

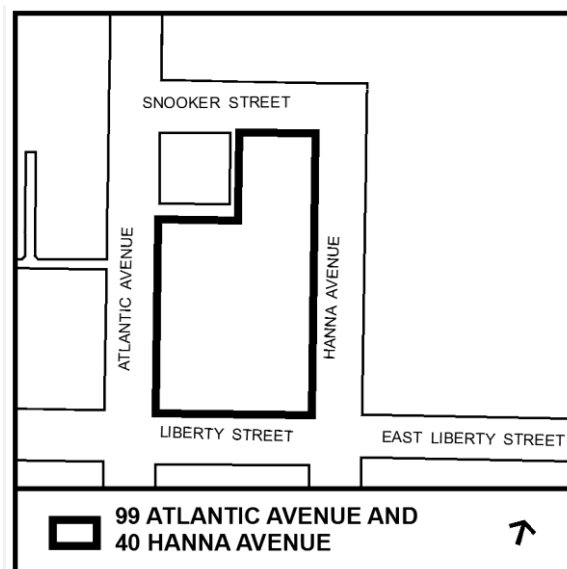
99 Atlantic Ave and 38-40 Hanna Avenue and 2-24A Liberty Street and 1 Snooker Street - Official Plan Amendment, Zoning Amendment, and Site Plan Applications - Request for Direction Report

Date:	February 9, 2015
To:	City Council
From:	Chief Planner and Executive Director, City Planning
Wards:	Ward 19 – Trinity-Spadina
Reference Number:	P:\2015\Cluster B\PLN\City Council\PG15030

SUMMARY

The owner of the property at 99 Atlantic Avenue, 38-40 Hanna Avenue, 2-24A Liberty Street and 1 Snooker Street has appealed their applications to amend the Official Plan, and the former City of Toronto Zoning By-law 438-86, and Site Plan Control to the Ontario Municipal Board (OMB) due to Council's failure to enact the requested amendments within the time prescribed by the *Planning Act*. A pre-hearing date scheduled for February 10, 2015 was cancelled and will be rescheduled for a future date in order to allow the parties to continue discussions on the terms of settlement. The purpose of this report is to seek City Council's direction with respect to the position of the City at the Municipal Board hearing.

The proposal before the OMB is for a new 8-storey office building on Atlantic Avenue with retail and service commercial uses at grade. The existing 5-storey office building on Hanna Avenue is proposed to be renovated for office uses with retail and service commercial uses at the lower levels. The existing boiler house on Liberty Street is proposed to be renovated for restaurant use. A new 2-storey retail building is proposed at the corner of Hanna Avenue and



Liberty Street. Included in the proposal are 212 below grade parking spaces.

The applicant has presented a settlement offer which:

- retains the existing 5-storey office building and boiler house;
- eliminates the 2-storey retail structure and replaces it with a POPS (Privately Owned Publicly-Accessible Spaces) at corner of Hanna Avenue and Liberty Street;
- maintains all walls of the boiler house;
- limits the total retail and service commercial uses on the site to 6,000m²; and
- secures a Section 37 contribution.

The proposed zoning by-law amendment includes the provision of facilities, services, and matters pursuant to Section 37 of the Planning Act as detailed in the report and recommendations, and to be further secured in a Section 37 Agreement to be satisfactorily entered into and registered prior to the issuance of the Board Order.

The purpose of this report is to seek City Council's support for a settlement at the OMB. Staff is recommending that the revised settlement application be supported.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to attend the Ontario Municipal Board hearing in support of the offer of settlement for the property at 99 Atlantic Avenue, 38-40 Hanna Avenue, 2-24A Liberty Street and 1 Snooker Street as detailed in Attachment 1.
2. City Council authorize the City Solicitor, the Chief Planner and Executive Director, City Planning together with appropriate staff to continue discussions with the applicant respecting a final version of the proposed Official Plan Amendment and Zoning By-law Amendment.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

Applications for an Official Plan Amendment, Zoning By-law Amendment and Site Plan Control to permit an 8-storey office on Atlantic Avenue with retail and commercial services uses, a 2-storey retail building on Liberty Street, and retention of the existing 5-storey office building and boiler house with permission for retail and commercial services uses at the lower levels, were submitted on March 14, 2014. As the proposal falls within the *Policy Area 3* of Official Plan Amendment 231 dealing with *Employment Lands*, a Preliminary Report was considered at the Planning and Growth Management Committee on May 29, 2014. The preliminary staff report can be found here: <http://www.toronto.ca/legdocs/mmis/2014/pg/bgrd/backgroundfile-69371.pdf>

On August 12, 2014, the City Clerk's office received notification that the applicant had filed an appeal of the Zoning By-law Amendment and Site Plan Control applications to the OMB, citing Council's failure to make a decision on the applications within the prescribed timelines of the *Planning Act*. An additional appeal for the Official Plan Amendment application was received by the City Clerk's office on September 10, 2014, due to Council's failure to make a decision within the prescribed timelines of the *Planning Act*.

A pre-hearing date was scheduled for February 10, 2015 but cancelled by the OMB. A new pre-hearing or hearing will be set for a future date in order to allow the City and the applicant more time to work out details of the settlement offer.

Official Plan Amendment (OPA) 231

At its meeting on December 16, 17 and 18, 2013, City Council adopted Official Plan Amendment (OPA) 231 which designated the subject lands as *Core Employment Areas*. In addition to the new *Core Employment* designation, the *Policy Area 3* of the Garrison Common North Secondary Plan has been amended by OPA 231. The revised area specific policy for Liberty Village is applicable to the subject lands.

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. The decision of City Council and OPA 231 can be found at the following links: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

On July 9, 2014, The Minister of Municipal Affairs and Housing issued its decision on Official Plan Amendment 231, approving the majority of the amendment with minor modifications to the Council adopted policies and mapping set out in the implementing By-law 1714-2013 adopting OPA 231. <http://www.toronto.ca/legdocs/bylaws/2013/law1714.pdf>

The owner of the subject lands filed an appeal to the OMB with regard to OPA 231. Prehearings for the owner and the other appellants of OPA 231 has been set for March 12 and 13, 2015.

ISSUE BACKGROUND

Original Proposal

The original application proposed renovations and adaptive reuse of the two existing buildings on the property for office use with retail and service commercial uses at the lower levels. In addition, two new buildings were proposed on site with office, retail and service commercial uses.

The applicant proposed to renovate the existing 5-storey office building at 99 Atlantic Avenue. The basement and ground floor were proposed to have retail, service and commercial uses with access from Snooker Street and Hanna Avenue. The remaining floors would be comprised of office use, and the existing entrance to the building will be relocated from Atlantic Avenue to Hanna Avenue. In order to facilitate the relocation, the existing berm and trees along Hanna Avenue have been removed, and a new sidewalk will be introduced (see Attachment 2).

The applicant proposed to renovate the existing one-storey boiler house to allow for retail service and commercial uses. The attached one-storey storage building is to be demolished.

Two new buildings were proposed within the existing two surface parking lot areas. The new 8-storey building fronting on Atlantic Avenue is proposed to have retail, service and commercial uses on the ground floor and office use on the 2nd to 8th floor. Parking and loading will be accessed from Atlantic Avenue on the north end of the building. There will be four levels of underground parking with 212 vehicle parking spaces and 165 bicycle spaces. The proposed building will have a height of approximately 34 metres, with a 6 metre mechanical penthouse above. The existing 5-storey office building will be connected to the base of the new 8-storey office building. Above the base, there will be a 30 metre gap between the buildings. There will be a pedestrian connection and access to an internal outdoor courtyard from both Liberty Street and Hanna Avenue.

The applicant proposed a new two-storey building at the southeast corner of Hanna Avenue and Liberty Street with retail, service and commercial uses.

A total gross floor area of 17,511 square metres of office use and 7,658 square metres of retail, service and commercial use was proposed. The total proposed floor space index over the four buildings represents an overall density of 4.10 times the area of the lot.

Revised Proposal

The applicant submitted revised drawings on January 27, 2015. The revisions to the proposal are described below.

The revised proposal eliminates the proposed two-storey retail building at the southeast corner of Hanna Avenue and Liberty Street and replacing it with a Privately Owned Publicly-Accessible Open Space (POPS).

The proposed 8-storey office building on Atlantic Avenue remains the same height and massing, however, some changes have been made to the parking and loading entrance. The amount of retail space has been reduced from 2,225m² to 1,007m². The underground parking has increased from 212 to 215 spaces.

The proposed gross floor area of the boiler house now includes the area of the basement and second level, where the original proposal only provided useable area on the ground floor.

The total retail and commercial service uses on the entire site has been reduced from 7,658 m² to 5,862 m².

Attachments 2 and 3 show the proposed site plan and building elevations. For a summary of the application details please refer to the Application Data Sheet in Attachment 6.

The table below is a comparison of the original and revised proposals.

	Original Proposal			Revised		
	Use			Use		
Building	Office	Retail/Service Commercial	Total	Office	Retail/Service Commercial	Total
New 8-Storey Building	11,256m ²	2,225m ²	13,481m ²	11,509 m ²	1,007m ²	12,517m ²
Existing 5-Storey Building	6,255m ²	4,789m ²	11,044m ²	6,588m ²	4,086m ²	10,674m ²
Boiler House	0	260m ²	260m ²	0	769m ²	769 m ²
New 2-Storey Building	0	384m ²	384m ²	Eliminated for a POPS		
Total	17,511m ²	7,658m ²	25,169m ²	18,097 m ²	5,862m ²	23,960m ²
F.S.I (Floor Space Index)	2.85	1.25	4.10	2.9	0.95	3.9

Official Plan

The subject site is located within an Employment District on Map 2 – Urban Structure. Employment Districts are to be promoted exclusively for economic activity and protected from the encroachment of non-economic functions. The site is designated as *Employment Areas* in the Official Plan Land Use Map 18, which are places of business and economic activity with permitted uses that include, but are not limited to: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, ancillary retail, restaurants and small scale stores and services that serve area businesses and workers. Large scale retail uses are only permitted in *Employment Areas* on lands that front onto major streets as shown on Map 3. None of the above noted streets are identified as major streets on Map 3 of the Official Plan.

The subject site is also located within the Garrison Common North Secondary Plan, and subject to *Policy Area 3*, where a 'healthy and vibrant economic district will be maintained by reinforcing existing economic sectors, encouraging appropriate new economic activities and establishing an environment conducive to future economic growth.' Retail uses are not included within the in-force policies for Area 3.

The proposal is being reviewed against the in-force policies above as well as the policies of the recently adopted Official Plan Amendment (OPA) 231. OPA 231(By-law 1714-2013) adopted by City Council on December 16, 17, 18th 2013 and approved by the Minister of Municipal Affairs and Housing on July 9, 2014, and is currently under appeal at the OMB.

OPA 231 outlines new Official Plan policies for the City's economic health and employment areas. Under OPA 231, the site is proposed to be designated *Core Employment*, which permits secondary uses such as restaurants and retail that are ancillary to and on the same lot as the

principal use and in addition support the area's primary employment uses. The uses are to be located within the ground floor levels of buildings with employment uses.

In addition to the new *Core Employment* designation, the Area 3 Policy of the Garrison Common North Secondary Plan has been amended by OPA 231. The revised area specific policy for Liberty Village includes secondary 'small scale service uses such as banks, hotels, parks, workplace ancillary daycares, small scale retail and restaurant uses along with recreational uses to support the primary office use and provide amenities for the area's current and future employees'. Larger scale retail is permitted up to a maximum of 6,000 square metres, subject to provisions which include but are not limited to the following: the retail use cannot be stand alone and is to be incorporated into a multi-storey office building, and must front onto Atlantic Avenue, Liberty Street, and or Hanna Avenue.

Zoning

The site is zoned IC D3 N1.5 in the former City of Toronto By-law 438-86, as amended. The industrial commercial zone allows a total of 3 times density for the area of the lot. The area has a height limit of 28 metres. A variety of non-residential uses are permitted in an IC zone such as office, workshops and studios, warehousing, distribution, retail and service shops, and some manufacturing. While restaurant, retail and service shop uses are generally permitted in an IC zone, exception (298) which applies to the site prohibits them in the *Liberty Area*.

The site is not subject to the new harmonized City-wide Zoning By-law 569-2013.

Please see Attachment 4 for a map of the Zoning.

Site Plan Control

The application is subject to site plan control. An application (File #14 130831 STE 19 SA) was submitted concurrently with this Official Plan and Zoning By-law Amendment applications, and has also been appealed to the OMB.

Reasons for the Application

The subject development application includes a significant retail and restaurant component for the site that does not conform to the Official Plan's in-force *Employment Areas* designation. Under the current Official Plan, only ancillary retail uses are permitted on lands which do not front onto major streets as shown on Map 3. Additionally, the proposal does not conform to the in-force policies for Area 3 within the Garrison Common North Secondary Plan, which does not encourage retail uses. The application does not conform to Zoning By-law 438-86 as amended. Exception (298) under Section 12(2) prohibits retail and services uses in an IC zone in the *Liberty Area*, which means that the proposed retail and service uses are not permitted. Additionally, the proposed height of the office building is above the permitted height allowances, and the proposed total gross floor area of the development is significantly above the permitted amount.

Community Consultation

Two community consultation meetings were held. City Planning held the first meeting on April 24, 2014. The Ward Councillor held an additional community meeting on January 22, 2015, to provide an update to the community with regard to the upcoming appeal to the OMB.

The concerns from the first meeting in 2014 were reiterated by the community at the follow-up meeting. Key concerns of the community related to lack of open space, size of commercial/restaurant spaces, conflicts between the restaurant space and the residential building across the street such as noise, garbage and odour conflicts, as well as shadowing and loss of views from the residential building to the east.

COMMENTS

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. 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.

The proposed development meets the Employment Area policies of the Province by promoting economic development and preserving employment areas. The proposal conserves a significant built heritage resource by incorporating the heritage properties on the site for adaptive reuse while preserving its cultural heritage value. Additionally, the proposal meets the Province's policy directions that promote Public and Open Spaces by providing a publicly-accessible open space that facilitates the needs of pedestrians, fosters social interaction and facilitates community connectivity. The Growth Plan promotes increasing intensification of the existing built-up area with a focus on areas in order to make use of existing infrastructure. The site is within an Urban Growth Centre and conforms to the policies set out in the Growth Plan for the Greater Golden Horseshoe.

Staff have reviewed the proposal and determined that it is consistent with the policy directions in the 2014 Provincial Policy Statement (PPS) and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

Employment

The Official Plan amendment to permit retail and commercial service uses in the existing two buildings on site as well as the new 8-storey office building has been reviewed against the in-force policies as well as the policies of the recently adopted Official Plan Amendment (OPA) 231, *Policy Area 3*.

Retail and Service Uses

Under the current Official Plan, only ancillary retail uses are permitted on lands which do not front onto major streets as shown on Map 3. The in-force Official Plan policies of the Garrison Common North Secondary Plan, *Policy Area 3*, directs that the area's economic district be maintained by reinforcing the existing economic sectors, encouraging new economic activities and establishing an environment conducive to future economic growth. Of the encouraged uses listed in *Policy Area 3*, retail and commercial services uses are not listed. The proposed development includes a significant retail component for the site that does not conform to the Official Plan's in-force *Employment Areas* designation.

While the proposal does not conform to the in-force Official Plan policies, it does meet the intent of the recently adopted OPA 231 *Policy Area 3*. The new policies have been amended in order to allow for secondary uses such as small scale service uses (such as retail and restaurant uses) to support the viability of the site's primary office use and provide amenities for the Area's current and future employees. Small scale retail uses are permitted throughout Area 3, subject to the criteria of the new *Core Employment Areas* designation. Large scale retail uses are limited to a maximum of 6,000 square metres with certain provisions that the retail use is not stand alone and is incorporated into the ground floor of a multi-storey building that contains office uses. The retail must front onto and have direct access to either King Street, Dufferin Street, Liberty Street, Atlantic Avenue or Hanna Avenue. The settlement proposal meets all of these criteria as the proposed combined retail and commercial services use is under 6,000 square metres. The retail uses are at the ground and lower levels of the existing and proposed office building, and the street.

A key policy objective of the City and the Official Plan is to maintain and enhance *Policy Area 3* as a vibrant office employment area. It is a priority of the City to ensure that this area remains an attractive location for economic activity and business investment. The nature of the proposed uses are secondary to the employment uses and will provide positive benefits to the local employees.

Heritage

Policy 3.1.5.2 of the Official Plan states that "Heritage resources on properties listed on the City's Inventory of Heritage Properties will be conserved."

At its meeting of April 3, and 4, 2013, Toronto City Council adopted amendments to the Official Plan heritage policies. By-law 468-2013 enacting these policies has been appealed to the Ontario Municipal Board. While the amendments are not yet in force, Heritage Preservation

Services (HPS) has also considered the proposal within the context of these amended polices. HPS have indicated their intention to designate the existing buildings on the site which are already listed on the City of Toronto's Inventory of Heritage Properties. The designation process is currently underway with review of this application.

The property is currently listed on the City of Toronto's Inventory of Heritage Properties, adopted by City Council on June 16, 2005. A report recommending designation of the subject property under Part IV of the Ontario Heritage Act and requesting authority to enter into a Heritage Easement Agreement will be considered by the Toronto and East York Community Council on February 18, 2015 followed by the Toronto Preservation Board on February 19, 2015 and City Council on March 31, 2105.

The application affects the listed heritage property known as the Brunswick-Balke-Collender Factory which includes a five-storey factory building and a separate boiler house. Constructed in 1913 according to plans by Toronto architect Henry Simpson, this property is significant as a well-designed early 20th century factory complex that retains some of its painted signage (recently restored). The boiler house, with its landmark chimney, is a prominent feature in the Liberty Village neighbourhood.

In working with HPS staff, the applicant has agreed to maintain the entire boiler house building with a glazed connection on two sides to the new 8-storey building thereby allowing for the boiler house to be viewed as a whole building. The removal from the proposal of a new building at the south-east corner of the site will maintain an unimpeded view of the boiler house and factory building from the corner of Hanna Avenue and Liberty Street.

HPS staff will continue to work with the applicant on the project details, materials, appropriate articulation of the façade of the new 8-storey building and alterations to the factory building, the final details of which will be addressed through a heritage permit application.

Public Realm and POPS (Privately Owned Publicly-Accessible Spaces)

Through the review of the application, City staff worked with the applicant to maximize opportunities to improve the public realm in the area, in particular seeking opportunities for open spaces and mid-block pedestrian connections within the site.

The original development proposal included a 2-storey retail building on the southeast corner of Liberty Street and Hanna Avenue with a small open space plaza between the proposed retail building and the existing boiler house directly to the west. Staff recommended that this corner become a POPS (Privately Owned Publicly-Accessible Spaces). The community also raised the concern that there was limited open space in the area.

The applicant has agreed to eliminate the proposed 2-story retail building and provide a POPS in its place. A portion of the open space will be available for patios and/or seasonal structures associated with the retail/restaurant uses. Staff are working with the applicant on conditions related to the patio space.

Through the design, staff will seek to ensure that that a significantly large portion of the open space remain usable to the public and maintain the views of key heritage features of the existing buildings on site. Discussions continue with the applicant regarding the function and design of the open space area, that are in keeping with the newly adopted draft urban design guidelines for POPS.

At its meeting of July 8,9,10, and 11, 2014 City Council endorsed Draft Urban Design Guidelines for Privately Owned Publicly-Accessible Spaces (POPS).

The decision of Council can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.14>

The Guidelines can be found at: www.toronto.ca/planning/POPS

Built Form, Massing and Height

The proposed office building on the east side of Atlantic Avenue is 8-storeys tall (34 metres), with a mechanical penthouse (6.5 metres). The building will connect to the existing boiler house. On the south side of the building which fronts onto Liberty Street, the building steps back 1.9m at the second storey to allow for the view of the chimney stack to be maintained from the west. The building will be attached to the existing 5-storey office building which faces onto Hanna Avenue along its northern half.

The proposed building is approximately 6 metres taller than the as-of-right zoning and will generally fit into the built form context of Liberty Village, as it is of similar form to many of the historic factory buildings within the area.

Staff are continuing to work with the applicant in order to revise the architectural details of the building such that the vertical articulation of the façade provides some relief to the long frontage along the street wall, along with other refinements to the materials and expression of the new building.

Traffic Impact and Parking

The proposed 8-storey office building will contain all the loading and parking operations including a 4-level underground parking garage, which will service the entire site. The entrance to the parking and loading will be located on Atlantic Avenue towards the north end of the building. Transportation Services staff have reviewed the submitted Traffic Operations Assessment and supporting site plan and architectural drawings, and require an acceptable Traffic Impact Study, as well as revised plans and certified documentation related to a registered easement (Instrument No.CA267234) on the property, plus additional revised information related to right-of-way matters, and the functionality of the parking garage. At the time of writing this report, the applicant had yet to provide the requested information. Transportation Services staff will continue to work with the applicant to arrive at an acceptable arrangement related to parking and loading rates, driveway access and site circulation and any other right-of-way matters. Staff require the additional information prior to OMB consideration of the site specific zoning by-law amendment.

Servicing

Engineering and Construction Services staff have reviewed the Functional Servicing and Stormwater Management Report submitted in support of the application. Additional information is required prior to OMB consideration of the site specific zoning by-law amendment to demonstrate there is adequate capacity in the City's sanitary and storm sewers to service the site.

Should it be determined that upgrades to the municipal infrastructure are required to support this development, the owner shall be required to pay for and construct any improvements to the municipal infrastructure.

Solid Waste

Solid Waste Management staff have reviewed the materials submitted in support of the application. The City does not provide garbage or recycling collection services to large non-residential developments, and therefore is ineligible for City collection services, and must be collected privately.

Toronto Green Standard

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. The site specific zoning by-law will secure Tier 1 development features. Additional applicable TGS performance measures will be secured through the Site Plan Control process.

Tree Preservation

There are 33 City-owned trees located on the City Boulevard adjacent to the subject site. The applicant's Arborist Report recommends the removal of the 13 City-trees located on Hanna Avenue, all Norway Maples, and the protection of 1 City-tree, a Honey Locust, located on Snooker Street. The Arborist Report proposes the removal of the trees in order to accommodate the removal of the berm on Hanna Avenue and introduce a pedestrian sidewalk, and replanting with 11 trees on Hanna Avenue. The submitted Arborist Report only refers to City-trees located on Hanna Avenue and does not reference the additional 18 City-trees proposed for removal as shown on the submitted Landscaping Plans. City staff will be requiring additional information including a revised Arborist Report to be submitted prior to the OMB consideration of the site specific zoning by-law amendment.

Thirteen City-trees located on Hanna Avenue have been removed without City permits. Urban Forestry staff are currently reviewing available options. The remaining 18 City-trees proposed for removal along Liberty Street and Atlantic Avenue are under review by Urban Forestry staff.

Parkland Dedication

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 0.42 – 0.78 ha of parkland per 1000 people, which is the second lowest provision level. The site is in a parkland priority area, as per Alternative Rate Parkland Dedication By-law No. 1020-2010.

The application proposes renovations to an existing non-residential building and a new non-residential building. The non-residential GFA for the new buildings is 12,517m², and will be subject to a parkland dedication rate of 2%.

The applicant is requested to satisfy the parkland dedication requirement by cash-in-lieu and this is appropriate as the parkland requirement is too small to be of a useable size.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit by the Facilities and Real Estate Division.

Construction Management

In order to respond to community concerns regarding the proposed development, prior to the issuance of the first demolition permit, the owner will submit a Construction Management Plan including but not limited to details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.

Section 37

Staff have met with the applicant, and in consultation with the Ward Councillor and have reached an agreement that secures the following contributions under Section 37 of the *Planning Act*. Section 37 of the *Planning Act* authorizes a municipality with appropriate Official Plan provisions to pass Zoning By-laws involving increases in the height and/or density otherwise permitted by the Zoning By-law in return for the provisions of community benefits by the owner. It is recommended that the applicant enter into a Section 37 Agreement in order to secure the following community benefits:

1. An indexed cash contribution, in the amount of \$250,000.00 payable to the City of Toronto, to be used to towards securing and/or constructing community services and/or facilities within the general area of 99 Atlantic Avenue and 40 Hanna; and
2. The provision of a privately owned publicly-accessible space (POPS) courtyard on the site at the southeast corner of Hanna Avenue and Liberty Street, to the

satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor in consultation with the Ward Councillor.

The following matters are also recommended to be secured in the Section 37 agreement as a legal convenience to support development:

1. The owner shall enter into a Heritage Easement Agreement for the property with the City to the satisfaction of the Manager, Heritage Preservation Services, including registration of such agreement to the satisfaction of the City Solicitor;
2. The owner shall submit a construction management plan. A Construction Management Plan will include but not be limited to details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.
3. The owner shall submit an acceptable Traffic Impact Study to the satisfaction of the General Manager of Transportation Services;
4. The owner shall submit documentation of the easement set out in Instrument No. CA267234 for review and approval by the General Manager of Transportation Services;
5. The owner shall submit a Functional Servicing Report to the satisfaction of the Manager of Engineering and Construction Services;
6. The owner to provide and pay for any improvements to the municipal infrastructure in connection with the site servicing assessment, as accepted by the Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.
7. The owner shall submit a revised Arborist Report and any other additional requested information to the satisfaction of the Supervisor of Tree Protection and Plan Review, Urban Forestry;
8. The owner shall provide a payment for the loss of 13 City-trees along Hanna Avenue, to the satisfaction of Urban Forestry; and
9. The owner shall complete the approval process to seek permission to remove any City street-trees as protected under the City of Toronto's Street Tree By-law.

Zoning By-law

Staff and the applicant are working collaboratively on a detailed Zoning By-law Amendment to submit to the Ontario Municipal Board to implement the settlement.

CONCLUSIONS

Staff recommend that Council adopt the proposed settlement offer as summarized in Attachment 1, together with an implementing Official Plan amendment and Zoning By-law amendment to be finalized by City staff to reflect the proposal. The proposal delivers new office space in a key employment area in the City while delivering a new POPS and preserving important heritage assets.

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SIGNATURE

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Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Offer of Settlement

Attachment 2: Site Plan

Attachment 3: Elevations

Attachment 4: Zoning

Attachment 5: Official Plan

Attachment 6: Application Data Sheet

Attachment 1: Offer of Settlement

1. The development of the site will contain a new 8-storey office building (34 metres in height with a 6.5 metre mechanical penthouse) fronting Atlantic Avenue with retail, restaurant and service commercial uses at grade. The existing 5-storey office building and boiler house will be retained. Retail, restaurant and service commercial uses will be permitted within the boiler house and the lower levels of the existing 5-storey office building, subject to the following changes:
 - i. The owner agrees that their appeal to the Official Plan Amendment 231 for Policy Area 3 will be resolved within the context of this settlement;
 - ii. The elimination of the proposed 2-storey retail building at the corner of Liberty Street and Hanna Avenue;
 - iii. Provision of a POPS (Privately Owned Publicly-Accessible Spaces) be provided by the developer at the corner of Liberty and Hanna;
 - iv. The POPS shall be subject to an easement agreement in favour of the City permitting free access to the public subject to provisions allowing for restrictions to access related to unlawful behaviour or maintenance needs (to be described in more detail in the Section 37 agreement);
 - v. The POPS shall have a minimum area, to the satisfaction of the Chief Planner and Executive Director;
 - vi. The owner shall have the right to have patios and seasonal structures within the open space at the corner of Liberty Street and Hanna Avenue associated with the restaurant/retail uses;
 - vii. The total area of the POPS which may be occupied by patios and or seasonal structures shall be limited to a maximum area to be agreed upon with the Chief Planner and Executive Director, in consultation with the Ward Councillor and community;
 - viii. The owner shall have the right to use the entire POPS exclusive of any space within the City's right-of-way for special events up to 12 times a year or additional time as may be agreed to by the City;
 - ix. The POPS shall be maintained in a good state of repair and be cleared of debris, snow and ice by the owner;
 - x. All the exterior walls of the boiler house shall be retained and conserved to the satisfaction of the Manager, Heritage Preservation Services;
 - xi. The façade of the new structure to the west and north of the boiler house at the lower levels street level will allow a reveal connecting to the boiler house to accentuate the transition from new to old;
 - xii. The new structure to the west and north of the boiler house will provide views to the west boiler house wall through transparent glass or other measures;
 - xiii. The west and north walls of the boiler house will be exposed within the 8-storey structure to the west;
 - xiv. The total gross floor area of the retail, restaurant and service commercial uses for the property will not be more than 6000 square metres of gross floor area; and

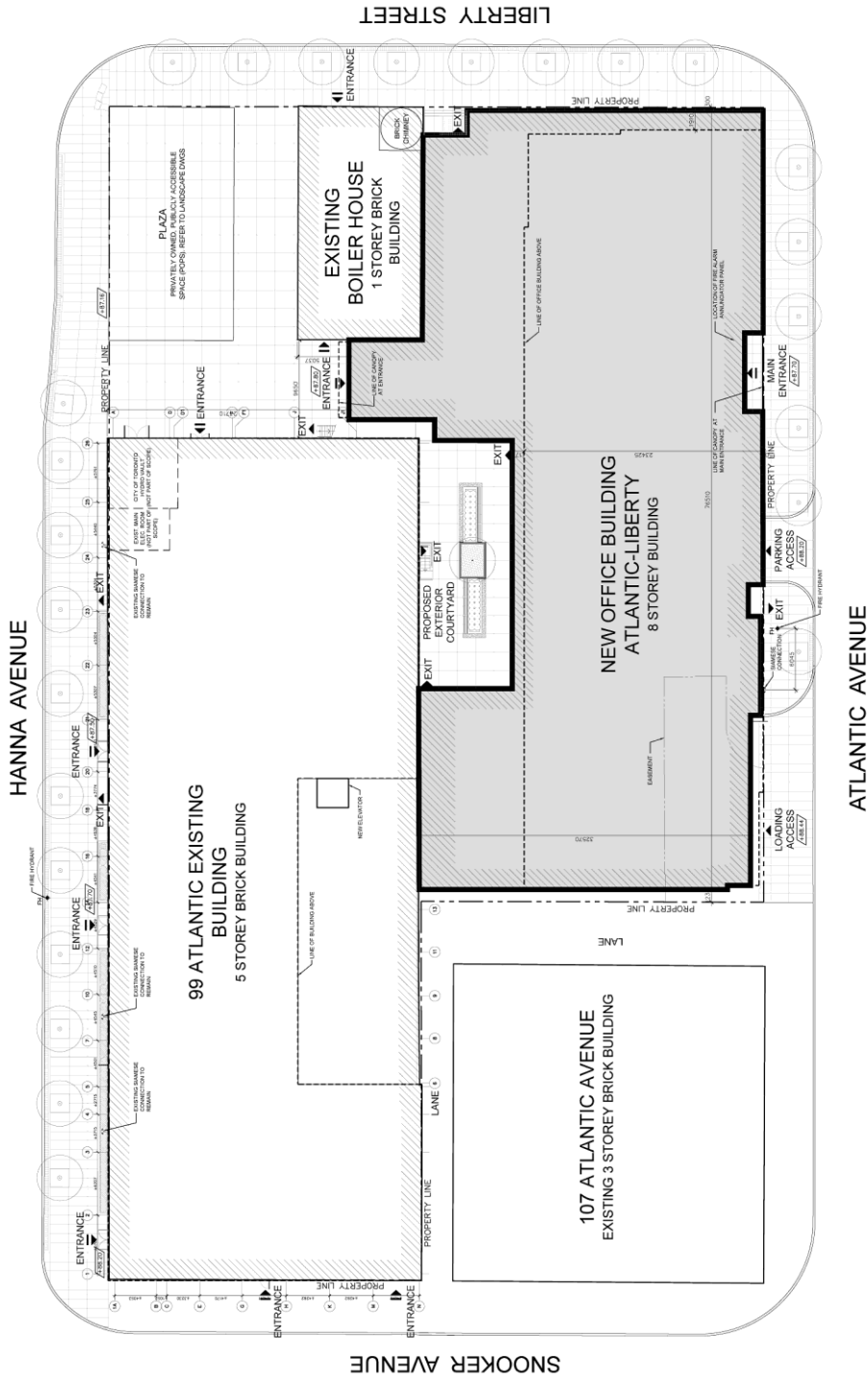
- xv. Restaurant uses on the property will not exceed 950 square metres total, with a maximum restaurant size in the existing 5-storey building at 40 Hanna of 450 square metres and a maximum in the boiler house of 500 square metres.
2. Section 37:

A cash contribution of \$250,000.00 towards securing and/or constructing community services and/or facilities within the general area of 99 Atlantic Avenue be paid to the City prior to the issuance of the first above grade building permit (for the 8-storey building). The above cash contribution will be indexed upwardly in accordance with the Statistics Canada Non-Residential Construction Price Index for Toronto for the period from the execution of the Section 37 agreement to the date of payment.

3. Prior to the issuance of the Ontario Municipal Board Order for the Official Plan Amendment, Zoning By-law Amendment, and Site Plan Control Applications:
- i. All site plan matters, including approval of plans and drawings and issuance of site plan conditions be to the satisfaction of the Chief Planner and Executive Director;
 - ii. The owner of the property will enter into a Heritage Easement Agreement for the property with the City under Section 37 of the Ontario Heritage Act, to the satisfaction of the City Solicitor and the Manager, Heritage Preservation Services; and
 - iii. The owner will enter into a Section 37 Agreement with the City satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor to secure the following facilities, services and matters:
 - a. A cash contribution of \$250,000.00, indexed upwardly
 - b. Provision of a POPS (Privately Owned Publicly-Accessible Spaces) be provided by the developer at the corner of Liberty and Hanna.
 - c. The owner shall enter into a Heritage Easement Agreement for the property with the City to the satisfaction of the Manager, Heritage Preservation Services, including registration of such agreement to the satisfaction of the City Solicitor;
 - d. The owner shall submit a construction management plan. A Construction Management Plan will include but not be limited to details regarding size and location of construction staging areas, dates of significant concrete pouring activities, measures to ensure safety lighting does not negatively impact adjacent residences, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary to the satisfaction of the Chief Planner and Executive Director, City Planning Division, the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.

- e. The owner shall submit an acceptable Traffic Impact Study to the satisfaction of the General Manager of Transportation Services;
- f. The owner shall submit documentation of the easement set out in Instrument No. CA267234 for review and approval by the General Manager of Transportation Services;
- g. The owner shall submit a Functional Servicing Report to the satisfaction of the Manager of Engineering and Construction Services;
- h. The owner to provide and pay for any improvements to the municipal infrastructure in connection with the site servicing assessment, as accepted by the Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.
- i. The owner shall submit a revised Arborist Report and any other additional requested information to the satisfaction of the Supervisor of Tree Protection and Plan Review, Urban Forestry;
- j. The owner shall provide a payment for the loss of 13 City-trees along Hanna Avenue, to the satisfaction of Urban Forestry; and
- k. The owner shall complete the approval process to seek permission to remove any City street-trees as protected under the City of Toronto's Street Tree By-law.

Attachment 2: Site Plan



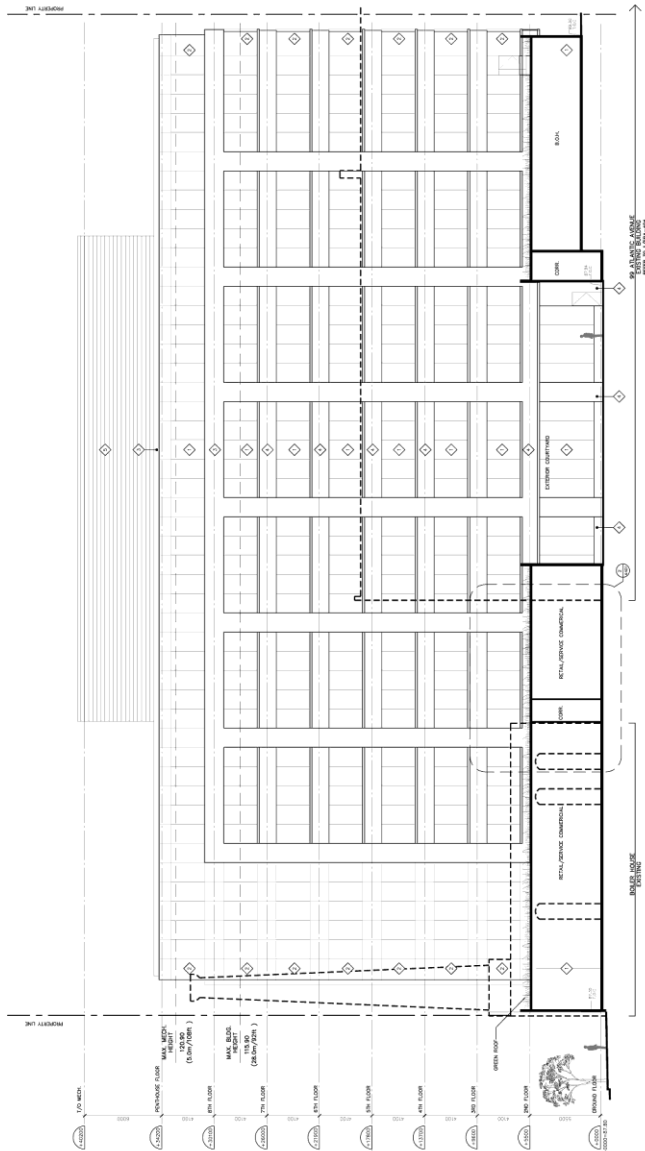
Site Plan

Applicant's Submitted Drawing

Not to Scale
02/02/2015

99 Atlantic Avenue and 40 Hanna Avenue

File # 14 128794 STE 19 0Z



East Elevation of New Office Building

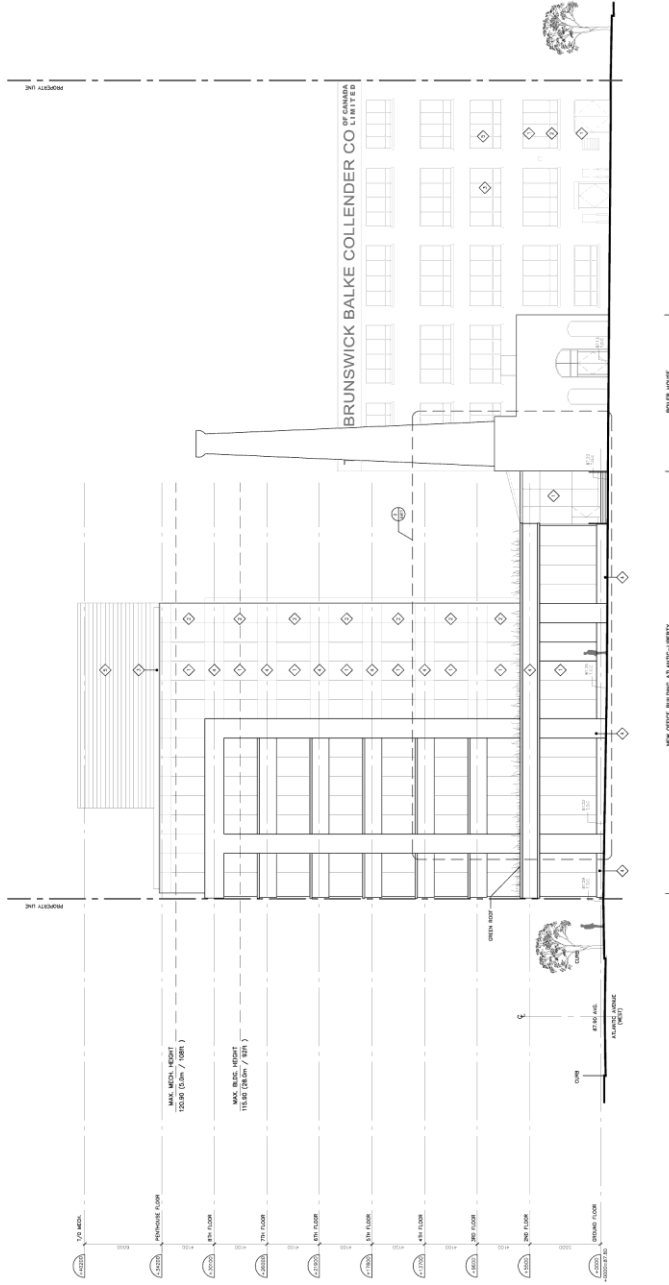
99 Atlantic Avenue and 40 Hanna Avenue

Elevations

Applicant's Submitted Drawing

Not to Scale
02/02/2015

File # 14 128794 STE 19 0Z



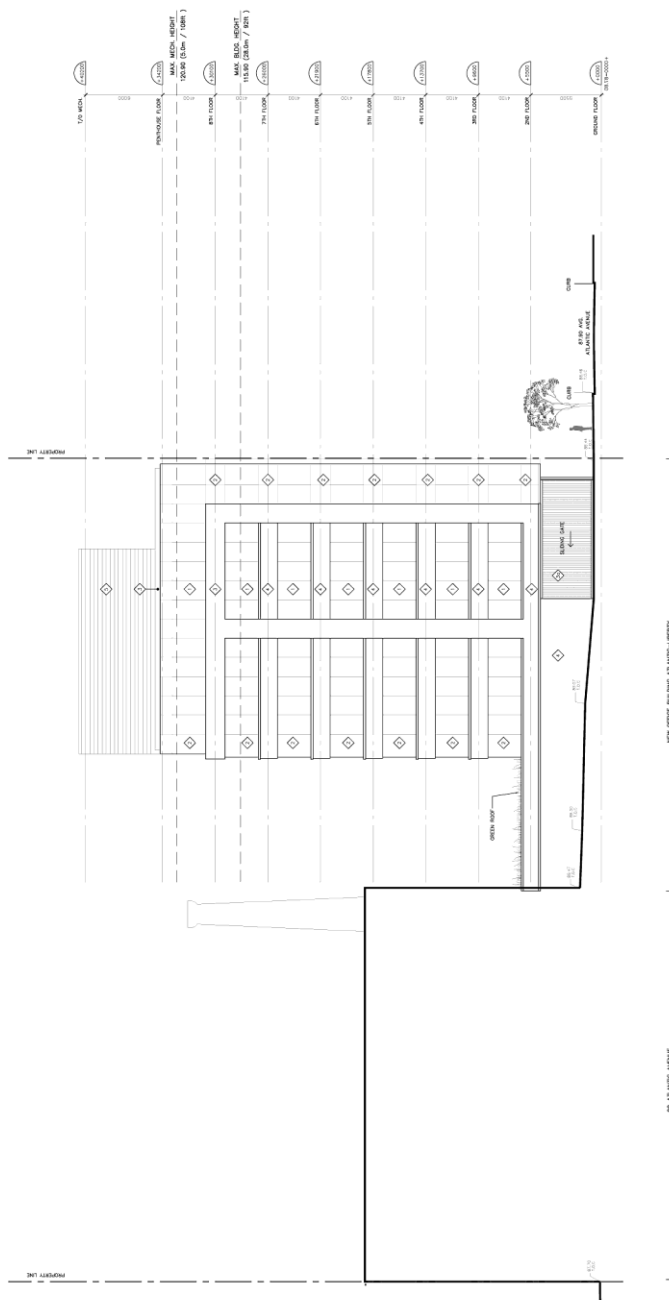
South Elevation of New Office Building & New Retail Building

99 Atlantic Avenue and 40 Hanna Avenue

Elevations
Applicant's Submitted Drawing

Not to Scale
02/02/2015

File # 14 128794 STE 19 0Z



North Elevation of New Office Building

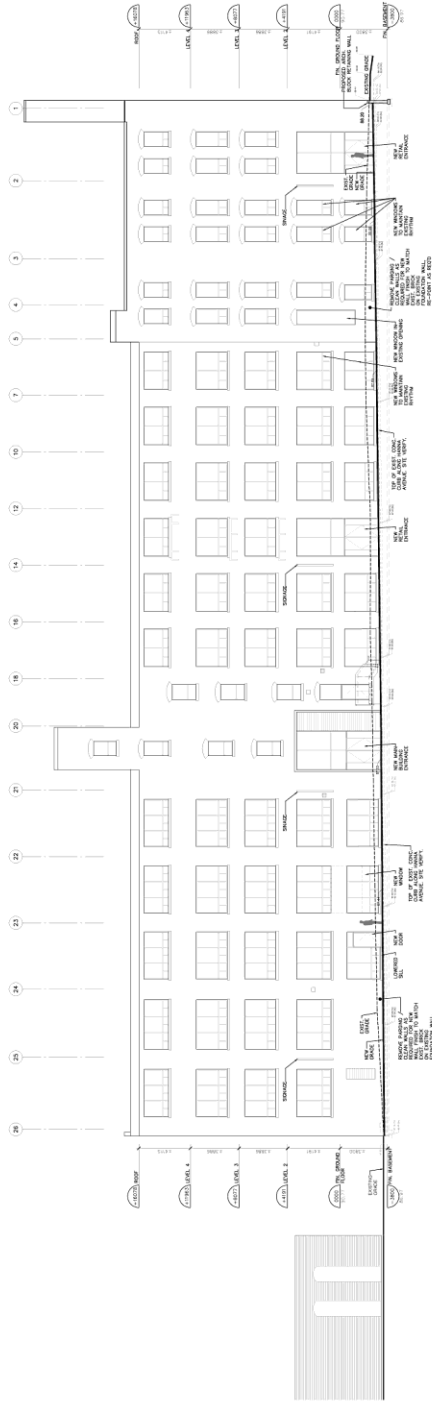
99 Atlantic Avenue and 40 Hanna Avenue

Elevations

Applicant's Submitted Drawing

Not to Scale
02/02/2015

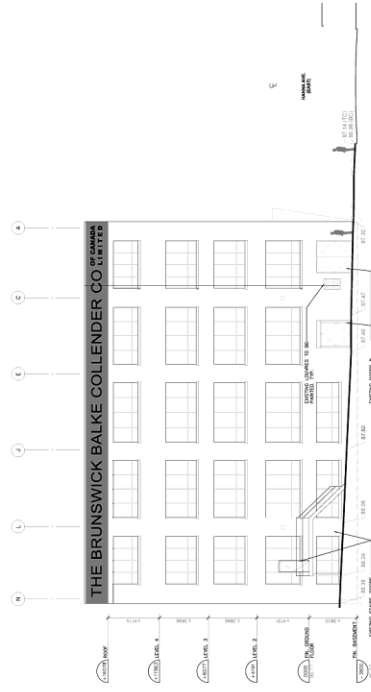
File # 14 128794 STE 19 0Z



Existing Building - East Elevation



Existing Building - North Elevation



Existing Building - South Elevation

Elevations

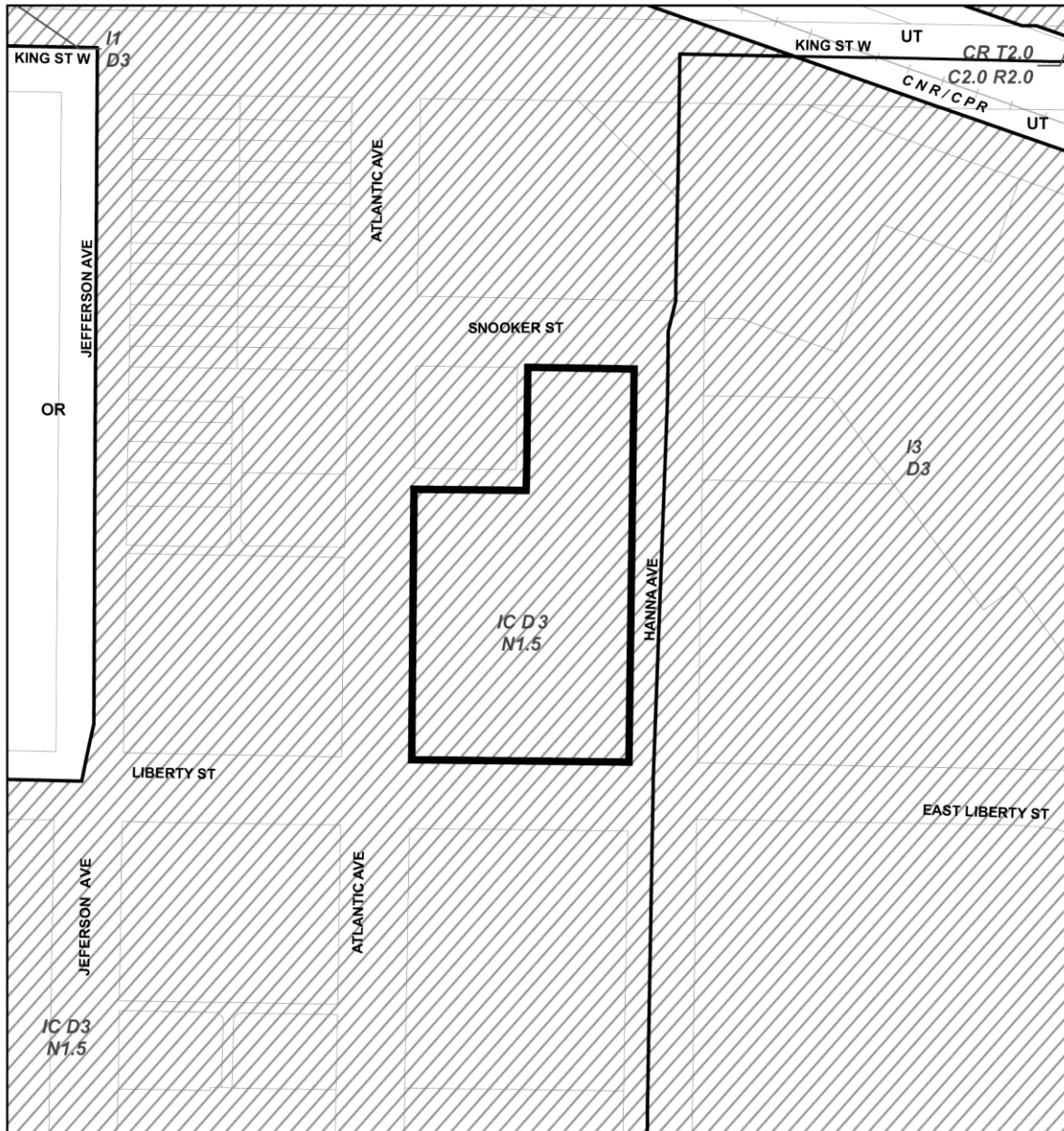
99 Atlantic Avenue and 40 Hanna Avenue

Applicant's Submitted Drawing

Not to Scale
02/02/2015

File # 14 128794 STE 19 0Z

Attachment 4: Zoning



99 Atlantic Avenue and 40 Hanna Avenue

Zoning By-law No. 569-2013

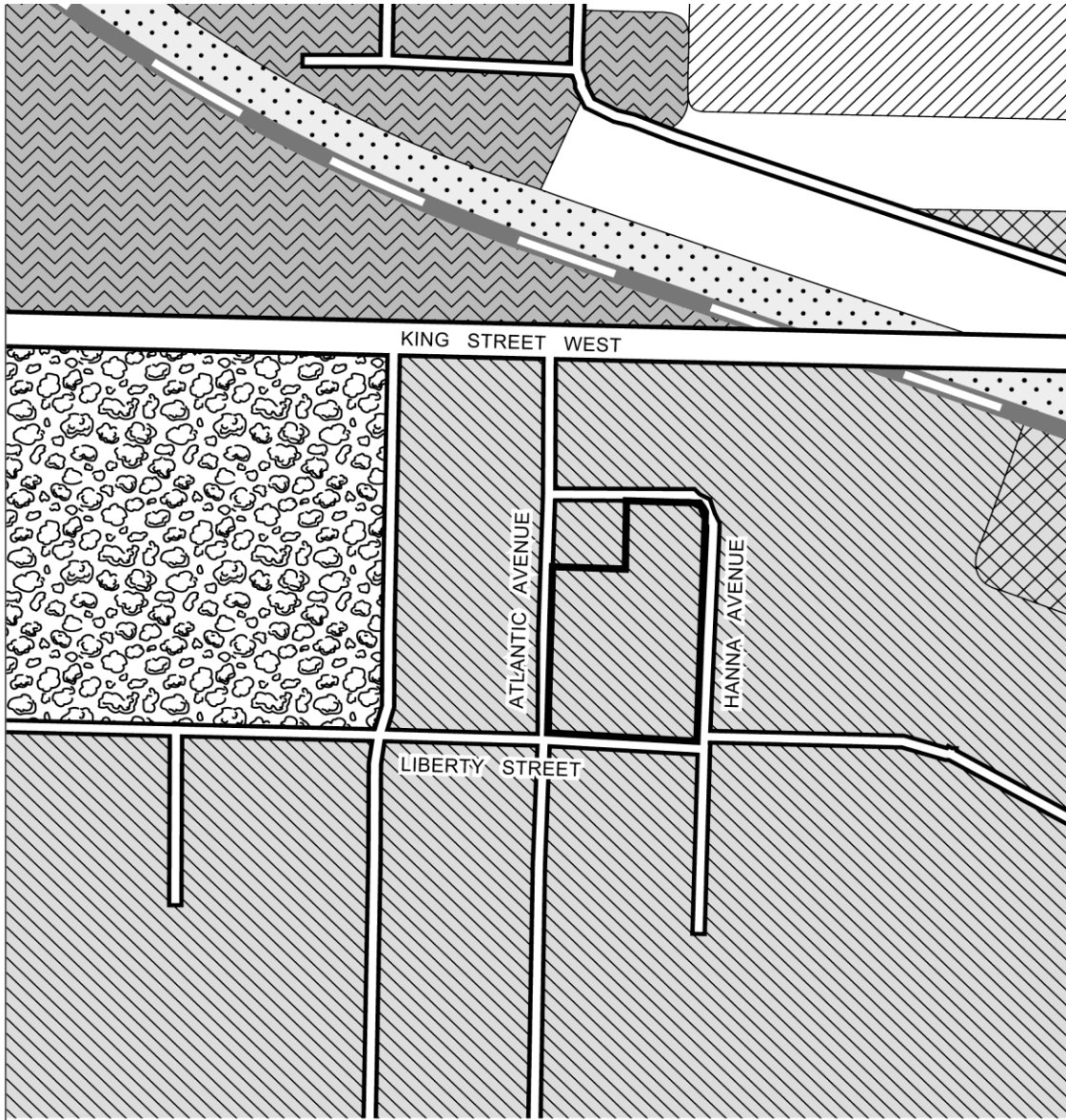
File # 14 128794 STE 19 0Z

- Location of Application
- OR** Open Space Recreation
- UT** Utility and Transportation

- See Former City of Toronto Bylaw No. 438-86
- CR** Mixed-Use District
- I1** Industrial District
- I3** Industrial District
- IC** Industrial District

Not to Scale
 Extracted: 04/03/2014

Attachment 5: Official Plan



TORONTO City Planning
Official Plan

99 Atlantic Avenue and 40 Hanna Avenue

File # 14 128794 STE 19 0Z



↑
Not to Scale
04/03/2014

Attachment 6: Application Data Sheet

Application Type	Official Plan Amendment & Rezoning	Application Number:	14 128794 STE 19 OZ
Details	OPA & Rezoning, Standard	Application Date:	March 14, 2014
Municipal Address:	99 ATLANTIC AVE		
Location Description:	PL 765 LTS 38-47 & 63-69 PT LT48 LANE CLSD PL D1361 BLK A << ENTRANCE ADDRESS FOR 40 HANNA AVE **GRID S1908		
Project Description:	Proposed renovations and adaptive reuse of the existing buildings on the property for office uses with retail and services commercial use at the lower levels. A new 8-storey office building with retail and service commercial uses at grade is proposed within the existing surface parking lot areas on Atlantic Avenue.		

Applicant:	Agent:	Architect:	Owner:
Design District Properties Inc		WZMH Architects	Design District Properties Inc

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:
Zoning:	IC D3 N1.5	Historical Status: Listed
Height Limit (m):	28	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	6145	Height:	Storeys:	8
Frontage (m):	78.05		Metres:	40.75
Depth (m):	64.15			
Total Ground Floor Area (sq. m):	3752			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	215
Total Non-Residential GFA (sq. m):	23950		Loading Docks	0
Total GFA (sq. m):	23950			
Lot Coverage Ratio (%):	83			
Floor Space Index:	3.9			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:			Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	5886	0
1 Bedroom:	0	Office GFA (sq. m):	17511	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	0			

CONTACT:	PLANNER NAME:	Aviva Pelt, Planner
	TELEPHONE:	416-392-0877