

410 - 446 Bathurst St – Supplementary Report

Date:	March 14, 2014
To:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 19 – Trinity-Spadina
Reference Number:	P:\2014\ClusterB\PLN\City Council\CC14034 (13 124400 STE 19 OZ)

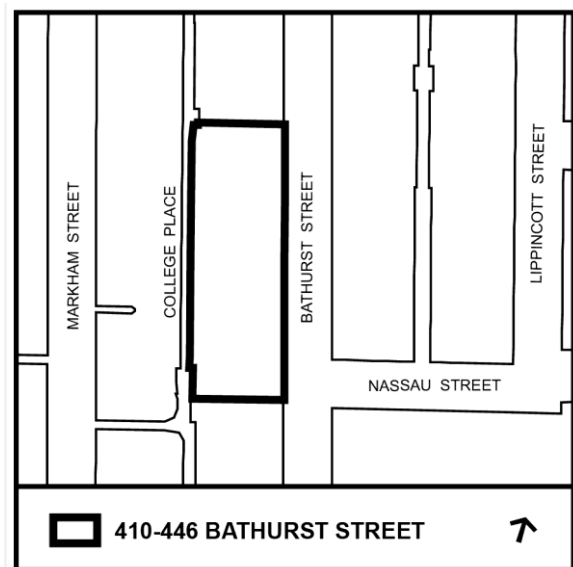
SUMMARY

At the February 25, 2014 meeting, Toronto and East York Community Council (TEYCC) adopted the staff recommendations contained in the report dated February 19, 2014 (Item TE30.14) in relation to the terms of settlement offered by the applicant for the zoning by-law amendment and site plan application at 410-446 Bathurst Street. The decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE30.14>

In addition, TEYCC requested the Chief Planner and Executive Director, City Planning Division to report directly to the March 20, 2014 City Council meeting on:

- a) securing a construction management plan;
- b) an updated Traffic Impact Study for the revised proposal;
- c) turning restrictions at the Bathurst and Nassau Streets intersection to discourage infiltration east onto Nassau Street and to limit the impact on the Bathurst streetcar;
- d) detailed description of the number



- and placement of trees; and
- e) detailed description of the proposed pedestrian walkway.

This report responds to these requests.

RECOMMENDATIONS

The City Planning Division recommends that the Recommendations of the Toronto and East York Community Council be replaced with the following:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to attend at the OMB in support of the settlement respecting the Zoning By-law Amendment for 410-446 Bathurst Street (13124400 STE 19 OZ) as outlined in Attachment 1 to this report dated March 14, 2014, from the Chief Planner and Executive Director, City Planning Division.
2. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning Division to continue to work with the applicant on the final form of the by-law and Site Plan conditions to be presented to the Ontario Municipal Board as part of the settlement at the Ontario Municipal Board.
3. City Council authorize the City Solicitor to execute the Minutes of Settlement which reflect the intention of the Terms of Settlement.
4. City Council direct the City Solicitor to support the new zoning by-law which implements this settlement before the Ontario Municipal Board and to consent to the removal of the subject property from Interim Control By-law No. 963-2013 at such time as the new Zoning By-law to implement the settlement has been drafted and presented to the Board for adoption.
5. City Council instruct the City Solicitor to request the Ontario Municipal Board to withhold its final order until the Notice of Approval Conditions for the Site Plan Application have been finalized and the Minutes of Settlement have been executed.
6. City Council request the Director, Community Planning, Toronto and East York District to submit a report to the Toronto and East York Community Council on how to bring forward and implement a commercial floorplate by-law to limit the size of retail spaces on main streets in the Toronto and East York Community Council area.

Financial Impact

The recommendations in this report have no financial impact.

COMMENTS

Settlement Offer Being Proposed to City Council

On February 6, 2014 the applicant submitted revised plans as part of a settlement offer. The settlement proposes a new 4-storey commercial building having a maximum total gross floor area of 13,300 square metres comprised of 6,622 square metres of retail and 6,502 square metres of office, and 295 parking spaces in three levels below grade at 410-446 Bathurst Street.

The ground level would be divided into a minimum of six retail units (current drawings illustrate eight retail units), as well as galleria, service and back of house space and loading space. The retail area on the ground floor is 2,373 square metres (excluding galleria space serving the second level retail unit). The second level could include a single retail use of a maximum GFA of 4,200 square metres excluding mezzanine, galleria, and service space. Access to the second level is located at the north end of the site (near College Street). Commercial office space is proposed on the third and fourth levels.

Sidewalks on Bathurst Street will be widened to 4.8 metres and include the planting of street trees. A walkway will be added to the south edge of the site, opposite Nassau Street connecting Bathurst Street to the rear laneway. Loading and services are to be located on the ground level (at the south end of the proposed development).

At its meeting of February 25, 2014, Toronto and East York Community Council requested the Chief Planner and Executive Director, City Planning Division, in consultation with the Executive Director, Engineering and Construction Services, and the General Manager of Transportation Services, to report directly to the March 20, 2014 meeting of City Council with respect to the property at 410-446 Bathurst Street:

The following responds to those requests:

- a) Securing a construction management plan:

The applicant has agreed to provide a construction management plan; this will be secured in the Site Plan Agreement.

- b) An updated Traffic Impact Study for the revised proposal:

The applicant submitted an update by BA Group on the proposed changes to the development dated February 26, 2014. The transportation review concludes that the settlement proposal decreases the anticipated trip generation associated with the project (by between 20 and 160 trips per hour, depending on the time period). The proposed parking supply has been reduced from 319 spaces to 295 spaces. BA Group's analysis continues to conclude that there are no adverse traffic impacts from the project.

Engineering and Construction Services will secure any traffic improvements necessary as part of Site Plan Approval.

- c) Turning restrictions at the Bathurst and Nassau streets intersection to discourage infiltration east onto Nassau Street and to limit the impact on the Bathurst streetcar:

The applicant submitted the report 410-446 Bathurst Street Proposed Commercial Development Urban Transportation Considerations Revised Report by BA Group in May 2012. The analysis assumes the continuation of the City's prohibition on eastbound straight-through movements from the site to Nassau Street. This report continues to form part of the current submission and it states: "Nassau Street is a collector road which runs east-west between Bathurst Street and Spadina Avenue. The proposed site entrance will form the west leg of the Nassau Street/ Bathurst Street intersection. No eastbound through movements are permitted at the intersection of Nassau Street / Bathurst Street under existing conditions and it is not planned to change this prohibition as part of the development".

TTC is reviewing the revised proposal and any turn restrictions or other measures will be secured through Site Plan Approval.

- d) Detailed description of the number and placement of trees:

The applicant's resubmission incorporates a 4.8 metre wide Bathurst Street sidewalk including 9 trees along the Bathurst frontage. The Terms of Settlement require a minimum of 9 trees. The sidewalk and street tree details will be secured in the Site Plan Agreement. The tree planting details, to the satisfaction of Urban Forestry staff, will be secured through Site Plan Approval.

- e) A detailed description of the proposed pedestrian walkway:

The owner agrees to establish and maintain an east-west 2.0 metre wide passageway (narrowing to 1.5 metres at east and west entrances) at grade beneath the building beside the garage entry and loading area, located at the south edge of the site, opposite Nassau Street. A safety fence and bollards are shown on the resubmitted site plan drawings to ensure a separation and safe zone between the vehicular movements in the driveway and loading area, and the pedestrian movements within the passageway. The passageway can be used by both pedestrians and cyclists as an east-west shortcut from Bathurst Street to the laneway.

The passageway will be accessed from Bathurst Street and from the rear laneway and, due to the absence of doors, will be publically accessible 24 hours per day. The walkway will be subject to an easement for the life of the building in favour of the City and shall be kept free and clear of debris and obstructions, be maintained in a good state of repair and be cleared of snow and ice by the owner. The owner agrees to provide pedestrian-scale lighting and a physical barrier between the connection and adjacent loading and

vehicle circulation to the satisfaction of the Chief Planner and Executive Director, City Planning.

Community Response to Settlement Offer

Submissions were made by residents of Markham Street and Kensington Market, and Friends of Kensington Market in response to the settlement offer. Respondents are supportive of the changes offered as compared to the original submission and continue to raise a number of issues. Comments included:

- a) Support for the applicant agreeing that the project will proceed without Wal-Mart as a tenant in the building:

The settlement offer states that the owner agrees the project will proceed without Wal-Mart as a tenant.

- b) Support for the addition of office use, making the project a true mixed-use building:

The settlement offer is a mixed use building with two storeys of office use and two storeys of retail use.

- c) Support for the reduction in retail floor area:

The settlement offer reduces the retail floor area from 12,000 square metres to 6,400 square metres and the largest retail unit is reduced from 8,800 square metres to 4,200 square metres.

- d) Support for the 4.8 metre wide sidewalk and planting of street trees:

The settlement offer includes a 4.8 metre wide sidewalk and a 2.1 metre pedestrian clearway and a minimum of 9 street trees on Bathurst Street.

- e) Support for the 45 degree angular plane at the rear of the building:

In the settlement offer all storeys except the ground floor are stepped back at the rear of the building to observe a 45 degree angular plane that starts 7.5 metres from the residential lot across the laneway and at a height of 10 metres.

- f) A request that no major food retailers be permitted to be established:

This is not addressed by the settlement offer. The as-of-right zoning permissions do not prohibit food retail or food retailers. A single store, including a grocery store, of nearly 4,200 square metres is permitted as-of-right. A retail study commissioned by the City concluded that a proposed redevelopment at 410-446 Bathurst Street that would add more than 1,800 m² of total retail, including the possibility of a single

grocery store greater than 3,500 square metres, could be supported in the market by 2021.

- g) The height of the building which exceeds the current zoning for the property:

The height proposed in the settlement offer is similar to the recommendations from the consultant's Final Report on the Bathurst Built Form and Land Use Study, which recommends a height of 20 metres including mechanical whereas the settlement offer proposes a height of 20 metres plus 2 metres for mechanical in limited areas.

- h) Laneway usage, including the 'nosing' of trucks into the laneway in order to access delivery docks at ground level:

The previous and current proposals do not allow for vehicles to enter the site from the laneway, and this matter will be secured in the site plan conditions. There will be some encroachments into the laneway by delivery trucks accessing the loading docks from Bathurst. According to the revised BA Group transportation review, a reconfiguration in the settlement offer of the proposed loading dock results in the higher-volume docks (serving the potential grocery use / second floor retail tenant) being moved east away from the laneway and the number of trucks that nose into the laneway has been reduced from the original proposal (as documented in the loading review submitted by BA dated February 26, 2014).

- i) Waste disposal (bins, dumpsters) located inside the car/truck entranceway (i.e. not in the laneway):

This is addressed by the settlement offer. The applicant agrees that all garbage handling will take place within the building, with collection occurring within the loading area.

Additional information was requested on the following items:

- a) Light Pollution:

The west facing walls for the lower two retail floors will not have windows. The west facing walls for the upper two office floors will utilize tinted glass, to minimize lighting impacts for residents to the west. Steps will be taken by the applicant to establish the appropriate specifications for the tinted glass, so that these specifications can be incorporated into and secured by the site plan conditions.

- b) Living "Green Walls":

The settlement terms require 50% of the rear wall of the lower two retail floors to be covered by a living green wall in order to prevent people who walk by from damaging the wall at the ground floor. The top two storeys will utilize tinted glass and are not appropriate for a living wall. The living wall will be irrigated, and the

Site Plan Agreement will secure and require its ongoing maintenance, in the same manner as the rest of the landscaping requirements.

c) Pedestrian Walkway:

The passageway is described under Comments, item e.

d) Noise Pollution:

The truck loading is internalized, and a sound attenuation ceiling will be installed within the truck court. The rooftop mechanical equipment will be screened, incorporating sound attenuation material and unit silencers as required to meet Ministry of Environment standards.

e) Construction:

Condition of site plan approval will require the City to approve a construction management plan. According to the applicant, Riotrin (Riocan) has also committed to regular communications with the Markham Street residents during the construction phase.

CONTACT

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SIGNATURE

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Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Draft Terms of Settlement

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The following forms the basis of the Terms of Settlement for the application at 410-446 Bathurst Street:

1. The owner agrees to a maximum Gross Floor Area of 13,300 square metres on the site, exclusive of second floor mezzanine space.
2. The owner agrees that the proposed retail unit on the second floor will not exceed 4,200 square metres, exclusive of mezzanine, galleria and service space. Second floor mezzanine space will not be used for retail sales, and no more than 100 square metres of the first floor galleria space will be used for retail sales in connection with the second floor retail.
3. The owner agrees to locate a minimum of six (6) individual retail units on the ground floor, each with respective independent pedestrian entry from Bathurst Street and each entry will be open during business hours, and such retail units will not be associated with the retail use on the second floor.
4. The owner agrees to a maximum retail gross floor area of 2,400 square metres on the ground floor.
5. The owner agrees that the two largest retail units on the ground floor shall not exceed 1,600 square metres in total and that the largest of the two units shall not exceed 1,200 square metres. In addition, any retail unit on the ground floor that is 600 square metres or larger will provide more than one pedestrian entrance to Bathurst Street and all pedestrian entrances will be open during business hours.
6. The owner agrees that no retail uses will be established on the third and fourth storeys.
7. The owner agrees that the project will proceed without Wal-Mart as a tenant in the building.
8. The owner agrees to a maximum building height of 20 metres plus 2.0 metres for roof top mechanical equipment. The rooftop mechanical equipment will comply with the 45 degree angular plane on the fourth storey and will not exceed 30% of the roof area on the fourth floor.
9. The owner agrees to design the Bathurst Street streetscape to provide a sidewalk that is a minimum of 4.8 metres wide as measured from curb to building face and the planting of street trees on Bathurst Street that maintains a continuous minimum 2.1 metre wide pedestrian zone to the satisfaction of the Chief Planner and Executive Director, City Planning. The owner further agrees to register a surface easement in favour of the City on the portion of the 2.1 metre wide pedestrian zone on private property and that the easement lands will be kept clear

of obstructions including patios, retail merchandise and signage. The owner agrees to secure a tree planting condition on Bathurst Street that will result in a healthy, mature tree canopy, including financial responsibility for all costs associated with tree planting, including the excavation, improvement, removal and /or relocation of any above or below-grade utility. The owner further agrees to plant a minimum of 9 trees on Bathurst Street.

10. The owner agrees to the front and rear streetwall heights, step backs, setbacks, articulation of the vertical massing, and angular plane conditions generally shown on Schedule A to t-he Draft Terms of Settlement:
 - a) At the front of the building, the fourth storey will step back from the front property line in order to observe a 45 degree angular plane that starts at a height of 16 metres.
 - b) At the rear of the building, the ground floor will be set back 5.5 metres from the rear lot line of the lots in the adjacent R district, but the second floor will be set back 7.5 metres from the R district rear lot line. The second, third and fourth floors will be stepped back at the rear of the building to observe a 45 degree angular plane that starts 7.5 metres from the R district rear lot line and at a height of 10.0 metres.
11. The owner agrees to prepare all documents and convey to the City, for nominal consideration, an irregular strip of land, to the full extent of the site abutting the public lane, such strip of land measuring 0.30 metres in width at the south limit of the site, widening g to 2.03 meters at the north limit of the site. These lands are to be conveyed for lane widening purposes, to the Satisfaction of the Executive Director, Engineering and Construction Services and the City Solicitor.
12. The owner agrees to comply with the office and retail parking space requirements of Zoning By-law No. 438-86, or alternately, to provide documentation which supports the increased parking supply as proposed in the submitted plans. The number of parking spaces will not exceed 302. In any event, the owner agrees to provide bicycle parking in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.
13. The owner agrees to assume financial responsibility for costs associated with recommendations from the Engineering and Construction Services, City of Toronto and Toronto Transit Commission, including but not limited to replacement of the existing eastbound through-left-turn prohibition at the Bathurst/Nassau; changes to the Bathurst/Nassau traffic signal; cost of vehicle detector loop on the driveway forming the west leg of the Bathurst/Nassau intersection; adjustment to the algorithms for the exiting transit signal priority of Bathurst Street to the Satisfaction of the Director, Engineering and Construction Services.;

14. The owner agrees to assume financial responsibility for costs associated with the removal of on-street parking or left turn restrictions if required by the city or TTC to the Satisfaction of the Director, Engineering and Construction Services.
15. The owner agrees to establish and maintain a living wall, to cover a minimum of 50% of the first two floors of the west façade facing the laneway to the satisfaction of the Chief Planner and Executive Director, City Planning as part of the Site Plan Approval.
16. The owner agrees to articulate the east façade and secure materials for the building to the satisfaction of the Chief Planner and Executive Director, City Planning, as part of the Site Plan Approval.
17. The owner agrees to establish and maintain a retractable gate to the loading area at the rear façade and to restrict the operation of the gate to between the hours of 7 a.m. and 4 p.m.
18. The owner agrees to establish and maintain an east-west 2.0 metre wide passageway (narrowing to 1.5 metres at east and west entrances), located at-grade underneath the building at the south edge of the site, opposite Nassau Street. The passageway will be accessed from Bathurst Street and from the rear laneway and be publically accessible 24 hours per day. The passage way will be subject to an easement for the life of the building in favour of the City and shall be kept free and clear of debris and obstructions, be maintained in a good state of repair and be cleared of snow and ice by the owner. The owner agrees to provide pedestrian-scale lighting and a physical barrier between the passageway and adjacent loading and vehicle circulation to the satisfaction of the Chief Planner and Executive Director, City Planning.
19. The owner agrees to screen and to provide an acoustical barrier to any mechanical equipment to the satisfaction of the Chief Planner and Executive Director, City Planning.
20. The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.
21. The owner agrees to submit a signing/pavement marking plan for the parking garage that clarifies the intended operation of the parking garage and that will mitigate any conflicts between inbound and outbound traffic to make sure vehicles entering/exiting the garage do not encroach into traffic or onto the pedestrian clearway to the satisfaction of the Director, Engineering and Construction Services.
22. All signage will be subject to the City's sign by-law.

23. The parties agree to request the OMB to withhold its final order until the Notice of Approval Conditions for the Site Plan Agreement have been finalized.
24. The owner agrees to provide to the City all necessary background material (including but not limited to: Architectural Plans and Drawings, Landscape Plans, Lighting Plan, Toronto Green Standards Checklist, Shadow Study, Addendum to Planning Assessment and Rationale Report, Revised Stormwater Management Report, Revised Servicing Report and Updated Urban Transportation Considerations Report) for the purpose of the City preparing the By-law and Notice of Approval Conditions for the Site Plan to be approved by the OMB regarding 410-446 Bathurst Street.

