

**Kensington Market Restaurant and Bar Uses - Preliminary Report**

<b>Date:</b>	October 24, 2013
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	13 248528 STE 20 OZ

**SUMMARY**

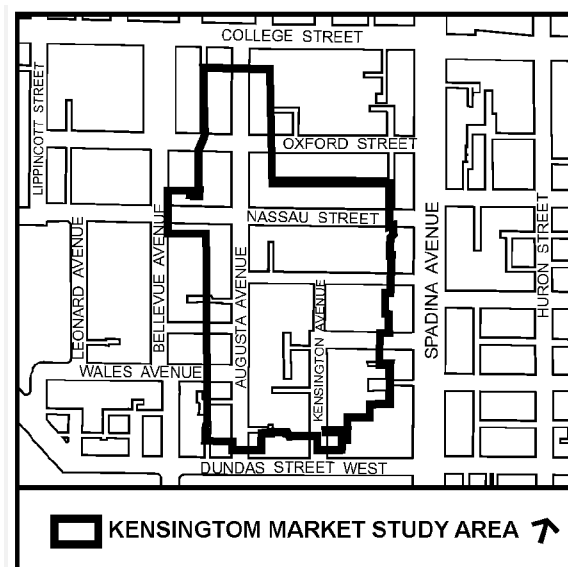
On July 16, 17, 18 and 19, 2013 City Council adopted a motion directing staff to undertake a planning analysis of restaurant and bar uses in Kensington Market and report to the November 19, 2013 meeting of the Toronto and East York Community Council on the feasibility of amending the Zoning By-law with respect to implementing restrictions on restaurant and bar uses in Kensington Market.

This report provides preliminary information on the above-noted study and the proposed work plan, including the community consultation process.

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. Toronto and East York Community Council receive the Kensington Market Restaurant and Bar Uses - Preliminary Report (October 24, 2013) from the Director, Community Planning, Toronto and East York District, for information.



## **Financial Impact**

The recommendation in this report has no financial impact.

## **ISSUE BACKGROUND**

### **Site and Surrounding Area**

Kensington Market is generally bounded by College Street to the north, Spadina Avenue to the east, Dundas Street to the south and Bathurst Street to the west. The actual boundaries of the Kensington Business Improvement Area (BIA) are a little smaller than this, including sections of the neighbourhood where the most business activity can be found. The BIA boundary abuts that of the Chinatown BIA and thereby includes properties just west of Spadina Avenue on the east and the east side of Bathurst Street between Nassau Street and Wales Avenue on the west. The southern boundary includes a few properties along the north side of Dundas Street just east of Kensington Avenue and also just east of Augusta Avenue, before jogging northward to include the south side of Wales Avenue towards Bathurst Street. The northern boundary generally follows the north side of Nassau Street to the east of Bellevue Avenue, where it then jogs northward to include properties on the south side of College Street. See Attachment No. 1 for a map of the BIA area.

Since the study is focused on bars and restaurants, staff propose to focus the study on properties that are designated *Mixed Use Areas* in the Official Plan and are zoned Commercial Residential in the Zoning By-law. Therefore the Study Area will exclude some properties captured by the BIA, particularly along the western edge of the BIA boundary which includes the Western Hospital site as this is zoned Institutional and properties along Leonard Avenue and Bellevue Avenue which are Residential. Properties fronting on College Street and Dundas Street are also not included as these have a much different function and character than the narrow, neighbourhood streets in the Study Area, namely Augusta Avenue, Kensington Avenue, St. Andrew Street, Baldwin Street and Nassau Street. See Attachment No. 2 for map of the Study Area.

The properties found within the Study Area contain mostly detached dwellings and rows of narrow two-and-a-half-storey Victorian houses constructed in the late 1800s and early 1900s. Over time, the area has been home to numerous immigrant groups including Jewish, Eastern European, Italian, West Indian, East Asian, Asian and African. Each immigrant group brought with it various forms of commerce and business activities, transforming the area into an eclectic mix of cheese, meat and spice shops, vintage stores, bike shops and ethnic restaurants as well as residential uses. As the immigrant groups changed over time, the streetscape and buildings were adapted to meet changing needs which included mixed-use functions and front yard additions. Additionally, new lots were created in rear laneways to provide inexpensive housing for business owners and workers alike. Most importantly, the area has been and remains today an area in the heart of the City which provides a wide range of opportunities for people of various income levels to live and operate a business. As well, despite the evolving character of the City around it, the built form of the area remains largely unchanged earning Kensington Market

recognition as a National Historic Site of Canada in 2005. The Kensington Market BIA is also actively seeking nomination of the neighbourhood as a Heritage Conservation District.

## **Official Plan**

As described above, the majority of the properties within the Study Area are designated *Mixed Use Areas* in the Official Plan. The *Mixed Use Areas* designation provides for a broad range of commercial, residential and institutional uses subject to a number of development criteria as identified in chapter 4.5. Namely Policy 2a) requires that in *Mixed Use Areas* development will: create a balance of high quality commercial, residential, institutional and open space uses that reduce automobile dependency and meet the needs of the local community.

Development in *Mixed Use Areas* that are adjacent to or close to *Neighbourhoods* are also required to be compatible with those *Neighbourhoods*. There are small pockets within the Study Area designated *Neighbourhoods* which are located along the laneways south of St. Andrew Street on the east and west sides of Kensington Avenue. These are considered physically stable areas made up of residential uses in lower scale buildings. In Chapter Four, *Neighbourhoods*, it is noted that a key objective of the Plan is that new development respect and reinforce the general physical pattern in a *Neighbourhood*. Additionally, Chapter 2.3.1 Healthy Neighbourhoods, includes policies requiring development in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* to be compatible with those *Neighbourhoods*.

Official Plan Site and Area Specific Policy 197 also falls within the Study Area. Policy 197 requires that any public or private development and works should be consistent with the special characteristics of the area, including:

- a) Low scale buildings with retail at grade;
- b) Minimal setbacks; and
- c) Open air display of goods on the boulevard.

The proposed Study Area generally follows the boundary of Area Specific Policy 197 (see Attachment No. 2 and Attachment No. 3 for map of Area Specific Policy 197).

## **Zoning By-law 438-86**

The majority of the properties in the study area are zoned CR T2.0 C2.0 R1.5 under former City of Toronto Zoning By-law 438-86. The 'CR' zoning classification permits a variety of uses including residential, parks, community services, institutional uses, commercial and retail (which includes restaurants) and office with a total density of 2.0 times the area of the lot. Of this total density, 2.0 times the area of the lot is permitted to be commercial and 1.5 times residential. The maximum permitted height is 12 m (approximately 4 storeys). The exceptions are the properties zoned Residential (R) which are the same properties designated *Neighbourhoods* in the Official Plan. This use category permits a variety of low-density house forms.

Zoning By-law 438-86 defines restaurants as a "building or portion of a building used for the preparation and cooking of meals and the sale of food and beverages to the public while they are seated for consumption on the premises" and permits a number of accessory uses. The By-law does not restrict where within a building a restaurant may be located, but it does restrict the size of restaurants to 400 square metres when they are located within 6.1 metres of a residential property. Additionally, rear yard and rooftop patios associated with restaurants are permitted so long as the CR lot on which they are located is at least 10 metres from the nearest R lot. There is no definition of 'bar' in the Zoning By-law.

### **Zoning By-law 569-2013**

City Council enacted Harmonized By-law 569-2013 on May 9, 2013. The boundaries of the zone categories as related to the Study Area follow that of Zoning By-law 438-86 in that the majority of properties are zoned Commercial Residential and the remaining properties are zoned Residential. The Commercial Residential properties are also located within Development Standard Set 2 (SS2), a designation typically assigned to main streets outside of the immediate downtown.

By-law 569-2013 does not include a definition for restaurants but defines these as *eating establishments* with the following definition: "premises where food or beverages are prepared and offered for sale to patrons for immediate consumption on the premises while they are seated, and which may include an incidental take-out service". The Harmonized By-law also has a 400 square metre size restriction for any *eating establishment* that is located within 6.1 metres of an R zone and is located within either SS1 or SS2. The By-law however exempts areas used for associated offices, storage rooms, and staff rooms located in the basement or on a different storey than the *eating establishment* from the GFA calculation of the *eating establishment*. Outdoor patios associated with *eating establishments* are restricted to a maximum size of 30 square metres or 30% of the interior floor area of the premises, whichever is lesser, and must be set back at least 30 metres from any Residential lot. Additionally, an outdoor patio located above the first storey must be at least 40 metres from any Residential lot. Zoning By-law 569-2013 also does not include a definition for 'bar'.

### **Proposed Work Plan**

Staff have completed a number of studies related to restaurant and bar uses on main streets over the last few years, with the most recently completed study being Queen Street West between Roncesvalles Avenue and Dufferin Street. Each of these studies typically focused on a single main street containing mixed uses with an abutting low-density residential neighbourhood on either side of the street. Recommendations that stemmed from these studies were focussed on two common themes.

The first was related to the impact of restaurants themselves and the behaviour of their patrons, which is sometimes linked to the sale and consumption of alcohol. Examples include restaurants morphing into bars late at night, noise and unruly behaviour of patrons spilling out onto residential streets at closing time, noise and cigarette smoke

drifting from rear yard patios onto residential properties and congested sidewalks due to patrons waiting in outdoor lineups and people loitering/smoking on sidewalks.

The second theme was related to concern over large numbers of restaurants clustered close together as this can result in garbage and traffic nuisances and can also impact commercial activity in the neighbourhood. It was identified that in some limited areas the commercial activity on main streets, which are intended to contain a broad mix of uses to meet the daily needs of area residents, are being displaced by an abundance of restaurants and bars. For example, too many restaurants and bars which are only open later in the day can reduce the amount of foot traffic to support other businesses.

The context of the Kensington Market restaurant study may be seen as slightly different from that of previous restaurant studies as it involves a number of streets within a closely knit neighbourhood. Although most of the streets containing mixed-uses in the Study Area immediately abut residential properties, there are a few exceptions where properties zoned Commercial Residential abut other properties also zoned Commercial Residential. When undertaking this study, staff will have to determine if any of the above noted concerns apply here and what the possible recommended mitigation measures, if any, may be to alleviate these. To do so, staff will engage in the following activities, with the projected timelines:

<b>Activity</b>	<b>Timing</b>
Complete an on-site survey to determine the mix of commercial uses currently found on the streets zoned Commercial Residential in the Study Area.	Fourth Quarter 2013 (currently under way)
Review any relevant data provided by Municipal Licensing and Standards and the Alcohol and Gaming Commission for information regarding the total number of alcohol-licensed seats in the Study Area to look for any correlations between this and recorded noise and other types of violations.	Fourth Quarter 2013 (currently under way)
Conduct at least one community consultation meeting to share information and solicit comments regarding restaurant and bar uses in the Study Area.	First Quarter 2014
Hold a number of working group meetings comprised of representatives from the Kensington Market BIA, Kensington Area Residents' Association, Friends of Kensington Market, the Alcohol and Gaming Commission, Toronto Police and other City staff such as Municipal Licensing and Standards, Toronto Building, Economic Development and City Planning to identify the concerns regarding restaurant and bar uses in the Study Area.	First and Second Quarter 2014
Hold a final Community Consultation meeting to present study findings and resultant final recommendations.	Second Quarter 2014
Final staff report with recommendations to City Council.	Second Quarter 2014

The above is a work plan as identified by staff at this stage of the study and may be modified accordingly as the study progresses.

## **CONTACT**

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## **SIGNATURE**

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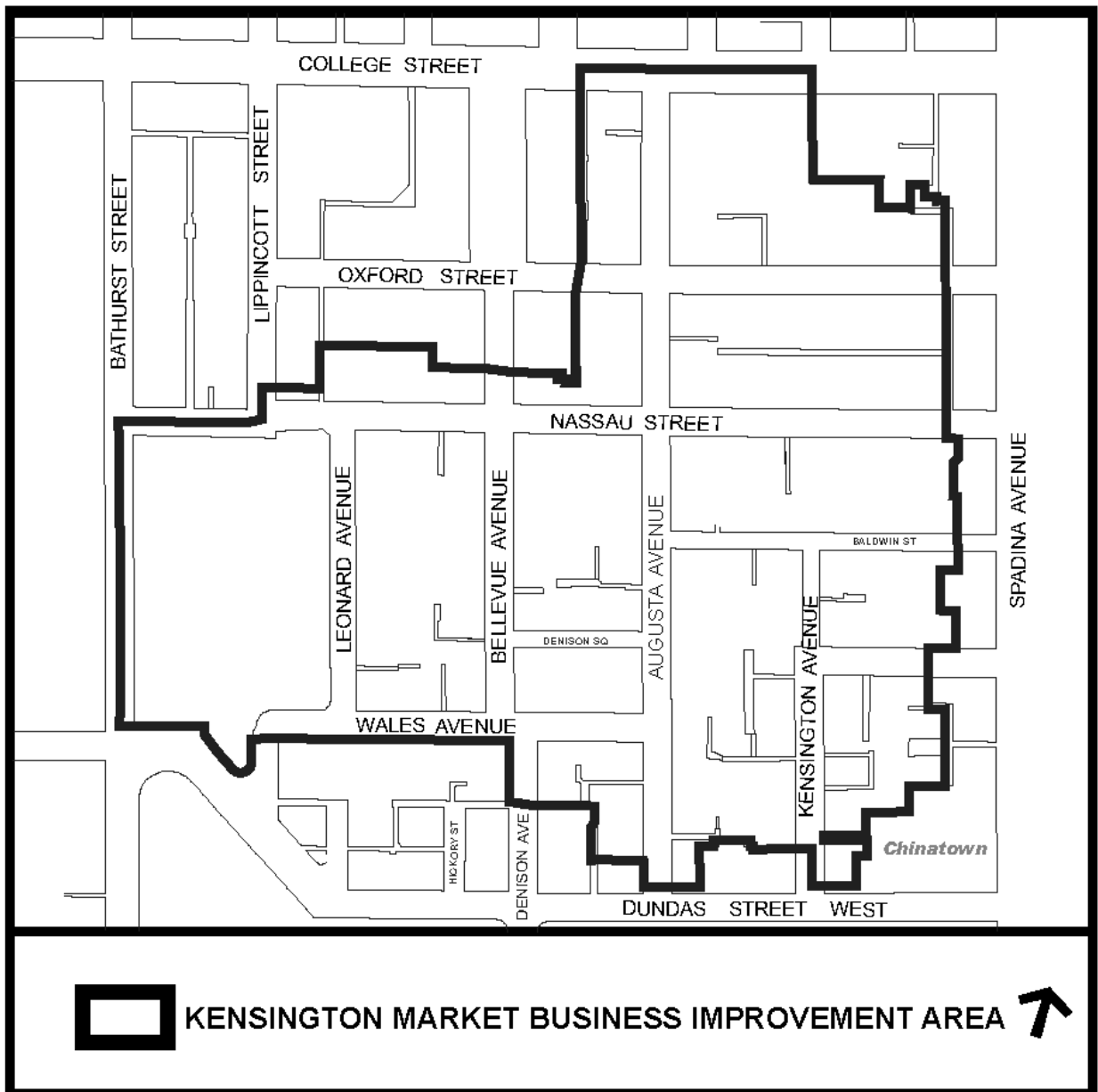
Gregg Lintern, MCIP, RPP  
Director, Community Planning  
Toronto and East York District

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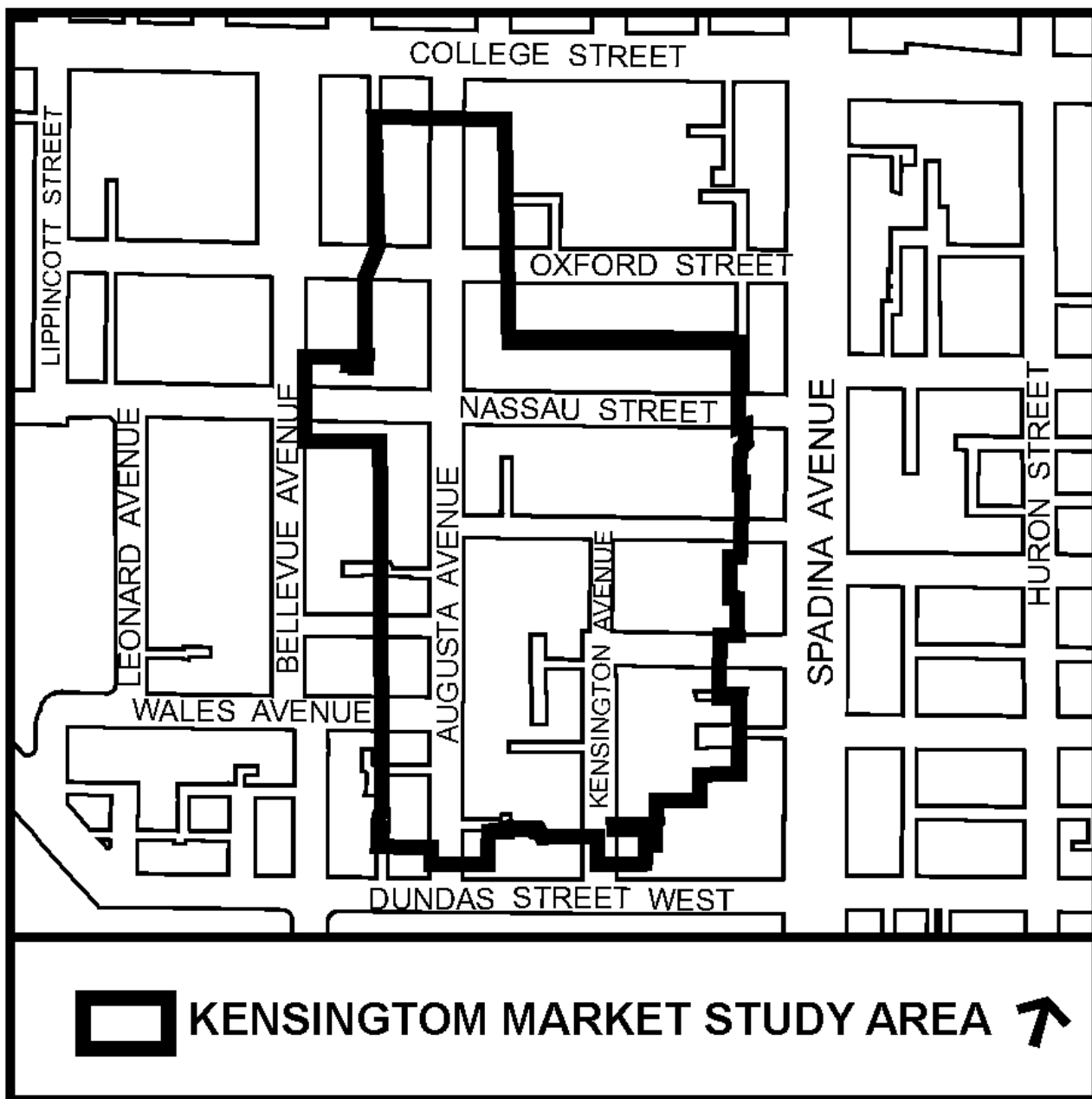
## **ATTACHMENTS**

Attachment 1: Map of Kensington Market Business Improvement Area  
Attachment 2: Map of Study Area  
Attachment 3: Area Specific Policy 197  
Attachment 4: Zoning By-law 438-86  
Attachment 5: Zoning By-law 569-2013  
Attachment 6: Official Plan

# Attachment 1: Map of Kensington Market Business Improvement Area

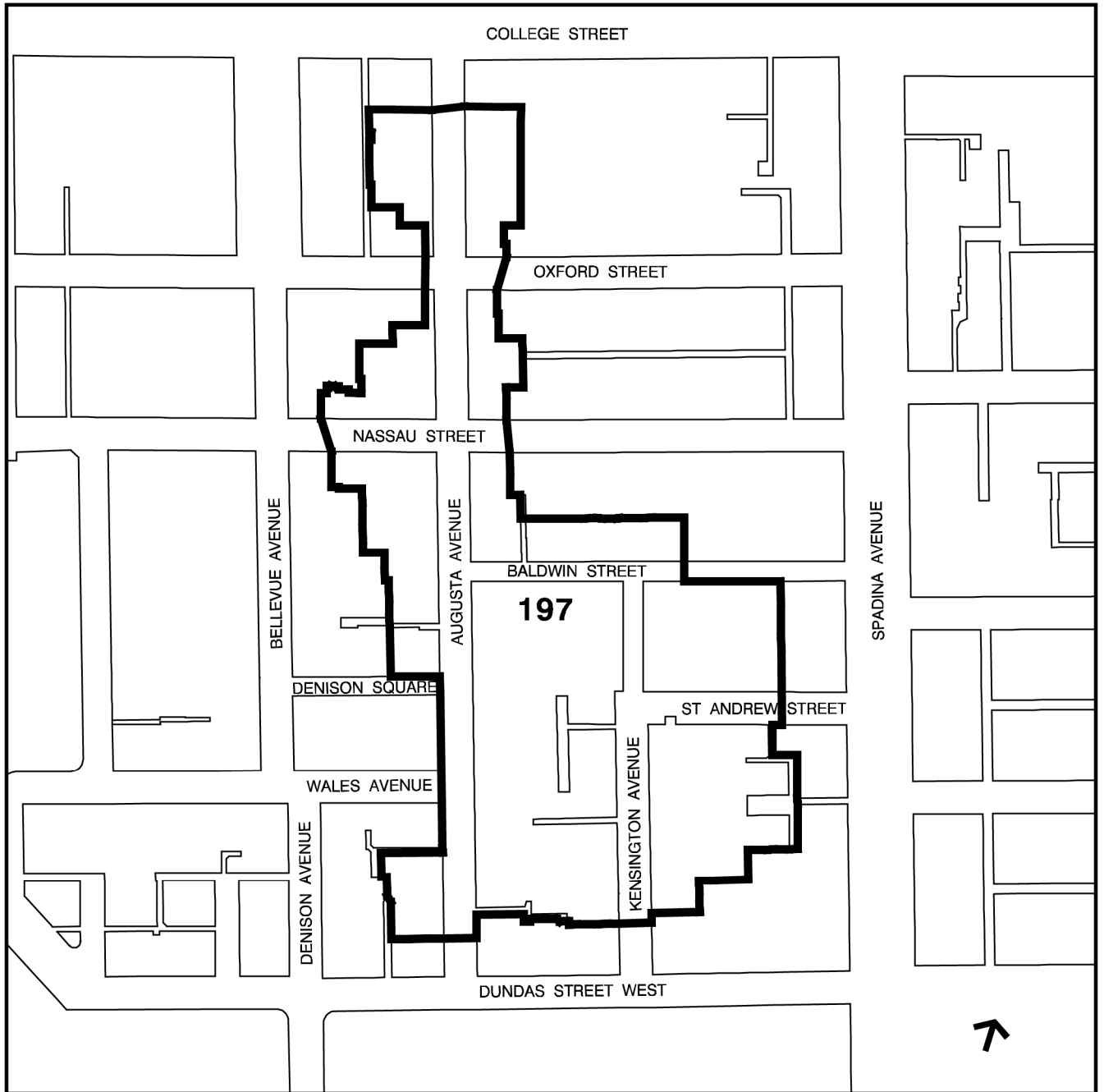


**Attachment 2: Map of Study Area**

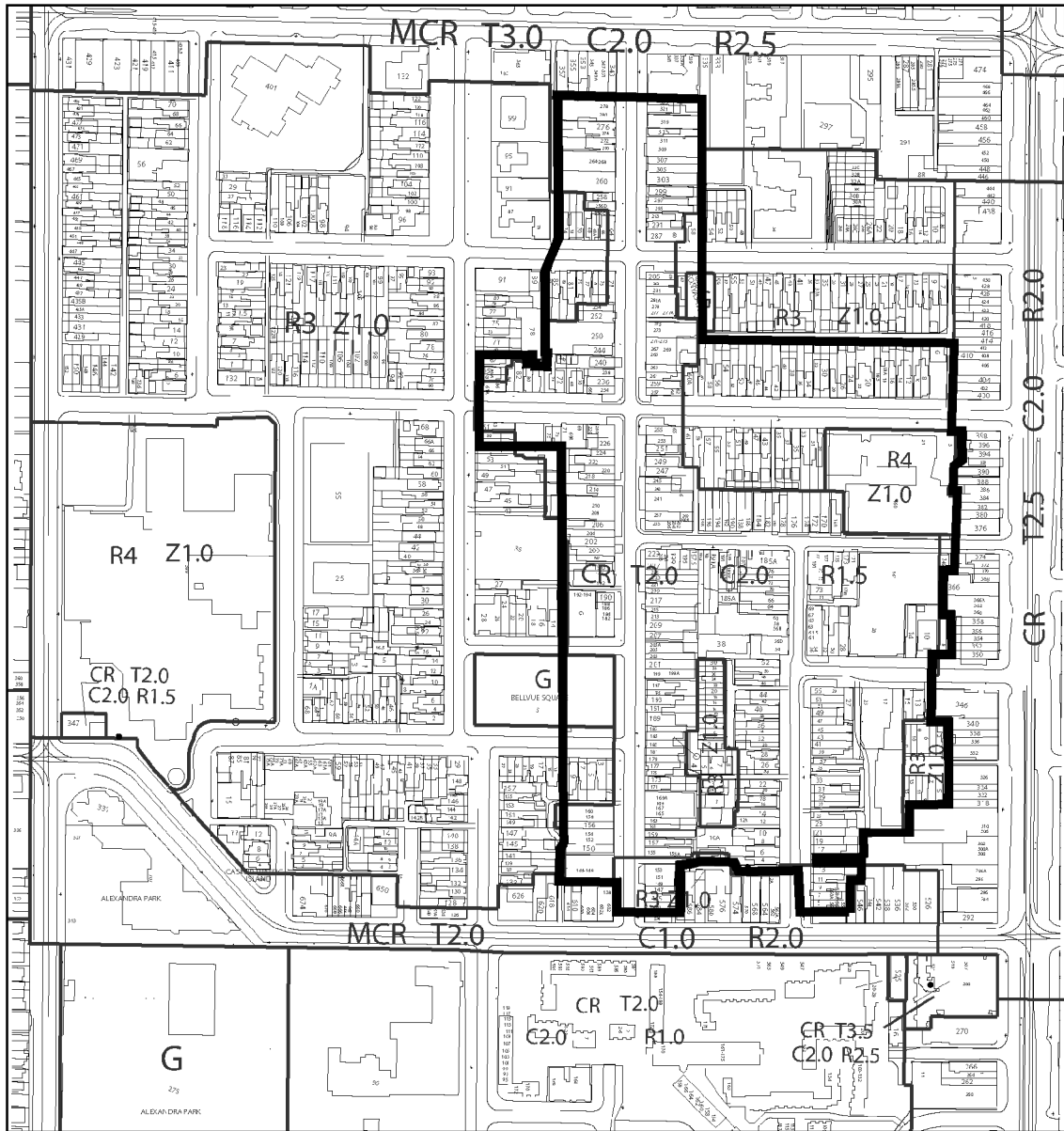




**Attachment 3: Area Specific Policy 197**




# Attachment 4: Zoning By-law 438-86



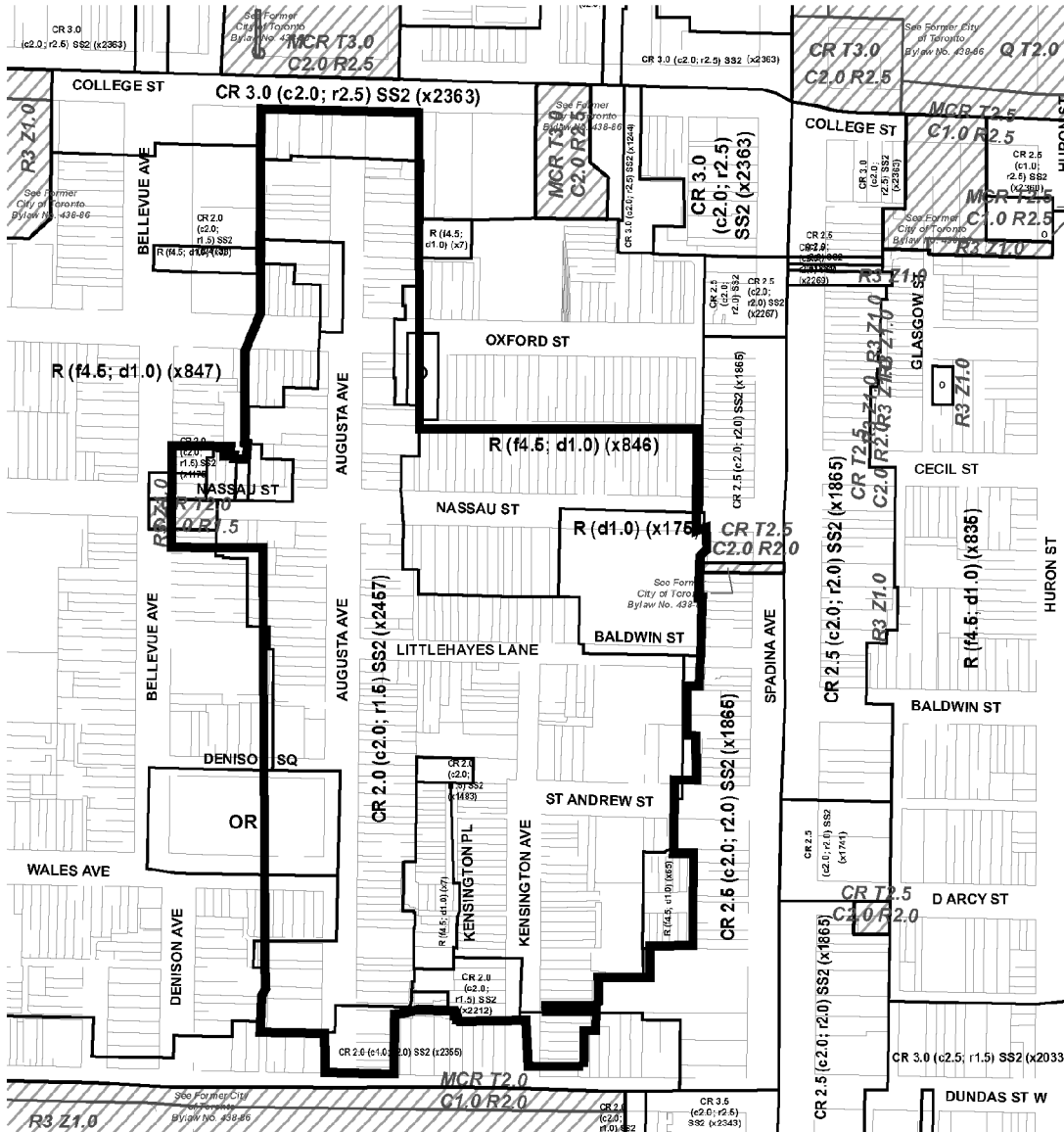
**TORONTO** City Planning  
**Zoning By-law 438-86**

**Kensington Market**  
 File # 13\_248528

-  Location of Application
- MCR** Mixed Use District
- CR** Mixed Use District
- R** Mixed Use District
- G** Mixed Use District

  
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# Attachment 5: Zoning By-law 569-2013




**Toronto** City Planning  
**Zoning By-law 569-2013**

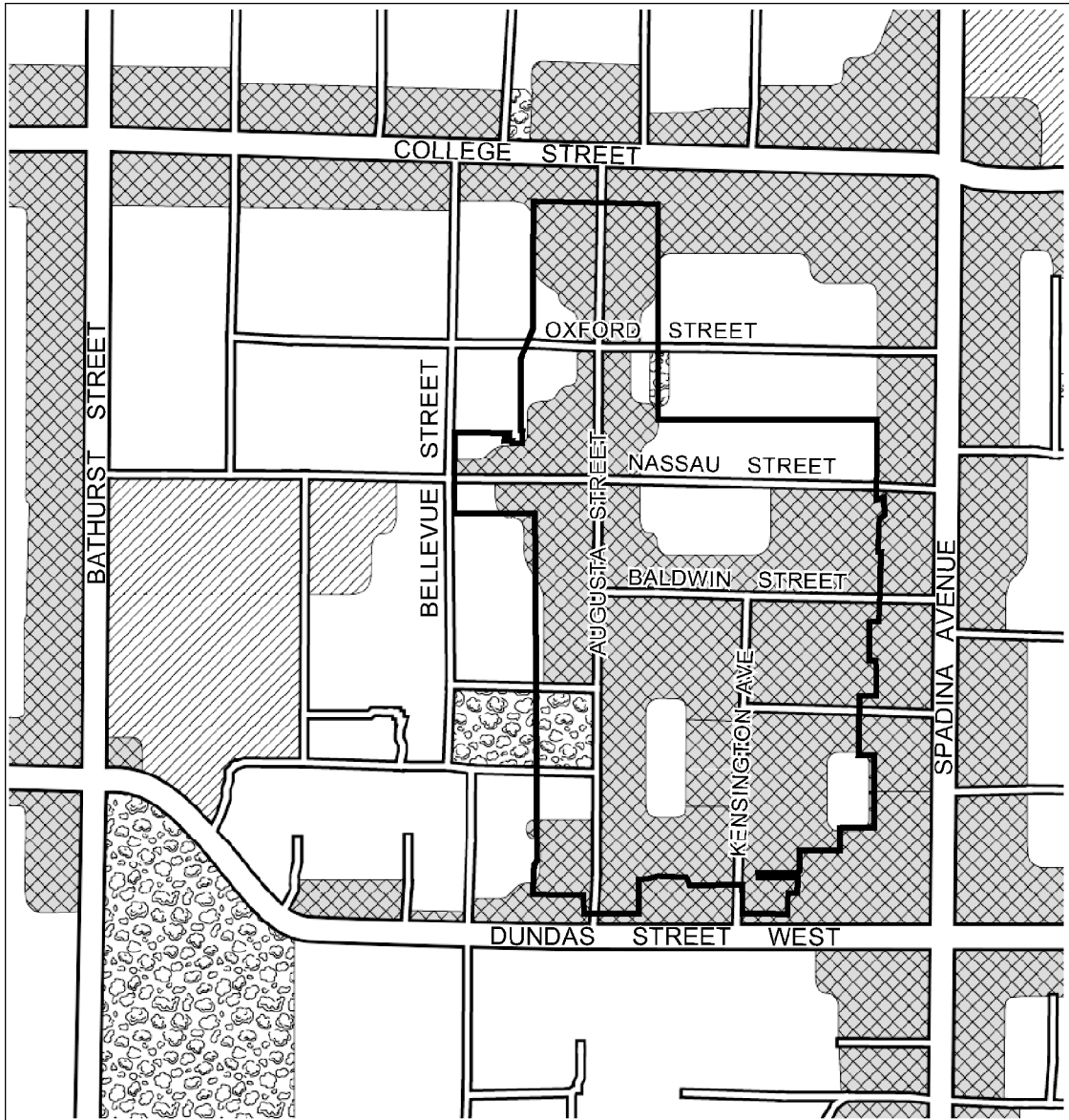
**Kensington Market**  
 File # 13\_248528

-  Study Area Boundary
- CR** Commercial Residential
- R** Residential
- OR** Open Space Recreation

-  See Former City Of Toronto By-law 438-86
- MCR** Mixed Use District
- CR** Mixed Use District
- R** Mixed Use District
- Q** Mixed Use District

  
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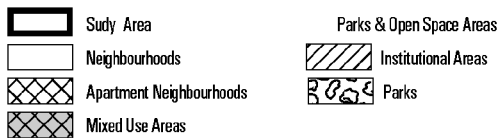
## Attachment 6: Official Plan



**TORONTO** City Planning  
**Official Plan**

**Kensington Market**

File # 13\_248528



  
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