



STAFF REPORT ACTION REQUIRED

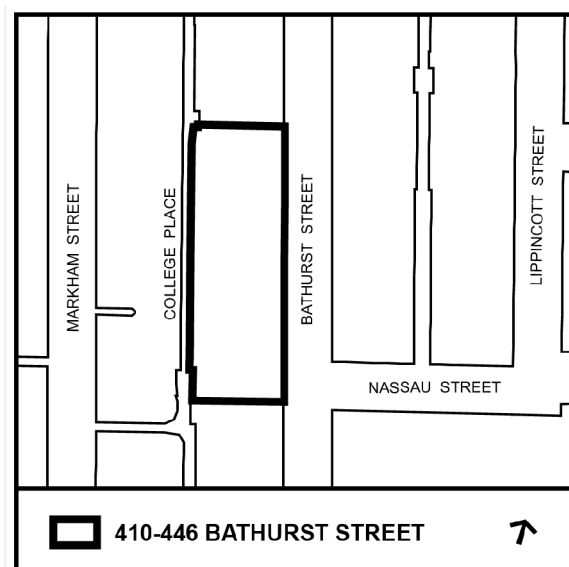
410 – 446 Bathurst St - Zoning Amendment Application – Request for Direction Report

Date:	February 19, 2014
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 19 – Trinity-Spadina
Reference Number:	13 124400 STE 19 OZ

SUMMARY

The applicant has appealed to the Ontario Municipal Board the Zoning By-Law and Site Plan Application for 410-446 Bathurst and Interim Control By-Law No. 963-2013 that prohibits new retail and service uses on Bathurst Street from Dupont Street to Queen Street West. A pre-hearing is scheduled for March 24, 2014. The development application under appeal before the Board is for a 3-storey retail building 20 metres in height including mechanical, having a gross floor area (GFA) of approximately 12,000 square metres of retail use, including the potential for a single store of up to 8,800 square metre on the second and third storeys, and underground parking for approximately 320 cars.

The applicant has proposed a settlement, the specifics of which are set out in Attachment 1 to this report. The proposal reduces the total retail gross floor area on the site from 12,000 square metres to 6,622 square metres with the largest retail unit limited to 4,200 square metres and located on the second floor. The project will now be mixed use with office space on the third and fourth floors for a total building height of 20 metres with a 2 metre mechanical penthouse. The ground floor remains as a number of smaller retail units. Parking has been reduced to 298 spaces below grade. Other improvements to the project include



a wider sidewalk and street trees on Bathurst Street and greater stepping back of the upper floors from the *Neighbourhood* to the west.

The purpose of this report is to seek City Council's direction for the City Solicitor, together with Planning and other appropriate City staff, to attend at the Ontario Municipal Board in support of a settlement as described in this report.

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 at the OMB in support of the settlement respecting the Zoning By-law Amendment for 410-446 Bathurst Street (13 124400 STE 19 OZ) as outlined in Attachment 1 to the report dated February 19, 2014, from the Director, Community Planning, Toronto and East York District.
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 instruct the City Solicitor to consent to the Ontario Municipal Board removing the applicant's property from the Interim Control By-law and replacing it with the Board ordered zoning for 410-446 Bathurst Street.
4. 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.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The applicant (Riotrin) appealed to the Ontario Municipal Board ("the Board") the May 30, 2012 decision of the City of Toronto Committee of Adjustment, which refused its application for eight minor variances from the provisions of the City of Toronto Zoning By-law 438-86 for 410-446 Bathurst. On December 18, 2012 the Board decision found that the requested variances fail at least two of the four tests of Section 45(1) of the Planning Act and the Board therefore ordered the appeal to be dismissed. The Board also dismissed the accompanying Site Plan Application.

The applicant subsequently submitted an application for Zoning By-law Amendment and Site Plan approval for the same project. A preliminary report on this proposal was

submitted to the Toronto and East York Community Council on April 18, 2013. This report can be found at:

<http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-57723.pdf>

City Council on July 16, 17, 18 and 19, 2013 enacted an Interim Control By-law (ICBL) on both sides of Bathurst Street between Dupont Street and Queen Street West 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. This ICBL prohibits new retail and service uses on the corridor until the study is complete. The ICBL report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.MM37.70>

<http://www.toronto.ca/legdocs/mmis/2013/mm/bgrd/backgroundfile-60356.pdf>

On August 26, 2013 the City Clerk's Office received notification that the applicant filed an appeal of the Interim Control By-law and of the Zoning By-law Amendment and Site Plan application to the Ontario Municipal Board. A pre-hearing is scheduled for March 24, 2014.

On July 11, 2012, City Council directed Planning staff to undertake the Bathurst Built Form and Land Use Study ('The Bathurst Study') on both sides of Bathurst Street between Dupont Street and Queen Street West following a motion by local Ward Councillors Mike Layton and Adam Vaughan. The Study scope includes heritage, built form, land use and public realm. The motion can be found at:

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

The study is a response to:

- Lack of clarity about the role Bathurst Street plays as a boundary between the area formally designated as *Downtown and Central Waterfront* and the rest of the City;
- The need for a clear vision to guide future change on Bathurst Street; and
- Recent development proposals along Bathurst Street and an increase in the scale of individual projects.

COMMENTS

Original Proposal

The current application as appealed to the Ontario Municipal Board proposes to demolish the existing structures on the site and construct a 3-storey retail building 20 metres in height, having a gross floor area (GFA) of 12,000 square metres of retail, including the potential for a single store of up to 8,800 square metres, and underground parking for 320 cars. The proposed density is approximately 2.3 times the lot area. The ground level of

the building is shown divided into ten individual retail areas. The second and third floors and associated ground floor galleria have a combined GFA of approximately 8,800 square metres and are designed to hold either one or two tenants. The underground parking and the loading are both accessed from Bathurst Street via a combined entrance/exit at the south end of the building, located directly opposite Nassau Street, a local street running from Bathurst Street east to Spadina Ave.

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 298 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 service are to be located on the ground level (at the south end of the proposed development).

Site and Surrounding Area

The site encompasses 4,937 square metres and has a wide frontage of approximately 120 metres and lot depth of approximately 40 metres. Four properties comprise the site, including the former home of the 2-storey Kromer Radio, a parking lot, the Sunnyside Auto Body shop, and the 2-storey SESCO electrical supply building. The subject site is located on the west side of Bathurst Street, one block north of Dundas Street West.

Land uses surrounding the site are as follows:

North: The north half of the 2-storey semi-detached building at 450 Bathurst Street immediately adjacent and attached to the SESCO site at 446 Bathurst Street, a 1-storey beer store with front yard surface parking, a 2-storey brick building of warehouse character, and a 4.5-storey walk-up brick warehouse character building further north.

South: 2.5-storey office building containing the offices of St. Volodymyr church and school, the St. Volodymyr Cathedral, and semi-detached brick houses further south.

East: 2-3 storey semi-detached and row houses, Toronto Western Hospital, which occupies the entire block bordered by Bathurst Street on the west, Nassau Street on the north, Wales and Carlyle Streets on the east and Dundas Street West on the south, and Kensington Market.

West: College Place laneway and 2-3 storey semi-detached and row houses.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

The proposed development is consistent with the PPS and Growth Plan for the Greater Golden Horseshoe.

Official Plan

The east side of Bathurst is the western boundary of the *Downtown* area as defined by Map 2 – Urban Structure of the Official Plan. The proposed development is located on the west side of Bathurst Street. The subject site is designated as a *Mixed Use Area* (Map 18) in Chapter Four of the Official Plan. Adjacent lands to the west of the subject site and opposite the subject site on Bathurst Street are designated as *Neighbourhoods*.

Section 4.5.3 of the Official Plan includes policy on *Mixed Use Areas*. 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. The development criteria in "*Mixed Use Areas*" includes, but is not limited to:

- creating a balance of high quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community;
- locating and massing new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives

- of this Plan, through means such as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale *Neighbourhoods*;
- locating and massing new buildings to frame the edges of streets and parks with good proportion ;
- providing an attractive, comfortable and safe pedestrian environment;
- taking advantage of nearby transit services;
- providing good site access and circulation and an adequate supply of parking for residents and visitors;

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.

Neighbourhoods are considered to be physically stable areas. Section 2.31 of the Official Plan includes but is not limited to the following policies related to development sites that are adjacent or close to *Neighbourhoods*:

- Developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhoods* will be compatible with those *Neighbourhoods*; provide a gradual transition of scale and density, as necessary to achieve the objectives of this Plan through the stepping down of buildings towards and setbacks from those *Neighbourhoods*; and attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.
- Intensification of land adjacent to *Neighbourhoods* will be carefully controlled so that neighbourhoods are protected from negative impact. Where significant intensification of land adjacent to a *Neighbourhood* or *Apartment Neighbourhood* is proposed, Council will determine, at the earliest point in the process, whether or not a Secondary Plan, area specific zoning by-law or area specific policy will be created in consultation with the local community following an *Avenue Study*, or area based study.

Public realm policies in Section 3.1.1 of the Official Plan include but are not limited to:

- Ensuring new development enhances the quality of the public realm;
- City streets are a significant public open space that serve pedestrians and vehicles, provide space for public utilities and services, trees and landscaping, building access, and are public gathering places;
- Sidewalks and boulevards will be designed to provide safe, attractive, interesting and comfortable spaces for pedestrians by providing well designed and co-

ordinated tree planting and landscaping, pedestrian-scale lighting, and quality street furnishings and decorative paving as part of street improvements.

Built form policies in Section 3.1.2 of the Official Plan include but are not limited to:

- New development will minimize the width of driveways and curb cuts across the public sidewalk;
- New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by incorporating exterior design elements, their form, scale, proportion, pattern and materials, and their sustainable design, to influence the character, scale and appearance of the development;
- New development will provide amenity for adjacent streets and open spaces to make these areas attractive, interesting, comfortable and functional for pedestrians;

Section 3.5.3 policies on the future of retailing reinforce the role of traditional shopping streets in communities as the retail fabric of the City continues to evolve. Retail policies include but are not limited to:

- A strong and diverse retail sector will be promoted by permitting a broad range of shopping opportunities for local residents and employees in a variety of settings; and supporting speciality retailing opportunities that attract tourists and residents of the broader urban region.
- In order to provide local opportunities for small businesses and maintain the safety, comfort and amenity of shopping areas, zoning regulations for ground floor commercial retail uses in new buildings in new neighbourhoods or in *Mixed Use Areas* along pedestrian shopping strips where most storefronts are located at the streetline, may provide for a maximum store or commercial unit size based on the following considerations:
 - the prevailing sizes of existing stores and commercial units in the area; other indicators of opportunities for small business, such as vacancies in existing stores and commercial units; the provision of a range of store and commercial unit sizes to meet the range of local needs including day-to-day convenience shopping and other household goods and services; the need for ‘eyes on the street’; the rhythm and flow of storefronts on the strip; and the potential for the building design, particularly the street façade, to address the safety, comfort and amenity of the shopping area.

Zoning

The subject site is subject to Zoning By-law No. 438-86, and is zoned Mixed Commercial Residential (MCR T2.5 C2.0 R2.0). This zoning category permits a range of residential and commercial uses to a maximum height of 14.0 metres, and a maximum total density

of 2.5 times the lot area. The original proposal and the offer of settlement proposal both require relief from a number of provisions within the By-law, including but not limited to an increase in the maximum non-residential GFA and maximum height.

Site Plan Control

The development is subject to Site Plan Control. The applicant has submitted an application for Site Plan Control.

Reasons for Application

- a) A Zoning Amendment application is required to permit the height, scale and density proposed by the applicant for the original application. The reasons for the application include but are not limited to:
 - an increase in height from 14 metres to 18 metres;
 - an increase in the total commercial density from 2.0 to approximately 2.3 times the lot area;
 - an increase in the total retail permissions for the site; and
 - an increase in the maximum non-residential GFA for a single retail use from 8,000 square metres to approximately 8,800 square metres.
- a) Changes to the zoning permissions in order to permit the proposal in the offer of settlement include but are not limited to:
 - an increase in height from 14 metres to 20 metres (excluding mechanical penthouse);
 - an increase in the total commercial density from 2.0 to approximately 2.9 times the lot area;
 - an increase in the total GFA of retail use from 4,190 square metres to 6,622 square metres to allow for a single retail unit of approximately 4,200 square metres and a minimum of six small individual retail units; and
 - an increase in the total office GFA from 5,684 square metres to 6,502 square metres to allow for two storeys of office use.

Community Consultation

Two community meetings were held in June 2013. City Planning also attended a meeting of stakeholders convened by the local Councillor on February 12, 2014 where Staff presented the applicant's draft offer of settlement. At the community meetings held in 2103 regarding the original proposal, a number of issues were raised including:

- The total amount of retail space being proposed is too large
- The size of the largest retail unit is too large
- Concern that the major tenant for the building was to be a Walmart
- The fact that the project was not mixed use, ie only retail
- Concern about the effect the project would have on other neighbourhood retail, in particular Kensington Market

- Desire for better sidewalks and street trees on Bathurst Street
- Providing a rear transition in height down to the neighbourhoods to the west
- Concern with traffic impacts and whether trucks serving the new project would be using the narrow lane at the rear of the project
- The building is too high

At the recent stakeholder in meeting to discuss the settlement proposal, participants expressed appreciation for the number of changes to the proposal, in particular the reduction in the amount of retail and the lower limit on the size of the largest single retail use. Comments also included:

- Participants expressed general appreciation of the improved stepping back at the front and rear of the building;
- The proposed pedestrian walkway at the south of the site was received positively, with requests that it be accessible to cyclists and open 24 hours a day;
- Appropriate lighting and maintenance were also expressed as important elements to be incorporated into the proposed design;
- Appreciation of the breaking up of the massing on Bathurst Street including application of bricks and glazing;
- Traffic, loading, truck manoeuvring, and parking remain a concern; meeting participants expressed a desire to review an updated Transportation Considerations Study that reflects the reduced retail use and proposed office space;
- The potential for a grocery retailer of 4,200 square metres to be located on the second storey was raised as a concern by some;
- A number of Site Plan considerations were raised, including viable street trees; securing of building materials; application of an acoustic barrier around the rooftop mechanical; a way to reduce light pollution from the third and fourth storeys to the *Neighbourhood*; and
- Requests for a Construction Management Plan.

Agency Circulation

The original application was circulated to all appropriate agencies and City divisions.

Better Bathurst Street: Bathurst Built Form and Land Use Study

A consultant team was retained by City Planning in 2013 to undertake the Bathurst Built Form and Land Use Study ('Better Bathurst Study'). Three community meetings were held in the spring and fall to obtain feedback on the work of the consultant team at each stage of the study. The Study confirmed that the street is 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 analyzed 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. The Study will include recommendations for the scale of retail on Bathurst

Street between Dupont Street and Queen Street West, including the west side of Bathurst Street between Dundas Street West and College Street.

A fourth and final community consultation meeting will be held by City Planning on March 3, 2014 to review the consultant team's final study recommendations. Staff will incorporate the results of this meeting in a final Staff report with City Planning's recommendations on the Study to the Toronto and East York Community Council in the second quarter of 2014. The consultant recommendations for the west side of Bathurst Street between College Street and Dundas Street West include, among others:

- That this area should become a revitalized mixed-use mid-rise area connecting College Street to Dundas Street West, with a generous pedestrian realm connecting the two *Avenues*;
- A maximum height of 20 metres (6 storeys) with a front setback at 16 metres (5 storeys);
- New buildings over three storeys should be considered mid-rise and subject to the Performance Standards of the Avenues and Mi-Rise Buildings Study, including the standards for rear transitions of new development to Neighbourhoods; and
- Long facades are articulated through architectural design to reduce their scale.

'Evaluating Large Retail Developments Near Pedestrian Shopping Areas in Toronto' ('The Retail Study')

J.C. Williams Group was retained by the City of Toronto to conduct a study 'Evaluating Large Retail Developments Near Pedestrian Shopping Areas in Toronto' ('The Retail Study'). The specific focus was to provide input and recommendations to the City of Toronto on how to evaluate applications for large retail developments and how to assess their impact on existing pedestrian shopping districts. . As the base line for the analysis, the study used the current zoning limits on new retail development in the former City of Toronto:

- Retail and service uses on a property are limited to the size that existed in July 1993, plus an additional 1,800 square metres;
- Retail and service uses cannot exceed the zoning density limit for commercial use on the property; and
- No single retail or service store can be larger than 8,000 square metres.

The Retail Study was prompted by the Bathurst Study, which required an evaluation of the existing zoning provisions for retail development in the corridor. The Retail Study, in turn, used Bathurst Street as a template to evaluate the local application of its recommendations. They include the following:

- For an Existing Retail Site, no change to the existing zoning limit on additional retail space is needed. A development proposal that would allow the retail GFA as of July 1993 plus up to an additional 1,800 m2 would be permitted. A development proposal for more than an additional 1,800 m2 would require a zoning by-law amendment and need to be supported by a review including a retail impact assessment.
- For a Single Retail Store in any development (new or redeveloped site), the permitted maximum size would be 3,500 m2 (reduced from 8,000 m2 currently permitted by the zoning by-law). A single retail unit larger than 3,500 m2 would require a zoning by-law amendment and need to be supported by a review including a retail impact assessment. This would allow for medium sized retailers such as supermarkets and home furnishings stores of 2,500 m2 to 3,500 m2. Larger retail units such as very large supermarkets, large general merchandise stores, and large retailers of general merchandise would require additional review by the City.

The Retail Study recommendations for the section of Bathurst Street on the west side between College Street and Dundas Street West include:

- New retail development be closely monitored;
- Very large stores (over 6,000 m2) would be unlikely to contribute to economic development elsewhere along the street and would impact other nearby retail areas.
- The Retail Study's recommendation that a rezoning and impact assessment would be required for more than 1,800 m2 additional retail GFA to what existed in 1993 and for a maximum store size of over 3,500 m2, is appropriate for this section of Bathurst Street; and
- In addition, small retail redevelopment should be encouraged on the east side of Bathurst Street between College Street and Dundas Street west. The hospital should re-align its retail so that it fronts the street. Any redevelopment or addition to the hospital should take this into consideration.

The larger retail study, which covers a broader area will be reported out to the Planning and Growth Management Committee in the spring of this year.

Impact on nearby pedestrian shopping areas including Kensington Market

The potential impact of new retail on nearby pedestrian shopping areas, including Kensington Market, is one of the key planning issues raised for this development. City Planning therefore requested J.C. Williams Group to conduct a 'Review of Proposed Retail Development at 410-446 Bathurst Street' ('The Review') based on the analysis and recommendations in 'The Retail Study'.

The Review focussed on the 'primary trade area' located within 800 metres of the site. This is considered a reasonable 10 minute walk to shop. The review assessed the impacts of a large grocery store located on the second floor of the proposed development; and also assessed the prospects for a department store and for health and personal care stores.

The Review found that:

- Specialty food stores have been gaining sales and market share in Toronto;
- A proposed redevelopment at 410-446 Bathurst Street that would add more than 1,800 m² of total retail, and that if the large retailer were a single grocery store greater than 3,500 square metres, it could be supported by 2021;
- The overall viability of Kensington Market as a unique, experiential type shopping district would be not affected;
- A large department store may not be appropriate in this location; and
- While the local neighbourhood may not support demand for more health and personal care stores, this sector is part of the strength of the area and additional stores could create critical mass to serve customers from outside the neighbourhood.

The Review conclude that there will be an impact on existing small specialty food retailers and grocery stores in the trade area. Sales could be about \$1.3 million less by 2021 compared to what they would be for these retailers with all other things being constant and no other competition entering the market. This represents less than 4% of Kensington Market's existing retail sales and less than 3% of sales of the larger sales area, as listed below:

- Kensington Market - \$33 million
- Little Italy - \$5.2 million
- Trinity Bellwoods - \$2.9 million
- Chinatown - \$10.8 million

The Review estimated that the local trade area could support demand for between 2,300 m² and 3,250 m² of department store space. The Review noted that most department stores in Toronto do not operate on this small scale, and that a large department store would have to draw from a very large trade area with probable impacts on Dufferin Mall, and Downtown retail areas.

Land Use and Streetscape

The revised submission introduces office use to the site to create a mixed-use development that is appropriate for this section of Bathurst Street. The revised submission reduces the amount of total retail from 12,000square metres to 6,622square metres and reduces the largest single retail unit from 8,800square metres to 4,200square metres. The proposed mix of residential and commercial uses is consistent with the land

use provisions of the Official Plan, Secondary Plan and Zoning By-law and is complementary to the hospital uses nearby.

	AS-OF-RIGHT PERMISSIONS	SETTLEMENT PROPOSAL
HEIGHT	14 metres (4 storeys) excluding mechanical and up to 5 metres in addition for mechanical	20m excluding mechanical (4 storeys) and up to 2.0 metres in addition for mechanical
TOTAL FSI FOR RESIDENTIAL, OFFICE, & RETAIL	2.5 times the area of the lot combined for residential, office and retail use 12,340 square metres	2.9 times the area of the lot No residential use 13,300 square metres of retail and office
NON-RESIDENTIAL FSI	2.0 times the area of the lot 9,874 square metres total 4,190 square metres retail use (retail existing in 1993 + 1,800square metres) 5,684 square metres office use	2.9 times the area of the lot 13,300 square metres total of retail and office 6,622 square metres of total retail use including a single retail unit with a maximum GFA of 4,200 square metres 6,502 square metres of total office use
RESIDENTIAL FSI	2.0 times the area of the lot 9,874 square metres	No residential use proposed

The applicant proposes a maximum GFA of 13,300 square metres to provide for future flexibility, which is comparable to the as-of-right for combined residential, office and retail for the site (calculated at 2.5 times the area of the lot, or 12,340square metres). The as-of-right for retail use is 4,190 square metres, which technically would be allowed in one single storey on the ground floor, and the as-of-right for office is 5,684 square metres. The increase in retail GFA to 6,622square metres allows the ground floor to be dedicated to single retail units with individual entrances from Bathurst, with the largest retail unit (4,200square metres) comprising the second floor above. The size of the second storey retail unit is comparable to the as-of-right retail permission and is considered acceptable.

The increase in total retail above the as-of-right permission also allows for an animated ground floor condition and widening of the sidewalk to the standard guideline of 4.8 m, including the planting of street trees. Additionally, a considerable portion of the ground floor is dedicated to enclosed loading, servicing, and galleria space to enable access from

the street to the upper storeys, which is considered good practice for urban format retail. This built form condition results in a much improved urban form than the as-of-right condition. The increase in office to 6,502 square metres combined on the third and fourth levels also allows for these improvements to the built form and creates a mixed use development as opposed to the previous stand-alone retail.

Density, Height, Massing

The revised submission complies with the consultant's built form recommendations of the Bathurst Street Built Form and Land Use Study. The Bathurst Study recommendations for this section of Bathurst Street include a maximum height of 20 metres (6 storeys) with a front setback of 16 metres (5 storeys) and also recommends a rear transition that conforms with the *Avenues and Mid-Rise Study Guidelines*. In particular the revised massing makes significant modifications to the rear transition so that the rear angular plane is consistent with the *Avenues and Mid-Rise Study Guidelines* for properties that are adjacent to *Neighbourhoods*. The first storey will have a rear setback of 1.85 metres at the narrowest point from the rear property line; the second storey will have a rear setback of 3.85 metres at the narrowest point from the rear property line; and the second, third and fourth storeys will all step back at the rear to observe a 45 degree angular plane that starts 3.851 metres from the rear laneway when measured from a vertical height of 10.0 metres. Widening of the sidewalk to the standard guideline of 4.8 m, including the planting of street trees, is also consistent with the Bathurst Study recommendations.

Sun, Shadow, Wind

The rear angular plane results in limited incremental shadow impacts to the *Neighbourhood* in the morning during the Spring and Fall equinoxes on the west side of the rear laneway.

Traffic Impact, Access, Parking

A pedestrian connection between the rear laneway and Nassau Street is also proposed by the applicant. This pedestrian walkway addresses the community's desire for pedestrian access to Nassau Street.

The number of parking spaces provided (298) are consistent with the previous submission (302). The applicant may choose to dedicate some of the parking to the Toronto Western Hospital, which would benefit the surrounding area by increasing the parking supply for this institutional use. A revised Urban Transportation Considerations report will need to be submitted in order to reflect the revised submission. The traffic impacts may improve with a decrease in retail use.

The Toronto Transit Commission (TTC) has previously identified outstanding concerns with the Traffic Study methodology, and if the concerns are not resolved, intend to recommend on-street parking prohibitions for this section of Bathurst Street.

Servicing

An updating servicing report has not yet been submitted but will be reviewed prior to finalizing the By-law.

Open Space/Parkland

The applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. The non-residential use is subject to a 2% parkland dedication as per Citywide Parkland Dedication By-law 1020-2010. Cash-in-lieu is appropriate as an on-site dedication of this size would not be a useable size. The exact value of the cash-in-lieu will be determined at the time of building permit.

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. In addition, the applicant has agreed to a green wall treatment for a minimum of 50% of the first and second floor rear wall of the building.

Conclusion

The settlement offer as proposed by the applicant addresses the majority of the issues raised in the review process including significantly reducing the size of the largest retail unit, introducing office uses on the upper levels to create a mixed-use development and improving both the public realm and transition to the neighbourhood to the west. In addition, the City undertook an independent review of the retail impact of the project and found it acceptable.

Planning staff are recommending that City Council support the settlement offer and direct staff to attend at the Ontario Municipal Board based on the draft terms of settlement attached at Attachment 1.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
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Toronto and East York District

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ATTACHMENTS

Attachment 1: Draft Terms of Settlement

Attachment 2: Zoning

Attachment 1: Draft Terms of Settlement

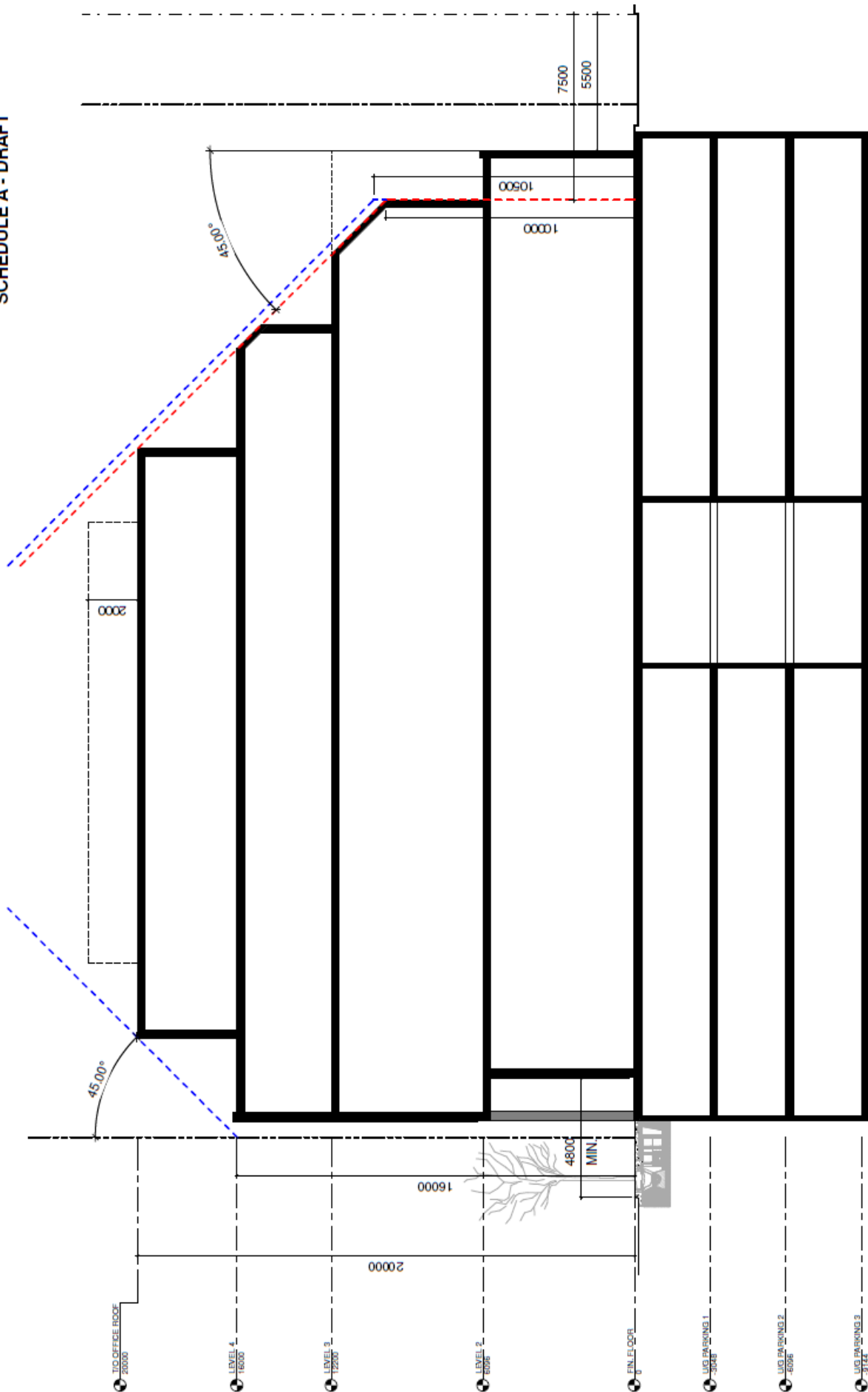
The following forms the basis of the Terms of Settlement for the application at 410-446 Bathurst Street:

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.
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 such retail units will not be associated with the retail use on the second floor.
4. The owner agrees that a maximum size will be set on retail units to be located on the ground.
5. The owner agrees to establish 6,500 square metres of office uses on the third and fourth storeys. To further clarify, the owner agrees that no retail uses will be established on the third and fourth storeys.
6. The owner agrees that the project will proceed without Wal-Mart as a tenant in the building.
7. 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.
8. 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 agrees to secure a tree planting condition that will result in 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 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.

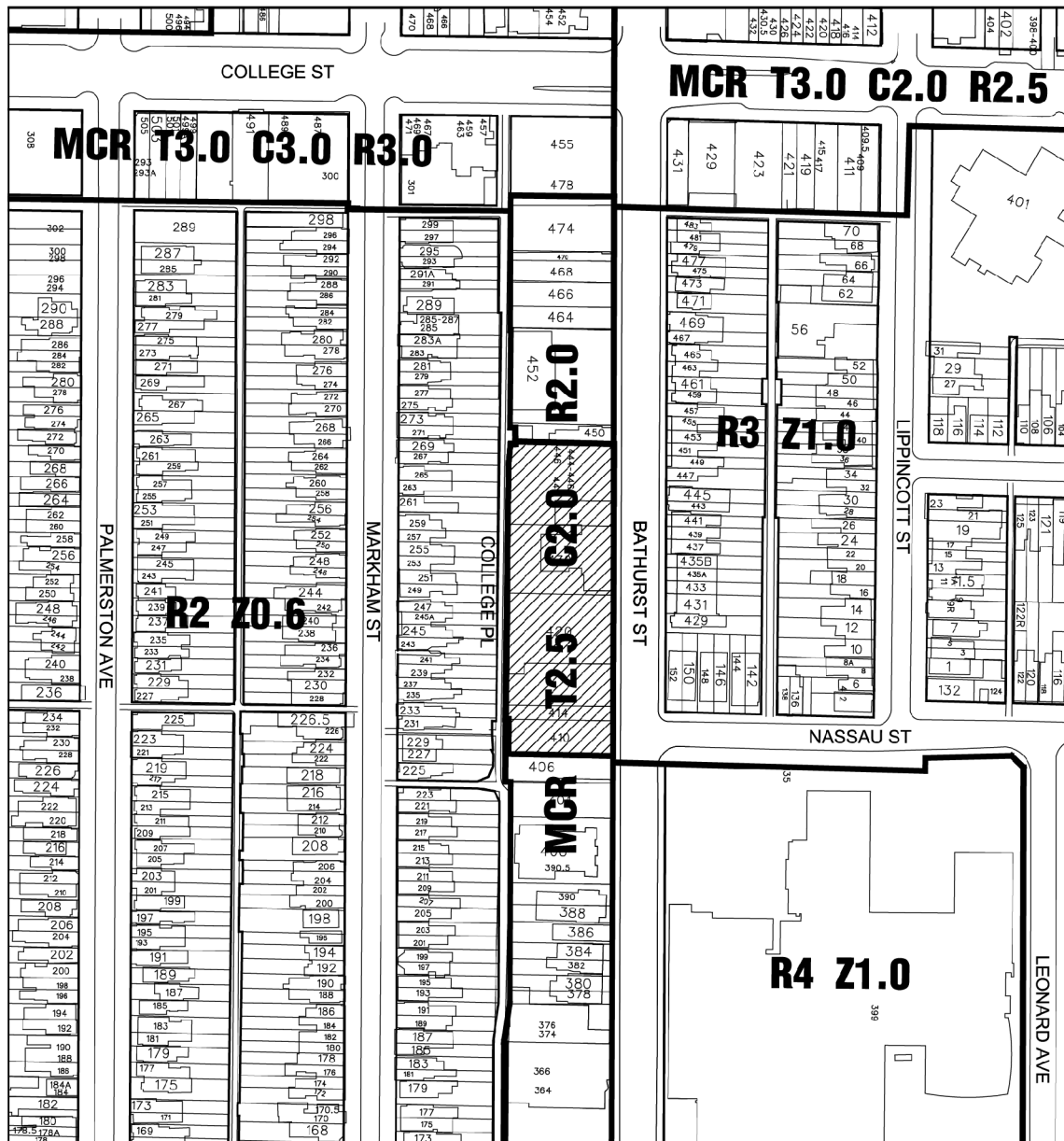
9. The owner agrees to the front and rear streetwall heights, step backs, setbacks, articulation of the vertical massing, and angular plane conditions generally shown on Schedule A to the Draft Terms of Settlement:
 - A. At the front of the building, the fourth storey will step back from the front property 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 is set back 7.5 metres from the R district rear lot line. The second, third and fourth floors are all 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.
10. 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, tapering to 2.03 meters in width 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.
11. 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.
12. 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.
13. 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.
14. 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.

15. The owner agrees to establish and maintain an east-west 2.0 metre wide pathway (narrowing to 1.5 metres at east and west entrances) within the building, located at the south edge of the site, opposite Nassau Street. The pedestrian walkway will be accessed from Bathurst Street and from the rear laneway and be publically accessible 24 hours per day. The walkway will be subject to an easement for the life of the project 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.
16. 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.
17. 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.
18. 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.
19. 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.

SCHEDULE A - DRAFT



Attachment 2: Zoning



TORONTO City Planning
Zoning

410-446 Bathurst Street

File # 13 124400 0Z

R2 Residential District
R3 Residential District
R4 Residential District
MCR Mixed-Use District



Not to Scale
Zoning By-law 438-86 (as amended)
Extracted 04/11/2013