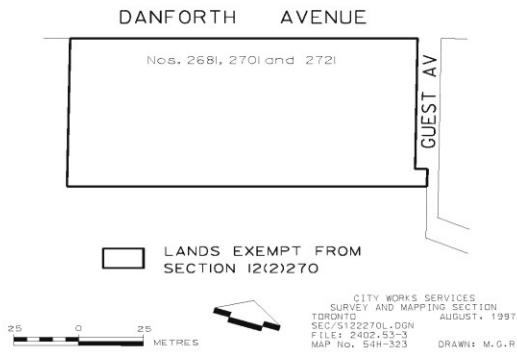
(1996-0238)

- (c) Reserved.

<sup>1</sup> Technical amendment is required to remove the word "and".



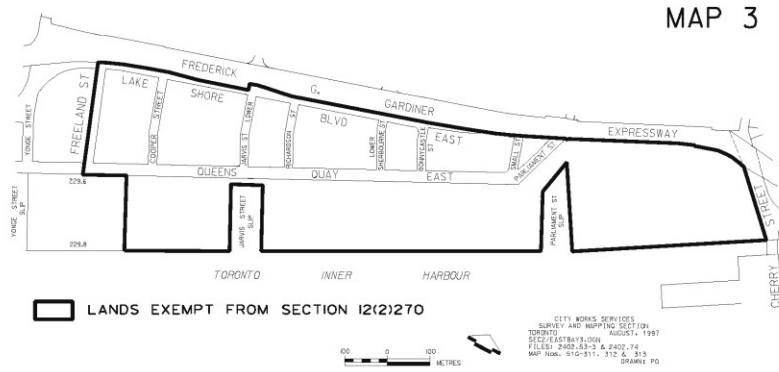
MAP 2



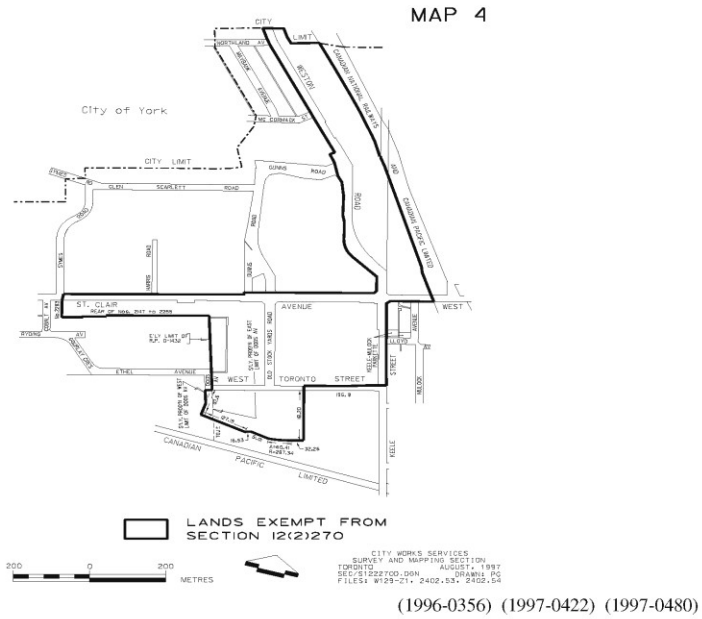
(425-93, as amended by O.M.B. Order dated July 17, 1996, OB 1996-4, Folio 231) (1994-0532) (1997-0422)

AMENDED OCTOBER, 1997

12(2).153

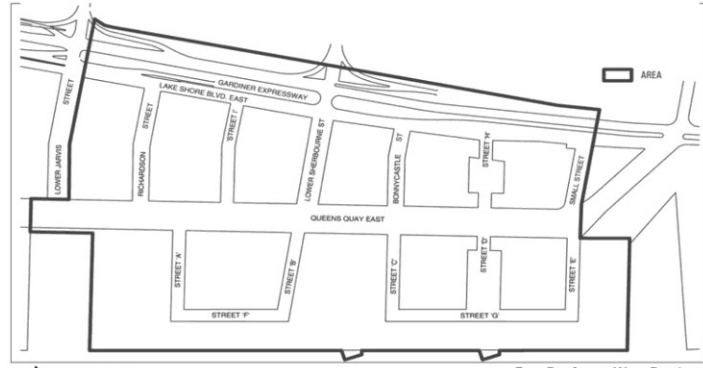


(1997-0184, as amended by OMB Order #2059 dated November 10, 1999, PL 970629 and PL 980050, Ex #33)  
(1997-0422)



12(2).154

AMENDED OCTOBER, 2004



**TORONTO** City Planning Division  
Map C: Lands Exempt from Section 12(2) 270

East Bayfront - West Precinct

File # 06\_160461

The Location of Streets 'A', 'B', 'C', 'D', 'E', 'F', 'G', 'H' and 'Y' Are Shown For Illustrative Purposes Only



(1049-2006)